

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2022

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number: **001-38493**



EXP WORLD HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation or organization)

98-0681092

(IRS Employer
Identification No.)

2219 Rimland Drive, Suite 301

Bellingham, WA 98226

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(360) 685-4206**

Securities registered pursuant to Section 12(b) of the Act:

**Common Stock, par value \$0.00001 per
share**

(Title of Each Class)

EXPI

(Trading Symbol)

NASDAQ

(Name of each exchange on which registered)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

There were 150,416,865 shares of the registrant's Common Stock, \$0.00001 par value, outstanding as of March 31, 2022.

TABLE OF CONTENTS

	<u>Page</u>
Forward Looking Statements	3
<u>PART I</u>	
<u>FINANCIAL INFORMATION</u>	
Item 1. Financial Statements (Unaudited)	4
Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations	15
Item 3. Quantitative and Qualitative Disclosures About Market Risk	22
Item 4. Controls and Procedures	23
<u>PART II</u>	
<u>OTHER INFORMATION</u>	
Item 1. Legal Proceedings	23
Item 1A. Risk Factors	23
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds	24
Item 3. Defaults Upon Senior Securities	24
Item 4. Mine Safety Disclosures	24
Item 5. Other Information	25
Item 6. Exhibits	25

FORWARD LOOKING STATEMENTS

This Quarterly Report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are not based on historical facts but rather represent current expectations and assumptions of future events. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

Many of these risks and other factors are beyond our ability to control or predict. Forward-looking statements can be identified by words such as “believe,” “expect,” “anticipate,” “estimate,” “project,” “plan,” “should,” “intend,” “may,” “will,” “could,” “can,” “would,” “potential,” “seek,” “goal” and similar expressions. These risks and uncertainties, as well as other risks and uncertainties that could cause our actual results to differ significantly from management’s expectations, are described in greater detail in “Risk Factors” in Part I, Item 1A, and elsewhere in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021.

Forward-looking statements are based on currently available operating, financial and market information and are inherently uncertain. Investors should not place undue reliance on forward-looking statements, which speak only as of the date they are made and are not guarantees of future performance. Actual future results and trends may differ materially from such forward-looking statements. We undertake no obligation to publicly update or revise any forward-looking statements whether as a result of new information, future developments or otherwise, except as may be required by law.

PART 1 – FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS (UNAUDITED)

EXP WORLD HOLDINGS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except share amounts)
(UNAUDITED)

	March 31, 2022	December 31, 2021
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 130,092	\$ 108,237
Restricted cash	116,939	67,673
Accounts receivable, net of allowance for credit losses of \$2,417 and \$2,198, respectively	142,963	133,489
Prepays and other assets	9,348	9,916
TOTAL CURRENT ASSETS	399,342	319,315
Property, plant, and equipment, net	19,024	15,902
Operating lease right-of-use assets	2,387	2,482
Other noncurrent assets	2,510	2,827
Intangible assets, net	7,204	7,528
Deferred tax assets	58,728	52,827
Goodwill	12,945	12,945
TOTAL ASSETS	\$ 502,140	\$ 413,826
LIABILITIES AND EQUITY		
CURRENT LIABILITIES		
Accounts payable	\$ 7,191	\$ 7,158
Customer deposits	116,939	67,673
Accrued expenses	128,741	111,672
Current portion of lease obligation - operating lease	238	311
TOTAL CURRENT LIABILITIES	253,109	186,814
Long-term payable	2,714	2,714
Long-term lease obligation - operating lease, net of current portion	779	765
TOTAL LIABILITIES	256,602	190,293
EQUITY		
Common Stock, \$0.00001 par value 900,000,000 shares authorized; 158,300,605 issued and 150,416,865 outstanding in 2022; 155,516,284 issued and 148,764,592 outstanding in 2021	2	1
Additional paid-in capital	450,570	401,479
Treasury stock, at cost: 7,883,740 and 6,751,692 shares held, respectively	(239,965)	(210,009)
Accumulated earnings	33,533	30,510
Accumulated other comprehensive income	229	188
Total eXp World Holdings, Inc. stockholders' equity	244,369	222,169
Equity attributable to noncontrolling interest	1,169	1,364
TOTAL EQUITY	245,538	223,533
TOTAL LIABILITIES AND EQUITY	\$ 502,140	\$ 413,826

The accompanying notes are an integral part of these condensed consolidated financial statements.

EXP WORLD HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands, except share amounts and per share data)
(UNAUDITED)

	Three Months Ended March 31,	
	2022	2021
Revenues	\$ 1,010,731	\$ 583,833
Operating expenses		
Commissions and other agent-related costs	927,267	\$ 530,347
General and administrative expenses	75,322	46,300
Sales and marketing expenses	3,700	2,257
Total operating expenses	1,006,289	578,904
Operating income	4,442	4,929
Other (income) expense		
Other (income) expense, net	410	(134)
Equity in losses of unconsolidated affiliates	317	6
Total other expense, net	727	(128)
Income before income tax expense	3,715	5,057
Income tax (benefit) expense	(5,149)	211
Net income	8,864	4,846
Net income attributable to noncontrolling interest	18	-
Net income attributable to eXp World Holdings, Inc.	\$ 8,882	\$ 4,846
Earnings per share		
Basic	\$ 0.06	\$ 0.03
Diluted	\$ 0.06	\$ 0.03
Weighted average shares outstanding		
Basic	149,226,166	144,354,991
Diluted	156,842,721	158,722,126
Comprehensive income:		
Net income	\$ 8,864	\$ 4,846
Comprehensive loss attributable to noncontrolling interests	18	-
Net income attributable to eXp World Holdings, Inc.	8,882	4,846
Other comprehensive income:		
Foreign currency translation gain, net of tax	41	47
Comprehensive income attributable to eXp World Holdings, Inc.	\$ 8,923	\$ 4,893

The accompanying notes are an integral part of these condensed consolidated financial statements.

EXP WORLD HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF EQUITY
(In thousands)
(UNAUDITED)

	Three Months Ended March 31,	
	2022	2021
Common stock:		
Balance, beginning of quarter	\$ 1	\$ 1
Agent equity stock compensation	1	-
Balance, end of quarter	2	1
Treasury stock:		
Balance, beginning of quarter	(210,009)	(37,994)
Repurchases of common stock	(29,956)	(34,009)
Balance, end of quarter	(239,965)	(72,003)
Additional paid-in capital:		
Balance, beginning of quarter	401,479	218,491
Shares issued for stock options exercised	498	1,373
Agent growth incentive stock compensation	6,582	4,258
Agent equity stock compensation	38,500	21,402
Stock option compensation	3,511	3,109
Balance, end of quarter	450,570	248,633
Accumulated earnings (deficit):		
Balance, beginning of quarter	30,510	(39,161)
Net income	8,882	4,846
Dividends declared and paid	(5,859)	-
Balance, end of quarter	33,533	(34,315)
Accumulated other comprehensive income:		
Balance, beginning of quarter	188	247
Foreign currency translation loss	41	47
Balance, end of quarter	229	294
Noncontrolling interest:		
Balance, beginning of quarter	1,364	1,003
Net loss	(18)	-
Transactions with noncontrolling interests	(177)	-
Balance, end of quarter	1,169	1,003
Total equity	<u>\$ 245,538</u>	<u>\$ 143,613</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

EXP WORLD HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(UNAUDITED)

	Three Months Ended March 31,	
	2022	2021
OPERATING ACTIVITIES		
Net income	\$ 8,864	\$ 4,846
Reconciliation of net income to net cash provided by operating activities:		
Depreciation expense	1,616	1,007
Amortization expense - intangible assets	342	303
Loss on dissolution of consolidated affiliates	361	-
Allowance for credit losses on receivables/bad debt on receivables	219	385
Equity in loss of unconsolidated affiliates	317	6
Agent growth incentive stock compensation expense	7,798	5,472
Stock option compensation	3,511	3,109
Agent equity stock compensation expense	38,500	21,402
Deferred income taxes, net	(5,901)	-
Changes in operating assets and liabilities:		
Accounts receivable	(9,846)	(11,907)
Prepays and other assets	496	(459)
Customer deposits	49,266	38,324
Accounts payable	74	1,161
Accrued expenses	15,854	15,420
Long term payable	-	(150)
Other operating activities	36	-
NET CASH PROVIDED BY OPERATING ACTIVITIES	111,507	78,919
INVESTING ACTIVITIES		
Purchases of property, plant and equipment	(4,684)	(2,257)
Acquisition of businesses	-	(1,500)
NET CASH (USED IN) INVESTING ACTIVITIES	(4,684)	(3,757)
FINANCING ACTIVITIES		
Repurchase of common stock	(29,956)	(34,009)
Proceeds from exercise of options	498	1,373
Transactions with noncontrolling interests	(426)	-
Dividends declared and paid	(5,859)	-
NET CASH USED IN FINANCING ACTIVITIES	(35,743)	(32,636)
Effect of changes in exchange rates on cash, cash equivalents and restricted cash	41	47
Net change in cash, cash equivalents and restricted cash	71,121	42,573
Cash, cash equivalents and restricted cash, beginning balance	175,910	127,924
CASH, CASH EQUIVALENTS AND RESTRICTED CASH, ENDING BALANCE	\$ 247,031	\$ 170,497
SUPPLEMENTAL DISCLOSURE OF CASH FLOWS INFORMATION:		
Cash paid for income taxes	\$ 483	\$ 3
SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES:		
Property, plant and equipment purchases in accounts payable	246	141

The accompanying notes are an integral part of these condensed consolidated financial statements.

eXp World Holdings, Inc.
Notes to the Condensed Consolidated Financial Statements
(UNAUDITED)

(Amounts in thousands, except share amounts and per share data or noted otherwise)

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

eXp World Holdings, Inc. (“eXp,” or, collectively with its subsidiaries, the “Company,” “we,” “us,” or “our”) owns and operates a cloud-based real estate brokerage and a technology platform business that enables a variety of businesses to operate remotely. Our real estate brokerage is now one of the largest and fastest-growing real estate brokerage companies in the United States and is rapidly expanding internationally. Our technology platform business develops and uses immersive technologies that enable and support virtual workplaces. This unique enabling platform helps businesses increase their effectiveness and reduce costs from operating in traditional “brick and mortar” office spaces. Through various operating subsidiaries, the Company primarily operates a cloud-based real estate brokerage operating throughout the United States, most of the Canadian provinces, the United Kingdom (U.K.), Australia, South Africa, India, Mexico, Portugal, France, Puerto Rico, Brazil, Italy, Hong Kong, Colombia, Spain, Israel, Panama, Germany, Greece, and the Dominican Republic.

The accompanying interim unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“U.S. GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 10-01 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements.

These interim financial statements should be read in conjunction with the audited consolidated financial statements and related notes contained in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the SEC on February 25, 2022 (“2021 Annual Report”).

In our opinion, the accompanying interim unaudited condensed consolidated financial statements reflect all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation. Operating results for the three months ended March 31, 2022 are not necessarily indicative of the results that may be expected for the year ending December 31, 2022.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Principles of Consolidation

The accompanying condensed consolidated financial statements include the accounts of eXp World Holdings, Inc., its wholly-owned subsidiaries, and including those entities in which we have a variable interest of which we are the primary beneficiary. If the Company has a variable interest in an entity but it is not the primary beneficiary of the entity or exercises control over the operations and has less than 50% ownership, it will use the equity method or the cost method of accounting for investments. Entities in which the Company has less than a 20% investment and where the Company does not exercise significant influence are accounted for under the cost method. Intercompany transactions and balances are eliminated upon consolidation.

Variable interest entities and noncontrolling interests

A company is deemed to be the primary beneficiary of a variable interest entity (“VIE”) and must consolidate the entity if the company has both: (i) the power to direct the activities of a VIE that most significantly impact the VIE’s economic performance, and (ii) the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE.

Joint ventures

A joint venture is a contractual arrangement whereby the Company and other parties undertake an economic activity through a jointly controlled entity. Joint control exists when strategic, financial, and operating policy decisions relating to the activities require the unanimous consent of the parties sharing control. Joint ventures are accounted for using the equity method and are recognized initially at cost.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company regularly evaluates estimates and assumptions related to allowance for credit losses, legal contingencies, income taxes, revenue recognition, stock-based compensation,

goodwill, and deferred income tax asset valuation allowances. The Company bases its estimates and assumptions on current facts, historical experience and various other factors that it believes to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities and the accrual of costs and expenses that are not readily apparent from other sources. The actual results experienced by the Company may differ materially and adversely from the Company's estimates. To the extent there are material differences between the estimates and the actual results, future results of operations will be affected.

Reclassifications

When necessary, the Company will reclassify certain amounts in prior-period financial statements to conform to the current period's presentation. No reclassifications occurred during the current period.

Restricted cash

Restricted cash consists of cash held in escrow by the Company on behalf of real estate buyers. The Company recognizes a corresponding customer deposit liability until the funds are released. Once the cash transfers from escrow, the Company reduces the respective customers' deposit liability.

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the condensed consolidated balance sheets that sum to the total of the same such amounts shown on the condensed consolidated statements of cash flows.

	<u>Cash and cash equivalents</u>	<u>Restricted cash</u>	<u>Total</u>
Balance, December 31, 2020	\$ 100,143	\$ 27,781	\$ 127,924
Net activity	4,249	38,324	42,573
Balance, March 31, 2021	\$ 104,392	\$ 66,105	\$ 170,497
Balance, December 31, 2021	\$ 108,237	\$ 67,673	\$ 175,910
Net activity	21,855	49,266	71,121
Balance, March 31, 2022	\$ 130,092	\$ 116,939	\$ 247,031

Recently Adopted Accounting Principles and Change in Accounting Principle

In December 2019, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2019-12 – *Income Taxes* (Topic 740) ("ASU 2019-12"). ASU 2019-12 removes certain exceptions for investments, intraperiod allocations and interim calculations and adds guidance to reduce complexity in accounting for income taxes. ASU 2019-12 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020; early adoption is permitted. The adoption of ASU 2019-12 had no material impact on the Company's condensed consolidated financial statements and related disclosures.

Recently Issued Accounting Pronouncements

In November 2021, the FASB issued ASU 2021-08 – *Business Combinations* (Topic 805) ("ASU 2021-08"). ASU 2021-08 addresses diversity and inconsistencies related to the recognition and measurement of contract assets and contract liabilities acquired in a business combination. The amendments in this update require that an acquirer recognize and measure contract assets and contract liabilities acquired in a business combination in accordance with Topic 606, Revenue from Contracts with Customers. This update is effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The amendments in this update should be applied prospectively to business combinations occurring on or after the effective date of the amendments. The Company has reviewed the amendments of ASU 2021-08 and will apply the guidance upon its effective date should the Company have future business combinations.

3. EXPECTED CREDIT LOSSES

The Company is exposed to credit losses primarily through trade and other financing receivables arising from revenue transactions. The Company uses the aging schedule method to estimate current expected credit losses ("CECL") based on days of delinquency, including information about past events and current economic conditions. The Company's accounts receivable is separated into three categories to evaluate allowance under the CECL impairment model. The receivables in each category share similar risk characteristics. The three categories include agent non-commission based fees, agent short-term advances, and commissions receivable for real estate property settlements. As of the first quarter of 2022, the Company provided an allowance for potential credit losses of real estate transactions.

The Company analyzed uncollectible accounts for the three categories of receivables. Receivables from real estate property settlements totaled \$138,187 and \$128,499 of which the Company recognized expected credit losses of \$904 and nil, respectively as of March 31, 2022 and December 31, 2021. As of March 31, 2022 and December 31, 2021 agent non-commission based fees receivable and short-term advances totaled \$7,193 and \$7,188, of which the Company recognized expected credit losses of \$1,513 and \$2,198, respectively.

The Company increases the allowance for expected credits losses when the Company determines all or a portion of a receivable is uncollectable. The Company recognizes recoveries as a decrease to the allowance for expected credit losses.

Changes in the allowance were not material for the three months ended March 31, 2022 and the year ended December 31, 2021.

4. PLANT, PROPERTY AND EQUIPMENT, NET

Plant, property and equipment, net consisted of the following:

	March 31, 2022	December 31, 2021
Computer hardware and software	\$ 24,519	\$ 20,824
Furniture, fixture, and equipment	26	26
Total depreciable property and equipment	24,545	20,850
Less: accumulated depreciation	(13,328)	(11,711)
Depreciable property, net	11,217	9,139
Assets under development	7,807	6,763
Property, plant, and equipment, net	\$ 19,024	\$ 15,902

For the three months ended March 31, 2022 and 2021, depreciation expense was \$1,616 and \$1,007, respectively.

5. GOODWILL AND INTANGIBLE ASSETS

Goodwill was \$12,945 and \$12,945 as of March 31, 2022 and December 31, 2021. The Company has a risk of future impairment to the extent that individual reporting unit performance does not meet projections. Additionally, if current assumptions and estimates, including projected revenues and income growth rates, terminal growth rates, competitive and consumer trends, market-based discount rates, and other market factors, are not met, or if valuation factors outside of the Company's control change unfavorably, the estimated fair value of goodwill could be adversely affected, leading to a potential impairment in the future. For the three months ended March 31, 2022, no events occurred that indicated it was more likely than not that goodwill was impaired.

Definite-lived intangible assets were as follows:

	March 31, 2022			December 31, 2021		
	Gross Amount	Accumulated Amortization	Net Carrying Amount	Gross Amount	Accumulated Amortization	Net Carrying Amount
Trade name	\$ 2,868	(\$ 625)	\$ 2,243	\$ 2,868	(\$ 554)	\$ 2,314
Existing technology	1,863	(1,306)	557	1,846	(1,102)	744
Non-competition agreements	125	(125)	0	125	(125)	-
Customer relationships	1,895	(409)	1,486	1,895	(361)	1,534
Licensing agreement	210	(128)	82	210	(110)	100
Intellectual property	2,836	-	2,836	2,836	-	2,836
Total intangible assets	\$ 9,797	(\$ 2,593)	\$ 7,204	\$ 9,780	(\$ 2,252)	\$ 7,528

Definite-lived intangible assets are amortized using the straight-line method over an asset's estimated useful life. Amortization expense for definite-lived intangible assets for the three months ended March 31, 2022 and 2021 was \$342 and \$303, respectively. The Company has no indefinite-lived assets.

6. LEASES

The Company's lease portfolio consists of office leases with lease terms ranging from less than one year to seven years, with the weighted average lease term being three years.

Certain leases provide for increases in future lease payments once the term of the lease has expired, as defined in the lease agreements. These leases generally also include real estate taxes.

Short term leases, having a lease term at commencement of 12 months or less, are not capitalized and the expenses are recognized in the period incurred.

Included below is other information regarding leases for the periods presented:

	Three Months Ended March 31,	
	2022	2021
Other information		
Operating lease expense	\$ 109	\$ 96
Short-term lease expense	22	96
Cash paid for operating leases	71	16
Weighted-average remaining lease term (years) – operating leases ⁽¹⁾	7.1	3.8
Weighted-average discount rate – operating leases	5.048%	4.481%

⁽¹⁾ The Company’s lease terms include options to extend the lease when it is reasonably certain the Company will exercise its option. Additionally, the Company considered any historical and economic factors in determining if a lease renewal or termination option would be exercised.

As of March 31, 2022, expirations of lease obligations by fiscal year were as follows:

Period Ending December 31,	
Remaining 2022	\$ 201
2023	163
2024	90
2025	90
2026	90
2027 and thereafter	405
Total lease payments	1,039
Less: interest	(22)
Total operating lease liabilities	\$ 1,017

7. STOCKHOLDERS’ EQUITY

The following table represents a share reconciliation of the Company’s common stock issued for the periods presented:

(Shares of Common Stock)	Three Months Ended March 31,	
	2022	2021
Common stock:		
Balance, beginning of quarter	155,516,284	146,677,786
Shares issued for stock options exercised	723,194	547,776
Agent growth incentive stock compensation	510,672	285,122
Agent equity stock compensation	1,550,455	424,084
Balance, end of quarter	158,300,605	147,934,768

The Company’s stockholder approved equity plans described below are administered under the 2013 Stock Option Plan and the 2015 Equity Incentive Plan. Although a limited number of awards under the plan remain outstanding, no awards have been granted under the 2013 Stock Option Plan since 2015. The purpose of the equity plans is to retain the services of valued employees, directors, officers, agents, and consultants and to incentivize such persons to make contributions to the Company and motivate excellent performance.

Agent Equity Program

The Company provides agents and brokers the opportunity to elect to receive 5% of commissions earned from each completed real estate transaction in the form of common stock (the “Agent Equity Program” or “AEP”). If agents and brokers elect to receive portions of their commissions in common stock, they are entitled to receive the equivalent number of shares of common stock, based on the fixed monetary value of the commission payable. The Company recognizes a 10% discount on these issuances as an additional cost of sales charge during the periods presented.

During the three months ended March 31, 2022 and 2021, the Company issued 1,550,455 and 424,084 shares of common stock, respectively, to agents and brokers with a value of \$38,500 and \$21,402, respectively, inclusive of discount.

Agent Growth Incentive Program

The Company administers an equity incentive program whereby agents and brokers become eligible to receive awards of the Company’s common stock through agent attraction and performance benchmarks (the “Agent Growth Incentive Program” or “AGIP”). The incentive program encourages greater performance and awards agents with common stock based on achievement of performance milestones. Awards typically vest after performance benchmarks are reached and three years of subsequent service is provided to the Company.

Share-based performance awards are based on a fixed-dollar amount of shares based on the achievement of performance metrics. As such, the awards are classified as liabilities until the number of share awards becomes fixed once the performance metric is achieved.

For the three months ended March 31, 2022, the Company’s stock compensation attributable to the Agent Growth Incentive Program was \$7,798 of which the total amount of stock compensation attributable to liability classified awards was \$1,906. Stock compensation expense related to the Agent Growth Incentive Program is included in general and administrative expense in the condensed consolidated statements of comprehensive income.

The following table illustrates changes in the Company’s stock compensation liability for the periods presented:

	Amount
Balance, December 31, 2020	\$ 2,093
Stock grant liability increase year to date	1,221
Balance, March 31, 2021	<u>\$ 3,314</u>
	Amount
Stock grant liability increase at December 31, 2021	\$ 4,341
Stock grant liability increase year to date	1,906
Stock grants reclassified from liability to equity year to date	(691)
Balance, March 31, 2022	<u><u>\$ 5,556</u></u>

Stock Option Awards

During the three months ended March 31, 2022, and 2021, the Company granted 484,378 and 127,265 stock options, respectively, to employees with an estimated grant date fair value of \$26.04 and \$26.01 per share, respectively. The fair value was calculated using a Black Scholes-Merton option pricing model.

Stock Repurchase Plan

In December 2018, the Company’s board of directors (the “Board”) approved a stock repurchase program authorizing the Company to purchase up to \$25.0 million of its common stock, which was later amended in November 2019 and again in June 2020 increasing the authorized repurchase amount to \$75.0 million. In December 2020, the Board approved another amendment to the repurchase plan, increasing the total amount authorized to be purchased from \$75.0 million to \$400.0 million. Purchases under the repurchase program may be made in the open market or through a 10b5-1 plan and are expected to comply with Rule 10b-18 under the Securities Exchange Act of 1934, as amended. The timing and number of shares repurchased depends upon market conditions. The repurchase program does not require the Company to acquire a specific number of shares. The cost of the shares that are repurchased is funded from cash and cash equivalents on hand.

For accounting purposes, common stock repurchased under the stock repurchase programs is recorded based upon the transaction date of the applicable trade. Such repurchased shares are held in treasury and are presented using the cost method. These shares are not retired and are considered issued but not outstanding. The following table shows the changes in treasury stock for the periods presented:

(Shares of Treasury Stock)	Three Months Ended March 31,	
	2022	2021
Treasury stock:		
Balance, beginning of quarter	6,751,692	2,534,494
Repurchases of common stock	1,132,048	500,910
Balance, end of quarter	<u>7,883,740</u>	<u>3,035,404</u>

8. EARNINGS PER SHARE

Basic earnings per share is computed based on net income attributable to eXp stockholders divided by the basic weighted-average shares outstanding during the period. Dilutive earnings per share is computed consistently with the basic computation while giving effect to all dilutive potential common shares and common share equivalents that were outstanding during the period. The Company uses the treasury stock method to reflect the potential dilutive effect of unvested stock awards and unexercised options.

The following table sets forth the calculation of basic and diluted earnings per share attributable to common stock during the periods presented:

	<u>Three Months Ended March 31,</u>	
	<u>2022</u>	<u>2021</u>
Numerator:		
Net income attributable to common stock	\$ 8,882	\$ 4,846
Denominator:		
Weighted average shares - basic	149,226,166	144,354,991
Dilutive effect of common stock equivalents	<u>7,616,555</u>	<u>14,367,135</u>
Weighted average shares - diluted	156,842,721	158,722,126
Earnings per share:		
Earnings per share attributable to common stock- basic	\$ 0.06	\$ 0.03
Earnings per share attributable to common stock- diluted	0.06	0.03

For the three months ended March 31, 2022 and 2021 total outstanding shares of common stock excluded 392,483 and 6,506 shares, respectively, from the computation of diluted earnings per share because their effect would have been anti-dilutive.

9. INCOME TAXES

Our quarterly tax provision is computed by applying the estimated annual effective tax rate to the year-to-date pre-tax income or loss and adjust for discrete tax items in the period. Our provision for (benefit from) income taxes amounted to (\$5.15) million and \$0.21 million for the three months ended March 31, 2022 and 2021, respectively, which represented effective tax rates of negative 137.97% and positive 4.17%, respectively. The increase in income tax benefit was primarily attributable to the deductible stock-based compensation windfalls

10. FAIR VALUE MEASUREMENT

The fair value of a financial instrument is the amount that could be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Financial assets are marked to bid prices and financial liabilities are marked to offer prices. Fair value measurements do not include transaction costs. The fair value hierarchy prioritizes the quality and reliability of the information used to determine fair values. Categorization within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The fair value hierarchy is defined into the following three categories:

- Level 1 – Inputs are quoted market prices in active markets for identical assets or liabilities (these are observable market inputs).
- Level 2 – Inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability (includes quoted market prices for similar assets or identical or similar assets in markets in which there are few transactions, prices that are not current or prices that vary substantially).
- Level 3 – Inputs are unobservable inputs that reflect the entity's own assumptions in pricing the asset or liability (used when little or no market data is available).

The Company holds funds in a money market account, which are considered Level 1 assets. The Company values its money market funds at fair value on a recurring basis.

As of March 31, 2022 and December 31, 2021, the fair value of the Company's money market funds was \$43,387 and \$43,386, respectively.

There have been no transfers between Level 1, Level 2 and Level 3 in the period presented. The Company did not have any Level 2 or Level 3 financial assets or liabilities in the period presented.

11. COMMITMENTS AND CONTINGENCIES

From time to time, the Company is subject to potential liability under laws and government regulations and various claims and legal actions that may be asserted against us that could have a material adverse effect on the business, reputation, results of operations or financial condition. Such litigation may include, but is not limited to, actions or claims relating to sensitive data, including proprietary business information and intellectual property and that of clients and personally identifiable information of employees and contractors, cyber-attacks, data breaches and non-compliance with contractual or other legal obligations.

On November 19, 2021, the Company agreed to settle a class action lawsuit filed against the Company in 2018 alleging violations under the Telephone Consumer Protection Act. Pursuant to the proposed settlement agreement terms, the Company will grant certain monetary and non-monetary settlements. The Company decided to set aside provisions at the amount of \$10.0 million to cover current estimated settlement fees and costs. The settlement agreement terms remain subject to judicial review and approval.

There are no matters pending or, to the Company's knowledge, threatened that are expected to have a material adverse impact on the business, reputation, results of operations, or financial condition.

There are no proceedings in which any of the Company's directors, officers or affiliates, or any registered or beneficial stockholder is an adverse party or has a material interest adverse to the Company's interest.

In March and April 2022, an indirect subsidiary and unconsolidated joint venture of the Company, SUCCESS Lending, entered into Mortgage Warehouse Agreements and related ancillary agreements (the "Credit Agreements") with Flagstar Bank FSB and Texas Capital Bank, which each provide SUCCESS Lending with a revolving warehouse credit line of up to \$25 million. It is customary for mortgage businesses like SUCCESS Lending to obtain warehouse credit lines in order to enable them to close and fund residential mortgage loans for subsequent sale to investors. SUCCESS Lending will use the borrowing capacity under the Credit Agreements exclusively for such purposes and borrowings will generally be repaid with the proceeds received from the sale of mortgage loans.

In connection with the Credit Agreements, the Company has entered into Capital Maintenance Agreements with each of Flagstar Bank FSB and Texas Capital Bank whereby the Company agrees to provide certain funds necessary to ensure that SUCCESS Lending is at all times in compliance with its financial covenants under the Credit Agreements. The Company's capital commitment liability under the Capital Maintenance Agreement with Flagstar Bank FSB is limited to \$2.0 million. The Company's capital commitment liability under the Capital Maintenance Agreement with Texas Capital Bank is limited to \$1.25 million. The Credit Agreements represent off-balance sheet arrangements for the Company.

12. SEGMENT INFORMATION

Historically, management has not made operating decisions and assessed performance based on geographic locations. Rather, the chief operating decision-maker makes operating decisions and assesses performance based on the products and services of the identified operating segments. While management does consider real estate and brokerage services, the acquired technology and affiliated services provided to be identified operating segments, the profits and losses and assets of the technology and affiliated services business units are not material.

Operating Segments

The Company primarily operates as a cloud-based real estate brokerage. The real estate brokerage business represents 99.2% and 99.3% of the total revenue of the Company for the three months ended March 31, 2022 and 2021, respectively. The real estate brokerage business represents 99.1% and 99.0% of the total assets of the Company as of March 31, 2022 and December 31, 2021, respectively.

The Company offers software subscriptions to customers to access its virtual reality software platform. Additionally, the Company offers professional services for implementation and consulting services. However, the operations and assets of the technology segment are not managed by the Company's chief operating decision-maker as a separate reportable segment.

Services provided through First Cloud and Silverline are in the emerging stages of development as contributing segments and are not material to the Company's total revenue, total net income or total assets as of March 31, 2022 and 2021, respectively.

The Company aggregates the identified operating segments for reporting purposes and has one reportable segment.

Geographical Information

The Company primarily operates within the real estate brokerage markets in the United States and Canada. During the previous two years, the Company expanded operations into the United Kingdom, Australia, South Africa, India, Mexico, Portugal, France, Puerto Rico, Brazil, Italy, Hong Kong, Colombia, Spain, Israel, Panama, Germany, Greece, and the Dominican Republic.

The Company's management analyzes geographical locations on a forward-looking basis to identify growth opportunities. For the three months ended March 31, 2022 and 2021, approximately 8% and 7%, respectively, of the Company's total revenue was generated outside of the U.S. Assets held outside of the U.S. were 11% and 8% as of March 31, 2022 and December 31, 2021.

The Company's technology services and affiliated services are currently provided primarily in the U.S.

13. SUBSEQUENT EVENTS

Quarterly Cash Dividend

On April 29, 2022, the Company's Board of Directors declared a dividend of \$0.04 per share which is expected to be payable on May 31, 2022, to stockholders of record as of the close of business on May 31, 2022. The ex-dividend date is expected to be May 13, 2022. The dividend will be paid in cash.

Repurchase Plan Amendment

On May 3, 2022, the Board authorized an increase to the Company's stock repurchase program from \$400 million of its common stock up to \$500 million and approved a form of amendment to its Issuer Repurchase Plan, dated January 10, 2022, by and between the Company and Stephens Inc., to increase monthly repurchases from \$10 million of its common stock per month up to \$20 million which amendment is expected to be signed May 6, 2022.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read together with our condensed consolidated financial statements and related notes included elsewhere in this report. Management's Discussion and Analysis of Financial Conditions and Results of Operations contain forward-looking statements. Our actual results could differ materially from those anticipated in these forward-looking statements. See "Item 1 A. – Risk Factors" in our 2021 Annual Report for a discussion of certain risks, uncertainties and assumptions associated with these statements.

This MD&A is divided into the following sections:

- Overview
- Market Conditions and Industry Trends
- Key Business Metrics
- Recent Business Developments
- Results of Operations
- Non-U.S. GAAP Financial Measures
- Liquidity and Capital Resources
- Critical Accounting Policies and Estimates

All dollar amounts are in USD thousands except share amounts and per share data and as otherwise noted.

OVERVIEW

eXp World Holdings empowers the new economy through its people, platforms and personal and professional development solutions. Through our brokerage, eXp Realty, we operate one of the world's fastest-growing real estate brokerages. We are focused on being the most agent-centric company on the planet and offer our agents a generous commission model, and a thriving community built on our proprietary and unique cloud-based brokerage and collaboration suite.

While we do not consider acquisitions a critical element of our ongoing business, we seek opportunities to expand and enhance our portfolio of solutions.

Strategy

Our strategy is to grow organically in North America and certain international markets by increasing our independent agent and broker network. Through our cloud-based operations and technology platform, we strive to achieve customer-focused efficiencies that allow us to increase market share and attain strong returns as we scale our business within the markets in which we operate. By building partnerships and strategically deploying capital, we seek to grow the business and enter into attractive verticals and associated businesses.

Throughout 2021, and during the first quarter of 2022, we continued to make progress in achieving our strategic goals, including an 55% increase in our agent count, going from 50,333 agents as of March 31, 2021 to 78,196 agents as of March 31, 2022. The expected outcome of these activities will be to better position us to deliver on our full potential, to provide a platform for future growth opportunities, and to achieve our long-term financial goals.

MARKET CONDITIONS AND INDUSTRY TRENDS

Our business is dependent on the economic conditions within the markets for which we operate. Changes in these conditions can have a positive or negative impact on our business. The economic conditions influencing the housing markets primarily include economic growth, interest rates, unemployment, consumer confidence, mortgage availability and supply and demand.

In periods of economic growth, demand typically increases resulting in higher home sales transactions and home sales prices. Similarly, a decline in economic growth, increasing interest rates and declining consumer confidence generally decreases demand. Additionally, regulations imposed by local, state, and federal government agencies, and geopolitical instability, can also negatively impact the housing markets for which we operate.

For the period ended March 31, 2022, the effects of the COVID-19 pandemic on business worldwide lessened, however the full magnitude and duration of the impact from COVID-19 are not fully known and cannot be reasonably estimated as the global economy continues to recover and adapt. The impact to the Company for the period ended March 31, 2022 has been minimal to date. We believe that once COVID-19 is further contained, the economy will continue to rebound depending on the continued pace, rate, and effectiveness of lifting public health restrictions on businesses and individuals and how quickly people become comfortable engaging in public activities.

According to the National Association of Realtors (“NAR”), as of 2021, the housing market is the strongest it has been in 15 years, however as of the first quarter of 2022, activity in the housing market has slowed. Due to a rise in interest rates and home prices, the demand has begun to decrease. According to the NAR housing statistics, existing home sales, adjusted for seasonality, decreased in the first quarter of 2022, while the average home sale price increased to \$387.1 (preliminary). As of March 31, 2022, housing inventory continued to decline to 0.95 million and a 2.0-month supply, which are both historic lows. The NAR reported that pending home sales fell 4.1% for the fourth consecutive month, indicating a slowing in contract activity, mostly impacted by inventory levels and rising interest rates. The pending home sales index measures housing contract activity and is based on signed real estate contracts for existing single-family homes and condos.

The Company is positioned to grow in light of a series of fluctuations in economic activity. The Company continued its growth trajectory through the first quarter of 2022 with a year-over-year increase in revenue of 73% and an increase in agent count of 55%. However, the Company continues to monitor the overall economic climate, specifically in key areas of operations, affecting the real estate market through the end of 2022.

Regardless of whether the housing market continues to grow or slows, we believe that we are positioned to leverage our low-cost, high-engagement model, affording agents and brokers increased income and ownership opportunities while offering a scalable solution to brokerage owners looking to survive and thrive in a series of fluctuations in economic activity.

National Housing Inventory

Throughout 2021 and into 2022, increased demand and low mortgage interest rates caused inventory levels to decline to record lows. With continued overall uncertainty of the overall economy, fewer individuals are listing their homes. Additionally, construction of new homes has slowed due to increased costs of raw materials, tight labor market, and delays in the supply chains as the global economy continues to recover. Due to these factors, and others, year-over-year inventory has decreased further. According to NAR, inventory of existing homes for sale in the U.S. was 0.95 million as of March 2022 (preliminary) compared to 1.05 million at the end of March 2021. NAR indicated the need for new home construction due to the high demand of homes and the record-low inventory levels.

Mortgage Interest Rates

According to NAR, mortgage interest rates on commitments for 30-year, conventional, fixed-rate mortgages averaged 3.8% for the first quarter of 2022 compared to 2.9% for the first quarter of 2021. Mortgage rates are forecasted to increase to 4.9% throughout 2022, with an expected increase in interest rates in 2023 to 5.4%. Increases in mortgage rates are expected to contribute to a decline in demand for homebuying.

Housing Affordability Index

According to NAR, the composite housing affordability index decreased to 135.4 for February 2022 (preliminary) from 170.4 for February 2021. The housing affordability index continues to be at favorable levels. When the index is above 100, it indicates that a family earning the median income has sufficient income to purchase a median-priced home, assuming a 20% down payment and ability to qualify for a mortgage. The favorable housing affordability index is due to favorable mortgage rate conditions. However, the steady year-over-year decline is attributable to the increase in the average home price due to low inventory levels driving up demand.

Home Sales Transactions

According to NAR, seasonally adjusted existing home sale transactions decreased to 5.8 million 2022 (preliminary) compared to 6.0 million for 2021. NAR anticipates transactions to continue with current pace; however, due to low inventory levels, current transaction volume may not be sustainable.

According to NAR, the nationwide existing home sales median price for March 2022 (preliminary) was \$375.3 compared to \$326.3 in March 2021. Due to low supply and high demand, the average sale price is expected to continue to increase through the remainder of 2022.

KEY BUSINESS METRICS

Management uses our results of operations, financial condition, cash flows, and key business metrics related to our business and industry to evaluate our performance and make strategic decisions.

The following table outlines the key business metrics that we periodically review:

	Three Months Ended March 31,	
	2022	2021
	<i>(in thousands, except transactions and agent count)</i>	
Performance:		
Agent count	78,196	50,333
Transactions	114,305	73,878
Volume	\$ 41,379,500	\$ 24,507,856
Revenue	\$ 1,010,731	\$ 583,833
Gross profit	83,464	53,486
Gross margin (%)	8.3%	9.2%
Adjusted EBITDA ⁽¹⁾	17,709	14,820

(1) Adjusted EBITDA is not a measurement of our financial performance under generally accepted accounting principles in the U.S. and should not be considered as an alternative to net income, operating income, or any other measures derived in accordance with U.S. GAAP. For a definition of Adjusted EBITDA and a reconciliation of Adjusted EBITDA to net income, see “Non-U.S. GAAP Financial Measures”.

We periodically evaluate trends in certain metrics to track the Company’s performance.

Our strength is attracting real estate agent and broker professionals that contribute to our growth. Brokerage real estate transactions are recorded when our agents and brokers represent buyers and/or sellers in the purchase or sale, respectively, of a home. The number of real estate transactions is a key driver of our revenue and profitability. Real estate transaction volume represents the total sales value for all homes sold by our agents and brokers and is influenced by several market factors, including, but not limited to, the pricing and quality of our services and market conditions that affect home sales, such as macroeconomic factors, local inventory levels, mortgage interest rates, and seasonality. Real estate transaction revenue represents the commission revenue earned by the Company for closed brokerage real estate transactions.

We continue to increase our agents and brokers significantly in the United States and Canada through the execution of our growth strategies. During 2020 and 2021, we expanded operations to the South Africa, India, Mexico, Portugal, France, Puerto Rico, Brazil, Italy, Hong Kong, Colombia, Spain, Israel, Panama and Germany. In 2022, the Company has expanded into Greece and the Dominican Republic. The rate of growth of our agent and broker base is difficult to predict and is subject to many factors outside of our control, including macroeconomic factors affecting the real estate industry in general. With the favorable economic outlook and our unique business model, we anticipate to continuously grow for the remainder of the year.

Settled home sales transactions and volume resulted from closed real estate transactions and typically change directionally with changes in the market’s existing home sales transactions as reported by NAR, as disproportionate variances are representative of company-specific improvements or shortfalls to the norm. Our home sale transaction growth was directly related to the growth of our agent base over the prior comparative period.

We utilize gross profit and gross margin, financial statement measures based on generally accepted accounting principles in the U.S. (“U.S. GAAP”) to assess eXp’s financial performance from period to period.

Gross profit is calculated from U.S. GAAP reported amounts and equals the difference between revenue and cost of sales. Gross margin is the calculation of gross profit as a percentage of total revenue. Commissions and other agent-related costs represent the cost of sales for the Company. The cost of sales does not include depreciation or amortization expenses as the Company’s assets are not directly used in the production of revenue. Gross profit is based on the information provided in our results of operations or our consolidated statements of comprehensive income, and is an important measure of our potential profitability and brokerage performance. For the three months ended March 31, 2022 and 2021, gross profit was \$83.5 million, and \$53.5 million, respectively. The gross profit increased year-over-year due to significant growth of real estate transaction volumes. For the three months ended March 31, 2022, and 2021, gross margin was 8.3% and 9.2%, respectively. Gross margin decreased year-over-year primarily due to rising home prices and increased demand which resulted in agents reaching their commission capping requirements sooner, entitling them to a higher percentage of the home sale commission.

Management also reviews Adjusted EBITDA, which is a non-U.S. GAAP financial measure, to understand and evaluate our core operating performance. Adjusted EBITDA has grown significantly for the three months ended March 31, 2022 and 2021 due to our revenue growth and improved leverage of our cost structure.

RECENT BUSINESS DEVELOPMENTS

Real Estate Brokerage Initiatives

Global Expansion of Our Real Estate Cloud Brokerage

In 2020, the Company continued its international expansion into France, India, Mexico, Portugal and South Africa. Throughout 2021, the Company initiated operations in Puerto Rico, Brazil, Italy, Hong Kong, Colombia, Spain, Israel, Panama and Germany. During the first quarter of 2022 we have commenced operations in Greece and the Dominican Republic. The Company continues to pursue growth opportunities into new global markets. In addition to the international expansion, the Company continues to also focus on growth in the United States and in Canada.

Agent and Employee Experience

The Company has embarked on an initiative to better understand both its agents’ and employees’ experiences. In doing so, we have adopted many of the principles of the Net Promoter Score® (“NPS”) across many aspects of our organization. NPS is a measure of customer satisfaction and is measured on a scale between -100 and 100. An NPS above 50 is considered excellent. The Company’s agent NPS was 71 in the first quarter of 2022. Whether it be the overall question “How likely are you to recommend eXp to your colleagues, friends, or family?” or more granular inquiries as to specific workflows or service offerings, we believe this will ensure we are delivering on the most important values to our agents and employees. In turn, this often leads to enthusiastic fans of eXp who will promote our Company and continue leading us through strong organic growth.

The NPS measure is an important vehicle for delivering on our core value of transparency. While we strive for high satisfaction, it is equally important to investigate a low or unfavorable trending of NPS. As NPS scores are often leading indicators to agents and employees’ future actions, we are able to learn quickly what may be a ‘pain point’ or product that is not meeting its desired objective. We then take that information and translate it into action with an effort to remediate the specific root cause(s) driving the lower score. This fast and iterative approach has already led to improvements in parts of our business such as agent onboarding, commission transaction processing, and employee benefits.

Agent Ownership

The Company maintains an equity incentive program whereby agents and brokers of eXp Realty can become eligible to receive awards of the Company’s common stock through the achievement of production and agent attraction benchmarks. Under our equity incentive program, agents and brokers who qualify may be issued awards of shares of the Company’s common stock, and it continues to be another element in creating a culture of agent-ownership.

Our agent compensation plans represent a key lever in our strategy to attract and retain independent agents and brokers. The costs attributable to these plans are also a significant component of our commission structure and results of operations. Agents and brokers can elect to receive 5% of their commission payable in the form of Company common stock.

Technology Products and Services

We continue developing the core Virbela enterprise metaverse technology through our subsidiary, eXp World Technologies, LLC (“World Tech”), to accommodate for the increasing use and scale required to support all eXp subsidiaries and a growing number of

enterprise customers worldwide. Virbela has seen increased interest from Fortune 200 enterprises looking to become both customers and partners as they invest in metaverse technologies and build out their own strategies. Enterprise readiness was a core product focus in 2021 (e.g., scale, reliability, security, and privacy). In 2021, Virbela also released a new product called Frame into beta. Frame is a metaverse collaboration technology that is accessible from any device with a browser (e.g., mobile, personal computer, virtual reality device, tablet). In 2022, we expect to continue to service existing and new business-to-business enterprise level contracts, solidify channel partnerships, and bring the Frame product out of beta.

Affiliate and Media Services

Acquisitions and partnerships have allowed us to begin offering to customers more products and services complementary to our real estate brokerage business. These affiliate and media services include mortgage origination, title, escrow, and settlement services, which we can now provide as a more inclusive offering in addition to our brokerage services. We anticipate continued growth and investment in these service offerings through 2022; however, actual performance will depend largely on utilization by eXp and non eXp Realty agents.

In July of 2021, the Company formed SUCCESS Lending, LLC (“SUCCESS Lending”) a residential lending joint venture with Kind Partners, LLC, a subsidiary of Kind Lending, LLC. With the formation of SUCCESS Lending, the Company intends to provide more enhanced mortgage services and products to customers.

Results of Operations

Three Months Ended March 31, 2022 compared to the Three Months Ended March 31, 2021

	Three Months Ended March 31, 2022	% of Revenue	Three Months Ended March 31, 2021	% of Revenue	Change 2022 vs. 2021	
					\$	%
Statement of Operations Data:						
Revenues	\$ 1,010,731	100%	\$ 583,833	100%	\$ 426,898	73%
Operating expenses						
Commissions and other agent-related costs	927,267	92%	530,347	91%	396,920	75%
General and administrative expenses	75,322	7%	46,300	8%	29,022	63%
Sales and marketing expenses	3,700	-%	2,257	-%	1,443	64%
Total operating expenses	1,006,289	100%	578,904	99%	427,385	74%
Operating income	4,442	-%	4,929	1%	(487)	(10)%
Other (income) expense						
Other (income) expense, net	410	-%	(134)	-%	544	(406)%
Equity in losses of unconsolidated affiliates						
Other (income) expense, net	317	-%	6	-%	311	5183%
Income before income tax expense	3,715	-%	5,057	1%	(1,342)	(27)%
Income tax (benefit) expense	(5,149)	(1)%	211	-%	(5,360)	(2,540)%
Net income	8,864	1%	4,846	1%	4,018	83%
Add back: Net loss attributable to noncontrolling interest						
Net income attributable to eXp World Holdings, Inc.	18	-%	-	-%	18	-%
Adjusted EBITDA ⁽¹⁾	\$ 17,709	2%	\$ 14,820	3%	\$ 2,889	19%
Earnings per share						
Basic	\$ 0.06		\$ 0.03		\$ 0.03	100%
Diluted	\$ 0.06		\$ 0.03		\$ 0.03	100%
Weighted average shares outstanding						
Basic	149,226,166		144,354,991			
Diluted	156,842,721		158,722,126			

(1) Adjusted EBITDA is not a measurement of our financial performance under U.S. GAAP and should not be considered as an alternative to net income, operating income or any other measures derived in accordance with U.S. GAAP. For a definition of Adjusted EBITDA and a reconciliation of Adjusted EBITDA to net income, see “Non-U.S. GAAP Financial Measures.”

Revenue

Our total revenues were \$1.0 billion for the three months ended March 31, 2022 compared to \$583.8 million for the same period in 2021, an increase of \$426.9 million, or 73%. Total revenues increased for the first quarter of 2022 primarily as a result of an increase in real estate brokerage commissions, which is directly attributable to increases in our agent count, closed transactions and rising home price compared to the same period in 2021.

Commission and Other Agent Related Costs

Commission and other agent-related costs were \$927.3 million for the three months ended March 31, 2022 compared to \$530.3 million for the same period in 2021, an increase of \$396.9 million, or 75%. Commissions and other agent related costs increased as a result of an increase in our agent count and closed transactions compared to the same period in 2021. Rising home prices and increased demand also contributed to agents reaching their commission capping requirements sooner, entitling them to a higher percentage of the home sale commission.

General and Administrative Expense

General and administrative expenses were \$75.3 million for the three months ended March 31, 2022 compared to \$46.3 million for the same period in 2021, an increase of \$29.0 million or 63%. General and administrative expenses include costs related to wages, including stock compensation, and other general overhead expenses. General and administrative expenses increased primarily as a result of an increase of \$18.2 million in compensation and personnel related expenses including salaries, employee benefits, and payroll taxes and payroll processing fees, an increase of \$2.6 million in computer and software expenses, and an increase of \$2.7 million in stock compensation expense. These increased costs are a result of the Company's growth in agent count and real estate transaction volumes, and the investment of employee and technology in supporting the growth in 2022.

Sales and Marketing

Sales and marketing expenses increased to \$3.7 million for the three months ended March 31, 2022 compared to \$2.3 million the same period in 2021. This is due to an increase of \$1.4 million in advertising as we continue to expand our real estate operations and software services.

Other Expense (Income)

There were no significant changes in other expense for the three months ended March 31, 2022 compared to the same period in 2021.

Income Tax Benefit (Expense)

The Company's provision for (benefit from) income taxes amounted to (\$5.15) million and \$0.21 million for the three months ended March 31, 2022 and 2021, respectively, which represented effective tax rates of negative 137.97% and positive 4.17%, respectively. The increase in income tax benefit was primarily attributable to the deductible stock-based compensation windfalls.

NON-U.S. GAAP FINANCIAL MEASURES

To supplement our condensed consolidated financial statements, which are prepared and presented in accordance with U.S. GAAP, we use Adjusted EBITDA, a non-U.S. GAAP financial measure, to understand and evaluate our core operating performance. This non-GAAP financial measure, which may be different than similarly titled measures used by other companies, is presented to enhance investors' overall understanding of our financial performance and should not be considered a substitute for, or superior to, the financial information prepared and presented in accordance with U.S. GAAP.

We define the non-U.S. GAAP financial measure of Adjusted EBITDA to mean net income (loss), excluding other income (expense), income tax benefit (expense), depreciation, amortization, and impairment charges, stock-based compensation expense, and stock option expense.

We believe that Adjusted EBITDA provides useful information about our financial performance, enhances the overall understanding of our past performance and future prospects, and allows for greater transparency with respect to a key metric used by our management for financial and operational decision-making. We believe that Adjusted EBITDA helps identify underlying trends in our business that otherwise could be masked by the effect of the expenses that we exclude in Adjusted EBITDA. In particular, we believe the exclusion of stock and stock option expenses, provides a useful supplemental measure in evaluating the performance of our underlying operations and provides better transparency into our results of operations.

We are presenting the non-U.S. GAAP measure of Adjusted EBITDA to assist investors in seeing our financial performance through the eyes of management, and because we believe this measure provides an additional tool for investors to use in comparing our core financial performance over multiple periods with other companies in our industry.

Adjusted EBITDA should not be considered in isolation from, or as a substitute for, financial information prepared in accordance with U.S. GAAP. There are a number of limitations related to the use of Adjusted EBITDA compared to Net Income (Loss), the closest comparable U.S. GAAP measure. Some of these limitations are that:

- Adjusted EBITDA excludes stock-based compensation expense related to our agent growth incentive program and stock option expense, which have been, and will continue to be for the foreseeable future, significant recurring expenses in our business and an important part of our compensation strategy; and
- Adjusted EBITDA excludes certain recurring, non-cash charges such as depreciation of fixed assets, amortization of intangible assets, and impairment charges related to these long-lived assets, and, although these are non-cash charges, the assets being depreciated, amortized, or impaired may have to be replaced in the future.

The following tables present a reconciliation of Adjusted EBITDA to net loss, the most comparable U.S. GAAP financial measure, for each of the periods presented:

	Three Months Ended March 31,	
	2022	2021
Net income	\$ 8,864	\$ 4,846
Other (income) expense, net	727	(128)
Income tax (benefit) expense	(5,149)	211
Depreciation and amortization ⁽¹⁾	1,958	1,310
Stock compensation expense ⁽²⁾	7,798	5,472
Stock option expense	3,511	3,109
Adjusted EBITDA	\$ 17,709	\$ 14,820

⁽¹⁾ Amortization of stock liability is included in the "Other expense (income)" line item.

⁽²⁾ This includes agent growth incentive stock compensation expense and stock compensation expense related to business acquisitions.

LIQUIDITY AND CAPITAL RESOURCES

Our primary sources of liquidity are our cash and cash equivalents on hand and cash flows generated from our business operations. Our ability to generate sufficient cash flow from operations or to access certain capital markets, including banks, is necessary to fund our operations and capital expenditures, repurchase our common stock, and meet obligations as they become due. At present, our cash and cash equivalents balances and cash flows from operations have strengthened primarily due to transaction volume growth and improved cost leverage over the prior five years, attributable to the expansion of our independent agent and broker network and, to a lesser extent, increased average prices of home sales.

Currently, our primary use of cash on hand is to sustain and grow our business operations, including, but not limited to, commission and revenue share payments to agents and brokers and cash outflows for operating expenses. Our current capital deployment strategy for 2022 is to utilize excess cash on hand to support our growth initiatives into select markets and enhance our technology platforms and for repurchases of our common stock. As of March 31, 2022, the Company is party to off-balance sheet arrangements, see *Note 11 – Commitments and Contingencies* for details of these arrangements. In addition, the Company has no known material cash requirements as of March 31, 2022, relating to capital expenditures, commitments, or human capital (except as passthrough commissions to agents and brokers concurrent with settled real estate transactions). For information regarding the Company's expected cash requirement related to leases, see *Note 6 – Leases* to the condensed consolidated financial statements.

For information regarding the Company's expected cash requirement related to settlement costs, see *Note 11 – Commitments and Contingencies*.

We believe that our existing balances of cash and cash equivalents and cash flows expected to be generated from our operations will be sufficient to satisfy our operating requirements for at least the next twelve months. Our future capital requirements will depend on many factors, including our level of investment in technology, our rate of growth into new markets, and cash used to repurchase shares of the

Company's common stock. Our capital requirements may be affected by factors which we cannot control such as the changes in the residential real estate market, interest rates, and other monetary and fiscal policy changes to the manner in which we currently operate. In order to support and achieve our future growth plans, we may need or seek advantageously to obtain additional funding through

[Table of Contents](#)

equity or debt financing. We believe that our current operating structure will facilitate sufficient cash flows from operations to satisfy our expected long-term liquidity requirements beyond the next twelve months.

Net Working Capital

Net working capital is calculated as the Company's total current assets less its total current liabilities. The following table presents our net working capital as of March 31, 2022 and December 31, 2021:

	<u>March 31, 2022</u>	<u>December 31, 2021</u>
Current assets	\$ 399,342	\$ 319,315
Current liabilities	(253,109)	(186,814)
Net working capital	<u>\$ 146,233</u>	<u>\$ 132,501</u>

For the three months ended March 31, 2022, net working capital increased to \$146.2 million, or 10%, compared to December 31, 2021 primarily due to an increase in agent and commission receivables directly related to the increase in revenue.

Cash Flows

The following table presents our cash flows for the three months ended March 31, 2022 and 2021:

	<u>Three Months Ended March 31,</u>	
	<u>2022</u>	<u>2021</u>
Cash provided by operating activities	\$ 111,507	\$ 78,919
Cash used in investment activities	(4,684)	(3,757)
Cash used in financing activities	(35,743)	(32,636)
Effect of changes in exchange rates on cash, cash equivalents and restricted cash	41	47
Net change in cash, cash equivalents and restricted cash	<u>\$ 71,121</u>	<u>\$ 42,573</u>

For the three months ended March 31, 2022, cash provided by operating activities increased \$32.6 million compared to the same period in 2021. The change resulted primarily from the increased real estate transactions volume, increase in customer deposits, and higher participation by our agents and brokers in our agent stock compensation programs.

For the three months ended March 31, 2022, cash used in our investing activities increased due to higher capital expenditures.

For the three months ended March 31, 2022, the increase in cash flows used in financing activities primarily were related to repurchases of our common stock and payment of cash dividend, partially offset by proceeds received from the exercise of stock options.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The condensed consolidated financial statements should be read in conjunction with the consolidated financial statements included in the Annual Report on Form 10-K for the year ended December 31, 2021, which provides a description of our critical accounting policies. There were no changes to critical accounting policies or estimates as reflected in our 2021 Annual Report. For additional information regarding our critical accounting policies and estimates, see the Critical Accounting Policies and Estimates section of MD&A included in our 2021 Annual Report.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There have been no material changes in our exposures to market risk since December 31, 2021. For details on the Company's interest rate and foreign currency exchange, see "Item 7A. Quantitative and Qualitative Information About Market Risks" in our 2021 Annual Report.

Item 4. CONTROLS AND PROCEDURES

Management is responsible for establishing and maintaining disclosure controls and procedures that are designed to ensure that information required to be disclosed in its reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer (as the principal executive officer) and Chief Financial Officer (as the principal financial officer), to allow timely decisions regarding required disclosures.

As of March 31, 2022, an evaluation was conducted by the Company under the supervision and with the participation of its management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of its disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on this evaluation, our Chief Executive Officer and Chief Financial Officer each concluded that the Company's disclosure controls and procedures were effective at the reasonable assurance level as of March 31, 2022.

There were no changes in our internal control over financial reporting that occurred during the quarter ended March 31, 2022 that have materially affected, or are reasonably believed to be likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

From time to time, we are involved in ordinary routine litigation incidental to the conduct of our business, including matters that may be certified as class or collective actions. The Company believes that it has adequately and appropriately accrued for legal matters. We recognize expense for legal claims when payments associated with the claims become probable and can be reasonably estimated.

Litigation and other legal matters are inherently unpredictable and subject to substantial uncertainties and adverse resolutions could occur. In addition, litigation and other legal matters, including class action lawsuits, government investigations and regulatory proceedings can be costly to defend and, depending on the class size and claims, could be costly to settle. As such, the Company could incur judgments, penalties, sanctions, fines or enter into settlements of claims with liability that are materially in excess of amounts accrued and these settlements could have a material adverse effect on the Company's financial condition, results of operations or cash flows in any particular period.

Item 1A. RISK FACTORS

The business, financial condition and operating results of the Company can be affected by a number of risks, whether currently known or unknown, including but not limited to those detailed in Part I, Item 1A of the 2021 Annual Report under the heading "Risk Factors". Additional risks not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or results of operations in future periods. Any of these factors, in whole or in part, could materially and adversely affect the Company's business, financial condition, operating results and stock price. Except as set forth below, there have been no material changes to the Company's risk factors since the 2021 Annual Report.

Risks Related to our Business and Operations

SUCCESS Lending is in a nascent state and is an unproven business model with regulatory, compliance, consumer trends and macroeconomic risks, many of which are beyond our control.

The SUCCESS Lending business has a limited operating history and has encountered and will continue to encounter risks, uncertainties, difficulties, and expenses, including, without limitation, ongoing compliance with a complex and evolving regulatory environment, increasing its number of clients and loans, obtaining additional funding and service relationships on favorable terms as the company scales, and navigating an evolving macroeconomic landscape. If we are not able to timely and effectively respond to these requirements, or if risks arise outside our reasonable ability to respond effectively, our business may be harmed. Generally, the residential mortgage lending market involves a high degree of business and financial risk, which can result in substantial losses that could adversely affect our financial condition.

Additionally, SUCCESS Lending is reliant on a third-party relationship with (i) Texas Capital Bank and (ii) Flagstar Bank FSB which each provide a consumer warehouse credit facility to SUCCESS Lending. If SUCCESS Lending is unable to maintain its relationship with either Texas Capital Bank or Flagstar Bank FSB, we would need to implement a substantially similar arrangement with another

issuing bank or curtail SUCCESS Lending's operations. We could in the future have disagreements or disputes with either Texas Capital Bank or Flagstar Bank FSB, which could negatively impact or threaten our relationship.

Additionally, SUCCESS Lending relies on third-party sources, including credit bureaus, for credit, identification, employment and other relevant information in order to review and select qualified borrowers. If this information becomes unavailable, becomes more expensive to access or is incorrect, our business may be harmed.

SUCCESS Lending requires substantial liquidity made available through warehouse credit facilities in order to fund mortgage loans, which debt obligations are guaranteed and may need to be repaid by eXp.

SUCCESS Lending funds substantially all of the mortgage loans it closes through borrowings under its revolving warehouse credit facilities and funds generated by its operations. As of the date hereof, SUCCESS Lending has a warehouse credit facility with Flagstar Bank FSB and Texas Capital Bank which together provide SUCCESS Lending with an aggregate maximum principal amount with up to \$50 million in loan origination credit (the "Credit Facilities"). It is customary for mortgage businesses like SUCCESS Lending to obtain warehouse credit lines in order to enable them to close and fund residential mortgage loans for subsequent sale to investors. SUCCESS Lending will use the borrowing capacity under the Credit Facilities exclusively for such purposes and borrowings will generally be repaid with the proceeds received from the sale of mortgage loans.

In connection with the Credit Facilities, the Company has entered into Capital Maintenance Agreements with each of Flagstar Bank FSB and Texas Capital Bank whereby the Company agrees to provide certain funds necessary to ensure that SUCCESS Lending is at all times in compliance with its financial covenants under the Credit Facilities. The Company's capital commitment liability under the Capital Maintenance Agreement with Flagstar Bank FSB is limited to \$2.0 million. The Company's capital commitment liability under the Capital Maintenance Agreement with Texas Capital Bank is limited to \$1.25 million. The Credit Agreements represent off-balance sheet arrangements for the Company.

We do not have sole control of SUCCESS Lending and losses and liabilities of SUCCESS Lending may require us to contribute additional capital and result in losses that could adversely affect our financial condition.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Issuer Purchases of Equity Securities

The following table provides information about repurchases of our common stock through the quarter ended March 31, 2022:

Period	Total number of shares purchased	Average price paid per share	Total number of shares purchased as part of publicly announced plans or programs ⁽¹⁾	Approximate dollar value of shares that may yet be purchased under the plans or programs
1/1/2022 - 1/31/2022	350,920	\$ 27.81	350,920	\$ 198,368,431
2/1/2022 - 2/28/2022	364,855	27.43	364,855	188,382,016
3/1/2022 - 3/31/2022	416,273	24.00	416,273	178,394,784
Total	1,132,048	\$ 26.41	1,132,048	

⁽¹⁾ The repurchase program began on January 2, 2019 and was set to expire on June 28, 2019. On June 12, 2019, the Company, under authorization from the Board of Directors, amended the plan. The amended plan extended the repurchase program through December 31, 2019. On November 26, 2019, the Company announced the approval to increase the authorization limits of the Company's stock repurchase program by the Board. The Board agreed to extend the stock repurchase program through the fourth quarter of 2020 and to increase the authorization for the stock repurchase program from \$25.0 million to \$75.0 million of the Company's common stock. The Company discontinued the repurchase program in March 2020 and subsequently reinstated it in June 2020 with a maximum authorization of \$75.0 million. In December 2020, the Board approved an increase to the total amount of its buyback program from \$75.0 million to \$400.0 million. The stock repurchase program is more fully disclosed in *Note 7 – Stockholders' Equity to the condensed consolidated financial statements*.

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBITS

Exhibit Number	Exhibit Description
3.1	Restated Certificate of Incorporation
3.2	Restated Bylaws
10.1	Master Repurchase Agreement, dated March 29, 2022, by and among SUCCESS Lending, LLC, Flagstar Bank FSB, and Buyers
10.2	Mortgage Warehouse Agreement, effective April 8, 2022, by and between SUCCESS Lending, LLC and Texas Capital Bank
10.3	Issuer Repurchase Plan, dated January 10, 2022, by and between eXp World Holdings Inc. and Stephens Inc. (incorporated by reference from Exhibit 10.3 to the Company's Current Report on Form 8-K filed on May 4, 2022)
10.4	First Amendment to eXp World Holdings, Inc. Stock Repurchase Program (incorporated by reference from Exhibit 10.3 to the Company's Current Report on Form 8-K filed on May 4, 2022)
31.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of the Chief Executive Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of the Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	Inline XBRL Instance Document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

May 4, 2022

eXp World Holdings, Inc.
(Registrant)

/s/ Jeff Whiteside

Jeff Whiteside
Chief Financial Officer (Principal Financial Officer)



MASTER REPURCHASE AGREEMENT

among

SUCCESS LENDING, LLC,

as Seller,

FLAGSTAR BANK FSB,

as a Buyer and as Administrative Agent on behalf of Buyers,

and

the Buyers from time to time party hereto

dated as of

FEBRUARY __, 2022

NOTICE: Certain information has been excluded from the exhibit because it is both not material and is the type that the registrant treats as private or confidential.

TABLE OF CONTENTS

Page

Article 1 DEFINITIONS AND PRINCIPLES OF CONSTRUCTION	1
1.1 Defined Terms	1
1.2 Interpretation; Principles of Construction	1
Article 2 AMOUNT AND TERMS OF TRANSACTIONS	2
2.1 Agreement to Enter into Transactions	2
2.2 Transaction Limits	3
2.3 Description of Purchased Assets	3
2.4 Maximum Transaction Amounts	3
2.5 Use of Proceeds	3
2.6 Price Differential	4
2.7 All Transactions are “Servicing Released”	4
2.8 Terms and Conditions of Transactions	5
2.9 Temporary Increase of Aggregate Transaction Limit	5
Article 3 PROCEDURES FOR REQUESTING AND ENTERING INTO TRANSACTIONS	5
3.1 Policies and Procedures	5
3.2 Request for Transaction	5
3.3 Delivery of Mortgage Loan Documents	7
3.4 Payment of Purchase Price	8
3.5 Approved Payees	11
3.6 Delivery of Mortgage-Backed Securities	11
Article 4 REPURCHASE	12
4.1 Repurchase Price	12
4.2 Repurchase Acceleration Events	13
4.3 Reduction of Asset Value as Alternative Remedy	14
4.4 Illegality or Impracticability	14
4.5 Increased Costs	15
4.6 Payments Pursuant to Sale to Approved Investors	15
4.7 Benchmark Replacement Setting	16
4.8 Method of Payment	17
4.9 Authorization to Debit	17
4.10 Book Account	18
4.11 Full Recourse	18
4.12 Payments to Seller	18

TABLE OF CONTENTS

	<u>Page</u>
Article 5 FEES.....	18
5.1 Payment of Fees.....	18
Article 6 SECURITY; SERVICING; MARGIN ACCOUNT MAINTENANCE; CUSTODY OF MORTGAGE LOAN DOCUMENTS; REPURCHASE TRANSACTIONS; DUE DILIGENCE.....	18
6.1 Precautionary Grant of Security Interest in Purchased Assets and Purchased Items.....	18
6.2 Servicing.....	20
6.3 Margin Account Maintenance.....	26
6.4 Repurchase and Release of Purchased Assets.....	27
6.5 Repurchase Transactions.....	27
6.6 Periodic Due Diligence.....	28
Article 7 CONDITIONS PRECEDENT.....	29
7.1 Initial Transaction.....	29
7.2 All Transactions.....	30
7.3 Satisfaction of Conditions.....	33
Article 8 REPRESENTATIONS AND WARRANTIES.....	34
8.1 Representations and Warranties Concerning Seller.....	34
8.2 Representations and Warranties Concerning Purchased Assets.....	40
8.3 Continuing Representations and Warranties.....	40
8.4 Amendment of Representations and Warranties.....	40
Article 9 AFFIRMATIVE COVENANTS.....	40
9.1 Financial Statements and Other Reports.....	40
9.2 Notice.....	40
9.3 Existence, Etc.....	42
9.4 Servicing of Mortgage Loans.....	43
9.5 Evidence of Purchased Assets.....	43
9.6 Defense of Title; Protection of Purchased Items.....	43
9.7 Further Assurances.....	43
9.8 Fidelity Bonds and Insurance.....	43
9.9 Wet Mortgage Loans.....	44
9.10 ERISA.....	44
9.11 Additional Repurchase or Warehouse Facilities.....	45
9.12 MERS.....	45

TABLE OF CONTENTS

	<u>Page</u>
9.13 Agency Audit and Approval Maintenance	46
9.14 Financial Covenants	46
9.15 [Reserved]	46
9.16 Purchase Commitments	46
9.17 Late Payment Fee	46
9.18 Master Custodial Agreement; Intercreditor Agreement	46
Article 10 NEGATIVE COVENANTS	47
10.1 Lines of Business	47
10.2 Debt and Subordinated Debt	47
10.3 Loss of Eligibility	47
10.4 Liens on Purchased Assets and Purchased Items	47
10.5 Transactions with Affiliates	47
10.6 Consolidation, Merger, Sale of Assets and Change of Control	47
10.7 Purchased Items	48
10.8 Secondary Marketing, Underwriting, Third Party Origination and Interest Rate Risk Management Practices	48
Article 11 DEFAULTS AND REMEDIES	48
11.1 Events of Default	48
11.2 Events of Early Termination	51
11.3 Remedies	52
11.4 Treatment of Collateral Account	54
11.5 Sale of Purchased Assets	54
11.6 No Obligation to Pursue Remedy	54
11.7 No Judicial Process	55
11.8 Reimbursement of Costs and Expenses	55
11.9 Application of Proceeds	55
11.10 Rights of Set-Off	55
Article 12 INDEMNIFICATION	56
12.1 Indemnification	56
12.2 Reimbursement	56
12.3 Payment of Taxes	57
12.4 Administrative Agent and Buyer Payment	60
12.5 Agreement not to Assert Claims	60

TABLE OF CONTENTS

	<u>Page</u>
12.6 Survival	60
Article 13 TERM AND TERMINATION	60
13.1 Term	60
13.2 Termination	61
13.3 Extension of Term	61
Article 14 GENERAL	61
14.1 Integration; Servicing Provisions Integral and Non-Severable	61
14.2 Amendments	62
14.3 No Waiver	62
14.4 Remedies Cumulative	62
14.5 Rehypothecation; Assignment	62
14.6 Successors and Assigns	62
14.7 Participations	63
14.8 Invalidity	63
14.9 Additional Instruments	63
14.10 Survival	63
14.11 Notices	63
14.12 Governing Law	64
14.13 Submission to Jurisdiction; Service of Process; Waivers	64
14.14 Waiver of Jury Trial	65
14.15 Counterparts	65
14.16 Headings	65
14.17 Confidential Information	65
14.18 Intent	67
14.19 Right to Liquidate	68
14.20 Insured Depository Institution	68
14.21 Netting Contract	68
14.22 Tax Treatment	68
14.23 Examination and Oversight by Regulators	68
14.24 Anti-Money Laundering Laws Notice	68
14.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions	68
14.26 Reasonable Assurances	69
14.27 Service Providers	69

TABLE OF CONTENTS

	<u>Page</u>
14.28 No Liability With Respect to Benchmark.....	69
Article 15 ADMINISTRATIVE AGENT	70
15.1 Appointment of Administrative Agent.....	70
15.2 Account with Administrative Agent or any Buyer	70
15.3 Scope of Administrative Agent’s Duties.....	70
15.4 Successor Administrative Agent	71
15.5 Credit Decisions.....	71
15.6 Authority of Administrative Agent to Enforce This Agreement	72
15.7 Indemnification of Administrative Agent	72
15.8 Knowledge of Default	73
15.9 Administrative Agent’s Authorization; Action by Buyers	73
15.10 Enforcement Actions by the Administrative Agent	73
15.11 Collateral Matters	73
15.12 Administrative Agent in its Individual Capacity	74
15.13 Administrative Agent or other Titles	74
15.14 No Reliance on Administrative Agent’s Customer Identification Program	74
15.15 Subordination Agreements.....	75
15.16 Erroneous Payments	75
15.17 Defaulting Buyers	77

EXHIBITS

Exhibit A:	Glossary of Defined Terms
Exhibit B:	Form of Irrevocable Closing Instructions
Exhibit C:	Form of Officer's Compliance Certificate
Exhibit D:	Assignment of Closing Protection Letter
Exhibit E:	Form of Power of Attorney
Exhibit F:	Wiring Instructions
Exhibit G:	Form of Servicer Notice
Exhibit H:	Representations and Warranties
Exhibit I:	Form of Trade Assignment
Exhibit J:	Form of Request for Temporary Increase
Exhibit K:	Form of Agency-Required E-Note Legend
Exhibit L:	Form of Officer's Certificate
Exhibit M:	Form of Resolutions
Exhibit N:	Form of UCC-1 Financing Statement Exhibit

SCHEDULES

Schedule 1:	Filing Jurisdictions and Offices
Schedule 2:	Ownership Interests of Seller
Schedule 3:	Allocation Percentages
Schedule 4:	Financial Statements and Other Reports

Exhibits B - N and Schedules 1 - 4 have been intentionally omitted from this Exhibit

MASTER REPURCHASE AGREEMENT

THIS MASTER REPURCHASE AGREEMENT (the “**Agreement**”) is made and entered into as of February , 2022, by and among Flagstar Bank FSB, a federally chartered savings bank, as a buyer (in such capacity, “**Flagstar Buyer**”) and as administrative agent on behalf of Buyers (in such capacity, “**Administrative Agent**”), SUCCESS Lending, LLC, a Delaware limited liability company (“**Seller**”) and the other Buyers from time to time party hereto (collectively with Flagstar Buyer, “**Buyers**”).

RECITALS

- A. Seller has requested Administrative Agent, on behalf of Buyers, to enter into transactions with Seller whereby Seller may, from time to time, sell to Buyers certain residential mortgage loans (including the Servicing Rights related thereto) and/or other mortgage related assets and interests, against the transfer of funds by Administrative Agent, on behalf of Buyers, with a simultaneous agreement by Administrative Agent, on behalf of Buyers, to sell to Seller such purchased assets at a date certain or on demand after the Purchase Date, against the transfer of funds by Seller (each such transaction, a “**Transaction**”).
- B. Administrative Agent, on behalf of Buyers, has agreed to enter into such Transactions, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual rights and obligations provided herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, Seller, Administrative Agent and Buyers agree as follows:

ARTICLE 1 **DEFINITIONS AND PRINCIPLES OF CONSTRUCTION**

- 1.1 Defined Terms. As used in this Agreement, capitalized terms shall have the meanings set forth in Exhibit A hereto, unless the context otherwise requires. All such defined terms shall, unless specifically provided to the contrary, have the defined meanings set forth herein when used in any other agreement, certificate or document made or delivered pursuant hereto.
- 1.2 Interpretation; Principles of Construction. The following rules of this Section 1.2 apply to all Principal Agreements unless the context requires otherwise. A gender includes all genders. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning. A reference to a subsection, Section, Schedule or Exhibit is, unless otherwise specified, a reference to a Section of, or schedule or exhibit to, this Agreement. A reference to a party to this Agreement or another agreement or document includes the party’s successors and permitted substitutes or assigns. A reference to an agreement or document (including any Principal Agreement) is to the agreement or document as amended, modified, novated, supplemented or replaced, except to the extent prohibited thereby or by any Principal Agreement and in effect from time to time in accordance with the terms thereof. A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it. A reference to writing includes an electronic transmission and any means of reproducing words in a tangible and permanently visible form. A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing. The words “hereof,” “herein,” “hereunder” and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term “including” is not limiting and means “including without limitation.” In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the

words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

Except where otherwise provided in this Agreement, any determination, consent, approval, statement or certificate made or confirmed in writing with notice to Seller by any Buyer or Administrative Agent, on behalf of Buyers, or an authorized officer of any Buyer or Administrative Agent provided for in this Agreement is conclusive and binds the parties in the absence of manifest error. A reference to an agreement includes a security interest, guarantees, agreement or legally enforceable arrangement whether or not in writing related to such agreement.

A reference to a document includes an agreement (as so defined) in writing or a certificate, notice, instrument or document, or any information recorded in electronic form. Where Seller is required to provide any document to Administrative Agent or Buyers under the terms of this Agreement, the relevant document shall be provided in writing in either electronic or printed form unless Administrative Agent or any Buyer requests otherwise. At the request of Administrative Agent or any Buyer, the document shall be provided in electronic form or both printed and electronic form.

This Agreement is the result of negotiations among, and has been reviewed by counsel to, Administrative Agent, Buyers and Seller, and is the product of all parties. In the interpretation of this Agreement, no rule of construction shall apply to disadvantage one party on the ground that such party proposed or was involved in the preparation of any particular provision of this Agreement or this Agreement itself. Except where otherwise expressly stated, Administrative Agent and Buyers may give or withhold, in good faith or give conditionally, approvals and consents and may form opinions and make determinations at its sole and absolute discretion. All determinations by Administrative Agent and any Buyer in its sole or absolute discretion shall be made in good faith. Any requirement of good faith, discretion or judgment by Administrative Agent and Buyers shall not be construed to require Administrative Agent or Buyers to request or await receipt of information or documentation not immediately available from or with respect to Seller, a servicer of the Purchased Mortgage Loans, any other Person or the Purchased Assets themselves. All references herein or in any Principal Agreement to “good faith” means good faith as defined in Section 1-201(b)(20) of the Uniform Commercial Code.

ARTICLE 2 AMOUNT AND TERMS OF TRANSACTIONS

- 2.1 Agreement to Enter into Transactions. Subject to the terms and conditions of this Agreement and provided that no Event of Default, Event of Early Termination, Potential Default or Cease Funding Event has occurred and is continuing, Administrative Agent, on behalf of Buyers, may, from time to time during the term of this Agreement, enter into Transactions with Seller; provided, however, that (a) the Aggregate Outstanding Purchase Price as of any date shall not exceed the Aggregate Transaction Limit and (b) the Aggregate Outstanding Purchase Price for any Type of Transaction shall not exceed the applicable Type Sublimit. Administrative Agent and, except as set forth in Section 3.4(e), Buyers shall have no obligation to enter into Transactions. Seller may request Transactions in excess of the Aggregate Transaction Limit and Administrative Agent, on behalf of Buyers, may, from time to time, in its sole and absolute discretion, consent to a Temporary Increase of the Aggregate Transaction Limit in accordance with Section 2.9. This Agreement is not a commitment to enter into Transactions with Seller but rather sets forth the procedures to be used in connection with any request for Administrative Agent, on behalf of Buyers, to enter into Transactions with Seller from time to time during the term of this Agreement and, if Administrative Agent, on behalf of Buyers, enters into Transactions with Seller, Seller’s obligations with respect thereto. **NOTWITHSTANDING THE WILLINGNESS OF ADMINISTRATIVE AGENT, ON BEHALF OF BUYERS, FROM TIME TO TIME TO CONSIDER ENTERING INTO**

TRANSACTIONS HEREUNDER, THIS AGREEMENT IS ENTERED INTO ON THE EXPRESS UNDERSTANDING THAT ADMINISTRATIVE AGENT AND, EXCEPT AS SET FORTH IN SECTION 3.4(e), BUYERS SHALL NOT BE OBLIGATED TO ENTER INTO ANY TRANSACTION HEREUNDER, AND THIS AGREEMENT SHALL IN NO WAY BE CONSTRUED AS A COMMITMENT BY ADMINISTRATIVE AGENT OR, EXCEPT AS SET FORTH IN SECTION 3.4(e), BUYERS TO ENTER INTO ANY TRANSACTION. ADMINISTRATIVE AGENT'S AND BUYERS' ENTRY INTO A TRANSACTION HEREUNDER SHALL NOT OBLIGATE ADMINISTRATIVE AGENT OR ANY SUCH BUYER TO ENTER INTO ANY FUTURE TRANSACTIONS HEREUNDER.

- 2.2 Transaction Limits. The Aggregate Transaction Limit and each Type Sublimit shall be as set forth in the Transactions Terms Letter. Upon three (3) calendar days prior written notice to Seller, Administrative Agent, on behalf of Buyers, shall have the right to reduce, whether permanently or temporarily, and without refund of any fee or other amount previously paid by Seller (unless the Transactions Terms Letter expressly provides for any such refund), the Aggregate Transaction Limit and/or each Type Sublimit. In the event of any reduction pursuant to this Section 2.2, Administrative Agent, on behalf of Buyers, shall give Seller prior notice thereof, which notice shall designate (a) the effective date of any such reduction, (b) the amount of the reduction and (c) the Transaction and/or Type Sublimit limit(s) to which such reduction amount shall apply. Administrative Agent and Buyers shall not be liable to Seller for any costs, losses or damages arising from or relating to a reduction by Administrative Agent in the Aggregate Transaction Limit or any Type Sublimit.
- 2.3 Description of Purchased Assets. With respect to each Transaction, Seller shall cause to be maintained with Administrative Agent, on behalf of Buyers, Purchased Assets with an Asset Value not less than, at any date, the related Purchase Price for such Transaction. With respect to each Transaction, the type of Purchased Asset shall be the type of Asset as specified in the Transactions Terms Letter as the Type, and in each case shall consist of the type of mortgage loans, mortgage related securities, or interests therein as described in Bankruptcy Code Section 101(47)(A). If there is uncertainty as to the Type of a Purchased Asset, Administrative Agent, on behalf of Buyers, shall determine the correct Type for such Purchased Asset.
- 2.4 Maximum Transaction Amounts. The Purchase Price for each proposed Transaction shall not exceed the lesser of:
- (a) the Aggregate Outstanding Purchase Price for the applicable Type Sublimit (after giving effect to all Transactions then subject to the Agreement), as determined by the Type of Purchased Asset;
 - (b) the Aggregate Transaction Limit (as such amount may be increased from time to time in the sole discretion of Administrative Agent, on behalf of Buyers, as provided in Section 2.9), minus the Aggregate Outstanding Purchase Price of all other Transactions outstanding, if any; and
 - (c) the Asset Value of the related Purchased Asset(s).
- 2.5 Use of Proceeds. Seller shall use the Purchase Price of each Transaction solely for the purpose of originating the related Purchased Asset(s) and/or acquiring the related Purchased Asset(s) from an originator subject to the terms and conditions of this Agreement, and to pay the fees, costs and other expenses associated with closing the transactions contemplated herein. No portion of any Purchase Price will be used for the purpose of purchasing or carrying any "margin security" or

“margin stock” as such terms are used in Regulations T, U or X of the Board of Governors of the Federal Reserve System.

2.6 Price Differential.

- (a) Price Differential. Notwithstanding that Administrative Agent, Buyers and Seller intend that the Transactions hereunder be sales by Seller to Administrative Agent, on behalf of Buyers, of the Purchased Assets for all purposes except accounting and tax purposes, Seller shall pay Administrative Agent, on behalf of Buyers, accrued interest on the Purchase Price for each Purchased Asset calculated from the Purchase Date until, but not including, the date on which the Repurchase Price is paid, in an amount equal to the Price Differential; provided that if the Repurchase Price for a Transaction is not paid by Seller when due (whether at the Repurchase Date, upon acceleration or otherwise), the Repurchase Price shall bear a Price Differential from the date due until paid in full at an annual rate equal to the Default Rate. For the avoidance of doubt, upon and after the occurrence of an Aging Event with respect to a Purchased Asset, the Purchase Price for such Purchased Asset shall bear a Price Differential at an annual rate equal to the sum of the Applicable Pricing Rate plus the Type Margin for an Aging Event Asset.
- (b) Time for Payment. Price Differential with respect to any Purchased Asset shall be due and payable upon receipt of an invoice provided by Administrative Agent, on behalf of Buyers, to Seller setting forth the Price Differential accrued during the immediately preceding Collection Period or Collection Periods, as applicable, as set forth in such invoice. Notwithstanding anything to the contrary in this Section 2.6(b), in the event the Asset Value of any Purchased Asset is marked to zero and Seller requests Administrative Agent to release its security interest in such Purchased Asset or any Purchased Items related thereto, Administrative Agent shall not release any such security interest therein unless and until Seller shall have paid to Administrative Agent, on behalf of Buyers, the Repurchase Price for such Purchased Asset.
- (c) Computations. All computations of Price Differential and fees payable hereunder shall be based upon the actual number of days (including the first day but excluding the last day) occurring in the relevant period, and a three-hundred sixty (360) day year.
- (d) Conforming Changes. Notwithstanding anything herein to the contrary, in connection with the use or administration of Daily Simple SOFR, Administrative Agent shall have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Principal Agreement, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Principal Agreement. Administrative Agent shall promptly notify the Seller of the effectiveness of any Conforming Changes in connection with the use or administration of Daily Simple SOFR.

- 2.7 All Transactions are “Servicing Released”. The sale of Mortgage Loans by Seller to Administrative Agent, on behalf of Buyers, pursuant to Transactions under this Agreement includes the Servicing Rights related to the Mortgage Loans and all Transactions under this Agreement are “servicing released” purchase and sale transactions for all intents and purposes (other than tax purposes), it being understood that the Purchase Price paid by Administrative Agent, on behalf of Buyers, to Seller for each such Mortgage Loan includes a premium that compensates Seller for the Servicing Rights related to the Mortgage Loan and upon payment of the Purchase Price by Administrative

Agent, on behalf of Buyers, to Seller, Administrative Agent, on behalf of Buyers, becomes the owner of the Mortgage Loan which includes the Servicing Rights related thereto.

- 2.8 Terms and Conditions of Transactions. The terms and conditions of the Transactions as set forth in the Transactions Terms Letter, this Agreement or otherwise may be changed from time to time by mutual agreement among Administrative Agent, Buyers and Seller. The terms and conditions of the Transactions Terms Letter are hereby incorporated and form a part of this Agreement as if fully set forth herein; provided, however, to the extent of any conflict between the terms of this Agreement and the terms of the Transactions Terms Letter, the Transactions Terms Letter shall control.
- 2.9 Temporary Increase of Aggregate Transaction Limit. Seller may request a temporary increase of the Aggregate Transaction Limit (a “**Temporary Increase**”) by submitting to Administrative Agent, on behalf of Buyers, an executed request for Temporary Increase in the form of Exhibit J hereto (a “**Request for Temporary Increase**”), setting forth the requested increased Aggregate Transaction Limit (such increased amount, the “**Temporary Aggregate Transaction Limit**”), the effective date and time of such Temporary Increase and the date and time on which such Temporary Increase shall terminate. Administrative Agent, on behalf of Buyers, may from time to time, in its sole and absolute discretion, consent to such Temporary Increase, which consent shall be in writing as evidenced by Administrative Agent’s delivery to Seller of a countersigned Request for Temporary Increase. At any time that a Temporary Increase is in effect, the Aggregate Transaction Limit shall equal the Temporary Aggregate Transaction Limit for all purposes of this Agreement and all calculations and provisions relating to the Aggregate Transaction Limit shall refer to the Temporary Aggregate Transaction Limit, including without limitation, Type Sublimits. Upon the termination of a Temporary Increase, Seller shall be obligated to repurchase, and shall repurchase, upon notice by Administrative Agent, on behalf of Buyers, to Seller, Purchased Assets as are designated by Administrative Agent, on behalf of Buyers, to be repurchased by Seller in order to reduce the Aggregate Outstanding Purchase Price to the Aggregate Transaction Limit (as reduced by the termination of such Temporary Increase) in accordance with Section 4.2(j).

ARTICLE 3 PROCEDURES FOR REQUESTING AND ENTERING INTO TRANSACTIONS

- 3.1 Policies and Procedures. In connection with the Transactions contemplated hereunder, Seller shall comply in all material respects with all applicable policies and procedures of Administrative Agent as may currently exist or as hereafter created. Such policies and procedures may be in writing or otherwise provided to Seller. Administrative Agent shall have the right to change, revise, amend or supplement its policies and procedures from time to time to conform to current legal requirements or Administrative Agent practices by giving prior written notice to Seller of such changes, revisions, amendments or supplements; provided that (i) Seller shall be given a commercially reasonable amount of time to implement such change, and (ii) such change shall not apply to Transactions entered into prior to the delivery of Administrative Agent’s written notice pursuant to this Section 3.1 and in no event shall the change apply to any Transaction on a retroactive basis.
- 3.2 Request for Transaction.
- (a) Request for Transaction. Seller shall request a Transaction by delivering to Administrative Agent, on behalf of Buyers, a Transaction Request for each Asset intended to be the subject of the Transaction during the regular business hours of Administrative Agent, or as otherwise approved by Administrative Agent in its sole discretion from time to time, on

the Business Day prior to the requested Purchase Date. Administrative Agent and, except to the extent set forth in Section 3.4(e), Buyers shall be under no obligation to enter into any Transaction or Transactions requested by Seller. Assuming the satisfaction of all conditions precedent set forth in Article 7 and as otherwise set forth in this Agreement, Administrative Agent, on behalf of Buyers, may confirm to Seller the terms of Transactions electronically or in writing. Administrative Agent, on behalf of Buyers, reserves the right to reject any Transaction Request that Administrative Agent determines fails to comply with the terms and conditions of this Agreement or, subject to Section 3.1, Administrative Agent's and/or Buyer's then current policies and procedures. By submitting a Transaction Request hereunder in a form approved by Administrative Agent, on behalf of Buyers, in its sole discretion, (i) such Transaction Request shall be deemed to be, and Seller acknowledges and agrees that such Transaction Request shall constitute, notification to Administrative Agent, on behalf of Buyers, by Seller that Seller wishes to enter into a Transaction under this Agreement and (ii) Seller shall be deemed to have represented and warranted that (a) as of the applicable Purchase Date, all conditions precedent to a Transaction as set forth in Section 7.1 and Section 7.2 of this Agreement have been satisfied, (b) the representations and warranties of Seller set forth in Article 8 of this Agreement are true and correct in all material respects as if made on and as of the date of the applicable Transaction and (c) no Potential Default, Event of Early Termination, Event of Default or Material Adverse Effect with respect to Seller has occurred and is continuing.

- (b) Failure to Enter into Transaction; Cancellation of Transaction. If Seller fails three (3) times or more to enter into a Transaction, in each case after such third (3rd) time, after Seller has requested such Transaction and submitted a Transaction Request in connection with such request, for each Transaction requested by Seller thereafter for which Seller fails to enter into such Transaction after Seller has requested such Transaction and submitted a Transaction Request in connection with such request, Seller shall pay Administrative Agent, on behalf of Buyers, and reimburse Administrative Agent, on behalf of Buyers, for any reasonable and documented out-of-pocket losses, costs and expenses incurred by Administrative Agent and Buyers in connection with such failure to enter into the Transaction, including, without limitation, costs relating to re-employment of funds obtained by Administrative Agent or Buyers and fees payable to terminate the arrangements through which such funds were obtained. In addition, with respect to any Transaction, including the initial Transaction, if following disbursement by Administrative Agent, on behalf of Buyers, of the Purchase Price relating to such Transaction, Seller cancels such Transaction, in each case, Seller shall pay Administrative Agent, on behalf of Buyers, a Price Differential on such Purchase Price from the Purchase Date until, but not including, the date the Purchase Price is returned to Administrative Agent, on behalf of Buyers.
- (c) Form of Transaction Request. Administrative Agent shall have the right to revise or supplement the form of the Transaction Request from time to time by giving notice thereof (such notice may be in the form of delivery of an updated Manual) to Seller and Seller shall incorporate such revision or supplement within one (1) Business Day.
- (d) Purchase Commitments. Except as otherwise provided in this Agreement, in connection with any Transaction Request, Seller shall also provide a Purchase Commitment, which must include the proposed purchase price of the applicable Mortgage Loan. Upon the Seller's request (and in Administrative Agent's sole and absolute discretion), Administrative Agent may conditionally waive the requirement, in writing, that the Seller must provide a Purchase Commitment in order to enter into a Transaction hereunder. In

order to request such a waiver, the Seller must establish and follow an appropriate financial hedging strategy to mitigate its interest rate and market risks with respect to Mortgage Loans that, when the Seller originates, funds or acquires them, are not subject to Purchase Commitments. Such hedging strategy and the individuals or institutions that the Seller engages to execute and monitor such strategy and the related transactions must be consistent with Administrative Agent's applicable hedging requirements. At any time when the waiver set forth in this Section 3.2(d) is in effect, the Seller shall deliver to Administrative Agent hedging reports (on a weekly or other periodic basis that Administrative Agent may require), identifying the Seller's open transactions and terms and such other information as Administrative Agent may request. Administrative Agent may cancel or suspend such waiver or impose such additional conditions or requirements as Administrative Agent, in its sole discretion, may determine upon notice to the Seller. Any such cancellation or waiver shall not apply to any Transaction entered into when the waiver was in effect. Any Transaction entered into in accordance with such waiver shall be subject to all of the other terms and conditions of this Agreement, including, without limitation, those set forth in Section 3, except to the extent that Administrative Agent otherwise expressly agrees in writing.

3.3 Delivery of Mortgage Loan Documents.

- (a) Dry Mortgage Loans. Prior to any Transaction related to a Dry Mortgage Loan (including eMortgage Loans), Seller shall deliver to Administrative Agent, on behalf of Buyers, or its Custodian, or authorize, direct and cause the Closing Agent to deliver to Administrative Agent, on behalf of Buyers, or its Custodian, any related Mortgage Loan Documents in accordance with and pursuant to the terms of Section 7.2 and the Custodial Agreement; including, with respect to any eMortgage Loan, the eRegistry transfer items and items required to be delivered by Seller to the Custodian using MERS eDelivery and the MERS eRegistry pursuant to and in accordance with Section 2(a) of the Custodial Agreement.
- (b) Wet Mortgage Loans. With respect to a Transaction the subject of which is a Wet Mortgage Loan, (i) Seller shall deliver to Administrative Agent, on behalf of Buyers, or its Custodian the related Mortgage Loan Documents in Seller's possession, and (ii) Seller shall authorize, direct and cause the Closing Agent to deliver the related Mortgage Loan Documents directly to Administrative Agent, on behalf of Buyers, or its Custodian, in each case, within the Maximum Dwell Time in accordance with the terms of Section 7.2, Exhibit B hereof and the Custodial Agreement.
- (c) Pooled Mortgage Loans. With respect to a Transaction the subject of which is a Pooled Mortgage Loan, Seller shall deliver to Administrative Agent, on behalf of Buyers, or its Custodian, as applicable, the related Agency Documents in accordance with and pursuant to the terms of Section 7.2(d) hereof and the Custodial Agreement and Seller shall cause the Custodian to deliver a trust receipt to Administrative Agent with respect to such Mortgage Loans in accordance with the terms of the Custodial Agreement. In addition, Seller shall deliver to Administrative Agent or its designee a duly executed Trade Assignment together with a true and complete copy of the Purchase Commitment with respect to the related Mortgage-Backed Security in accordance with and pursuant to the terms of Sections 7.2(d) and 7.2(o).
- (d) Mortgage Loan Documents in Seller's Possession. At all times during which the Mortgage Loan Documents related to any Purchased Mortgage Loan are in the possession of Seller, and until such Purchased Mortgage Loan is repurchased by Seller, Seller shall hold such

Mortgage Loan Documents in trust separate and apart from Seller's own documents and assets and for the exclusive benefit of Administrative Agent, on behalf of Buyers, and shall act only in accordance with Administrative Agent's written instructions thereto. Such Mortgage Loan Documents should be clearly marked as subject to delivery to Administrative Agent, on behalf of Buyers.

- (e) Other Mortgage Loan Documents in Seller's Possession. With respect to each Purchased Mortgage Loan, until such Purchased Mortgage Loan is repurchased by Seller, Seller shall hold in trust separate and apart from Seller's own documents and assets and for the exclusive benefit of Administrative Agent, on behalf of Buyers, all mortgage loan documents related to such Purchased Mortgage Loan and not delivered to Administrative Agent, on behalf of Buyers, including, without limitation, the Other Mortgage Loan Documents, as applicable. All such mortgage loan documents shall be clearly marked as subject to the ownership of Administrative Agent, on behalf of Buyers.

3.4 Payment of Purchase Price.

- (a) Payment of Purchase Price. On the Purchase Date for each Transaction, ownership of the Purchased Assets, including the Servicing Rights related to Purchased Assets consisting of Purchased Mortgage Loans, shall be transferred to Administrative Agent, on behalf of Buyers, against the simultaneous transfer of the Purchase Price to Seller, or on behalf of Seller to an Approved Payee, as applicable, and simultaneously with the delivery to Administrative Agent, on behalf of Buyers (or the Custodian on its behalf) of the Purchased Assets relating to each Transaction. With respect to the Purchased Assets being sold by Seller on the Purchase Date, Seller hereby sells, transfers, conveys and assigns to Administrative Agent, on behalf of Buyers, or its designee all of Seller's right, title and interest in and to the Purchased Assets, including the Servicing Rights related to the Purchased Mortgage Loans, together with all right, title and interest of Seller in and to all amounts due and payable under the terms of such Purchased Assets.
- (b) Methods of Payment. On or prior to the Purchase Date for each Transaction, subject to the satisfaction of all conditions precedent set forth in Section 7.1 (with respect to the initial Transaction) and Section 7.2 and as otherwise set forth in this Agreement and if Seller has deposited the related Haircut into the Funding Account, Administrative Agent, on behalf of Buyers, shall make available in same day funds the Purchase Price for all Transactions upon satisfaction of all conditions precedent set forth in Section 7.1 (with respect to the initial Transaction) and Section 7.2 and as otherwise set forth in this Agreement having been satisfied on or prior to 5:00 p.m. (New York City time) on such Purchase Date. Upon receipt of the Haircut with respect to such Transactions, the Administrative Agent shall remit the Haircut and the Purchase Price by wire transfer in accordance with Seller's wire instructions set forth in the applicable Transaction Request or to its Approved Payee, as applicable. Notwithstanding the foregoing, Administrative Agent and Buyers shall not be obligated to pay the Purchase Price and the related Haircut, as applicable, under any method of payment to any Person that is not an Approved Payee. Further, the payment of the Purchase Price and the related Haircut, as applicable, by the Administrative Agent to any Person that is not an Approved Payee shall not make such Person an Approved Payee. Any funds disbursed by Administrative Agent, on behalf of Buyers, to Seller or its Approved Payee shall be subject to all applicable federal, state and local laws, including, without limitation, regulations and policies of the Board of Governors of the Federal Reserve System on Reduction of Payments System Risk. Seller acknowledges that as a result of such applicable laws, regulations and policies, equipment malfunction,

Administrative Agent's or any Buyer's approval procedures or circumstances beyond the reasonable control of Administrative Agent or any Buyers, the payment of a Purchase Price and the related Haircut, as applicable, may be delayed. Administrative Agent and Buyers shall not be liable to Seller for any costs, losses or damages arising from or relating to any such delays.

- (c) Transaction Limitations and Other Restrictions Relating to Closing Agents. Notwithstanding that a particular Transaction Request will not exceed the Aggregate Transaction Limit or applicable Type Sublimit, if the payment of the Purchase Price for such Transaction to the related Closing Agent will violate Administrative Agent's or any Buyer's applicable policies and procedures regarding payments to Closing Agents, Administrative Agent, on behalf of Buyers, may, upon prior notice to Seller, refuse to pay the Purchase Price to such Closing Agent.
- (d) Return of Purchase Price. If a Wet Mortgage Loan subject to a Transaction is not closed on the same day on which the Purchase Price was funded, Seller shall promptly return, or cause to be immediately returned (but in any event within one (1) Business Day of Seller's knowledge or receipt of notice of such non-closure) the Purchase Price with respect to such Wet Mortgage Loan by wire transfer of immediately available funds to Administrative Agent, on behalf of Buyers, in accordance with Administrative Agent's wire instructions set forth on Exhibit F. Further, Seller shall pay Administrative Agent and Buyers all fees and expenses incurred by Administrative Agent and Buyers in connection with the funding of the Purchase Price for such Wet Mortgage Loan and, from the date of such funding up to but excluding the date such Purchase Price is returned to Administrative Agent, on behalf of the applicable Buyer, Seller shall also pay Administrative Agent, on behalf of Buyers, any Price Differential accrued on such Purchase Price promptly upon notification from Administrative Agent, on behalf of Buyers; provided, however, that Price Differential shall continue to accrue until the Purchase Price is returned to Administrative Agent, on behalf of the applicable Buyer.
- (e) Allocation of Purchased Assets. (A) The Administrative Agent may, on the terms and subject to the conditions set forth herein (including without limitation Sections 2 and 3 hereof), but shall not be required to, enter into one or more Transactions on behalf of the Buyers from time to time on any Business Day during the period from the Effective Date hereof until (but excluding) the Facility Termination Date. Upon agreeing to enter into a Transaction hereunder, Administrative Agent shall promptly notify each Buyer, with a copy of the related Transaction Request, of the amount of its Allocation Percentage of the related Transaction (each, an "Allocation Transaction"). Subject to the terms and conditions set forth herein, each Buyer severally agrees to make the Purchase Price available to Seller from time to time, in each case, that Agent, in its sole discretion, has approved in the related Transaction Request pursuant to the terms and conditions herein, in each case, in an aggregate amount not to exceed the amount of such Buyer's Allocation Percentage then-outstanding. Administrative Agent shall maintain in accordance with its usual practice an account or accounts evidencing the amounts of each Transaction resulting from each Allocation Transaction from time to time, including the amount and date of each Allocation Transaction, its applicable Price Differential and the amount and date of any repayment made on any Allocation Transaction from time to time. The Administrative Agent, at any time in its sole and absolute discretion, may, in each case on behalf Seller (which hereby irrevocably directs the Administrative Agent to act on their behalf) request each of the Buyers (including the Administrative Agent in its capacity as a Buyer) to pay the Purchase Price related to a Transaction in an amount not to exceed the Aggregate

Transaction Limit to Seller, in an amount equal to such Buyer's Allocation Percentage of the aggregate Purchase Price in connection with such Allocation Transactions outstanding on the date such notice is given (the "Refunded Allocation Transactions") and may make multiple demands for such payment on any single Business Day. In connection with the making of any such Refunded Allocation Transactions, the Administrative Agent shall retain its claim against Seller for any unpaid interest or fees in respect thereof accrued to the date of such refunding.

(B) (i) Unless an Event of Default hereof shall have occurred and regardless of whether the conditions precedent to entering into a Transaction as set forth in Section 7.2 of this Agreement are then satisfied, each Buyer (other than Administrative Agent) shall make the proceeds of its Allocation Percentage available to the Administrative Agent for the benefit of the Administrative Agent at the office of the Administrative Agent specified in Section 14.11 hereof within one (1) hour that such notice is given, in immediately available funds, on any Business Day. For the avoidance of doubt, Administrative Agent may provide notice and request for payment from Buyers pursuant this Section 3.4(e)(B), multiple times on any single Business Day and each such Buyer shall provide payment in accordance with the immediately preceding sentence with respect to each such notice and request.

(ii) If an Event of Default shall have occurred, each Buyer will purchase from the Administrative Agent an undivided participating interest in each Allocation Transaction that was to have been refunded in an amount equal to its Allocation Percentage. Each Buyer within the time periods specified in Section 3.4(e)(B)(ii) hereof, as applicable, shall immediately transfer to the Administrative Agent, for the benefit of the Administrative Agent, in immediately available funds, an amount equal to its Allocation Percentage of the Purchase Price of all Allocation Transactions as of such date.

(C) Each Buyer's obligation to make remit an amount equal to its respective Allocation Percentage of the related Purchase Price to refund an Allocation Transaction shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right which such Buyer may have against Administrative Agent, Seller or any other Person for any reason whatsoever; (ii) the occurrence or continuance of any Potential Default, Event of Early Termination, Event of Default, Material Adverse Effect with respect to Seller or Cease Funding Event; (iii) any adverse change in the condition (financial or otherwise) of Seller or any other Person; (iv) any breach of this Agreement or any other Principal Agreement by Seller or any other Person; (v) any inability of Seller to satisfy the conditions precedent entering into a Transaction set forth in Section 7.2 of this Agreement on the date upon which such Purchase Price is to be remitted to Seller; or (vi) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(D) If any Buyer does not make available to the Administrative Agent the amount required pursuant to Section 3.4(e)(A) or (B) hereof, as the case may be, the Administrative Agent, shall be entitled to recover such amount on demand from such Buyer, together with interest thereon for each day from the date of non-payment until such amount is paid in full (x) for the first two (2) Business Days such amount remains unpaid, at the Applicable Pricing Rate plus ten percent (10%) and (y) thereafter, at the rate of interest then applicable to such Allocation Transactions. The obligation of any Buyer to make available its pro rata portion of the amounts required pursuant to Section 3.4(e)(A) or (B) hereof shall not be affected by the failure of any other Buyer to make such amounts available, and no Buyer shall have any liability to Seller, the Administrative Agent, or any other Buyer or any other party for

another Buyer's failure to make available the amounts required under Section 3.4(e)(A) or (B) hereof.

(E) Notwithstanding the foregoing, no Buyer shall be required to enter into any Transaction hereunder to refund an Allocation Transaction if at least two (2) Business Days prior to the making of such Allocation Transaction by the Administrative Agent, the officers of the Administrative Agent immediately responsible for matters concerning this Agreement shall have received written notice from Administrative Agent or any Buyer that such Allocation Transactions should be suspended based on the occurrence and continuance of an Event of Default and stating that such notice is a "notice of default"; provided, however that the obligation of the Buyers to make or refund such Allocation Transaction shall be reinstated upon the date on which such Event of Default has been waived by the requisite Buyers.

- 3.5 Approved Payees. A Closing Agent shall be an Approved Payee with respect to any such Purchase Price; provided, that Administrative Agent, on behalf of Buyers, may refuse to approve any Person as an Approved Payee and may, at any time, withdraw its approval of any Closing Agent as an Approved Payee if Administrative Agent becomes aware of any facts or circumstances at any time related to such Closing Agent which Administrative Agent, on behalf of Buyers, determines materially and adversely affects the Closing Agent or otherwise makes the Closing Agent unacceptable as an Approved Payee. Administrative Agent, on behalf of Buyers, shall promptly notify Seller of any withdrawal of approval of an Approved Payee.
- 3.6 Delivery of Mortgage-Backed Securities. Provided no Event of Default or Potential Default has occurred and is continuing or would result therefrom, and provided further that Seller, Administrative Agent and a Certifying Custodian have entered into a Master Custodial Agreement satisfactory to Administrative Agent, Administrative Agent agrees from time to time at the request of Seller to deliver Purchased Mortgage Loans to such Certifying Custodian for formation of a Pool. Such delivery shall be made under a bailee letter in form and substance satisfactory to Administrative Agent. Seller agrees to (i) enter into such arrangements and agreements with Administrative Agent, the Certifying Custodian and each applicable Agency as may be necessary or desirable to facilitate the issuance of Mortgage-Backed Securities under the mortgage-backed securities programs of such Agency and (ii) conform its procedures relating to the formation of such pools and the delivery of such forms and certifications required by each applicable Agency, to accommodate the procedures established by the Administrative Agent from time to time with respect thereto that are in conformity with the respective rules and regulations of each applicable Agency and maintaining the perfection and priority of the Administrative Agent's security interest in the applicable Purchased Mortgage Loans and related Mortgage-Backed Securities and the proceeds thereof. All Mortgage-Backed Securities that are backed by any Purchased Mortgage Loan for which the release price has not been paid in full to Administrative Agent at the time of the issuance of such Mortgage-Backed Securities shall be held in the custodial account established under the Master Custodial Agreement and the Administrative Agent shall have a security interest therein. The Seller agrees that the Certifying Custodian shall be listed as the only subscriber, owner and/or registered holder, as applicable, and only person authorized to take delivery of any Mortgage-Backed Securities backed by any Purchased Mortgage Loan, and upon the issuance of each such Mortgage-Backed Securities, the Seller shall deliver, or cause the applicable Agency to deliver, such Mortgage-Backed Securities directly to the Certifying Custodian. Subject to the terms and conditions of this Agreement and the Master Custodial Agreement, upon the issuance of a Mortgage-Backed Securities backed by any Purchased Mortgage Loan, the security interest of the Administrative Agent in the underlying Purchased Mortgage Loans shall cease, and the security interest in the related Mortgage-Backed Securities and the

proceeds thereof shall be substituted therefor and vested in the Administrative Agent. Provided no Event of Default or Potential Default exists, Seller may obtain the release of Administrative Agent's security interest in and lien on an Mortgage-Backed Securities backed by any Purchased Mortgage Loan by paying to Administrative Agent by wire transfer of immediately available funds to the Collateral Account or such other account as designated by Administrative Agent the amount originally advanced by Administrative Agent to Seller to fund the origination or purchase of such Purchased Mortgage Loan. Such payment shall be applied as provided in Section 11.9 hereof. With respect to Purchased Mortgage Loans that are Pooled Mortgage Loans, Administrative Agent, on behalf of Buyers, shall release its interests in such Purchased Mortgage Loans simultaneously with the Settlement Date of a Mortgage-Backed Security backed by a Pool containing such Purchased Mortgage Loans. Provided that such Mortgage-Backed Security has been issued to the Depository in the name of Administrative Agent, on behalf of Buyers, or Administrative Agent's, on behalf of Buyers, nominee, from and after such Settlement Date, the Mortgage-Backed Security shall replace the related Purchased Mortgage Loans as the Asset that is subject to the related Transaction.

ARTICLE 4 REPURCHASE

4.1 Repurchase Price.

- (a) Payment of Repurchase Price. The Repurchase Price for each applicable Purchased Asset shall be payable in full by wire transfer of immediately available funds to Administrative Agent, on behalf of Buyers, in accordance with Administrative Agent's wire instructions set forth on Exhibit F upon the earliest to occur of (i) the Repurchase Date of the related Transaction, (ii) at Administrative Agent's sole option, upon the occurrence of any Repurchase Acceleration Event with respect to such Purchased Asset, (iii) at Administrative Agent's sole option, upon the occurrence and continuance of an Event of Default, or (iv) the Facility Termination Date. Such obligation to repurchase exists without regard to any prior or intervening liquidation or foreclosure with respect to any Purchased Asset. While it is anticipated that Seller will repurchase each Purchased Asset on its related Repurchase Date, Seller may repurchase and Administrative Agent, on behalf of Buyers, will sell any Purchased Asset hereunder on demand to Seller. In such circumstance, Administrative Agent, on behalf of Buyers, shall apply the Repurchase Price received from Seller in accordance with Section 6.2(i)(iii).
- (b) Effect of Payment of Repurchase Price. On the Repurchase Date (or such other date on which the Repurchase Price is received in full by Administrative Agent, on behalf of Buyers), termination of the related Transaction will be effected by the repurchase by Seller or its designee of the Purchased Assets and any related Purchased Items and the simultaneous transfer of the Repurchase Price to an account of Administrative Agent, on behalf of Buyers (in each case subject to the provisions of Section 6.4), and all of each Buyer's and Administrative Agent's, on behalf of Buyers, rights, title and interests therein shall then be conveyed to Seller or its designee; provided that, Administrative Agent, on behalf of any Buyer, shall not be deemed to have terminated or conveyed its interest in such Purchased Assets and any related Purchased Items if an Event of Default, Event of Early Termination, Potential Default or Cease Funding Event shall then be continuing or shall be caused by such repurchase or if such repurchase gives rise to or perpetuates a Margin Deficit that is not satisfied in accordance with Section 6.3(b). With respect to Purchased Assets that are Purchased Mortgage Loans, Seller is obligated to obtain the related Mortgage Loan Documents from the Custodian at Seller's expense on the Repurchase Date. On each Repurchase Date (or such other date on which the Repurchase

Price, less any Price Differential due on the next succeeding Price Differential Date, is received in full by Administrative Agent, on behalf of Buyers), Administrative Agent, on behalf of Buyers, shall be deemed to have simultaneously released the pledge of the applicable Purchased Asset and any related Purchased Items in each case without any further action by Administrative Agent, Buyers or any other Person and such Purchased Asset and any related Purchased Items shall be transferred to Seller or its designee free and clear of any liens, pledges or encumbrances. To the extent any Uniform Commercial Code financing statement filed against Seller by Administrative Agent, on behalf of Buyers, specifically identifies such Purchased Asset and any related Purchased Items or, upon Seller's request, at the expense of Seller and within reasonable time to file such Uniform Commercial Code financing statement, Administrative Agent, on behalf of Buyers, shall deliver an amendment thereto or termination thereof evidencing the release of such Purchased Asset and any related Purchased Items from Administrative Agent's, on behalf of Buyers, security interest therein. Any such transfer or release shall be without recourse to Administrative Agent and any Buyer and without representation or warranty by Administrative Agent or any Buyer.

- 4.2 Repurchase Acceleration Events. The occurrence of any of the following events shall be a Repurchase Acceleration Event with respect to one or more Purchased Assets, as the case may be:
- (a) Administrative Agent, on behalf of Buyers, has determined that the Purchased Asset is a Defective Asset;
 - (b) thirty (30) calendar days elapse from the date the related Mortgage Loan Documents were delivered to an Approved Investor and such Approved Investor has not returned such Mortgage Loan Documents or purchased such Purchased Asset, unless an extension is granted by Administrative Agent, on behalf of Buyers;
 - (c) ten (10) Business Days elapse from the date a related Mortgage Loan Document was delivered to Seller for correction or completion or for servicing purposes, without being returned to Administrative Agent, on behalf of Buyers, or its designee;
 - (d) with respect to a Wet Mortgage Loan, Seller fails to deliver to Administrative Agent, on behalf of Buyers, the related Mortgage Loan Documents within the Maximum Dwell Time with respect to Seller's obligation to deliver the related Mortgage Loan Documents to Administrative Agent, on behalf of Buyers, or any Mortgage Loan Document delivered to Administrative Agent, on behalf of Buyers, upon examination by Administrative Agent, is found not to be in compliance with the requirements of this Agreement or the related Purchase Commitment and is not corrected within the Maximum Dwell Time with respect to Seller's obligation to deliver the related Mortgage Loan Documents to Administrative Agent, on behalf of Buyers, or its Custodian;
 - (e) regardless of whether a Purchased Mortgage Loan is a Defective Asset, a foreclosure or similar type of proceeding is initiated with respect to such Mortgage Loan;
 - (f) the further sale of a Purchased Asset by Seller or any of its Affiliates to any party other than an Approved Investor;
 - (g) with respect to any Pooled Mortgage Loan that has been pooled to support a Mortgage- Backed Security issued by Seller and fully guaranteed by Ginnie Mae for which Administrative Agent, on behalf of Buyers, has executed a Form HUD 11711A, the

Custodian ceases to hold the Mortgage Loan File and the related Mortgage Loan Documents in respect thereof for the sole and exclusive benefit of Administrative Agent, on behalf of Buyers, at any time prior to the issuance of the related Mortgage-Backed Security, or with respect to all other Purchased Mortgage Loans, the Custodian ceases to hold the related Mortgage Loan File and all Mortgage Loan Documents in respect thereof for the sole and exclusive benefit of Administrative Agent, on behalf of Buyers, at any time other than as released pursuant to, and in accordance with, the terms of the Custodial Agreement;

- (h) with respect to any Pooled Mortgage Loan, if the applicable Agency has not issued the related Mortgage-Backed Security to the Depository in the name of Administrative Agent, on behalf of Buyers, or Administrative Agent's, on behalf of Buyers, nominee on the related Settlement Date;
- (i) with respect to any Mortgage-Backed Security that is subject to a Transaction pursuant to Section 3.6, if Administrative Agent, on behalf of Buyers, has not received the related Takeout Price from the Approved Investor on the related Settlement Date set forth in the related Purchase Commitment;
- (j) following the termination of a Temporary Increase, the Aggregate Outstanding Purchase Price exceeds the Aggregate Transaction Limit (as reduced by the termination of such Temporary Increase); or
- (k) with respect to any Pooled Mortgage Loan or Mortgage-Backed Security, if Seller has failed to deliver the related Trade Assignment, if applicable, to Administrative Agent, on behalf of Buyers, in accordance with the requirements set forth in Section 7.2(o).

4.3 Reduction of Asset Value as Alternative Remedy. In lieu of requiring full repayment of the Repurchase Price upon the occurrence of a Repurchase Acceleration Event, Administrative Agent, on behalf of Buyers, may elect to reduce the Asset Value of the related Purchased Asset (to as low as zero) and accordingly require a full or partial repayment of such Repurchase Price or the delivery of other funds or collateral, which additional assets shall be "margin payments" or "settlement payments" as such terms are defined in Bankruptcy Code Sections 741(5) and (8), respectively.

4.4 Illegality or Impracticability. Notwithstanding anything to the contrary in this Agreement, if Administrative Agent determines that any law, regulation, treaty or directive or any change therein or in the interpretation or application thereof, or any circumstance materially and adversely affecting the London interbank market, the repurchase market for mortgage loans or mortgage-backed securities or the source or cost of Administrative Agent's funds, in any case shall make it unlawful for Administrative Agent to enter into or maintain Transactions as contemplated by this Agreement, (a) Administrative Agent shall cease to have any obligation hereunder to enter into or to continue to maintain Transactions and any such obligations shall be cancelled and (b) the Repurchase Price for each Transaction then outstanding shall be due and payable upon the earlier to occur of (i) the date required by any financial institution providing funds to Administrative Agent, (ii) sale of the Purchased Assets in accordance with and subject to the terms of this Agreement; it being understood that this clause (ii) does not expand Administrative Agent's to sell such Purchased Assets beyond the rights otherwise afforded to Administrative Agent pursuant to this Agreement and (iii) the date as of which Administrative Agent determines that such Transactions are unlawful to maintain. Administrative Agent shall not be liable to Seller for any costs, losses or damages arising from or relating to any actions taken by Administrative Agent pursuant to this Section 4.4.

4.5 Increased Costs.

- (a) Notwithstanding anything to the contrary in this Agreement, if Administrative Agent determines that any change in any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority or any change in the interpretation or application thereof or compliance by Administrative Agent with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof (i) subjects Administrative Agent to any tax of any kind whatsoever with respect to this Agreement or any Purchased Assets or changes the basis of taxation of payments to Administrative Agent in respect thereof, in each case excluding any Indemnified Taxes (which shall be governed by Section 12.3), Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, and Connection Income Taxes, (ii) imposes, modifies or holds applicable any reserve, special deposit, compulsory advance or similar requirement against assets held by deposits or other liabilities in or for the account of Transactions or extensions of credit by, or any other acquisition of funds by any office of Administrative Agent which is not otherwise included in the determination of the Applicable Pricing Rate hereunder, or (iii) imposes on Administrative Agent any other condition, the result of which is to increase the cost to Administrative Agent, by an amount which Administrative Agent deems to be material, of effecting or maintaining purchases hereunder, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, Seller shall, at its option and in its sole and absolute discretion, either (1) terminate all of the Transactions and repurchase all of the Purchased Assets or (2) promptly pay Administrative Agent such additional amount or amounts as will compensate Administrative Agent for such increased cost or reduced amount receivable thereafter incurred.
- (b) If Administrative Agent has determined that the adoption of or any change in any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority regarding capital adequacy or in the interpretation or application thereof or compliance by Administrative Agent or any corporation controlling Administrative Agent with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof has the effect of reducing the rate of return on Administrative Agent's or such corporation's capital as a consequence of its obligations hereunder to a level below that which Administrative Agent or such corporation but for such adoption, change or compliance (taking into consideration Administrative Agent's or such corporation's policies with respect to capital adequacy) by an amount deemed by Administrative Agent to be material, then from time to time, Seller shall, at its option and in its sole and absolute discretion, either (1) terminate all of the Transactions and repurchase all of the Purchased Assets or (2) promptly pay Administrative Agent such additional amount or amounts as will thereafter compensate Administrative Agent for such reduction.

If Administrative Agent becomes entitled to claim any additional amounts pursuant to this Section 4.5, it shall promptly notify Seller of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to this subsection submitted by Administrative Agent to Seller shall be conclusive in the absence of manifest error.

- 4.6 Payments Pursuant to Sale to Approved Investors. Seller shall direct each Approved Investor purchasing a Purchased Asset to pay directly to Administrative Agent, on behalf of Buyers, in accordance with Administrative Agent's wire instructions set forth on Exhibit F by wire transfer of immediately available funds to Administrative Agent, the applicable Takeout Price in full and

without set-off on the date set forth in the applicable Purchase Commitment. In addition, Seller shall provide Administrative Agent, on behalf of Buyers, with a Purchase Advice relating to such payment. Seller shall not direct the Approved Investor to pay to Administrative Agent, on behalf of Buyers, an amount less than the full Takeout Price or modify or otherwise change the wire instructions for payment of the Takeout Price provided to Approved Investor by Administrative Agent, on behalf of Buyers. Administrative Agent, on behalf of Buyers, shall apply all amounts received from an Approved Investor for the account of Seller in accordance with Section 6.2(i)(iii), subject to Section 4.12. Administrative Agent, on behalf of Buyers, may reject any such shortfalls, any amount received from an Approved Investor and not release the related Purchased Asset if (a) Administrative Agent, on behalf of Buyers, does not receive a Purchase Advice in respect of any wire transfer, (b) Administrative Agent, on behalf of Buyers, does not receive the full Takeout Price, without set-off or (c) the amount received is not sufficient to pay the related Repurchase Price in full. Alternatively, in lieu of rejecting an amount received by Administrative Agent, on behalf of Buyers, from an Approved Investor, at Administrative Agent's, on behalf of Buyers, option, if the amount received from the Approved Investor does not equal or exceed the related Repurchase Price, Administrative Agent, on behalf of Buyers, may accept the amount received from the Approved Investor and demand payment of such remaining amount from Seller. If Seller receives any funds intended for Administrative Agent or any Buyer, Seller shall segregate and hold such funds in trust for Administrative Agent or such Buyer and immediately pay to Administrative Agent or such Buyer all such amounts by wire transfer of immediately available funds to Administrative Agent or Administrative Agent on behalf of such Buyer in accordance with Administrative Agent's wire instructions set forth on Exhibit F together with providing Administrative Agent, on behalf of Buyers, with a settlement statement for the transaction.

4.7 Benchmark Replacement Setting.

- (a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Principal Agreement, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then, (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Principal Agreement in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Principal Agreement and (y) if a Benchmark Replacement is determined in accordance with clause (3) or (4) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Principal Agreement in respect of any Benchmark setting at or after 5:00 ET on the first (1st) Business Day after the date notice of such Benchmark Replacement is provided to Seller without any amendment to, or further action or consent of any other party to, this Agreement or any other Principal Agreement.
- (b) Conforming Changes. In connection with the use, administration or implementation of a Benchmark Replacement, Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Principal Agreement, any amendments implementing such Conforming Changes will become effective without any further action or consent of Seller or any other party to this Agreement or any other Principal Agreement.

(c) Notices; Standards for Decisions and Determinations. Administrative Agent will promptly notify Seller of (i) the implementation of any Benchmark Replacement, and (ii) the effectiveness of any Conforming Changes. Any determination, decision or election that may be made by Administrative Agent pursuant to this Section 4.7 including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from Seller or any other party to this Agreement or any other Principal Agreement, except, in each case, as expressly required pursuant to this Section 4.7.

(d) [Reserved].

(e) Temporary Unavailability of Setting of Benchmark. Notwithstanding anything to the contrary herein or in any other Principal Agreement, at any time (including in connection with the implementation of a Benchmark Replacement), if (i) a Benchmark Unavailability Period occurs or (ii) a relevant setting of the then-current Benchmark is temporarily unavailable due to a systemic market disruption, as determined by Administrative Agent in its reasonable discretion, then Administrative Agent will utilize the last available setting of the then-current Benchmark until such time as (A) the Benchmark Unavailability Period ends or (B) the source and/or publisher of the then-current Benchmark resumes timely publication of such Benchmark's settings, as applicable.

4.8 Method of Payment. Except as otherwise specifically provided herein, all payments hereunder must be received by Administrative Agent, on the date when due and shall be made in United States dollars by wire transfer of immediately available funds to Administrative Agent, on behalf of Buyers, in accordance with Administrative Agent's wire instructions set forth on Exhibit F. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be the succeeding Business Day, and with respect to payments of the Purchase Price, the Price Differential thereon shall be payable at the Applicable Pricing Rate during such extension. All payments made by or on behalf of Seller with respect to any Transaction shall be applied to Seller's account in accordance with Section 4.12 and Section 6.2(i)(iii) and shall be made in such amounts as may be necessary in order that all such payments after withholding for or on account of any present or future Indemnified Taxes imposed by any Governmental Authority, compensate Administrative Agent for any additional cost or reduced amount receivable of making or maintaining Transactions as a result of such Indemnified Taxes, as set forth, and subject to, Sections 4.5 and 12.3. All payments to be made by or on behalf of Seller with respect to any Transaction shall be made without set-off, counterclaim or other defense, unless otherwise expressly permitted by Administrative Agent, on behalf of Buyers, in writing in Administrative Agent's sole discretion.

4.9 Authorization to Debit. In addition to any other authorizations to and rights of Administrative Agent, on behalf of Buyers, hereunder, Seller hereby expressly authorizes Administrative Agent, on behalf of Buyers, to debit any account maintained by Seller with Administrative Agent, on behalf of Buyers, into which any funds related to the Purchased Assets or related Purchased Items have been deposited (excluding, for the avoidance of doubt, any escrow accounts maintained for the benefit of the related Mortgagors), including without limitation, any operating, settlement or custodial account, for any and all amounts due Administrative Agent, on behalf of Buyers, hereunder. For the avoidance of doubt, the foregoing debit rights of Administrative Agent, on behalf of Buyers, shall not apply to Purchased Assets which have been repurchased by Seller pursuant to Section 6.4.

- 4.10 Book Account. Administrative Agent, on behalf of Buyers, and Seller shall maintain an account on their respective books of all Transactions entered into between Administrative Agent, on behalf of Buyers, and Seller and for which the Repurchase Price has not yet been paid. Notwithstanding the foregoing, Seller shall be responsible for maintaining its own book account and records of Transactions entered into with Administrative Agent, on behalf of Buyers, amounts due to Administrative Agent, on behalf of Buyers, in connection with such Transactions and for paying such amounts when due. Failure of Seller to maintain an account on its books with information regarding any Transaction shall not excuse Seller's timely performance of all obligations under this Agreement, including, without limitation, payment obligations under this Agreement.
- 4.11 Full Recourse. The obligations of Seller from time to time to pay the Repurchase Price, Margin Deficit payments, settlement payments and all other amounts due under this Agreement shall be full recourse obligations of Seller.
- 4.12 Payments to Seller. Administrative Agent, on behalf of Buyers, shall pay, or cause to be paid to, Seller all amounts in excess of those amounts due to Administrative Agent, on behalf of Buyers, in accordance with the Principal Agreements on the date on which both (1) a payment by Seller or an Approved Investor pursuant to a Purchase Commitment and (2) a Purchase Advice relating to such payment without discrepancy has been made to Administrative Agent, on behalf of Buyers, in accordance with Administrative Agent's wire instructions set forth on Exhibit F; provided, however, that funds and Purchase Advices received by Administrative Agent, on behalf of Buyers, after 5:00 p.m. (New York City time) shall be deemed to have been received on the next Business Day. Administrative Agent, on behalf of Buyers, shall use reasonable efforts to notify Seller if there is a discrepancy between a wire transfer and the related Purchase Advice, and thereafter, Seller shall notify Administrative Agent, on behalf of Buyers, as to whether Administrative Agent, on behalf of Buyers, should accept such settlement payment despite the discrepancy between the amount received and the related Purchase Advice; provided, however, that if an Event of Default, Event of Early Termination or Potential Default has occurred and is continuing, Administrative Agent, on behalf of Buyers, is not obligated to receive approval from Seller prior to accepting any amounts received and releasing the related Purchased Assets.

ARTICLE 5 FEES

- 5.1 Payment of Fees. Seller shall pay to Administrative Agent, on behalf of Buyers, those fees set forth in this Agreement and the Transactions Terms Letter when they become due and owing. Without limiting the generality of the foregoing, the Processing Fee shall be paid on or before the Effective Date and if this Agreement is renewed, on the date of such renewal.

ARTICLE 6 SECURITY; SERVICING; MARGIN ACCOUNT MAINTENANCE; CUSTODY OF MORTGAGE LOAN DOCUMENTS; REPURCHASE TRANSACTIONS; DUE DILIGENCE

- 6.1 Precautionary Grant of Security Interest in Purchased Assets and Purchased Items. With respect to the Purchased Assets, although the parties intend that all Transactions hereunder be sales and purchases (other than for accounting and tax purposes) and not loans, and without prejudice to the provisions of Section 6.5 and the expressed intent of the parties, if any Transactions are deemed to be loans, and, as security for the performance of Seller's obligations hereunder, Seller hereby pledges, assigns and grants to

Administrative Agent, on behalf of Buyers, a continuing first priority¹ security interest in and lien upon the Purchased Assets and related Purchased Items and Administrative Agent, on behalf of Buyers, shall have all the rights and remedies of a “secured party” under the Uniform Commercial Code with respect to the Purchased Assets and related Purchased Items. Possession of any promissory notes, instruments or documents by the Custodian shall constitute possession on behalf of Administrative Agent, on behalf of Buyers, and, if applicable, Control of an eNote by the Custodian shall constitute Control on behalf of Administrative Agent, on behalf of Buyers. The parties hereby acknowledge and agree that, with respect to any Mortgage Loan which is an eMortgage Loan, the party designated in the MERS eRegistry as the “Controller”, and in such capacity shall be deemed “in control” or the “controller” of such eNote within the meaning of UETA and/or, as applicable, E-SIGN and the Controller status of the related eNote in the MERS eRegistry shall reflect Administrative Agent’s, on behalf of Buyers, MERS Org ID and the Location status of the Authoritative Copy of the related eNote in the MERS eRegistry shall reflect Custodian’s MERS Org ID.

Seller acknowledges that it has no rights to the Servicing Rights related to any Purchased Mortgage Loan. Without limiting the generality of the foregoing and for the avoidance of doubt, if any determination is made that the Servicing Rights related to any Purchased Mortgage Loan were not sold by Seller to Administrative Agent, on behalf of Buyers, or that the Servicing Rights are not an interest in such Purchased Mortgage Loan and are severable from such Purchased Mortgage Loan despite Administrative Agents, Buyers’ and Seller’s express intent herein to treat them as included in the purchase and sale transaction, Seller hereby pledges, assigns and grants to Administrative Agent, on behalf of Buyers, a continuing first priority security interest in and lien upon the Servicing Rights related to such Purchased Mortgage Loans, and Administrative Agent, on behalf of Buyers, shall have all the rights and remedies of a “secured party” under the Uniform Commercial Code with respect thereto. In addition, Seller further grants, assigns and pledges to Administrative Agent, on behalf of Buyers, a first priority security interest in and lien upon its rights to (i) all documentation and rights to receive documentation related to such Servicing Rights and the servicing of each of the Purchased Mortgage Loans, (ii) all Income related to the Purchased Assets received by Seller, (iii) all rights to receive such Income, (iv) all other Purchased Items, and (v) all products, proceeds and distributions relating to or constituting any or all of the foregoing (collectively, and together with the pledge of Servicing Rights in the immediately preceding sentence, the “**Related Credit Enhancement**”). The Related Credit Enhancement is hereby pledged as further security for Seller’s obligations to Administrative Agent, on behalf of Buyers, hereunder.

At any time and from time to time, upon the written request of Administrative Agent, on behalf of Buyers, and at the sole expense of Seller, Seller will promptly and duly execute and deliver, or will promptly cause to be executed and delivered, such further instruments and documents and take such further action as Administrative Agent, on behalf of Buyers, may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the Purchased Assets and related Purchased Items and the liens created hereby. Seller also hereby authorizes Administrative Agent, on behalf of Buyers, to file any such financing or continuation statement in a manner consistent with this Agreement to the extent permitted by applicable law. For purposes of the Uniform Commercial Code and all other relevant purposes, this Agreement shall constitute a security agreement.

¹ Note to Success: We would still expect to have a first priority in your interest in the Collateral even if some of the Collateral is Second Mortgage Loans.

6.2 Servicing.

- (a) Servicing Rights Owned by Administrative Agent on behalf of Buyers; Administrative Agent's Right to Appoint Servicer. In recognition that each Purchased Mortgage Loan is sold by Seller to Administrative Agent, on behalf of Buyers, on a servicing released basis and Administrative Agent, on behalf of Buyers, is the owner of the Servicing Rights related to such Purchased Mortgage Loan, subject to paragraphs (b) and (c) below, Administrative Agent, on behalf of Buyers, shall have the sole right to appoint the Servicer for each Purchased Mortgage Loan.
- (b) Appointment of Servicer. Subject to Administrative Agent's, on behalf of Buyers, right to appoint a successor Servicer at any time, subject to Seller's appointment right set forth in the first sentence of Section 6.2(n), Administrative Agent, on behalf of Buyers, hereby appoints SUCCESS Lending, LLC as the Servicer to service the applicable Purchased Mortgage Loans on behalf of Administrative Agent and Buyers as agent for Administrative Agent and Buyers for each Transaction for the period between the Purchase Date and the Repurchase Date of the Purchased Mortgage Loans. The right of Servicer to service the Purchased Mortgage Loans is on an interim basis only and does not provide or confer a contractual, ownership or other right for Servicer to service the Purchased Mortgage Loans, it being understood that upon payment of the Purchase Price, Administrative Agent, on behalf of Buyers, owns the Servicing Rights and may assume servicing or appoint a Successor Servicer at any time, subject to Seller's appointment right set forth in the first sentence of Section 6.2(n). Further, the fact that Servicer may be entitled to a servicing fee for interim servicing of the Purchased Mortgage Loans or that Administrative Agent, on behalf of Buyers, may provide a separate notice of default to Servicer regarding the servicing of the Purchased Mortgage Loans shall not affect or otherwise change Administrative Agent's, on behalf of Buyers, ownership of the Servicing Rights related to the Purchased Mortgage Loans.
- (c) Interim Servicing Period; No Servicing Fee or Income. For each Transaction, Servicer's right to interim service a Purchased Mortgage Loan shall commence on the related Purchase Date and shall automatically terminate without notice on the earlier of (i) thirty (30) calendar days after such Purchase Date or (ii) the Repurchase Date. If the interim servicing period expires with respect to any Purchased Mortgage Loan for any reason other than a Seller repurchasing such Purchased Mortgage Loan, then such interim servicing period shall automatically terminate if not renewed by Administrative Agent, on behalf of Buyers; provided that Administrative Agent, on behalf of Buyers, shall be deemed to have renewed interim servicing term if Administrative Agent, on behalf of Buyers, enters into a new Transaction in respect of such Purchased Mortgage Loan. In connection with any such renewal, Servicer shall continue to interim service the Purchased Mortgage Loan for a thirty (30) calendar day extension period. Other than as set forth in the immediately preceding sentence, Administrative Agent shall have no right to terminate Seller or Servicer, as applicable, as the interim servicer other than in connection with an Event of Default or Servicer Termination Event. Absent Administrative Agent's, on behalf of Buyers, agreement to extend, or continue to extend, the interim servicing period, Seller shall cause the Servicer to transfer servicing of the Purchased Mortgage Loan (which shall include the delivery of all Servicing Records related to such Purchased Mortgage Loan) to Administrative Agent, on behalf of Buyers, or its designee in accordance with the instructions of Administrative Agent, on behalf of Buyers, and any other applicable requirements of this Agreement. For the avoidance of doubt, upon expiration of the interim servicing period (including the expiration of any extension period) with respect to any

Purchased Mortgage Loan, Servicer shall not have the right to service the related Purchased Mortgage Loan nor shall Administrative Agent, on behalf of Buyers, have any obligation to extend the interim servicing period (or continue to extend the interim servicing period), it being understood that upon such expiration, Seller and the Servicer shall promptly transfer the servicing of the related Purchased Mortgage Loan to Administrative Agent, on behalf of Buyers, or its designee in accordance with the instructions of Administrative Agent, on behalf of Buyers, and any other applicable requirements of this Agreement. Administrative Agent, on behalf of Buyers, shall have no obligation to pay Servicer, nor shall Servicer have any right to deduct or retain, any servicing fee or similar compensation in connection with the interim servicing of a Purchased Mortgage Loan.

- (d) Servicing Agreement. If there is a Servicer of the Purchased Mortgage Loans other than SUCCESS Lending, LLC, Administrative Agent, on behalf of Buyers, or an Affiliate of Administrative Agent, on behalf of Buyers, Seller shall enter into a Servicing Agreement and a Servicer Notice with such Servicer on behalf of Administrative Agent and Buyers, which such Servicing Agreement shall be acceptable to Administrative Agent, on behalf of Buyers, in its sole discretion, and such Servicer Notice shall be substantially in the form attached hereto as Exhibit G. Administrative Agent, on behalf of Buyers, may terminate the subservicing of any Purchased Mortgage Loan with the then existing Servicer in accordance with either Section 6.2(f) or Section 6.2(n). Without the prior written consent of Administrative Agent, on behalf of Buyers, exercised in Administrative Agent's sole discretion, Seller shall not agree to (1) any material, in Administrative Agent's sole discretion, modification, amendment or waiver of any Servicing Agreement, (2) any termination of any Servicing Agreement or (3) the assignment, transfer, or material deletion of any of its rights or obligations under any Servicing Agreement.
- (e) Servicing Obligations of Seller. Seller shall, and pursuant to the applicable Servicing Agreement, Seller shall cause each Servicer to:
- (i) service and administer the Purchased Mortgage Loans on behalf of Administrative Agent and Buyers in accordance with prudent mortgage loan servicing standards and procedures generally accepted in the mortgage banking industry and in accordance with the degree of care and servicing standards generally prevailing in the industry, including in accordance with all applicable requirements of the Agency Guides, applicable law, FHA Regulations, VA Regulations and RD Regulations, the requirements of any private mortgage insurer, as applicable, and the requirements of any applicable Purchase Commitment and the related Approved Investor, in each case, so that neither the eligibility of the Purchased Mortgage Loan and any related Mortgage-Backed Security for purchase under such Purchase Commitment nor the FHA Mortgage Insurance, VA Loan Guaranty Agreement, RD Loan Guaranty Agreement or any other applicable insurance or guarantee in respect of any such Purchased Mortgage Loan, if any, is voided or reduced by such servicing and administration;
 - (ii) subject to Section 6.2(g), and to the extent not otherwise held by the Custodian, at all times maintain and safeguard the Mortgage Loan File for the Purchased Mortgage Loan in accordance with applicable law and lending industry custom and practice and shall hold such Mortgage Loan File in trust for Administrative Agent, on behalf of Buyers, and in any event shall maintain and safeguard photocopies of the documents delivered to Administrative Agent, on behalf of Buyers, or Custodian, as applicable, pursuant to Section 3.3, and accurate and

complete records of its servicing of the Purchased Mortgage Loan; Seller's or Servicer's possession of such Mortgage Loan File is for the sole purpose of servicing such Purchased Mortgage Loan and such retention and possession by Seller or such Servicer is in a custodial capacity only;

- (iii) allow Administrative Agent, on behalf of Buyers, to, and Administrative Agent, on behalf of Buyers, may, at any time during Seller's or Servicer's business hours on reasonable notice, examine and make copies of such documents and records, and Seller or such Servicer shall deliver the originals of such documents and records to Administrative Agent, on behalf of Buyers, or its designee;
- (iv) at Administrative Agent's written request, promptly deliver to Administrative Agent, on behalf of Buyers, reports regarding the status of any Purchased Mortgage Loan being serviced by it, which reports shall include, but shall not be limited to, a description of any delinquency thereunder for equal to or more than thirty (30) calendar days or such other circumstances that could reasonably be expected to cause a material adverse effect with respect to the market value of such Purchased Mortgage Loan, such Buyer's title to such Purchased Mortgage Loan or the collateral securing such Purchased Mortgage Loan; Seller is required to deliver such reports until the repurchase of the Purchased Mortgage Loan by the Seller; and
- (v) advance all reasonable, customary and/or necessary "out of pocket" costs and expenses (including reasonable attorneys' fees and disbursements) incurred in the performance by Seller or such Servicer of its servicing obligations, including, but not limited to, (1) real estate taxes and assessments (including HOA/COA) and other charges which are or may become a lien upon the Mortgaged Property, (2) insurance premiums, (3) expenses necessary to prevent or cure a violation of applicable laws, (4) customary expenses for collection and enforcement of foreclosure or deficiency judgments and (5) cost of appraisals and valuations.
- (f) Sale or Transfer of Servicing Rights by Administrative Agent or Buyers. Administrative Agent or Buyers may sell or transfer any rights to service a Purchased Mortgage Loan with written notice but without the prior written consent of Seller or any Servicer.
- (g) Release of Mortgage Loan Files. Seller shall release its custody of the contents of any Mortgage Loan File only in accordance with the written instructions of Administrative Agent, on behalf of Buyers, except when such release is required (1) as incidental to the servicing of the related Purchased Mortgage Loan and pursuant to and in accordance with the Custodial Agreement, (2) to complete the Purchase Commitment, or (3) by law.
- (h) Right to Appoint Successor Servicer. Administrative Agent, on behalf of Buyers, reserves the right, in its sole discretion, to appoint a successor servicer to service any Purchased Mortgage Loan (each a "**Successor Servicer**"). In the event of such an appointment, Seller or Servicer, as applicable, shall perform all acts and take all action so that any part of the Mortgage Loan File and related Servicing Records held by Seller or Servicer, together with all funds in the Collateral Account and other receipts relating to such Purchased Mortgage Loan, are promptly delivered to the Successor Servicer. Seller shall have no claim for servicing fees, lost profits or other damages if Administrative Agent, on behalf of Buyers, appoints a Successor Servicer hereunder.

(i) Collateral Account.

- (i) Upon request of Administrative Agent, Seller shall establish and maintain, or shall cause Servicer to establish and maintain, a segregated time or demand deposit account with the Account Bank for the benefit of Administrative Agent, on behalf of Buyers (the “**Collateral Account**”). If established, Seller shall promptly deposit or cause Servicer to deposit (but in no event later than two (2) Business Days after receipt thereof) into the Collateral Account all Income received with respect to each Purchased Asset sold hereunder. The Collateral Account may not be a deposit account that is established to serve as a custodial account for mortgage loans that Seller or any Servicer services for other parties. Under no circumstances shall Seller or Servicer deposit any of its own funds into the Collateral Account or otherwise commingle its own funds with funds belonging to Administrative Agent or any Buyer as owner of any Purchased Asset. If Seller or Servicer fails to segregate any funds and commingles them with any source in breach of this Agreement, Seller or Servicer agrees that its share of the commingled funds is assumed to have been spent first with any remaining balance to be deemed to belong to Administrative Agent or such Buyer.
- (ii) Upon establishment, Seller is hereby deemed to grant and hereby grants to Administrative Agent, on behalf of Buyers, a continuing first priority security interest in (1) all right, title, and interest in and to the Collateral Account and (2) any funds of Seller at any time deposited or held in the Collateral Account, whether such funds are required to be deposited and held in the Collateral Account or otherwise. Seller shall, as a condition precedent to Administrative Agent and any Buyer’s entry into any Transaction hereunder, cause the Account Bank to enter into the Collateral Account Control Agreement with respect to the Collateral Account. The pledge and security interest contained in this paragraph shall be considered “a security agreement or other arrangement or other credit enhancement” that is “related to” the Agreement and Transactions hereunder within the meaning of Bankruptcy Code Sections 101(38A)(A), 101(47)(a)(v) and 741(7)(A)(x). Seller understands and agrees that the Collateral Account shall be subject to an Account Control Agreement.
- (iii) Any Income received with respect to a Purchased Asset purchased hereunder (other than any interest accrued thereon during the period of time up to but not including the Purchase Date for such Purchased Asset), shall be segregated as described above and held in trust for the exclusive benefit of Administrative Agent, on behalf of Buyers, as the owner of such Purchased Asset. If any Income is deposited into the Collection Account it shall be released only as follows:
- (1) if a Successor Servicer is appointed by Administrative Agent, on behalf of Buyers, all amounts deposited in the Collateral Account with respect to Purchased Mortgage Loans to be so serviced shall be transferred into an account established by the Successor Servicer pursuant to its agreement with Administrative Agent, on behalf of Buyers;
 - (2) after the occurrence and during the continuance of an Event of Default, at the direction of Administrative Agent, on behalf of Buyers;
 - (3) applied as follows:

1. *first*, in satisfaction of accrued and outstanding fees and expenses of Administrative Agent incurred in connection with any Transaction, including satisfaction of any Margin Deficit;

2. *second*, in satisfaction of the fees and expenses of Buyers allocated pro rata in accordance with its Allocation Percentage of any such fees and expenses incurred in connection with any Transaction;

3. *third*, in satisfaction of any outstanding repurchase obligations of Seller in connection with any Purchased Asset or related Purchased Item;

4. *fourth*, at the direction of Administrative Agent, on behalf of Buyers.

After the occurrence of an Event of Default or Default, all items or amounts which are remitted to the Collateral Account, or otherwise delivered by or for the benefit of Seller to Administrative Agent, on behalf of Buyers, on account of partial or full payment of, or with respect to, any repurchase obligations (including, without limitation, any Income) shall, at Administrative Agent's option, be applied to the payment of the repurchase obligations, whether then due or not, in such order or at such time of application as Administrative Agent may determine in its sole discretion. Seller agrees that Administrative Agent and Buyers shall not be liable for any loss or damage which Seller may suffer as a result of Administrative Agent's processing of items or its exercise of any other rights or remedies under this Agreement, or any other Principal Agreement, including without limitation indirect, special or consequential damages, loss of revenues or profits, or any claim, demand or action by any third party arising out of or in connection with the processing of items or the exercise of any other rights or remedies under this Agreement or any other Principal Agreement.

Administrative Agent, Buyers and Seller intend and agree that all such payments shall be "settlement payments" as such term is defined in Bankruptcy Code Section 741(8).

- (j) Location of Collateral Account. Seller shall ensure that there is no change in the identity or the location of the Collateral Account without the prior written consent of Administrative Agent, on behalf of Buyers.
- (k) Accounting of Collateral Account. If applicable, Seller shall provide, and shall cause Servicer to provide, Administrative Agent, on behalf of Buyers, with read-only access to the Collateral Account. Seller shall promptly deliver to each of Administrative Agent photocopies of all periodic bank statements and other records relating to the Collateral Account as Administrative Agent, on behalf of Buyers, may from time to time request.

- (l) Servicer Notice. As a condition precedent to Administrative Agent, on behalf of Buyers, funding the Purchase Price for any Purchased Mortgage Loan serviced by a Servicer other than Seller, Buyer, or an Affiliate of Administrative Agent, the Seller shall provide to Administrative Agent, on behalf of Buyers, a Servicer Notice addressed to and agreed to by the Servicer, advising the Servicer of such matters as Administrative Agent, on behalf of Buyers, may reasonably request, including, without limitation, recognition by the Servicer of Administrative Agent's interest in such Purchased Mortgage Loans and ownership of the Servicing Rights related thereto and the Servicer's agreement that upon receipt of notice of an Event of Default from Administrative Agent, it will follow the instructions of Administrative Agent with respect to the servicing of the related Purchased Mortgage Loans.
- (m) Notification of Servicer Defaults. If Seller should discover that for any reason whatsoever, any entity responsible to Seller by contract for managing or servicing any Purchased Mortgage Loan has failed to perform fully Seller's obligations with respect to the management or servicing of such Purchased Mortgage Loan as required under this Agreement or any of the obligations of such entities with respect to the Purchased Mortgage Loan as delegated by Seller pursuant to any Servicing Agreement, Seller shall promptly notify Administrative Agent, on behalf of Buyers.
- (n) Termination. If a Servicer Termination Event shall occur (which has not been waived by Administrative Agent, on behalf of Buyers, in its sole and absolute discretion) and no Event of Default has occurred and is continuing, then Seller shall have the right to designate a successor Servicer acceptable to Administrative Agent, on behalf of Buyers, in Administrative Agent's sole discretion, by proposing the identity of such successor Servicer to Administrative Agent in writing no later than two (2) Business Days following the applicable Servicer Termination Event. If (x) Seller has not proposed a successor Servicer to Administrative Agent in writing within two (2) Business Days following the applicable Servicer Termination Event in accordance with the immediately preceding sentence; (y) Administrative Agent has not accepted, in Administrative Agent's sole discretion, the successor Servicer proposed by Seller to Administrative Agent in accordance with the immediately preceding sentence within two (2) Business Days following such applicable Servicer Termination Event; or (z) the actual servicing of the Purchased Mortgage Loans has not been transferred to the successor Servicer proposed by Seller and in accordance with the immediately preceding sentence and accepted by Administrative Agent, in Administrative Agent's sole discretion, within thirty (30) calendar days following the applicable Servicer Termination Event, then Administrative Agent shall have the right at any time to immediately terminate, and Seller shall terminate any Servicer's (as applicable) right to service the Purchased Mortgage Loans due to a Servicer Termination Event without payment of any penalty or termination fee. In addition, Administrative Agent shall have the right at any time to immediately terminate Seller's or any Servicer's (as applicable) right to service the Purchased Mortgage Loans for any other reason in Administrative Agent's reasonable discretion without payment of any penalty or termination fee. Seller shall cooperate, or cause the applicable Servicer to cooperate, in transferring the servicing of the Purchased Mortgage Loans to a successor servicer appointed or accepted, as applicable, by Administrative Agent. For the avoidance of doubt any termination of a Servicer's rights to service by Administrative Agent as a result of an Event of Default that has not been waived shall be deemed part of an exercise of Administrative Agent's rights to cause the liquidation, termination or acceleration of this Agreement.

- (o) Administrative Agent's Right to Service. Administrative Agent, on behalf of Buyers, or its designee, upon the occurrence of an Event of Default or, subject to Seller's appointment right set forth in the first sentence of Section 6.2(n), a Servicer Termination Event, shall be entitled to service some or all of the Purchased Assets that are Purchased Mortgage Loans, including, without limitation, receiving and collecting all sums payable in respect of same. Upon Administrative Agent's determination and written notice to Seller or a Servicer, with a copy to Seller, as applicable, that Administrative Agent desires to service some or all of the Purchased Mortgage Loans following the occurrence of an Event of Default, or, subject to Seller's appointment right set forth in the first sentence of Section 6.2(n), a Servicer Termination Event, Seller shall promptly cooperate, and Seller shall cause the Servicer to promptly cooperate, with all instructions of Administrative Agent and do or accomplish all acts or things necessary to effect the transfer of the servicing to Administrative Agent or its designee, at Seller's sole expense. Upon Administrative Agent's or its designee's servicing of the Purchased Mortgage Loans, (i) Administrative Agent may, in its own name, in the name of Seller, or otherwise demand, sue for, collect or receive any money or property at any time payable or receivable on account of or in exchange for such Purchased Mortgage Loan(s), but shall be under no obligation to do so; (ii) Seller shall, if Administrative Agent so requests, pay to Administrative Agent all amounts received by Seller upon or in respect of such Purchased Mortgage Loan(s) or other Purchased Assets, advising Administrative Agent as to the source of such funds; and (iii) all amounts so received and collected by Administrative Agent, on behalf of Buyers, shall be held as part of the Purchased Assets or applied against any outstanding Repurchase Price owed Administrative Agent or any Buyer.

6.3 Margin Account Maintenance.

- (a) Asset Value. Administrative Agent, on behalf of Buyers, shall have the right to determine the Asset Value of each Purchased Asset at any time.
- (b) Margin Deficit and Margin Call. If Administrative Agent, on behalf of Buyers, shall determine on any Business Day that the Minimum Maintenance Amount with respect to the Purchased Assets is less than the Aggregate Outstanding Purchase Price of all Transactions (in any such case, a "**Margin Deficit**"), then Administrative Agent, on behalf of Buyers, may at its sole option, and by notice to Seller (as such notice is more particularly set forth below, a "**Margin Call**"), require Seller to either:
- (i) deposit cash into the Funding Account so that the Minimum Maintenance Amount will thereupon equal or exceed the Aggregate Outstanding Purchase Price (for purposes of clarity, after giving effect to any credit to the Purchase Price of the related Transaction(s) pursuant to Section 6.3(d)) of all Transactions; or
- (ii) pay one or more Repurchase Prices, as applicable, in an amount sufficient to reduce the related Purchase Price so that the Aggregate Outstanding Purchase Price of all Transactions is less than or equal to the Minimum Maintenance Amount.

If Administrative Agent, on behalf of Buyers, delivers a Margin Call to Seller on any Business Day, then Seller shall transfer cash to Administrative Agent no later than 5:00 p.m. (New York City time) on the next subsequent Business Day. Notice of a Margin Call may be provided by Administrative Agent, on behalf of Buyers, to Seller electronically or in writing, such as via electronic mail.

Notwithstanding the foregoing, upon any Purchased Asset becoming an Aging Event Asset, Administrative Agent, on behalf of Buyers, shall, at its sole option and by notice to Seller, make a Margin Call in an amount equal to the applicable reduction in the Type Purchase Price Percentage resulting from such Purchased Asset becoming an Aging Event Asset, and Seller shall transfer cash in the amount of such Margin Call to Administrative Agent no later than 5:00 p.m. (New York City time) on the next subsequent Business Day.

- (c) Administrative Agent's Discretion. Administrative Agent's election not to make a Margin Call at any time there is a Margin Deficit shall not in any way limit or impair its right to make a Margin Call at any time a Margin Deficit exists.
- (d) Credit to Repurchase Price. Any cash transferred to the Funding Account pursuant to this Section 6.3 shall be credited to the Purchase Price of the related Transaction(s).

- 6.4 Repurchase and Release of Purchased Assets. Provided that no Event of Default, Event of Early Termination or Potential Default has occurred and is continuing, Seller may repurchase a Purchased Asset by paying, or causing an Approved Investor to pay, to Administrative Agent in accordance with Administrative Agent's wire instructions set forth on Exhibit E, subject to Sections 4.6 and 4.7, the Repurchase Price.

Upon receipt of the applicable Repurchase Price and, in the event the applicable Repurchase Price is received pursuant to Section 6.3(b)(ii), upon written request from Seller to Administrative Agent, as applicable, as set forth above, Administrative Agent, on behalf of Buyers, shall (i) with respect to Purchased Mortgage Loans, deliver or shall cause the Custodian to deliver the related Mortgage Loan Documents to Seller or its designee, if such documents have not already been delivered pursuant to a Bailee Agreement and (ii) with respect to related Mortgage-Backed Securities, deliver the Mortgage-Backed Security to Seller or Approved Investor, as applicable, on a delivery versus payment basis; provided, however, that notwithstanding anything to the contrary in this Agreement, Administrative Agent shall not be obligated to provide more than five (5) such releases to any Approved Investor for purposes of pooling with an Agency (which release may relate to more than a single Purchased Mortgage Loan) on any day, unless otherwise approved by Administrative Agent in its sole discretion. If any such release gives rise to or perpetuates a Margin Deficit, Administrative Agent, on behalf of Buyers, shall notify Seller of the amount thereof and Seller shall thereupon satisfy the Margin Deficit in the manner specified in Section 6.3(b). Administrative Agent and Buyers shall have no obligation to release a repurchased Purchased Asset or terminate its security interest in such Purchased Asset until such Margin Deficit is satisfied and, in the event the applicable amount is received pursuant to Section 6.3(b)(ii), Seller has provided a prior written request for such release.

- 6.5 Repurchase Transactions. Beginning on the related Purchase Date and prior to the related Repurchase Date for a Transaction, Administrative Agent and Buyers shall have free and unrestricted use of all related Purchased Assets and may in its discretion and without notice to Seller engage in repurchase transactions with respect to any or all of such Purchased Assets or otherwise pledge, hypothecate, assign, transfer or convey any or all of such Purchased Assets (such transactions, "**Repurchase Transactions**"), provided that no such Repurchase Transaction shall relieve Administrative Agent or any such Buyer of its obligation to transfer Purchased Assets to Seller (and not substitutions thereof) pursuant to the terms hereof. Nothing contained in this Agreement shall obligate Administrative Agent or Buyers to segregate any Purchased Asset or Purchased Item delivered to Administrative Agent, on behalf of Buyers, by Seller. Seller shall not be responsible for any additional obligations, costs or fees in connection with such Repurchase Transactions. Other than for tax purposes, Seller shall not take any action inconsistent with

Administrative Agent's or Buyer's ownership of a Purchased Asset and shall not claim any legal, beneficial or other interest in such a Purchased Asset other than the limited right and obligations to provide servicing of such Purchased Mortgage Loans where Administrative Agent, on behalf of Buyers, designates Seller as servicer as provided in Section 6.2.

6.6 Periodic Due Diligence. Seller acknowledges that Administrative Agent and Buyers have the right at any time during the term of this Agreement to perform continuing due diligence reviews with respect to the Purchased Assets, for purposes of verifying compliance with the representations, warranties, covenants and specifications made hereunder or under any other Principal Agreement, or otherwise, and Seller agrees that upon reasonable (but no less than one (1) Business Day's) prior notice to Seller (provided that upon the occurrence of a Potential Default or an Event of Default which has not been waived by Administrative Agent, on behalf of Buyers, in writing, no such prior notice shall be required), Administrative Agent, on behalf of Buyers, or its authorized representatives will be permitted during normal business hours to (i) examine, inspect, make copies of, and make extracts of, the Mortgage Loan Files, the Servicing Records and any and all documents, records, agreements, instruments or information relating to such Purchased Assets in the possession, or under the control, of Seller, Custodian or Servicer (including, and not limited to, any and all documents, records, agreements, instruments or information relating to any report delivered pursuant to Section 9.1(h)) and (ii) discuss the business, operations, assets and financial condition of Seller and Seller's Subsidiaries with its officers and employees and to examine its books of account and make copies and/or extracts thereof. Further, Seller will make available to Administrative Agent, on behalf of Buyers, at such time and location as Administrative Agent may reasonably request, a knowledgeable financial or accounting officer and will instruct such officer to answer candidly and fully, at no cost to Administrative Agent or Buyers, any and all reasonable questions that any authorized representative of Administrative Agent or Buyers may address to them in reference to the Mortgage Loan Files, Purchased Assets and the financial condition or affairs of Seller and Seller's Subsidiaries. Without limiting the generality of the foregoing, Seller acknowledges that Administrative Agent, on behalf of Buyers, shall purchase Assets from Seller based solely upon the information provided by Seller to Administrative Agent or Buyers in the Transaction Request and the representations, warranties and covenants contained herein, and that Administrative Agent and Buyers, at its option, has the right, at any time to re-underwrite any of the Purchased Assets itself or engage a third party underwriter to perform such re-underwriting. Seller agrees to cooperate with Administrative Agent and Buyers and any third party underwriter in connection with such re-underwriting, including, but not limited to, providing Administrative Agent and Buyers and any third party underwriter with access to any and all documents, records, agreements, instruments or information relating to Seller and such Purchased Assets in the possession, or under the control, of Seller. Seller and Buyer further agree that all reasonable and documented out-of-pocket costs and expenses incurred by Administrative Agent or Buyers in connection with Administrative Agent's or such Buyer's, as applicable, activities pursuant to this Section 6.6 shall be paid by Seller; provided Administrative Agent or any Buyer may exercise such rights more often than once during any calendar year at the expense of the applicable Buyer Party if no Event of Default has occurred and is continuing.

ARTICLE 7
CONDITIONS PRECEDENT

- 7.1 Initial Transaction. As conditions precedent to Administrative Agent, on behalf of Buyers, considering whether to enter into the initial Transaction hereunder:
- (a) Seller shall have delivered to Administrative Agent, on behalf of Buyers, in form and substance satisfactory to Administrative Agent:
 - (i) each of the Principal Agreements duly executed by each party thereto and in full force and effect, free of any modification, breach or waiver;
 - (ii) an opinion of Seller's counsel as to such matters as Administrative Agent may reasonably request, including, without limitation, with respect to Administrative Agent's, on behalf of Buyers, first priority lien on and perfected security interest in the Purchased Assets and Purchased Items; a non-contravention, enforceability and corporate opinion with respect to Seller; an opinion with respect to the inapplicability of the Investment Company Act of 1940 and the "Volcker Rule" (Section 619 of the Dodd Frank Wall Street Reform and Consumer Protection Act), with respect to Seller; and a Bankruptcy Code opinion with respect to the matters outlined in Section 14.18, each in form and substance acceptable to Administrative Agent;
 - (iii) a Power of Attorney duly executed by Seller and notarized;
 - (iv) (1) an officer's certificate substantially in the form of Exhibit L, (2) a certified copy of Seller's certificate of formation and limited liability company agreement, (3) resolutions of the board of directors of Seller (or its equivalent governing body or Person) authorizing the Seller to enter into, perform and execute the Principal Agreements substantially in the form of Exhibit M or such other form acceptable to Administrative Agent in its sole and absolute discretion, (4) one or more certificates of Seller's corporate secretary as to the incumbency and authenticity of the signatures of the officers of Seller executing the Principal Agreements and (5) a certificate of good standing issued by the appropriate official in Seller's applicable jurisdiction of organization dated no less recently than ten (10) days prior to the Effective Date;
 - (v) independently audited financial statements of Seller (and its Subsidiaries, on a consolidated basis) for each of the two (2) fiscal years most recently ended (if available), containing a balance sheet and related statements of income, stockholders' equity and cash flows, all prepared in accordance with GAAP, applied on a basis consistent with prior periods, and otherwise acceptable to Administrative Agent, together with an auditor's opinion that is unqualified or otherwise is consented to in writing by Administrative Agent, on behalf of Buyers;
 - (vi) interim financial statements of Seller (and its Subsidiaries, on a consolidated basis) covering the period from the first day of the current fiscal year to the last day of the most recently ended month;
 - (vii) copies of Seller's errors and omissions insurance policy or mortgage impairment insurance policy and blanket bond coverage policy or certificates of insurance for
-

such policies, all in form and content satisfactory to Administrative Agent, showing compliance by Seller with Section 9.8;

- (viii) if required by Administrative Agent or any Buyer, a subordination agreement, in form and substance satisfactory to Administrative Agent or such Buyer, executed by any Person which is, as of the Effective Date, a creditor of Seller, including each Affiliate of Seller that is a creditor of Seller;
 - (ix) any other fees then due and owing under this Agreement and the Transactions Terms Letter;
 - (x) a copy of the Underwriting Guidelines for Mortgage Loans, as amended from time to time;
 - (xi) the Processing Fee, the Draw Fee and any other fees then due and owing under this Agreement and the Transactions Terms Letter;
 - (xii) documentation necessary to establish that Seller is exempt from U.S. federal and backup withholding Taxes; and
 - (xiii) the Aggregate Outstanding Purchase Price for any Type of Transaction shall not exceed the applicable Type Sublimit, Maximum Dwell Time or any Concentration Limit.
- (b) Administrative Agent, on behalf of Buyers, shall have determined that it has received (1) satisfactory evidence that the appropriate Uniform Commercial Code Financing Statements (UCC-1), including, a Uniform Commercial Code Financing Statement (UCC- 1) indicating Administrative Agent, on behalf of Buyers, as the secured party, and Seller as the debtor, attaching an exhibit to such Uniform Commercial Code Financing Statements (UCC-1) substantially in the form of Exhibit N attached hereto, and/or (2) such other instruments as may be necessary in order to create in favor of Administrative Agent, on behalf of Buyers, a perfected first-priority security interest in the Purchased Assets and related Purchased Items should any of the Transactions be deemed to be loans, and, in each case, the same shall have been duly executed and appropriately filed or recorded in each office of each jurisdiction in which such filings and recordations are required to perfect such first-priority security interest.
- (c) Administrative Agent and each Buyer shall have determined that it has satisfactorily completed its due diligence review of Seller's operations, business, financial condition and underwriting and origination of Mortgage Loans.
- (d) Seller shall have provided evidence, satisfactory to Administrative Agent, on behalf of Buyers, that Seller has all of its Approvals and such Approvals are in good standing.
- (e) Seller shall have provided such other documents as Administrative Agent, on behalf of Buyers, or its counsel, shall have requested.

7.2 All Transactions. As conditions precedent to Administrative Agent, on behalf of Buyers, considering whether to enter into any Transaction hereunder (including the initial Transaction), or whether to continue a Transaction, in the case of a Transaction in respect of Mortgage Loans which convert to Pooled Mortgage Loans on the related Pooling Date or a Transaction in respect of Pooled

Mortgage Loans which convert to a Mortgage-Backed Security on the related Settlement Date, as applicable:

- (a) Seller shall have delivered to Administrative Agent, on behalf of Buyers, in form and substance satisfactory to Administrative Agent and not later than 5:00 p.m. (New York City time) on the requested Purchase Date:
 - (i) a Transaction Request for the Assets subject to the proposed Transaction;
 - (ii) to the Custodian, a complete Mortgage Loan File for each Mortgage Loan subject to the proposed Transaction, unless such Mortgage Loan is a Wet Mortgage Loan; and
 - (iii) such other documents as Administrative Agent, on behalf of Buyers, or its counsel, shall have requested.
- (b) Seller shall have delivered to Administrative Agent, on behalf of Buyers, in form and substance satisfactory to Administrative Agent and not later than 5:00 p.m. (New York City time) on the Business Day prior to the Purchase Date an estimate, in each case executed by Seller, of the aggregate Purchase Price for all Transactions with respect to which Seller anticipates that Seller will deliver, or has delivered, Transaction Requests with respect to such Purchase Date;
- (c) for all Wet Mortgage Loans proposed to be sold under such Transaction, Seller shall have delivered to the applicable Closing Agent the Irrevocable Closing Instructions and final closing instructions and, if applicable;
- (d) on or prior to the Pooling Date for any Pooled Mortgage Loan, Seller shall deliver or cause to be delivered (A) to Administrative Agent, on behalf of Buyers, an executed trust receipt from the Custodian relating to such Mortgage Loan in form and substance satisfactory to Administrative Agent, (B) to the Custodian (or otherwise made available to the Custodian), all documents, schedules and forms required by and in accordance with the Custodial Agreement, (C) to Administrative Agent, on behalf of Buyers, or its designee, a copy of each of the applicable Agency Documents, and (D) to Administrative Agent, on behalf of Buyers, or its designee, a Trade Assignment executed by Seller that satisfies the requirements set forth in Section 7.2(o);
- (e) on or prior to the related Settlement Date for any Mortgage-Backed Security relating to a Purchased Mortgage Loan, Seller shall have provided Administrative Agent, on behalf of Buyers, or its designee with the CUSIP number for such Mortgage-Backed Security;
- (f) Seller shall have paid all fees (including Processing Fees, Unused Fees, Late Payment Fees, Aging Fees, Renewal Fee, and Draw Fees), expenses, indemnity payments and other amounts that are then due and owing under the Principal Agreements;
- (g) no rescission notice and/or notice of right to cancel shall have been improperly delivered to the Mortgagor in respect of any Eligible Mortgage Loan, and the rescission period related to such Eligible Mortgage Loan shall have expired;
- (h) Seller shall have designated an Approved Payee, if applicable, to whom such funds shall be delivered;

- (i) the representations and warranties of Seller set forth in Article 8 hereof shall be true and correct in all material respects as if made on and as of the date of each Transaction. At the request of Administrative Agent, on behalf of Buyers, Administrative Agent shall have received an officer's certificate signed by a responsible officer of Seller certifying as to the truth and accuracy of same;
- (j) Seller shall have performed all agreements to be performed by them hereunder;
- (k) no Potential Default, Event of Early Termination, Event of Default, Material Adverse Effect with respect to Seller or Cease Funding Event shall have occurred and be continuing or would result from such Transaction;
- (l) no Servicer Termination Event shall have occurred and be continuing and to the extent not already provided, a Servicing Agreement duly executed by the Servicer and Seller or a Servicer Notice, if applicable, shall have been delivered to Administrative Agent, on behalf of Buyers, and the current Servicer has been approved by Administrative Agent;
- (m) to the extent any amendments or updates to the Underwriting Guidelines relate to the Mortgage Loans proposed to be subject to such Transaction, Administrative Agent, on behalf of Buyers, shall have received a copy of any such amendments or updates certified by Seller to be a true and complete copy (to the extent not already delivered to Administrative Agent, on behalf of Buyers) that clearly identifies the changes to the underwriting guidelines and Administrative Agent, on behalf of Buyers, shall have approved such amendments or updates. Any such amendment shall not apply to Transactions entered into prior to the effective date of the amendment and in no event shall the amendment apply to any Transaction on a retroactive basis. Any such amendment or update may be rejected by Administrative Agent, on behalf of Buyers, in its sole and absolute discretion, by delivering notice of such rejection to Seller following receipt thereof and, for purposes of clarity, any such underwriting guidelines shall, for all purposes hereunder, exclude any such rejected amendment or update;
- (n) if applicable, Seller shall have deposited (or have caused the Servicer to deposit) all amounts required under Section 6.2(i) into the Collateral Account;
- (o) with respect to any Trade Assignment, Seller hereby acknowledges that, in order for any Buyer to satisfy the "good delivery standards" of the Securities Industry and Financial Markets Association ("**SIFMA**") as set forth in the SIFMA Uniform Practices Manual and SIFMA's Uniform Practices for the Clearance and Settlement of Mortgage Backed Securities and other Related Securities, in each case, as amended from time to time, Buyer must deliver each Trade Assignment in respect of Pooled Mortgage Loans or Mortgage- Backed Securities to the related Approved Investor no later than seventy-two (72) hours prior to settlement of the related Mortgage-Backed Security. Seller hereby acknowledges and agrees to deliver to Administrative Agent, on behalf of Buyers, in form and substance satisfactory to Administrative Agent, on behalf of Buyers, and the Approved Investor and not later than 3:00 p.m. (New York City time) on the date on which such seventy-two (72) hour period commences, each related Trade Assignment executed by Seller, together with a true and complete copy of the related Purchase Commitment for any Assets subject to the proposed Transaction that are subject to a Purchase Commitment;
- (p) the Purchase Price for each proposed Transaction shall not cause (i) the Aggregate Outstanding Purchase Price to exceed the Aggregate Transaction Limit, and (ii) the

Aggregate Outstanding Purchase Price for all relevant Purchased Assets to exceed any Concentration Limit, as applicable;

- (q) without the prior approval of Administrative Agent, on behalf of Buyers, the Purchase Date for any Transaction shall only occur on a Business Day;
- (r) Administrative Agent and Buyers shall have determined that it has satisfactorily completed, in the reasonable discretion of Administrative Agent or any such Buyer, any due diligence with respect to Seller, the Purchased Assets, the Transaction or any other matters;
- (s) with respect to any proposed Transaction the subject of which is an eMortgage Loan, such Buyer shall have delivered written notice to Seller that Buyer has become a MERS eRegistry participant and may be reflected as “Controller” therein;
- (t) the Aggregate Outstanding Purchase Price for any Type of Transaction shall not exceed the applicable Type Sublimit, Maximum Dwell Time or any Concentration Limit;
- (u) Administrative Agent shall have determined, in its sole discretion, that none of the following shall have occurred and/or be continuing:
 - (i) a material adverse change in the financial condition of Administrative Agent which causes, or would be likely to cause, a material adverse effect on the ability of Administrative Agent to fund any of its obligations under this Agreement; or an event or events shall have occurred in the good faith determination of Administrative Agent resulting in: (i) the effective absence of a “lending market” for financing debt obligations secured by mortgage loans or securities or an event or events shall have occurred resulting in Administrative Agent not being able to finance transactions through the “lending market” with traditional counterparties at rates which would have been reasonable prior to the occurrence of such event or event; or (ii) the effective absence of a “whole loan market”, “securities market” for securities backed by mortgage loans or an event or events shall have occurred, resulting in Administrative Agent not being able to sell whole loans or securities backed by mortgage loans at prices which would have been reasonable prior to such event or event;
- (v) all Purchased Assets subject to a Transaction, and which have not been repurchased by Seller, shall be Eligible Assets; and
- (w) all other documents as Administrative Agent or its counsel shall have requested.

For the avoidance of doubt, notwithstanding that the foregoing conditions may be satisfied with respect to any Transaction request, Administrative Agent and Buyers shall be under no obligation to enter into any Transaction and whether Administrative Agent or any Buyer enters into any Transaction shall be at the discretion of Administrative Agent and each Buyer.

7.3 Satisfaction of Conditions. The entering into of any Transaction prior to or without the fulfillment by Seller of all the conditions precedent thereto, whether or not known to Administrative Agent or Buyers, shall not constitute a waiver by Administrative Agent or any Buyer of the requirements that all conditions, including the non- performed conditions, shall be required to be satisfied with respect to all Transactions. All conditions precedent hereunder are imposed solely and exclusively

for the benefit of Administrative Agent, on behalf of Buyers, and may be freely waived or modified in whole or in part by Administrative Agent, on behalf of Buyers. Any waiver or modification asserted by Seller to have been agreed by Administrative Agent, on behalf of Buyers, must be in writing. Administrative Agent and Buyers shall not be liable to Seller for any costs, losses or damages arising from Administrative Agent's determination that Seller has not satisfactorily complied with any applicable condition precedent.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties Concerning Seller. Seller represents and warrants to and covenants with Administrative Agent and each Buyer that the following representations and warranties are true and correct as of the Effective Date through and until the date on which all obligations of Seller under this Agreement are fully satisfied:

- (a) Due Formation and Good Standing. It (i) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the full legal power and authority and has all governmental licenses, authorizations, consents and approvals, necessary to own its property and to carry on its business as currently conducted, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary.
- (b) Authorization. The execution, delivery and performance by it of the Principal Agreements and all other documents and transactions contemplated thereby, are within its limited liability company powers, have been duly authorized by all necessary limited liability company action and do not constitute or will not result in (i) a breach of any of the terms, conditions or provisions of its certificate of formation or operating agreement (or corresponding organizational documents if it is not a limited liability company); (ii) a material breach of any legal restriction or any material agreement or instrument to which it is now a party or by which it is bound; (iii) a material default or an acceleration under any of the foregoing; or (iv) the violation of any law, rule, regulation, order, judgment or decree to which it or its property is subject.
- (c) Enforceable Obligation. The Principal Agreements and all other documents contemplated thereby constitute legal, binding and valid obligations of it, enforceable against it in accordance with their respective terms, except as limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditor's rights.
- (d) Approvals. The execution and delivery of the Principal Agreements and all other documents contemplated thereby and the performance of its obligations thereunder do not require any license, consent, approval, authorization or other action of any Governmental Authority or any other Person, or if required, such license, consent, approval, authorization or other action has been obtained prior to the Effective Date.
- (e) Compliance with Laws. It is not in violation of any of its certificate of formation or operating agreement (or corresponding organizational documents if it is not a limited liability company), of any provision of any applicable law, or of any judgment, award, rule, regulation, order, decree, writ or injunction of any court or public regulatory body or authority.

- (f) Financial Condition. All financial statements of Seller (and its Subsidiaries, on a consolidated basis) delivered to Administrative Agent, on behalf of Buyers, fairly and accurately present the financial condition of the parties for whom such statements are submitted. The consolidated financial statements of Seller have been prepared in accordance with GAAP consistently applied throughout the periods involved, and there are no contingent liabilities not disclosed thereby that would adversely affect the financial condition of Seller. Since the close of the period covered by the latest financial statement delivered to Administrative Agent, on behalf of Buyers, with respect to Seller, there has been no material adverse change in the assets, liabilities or financial condition of Seller nor is it aware of any facts that, with or without notice or lapse of time or both, would or could result in any such material adverse change. No event has occurred, including, without limitation, any litigation or administrative proceedings, and no condition exists or, to the knowledge of it, is threatened, that (i) could be expected to render it unable to perform its obligations under the Principal Agreements and all other documents contemplated thereby; (ii) could constitute a Potential Default or Event of Default; or (iii) could result in a Material Adverse Effect.
- (g) Credit Facilities. The only credit facilities, including repurchase agreements for mortgage loans and mortgage-backed securities, of Seller that are presently in effect and are secured by mortgage loans or provide for the purchase, repurchase or early funding of mortgage loan sales, are with Persons disclosed to Administrative Agent, on behalf of Buyers, at the time of application, or thereafter disclosed to Administrative Agent, on behalf of Buyers, in accordance with Section 9.1(c).
- (h) Title to Assets. It has good, valid, insurable (in the case of real property) and marketable title to all of its properties and other assets, whether real or personal, tangible or intangible, reflected on the financial statements delivered to Administrative Agent, on behalf of Buyers, except for such properties and other assets that have been disposed of in the ordinary course of business of its business, and all such properties and other assets are free and clear of all liens except as disclosed in such financial statements.
- (i) Litigation. There is no action, proceeding or investigation pending with respect to which Seller has received service of process or, to the best of Seller's knowledge threatened against it before any court, administrative agency or other tribunal (A) asserting the invalidity of any Principal Agreement, (B) seeking to prevent the consummation of any of the transactions contemplated any Principal Agreement, (C) making a claim individually in an amount greater than \$100,000 or in an aggregate amount greater than \$100,000, (D) making a claim for an unspecified amount of damages, (E) which requires filing with the Securities and Exchange Commission in accordance with the Exchange Act or any rules thereunder or (F) which might materially and adversely affect the validity of the Purchased Assets or Purchased Items or the performance by it of its obligations under, or the validity or enforceability of any Principal Agreement.
- (j) Payment of Taxes. It and its Subsidiaries have timely filed all Federal, all income and all other material tax returns and reports required to be filed and has paid all income and other material taxes, assessments, fees and other governmental charges levied upon it or its property or income (whether or not shown on such tax returns) that are due and payable, including interest and penalties, or has provided adequate reserves for the payment thereof in accordance with GAAP and, in the case of an assessment, is contesting such payment in good faith and by proper proceedings. Any taxes, fees and other governmental charges

payable by it or its Subsidiaries in connection with a Transaction and the execution and delivery of the Principal Agreements have been paid.

- (k) No Defaults. It is not in default under any indenture, mortgage, deed of trust, agreement or other instrument or contractual or legal obligation to which it is a party or by which it is bound in any respect.
- (l) ERISA. It, its Subsidiaries, their ERISA Affiliates, and each Plan are in compliance in all material respects with the requirements of ERISA and the Code, and no Reportable Event has occurred with respect to any Plan. No Plan is considered to be an “at-risk” plan within the meaning of Section 430 of the Code or Section 303 of ERISA. Seller, Subsidiaries and their ERISA Affiliates do not provide any material medical or health benefits to former employees other than as required by the Consolidated Omnibus Budget Reconciliation Act, as amended, or similar state or local law (collectively, “**COBRA**”). None of the assets of it or any of its Subsidiaries are “plan assets” within the meaning of 29 C.F.R. Section 2510.3-101, as modified by Section 3(42) of ERISA. Neither Seller, nor any Subsidiary, is subject to any law applicable to governmental plans, which is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code that would be violated by any of the Transactions. Seller, its Subsidiaries and their ERISA Affiliates have made all required contributions to each Plan, and to each Multiemployer Plan to which it is obligated to contribute, except as would not reasonably be expected to result in material liability to it. No event or condition described in clauses (a) through (f) of Section 9.10 has occurred or exists, other than an event or condition with respect to which notice has been provided in accordance with Section 9.10.
- (m) True and Complete Disclosure. The information, reports, financial statements, exhibits and schedules furnished in writing, or made available for viewing, by or on behalf of Seller or any of its Affiliates or Subsidiaries to Administrative Agent, on behalf of Buyers, in connection with the negotiation, preparation or delivery of this Agreement and the other Principal Agreements or included herein or therein or delivered pursuant hereto or thereto, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. All written information furnished or made available, as applicable, after the date hereof by or on behalf of Seller or any of its Affiliates or Subsidiaries to Administrative Agent, on behalf of Buyers, in connection with this Agreement and the other Principal Agreements and the transactions contemplated hereby and thereby will be true, complete and accurate in every material respect, or (in the case of projections) based on reasonable estimates, on the date as of which such information is stated or certified. There is no fact known to it that, after due inquiry, could have a Material Adverse Effect that has not been disclosed herein, in the other Principal Agreements or in a report, financial statement, exhibit, schedule, disclosure letter or other writing furnished in writing to Administrative Agent, on behalf of Buyers, for use in connection with the transactions contemplated hereby or thereby.
- (n) Ownership; Priority of Liens. Seller owns all Assets identified in the Transactions Terms Letter that are to become Purchased Assets on the related Purchase Date, and any Transaction shall convey all of Seller’s right, title and interest in and to the related Purchased Assets and other Purchased Items to Administrative Agent, on behalf of Buyers, including with respect to each Purchased Mortgage Loan, the Servicing Rights related thereto. This Agreement creates in favor of Administrative Agent, on behalf of Buyers, a

valid, enforceable first priority lien and security interest in the Purchased Assets and other Purchased Items, prior to the rights of all third Persons and subject to no other liens.

- (o) Investment Company Act. Neither Seller nor any of its Subsidiaries is required to register, nor will Seller or any of its Subsidiaries be required to register as a result of the transactions contemplated hereby, as an “investment company” under the Investment Company Act of 1940 (as amended, the “**Investment Company Act**”) and although there may be additional exclusions or exemptions available to Seller, Seller will rely on Section 3(c)(5)(C) under the Investment Company Act for its exclusion from the definition of “investment company”; no one acting on Seller’s behalf has taken any action that would require registration of Seller under the Investment Company Act, and no one acting on Seller’s behalf has authorized or will authorize any Person to act in such manner. Neither Seller nor any of its Subsidiaries is required to be registered as an “investment company” within the meaning of the Investment Company Act. No Transaction represents an “ownership interest” in Seller for purposes of the “Volcker Rule” (Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act). Seller is structured so as not to constitute a “covered fund” as defined in the final regulations issued December 10, 2013, implementing the “Volcker Rule” (Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act).
- (p) Filing Jurisdictions; Relevant States. Schedule 1 hereto sets forth all of the jurisdictions and filing offices in which a financing statement should be filed in order for Administrative Agent, on behalf of Buyers, to perfect its security interest in the Purchased Assets and other Purchased Items; provided that the list of such jurisdictions and filing offices may change upon notice by Seller to Administrative Agent, on behalf of Buyers, in accordance with Section 9.2(j). Seller originates or has originated or anticipates originating Mortgage Loans in its own name or through brokers in all fifty (50) states.
- (q) Seller Solvent; Fraudulent Conveyance. As of the date hereof and immediately after giving effect to each Transaction, the fair value of the assets of it is greater than the fair value of the liabilities (including, without limitation, contingent liabilities if and to the extent required to be recorded as a liability on the financial statements of it in accordance with GAAP) of it and it is and will be solvent, is and will be able to pay its debts as they mature and does not and will not have an unreasonably small capital to engage in the business in which it is engaged and proposes to engage. It does not intend to incur, or believe that it has incurred, debts beyond its ability to pay such debts as they mature. It is not contemplating the commencement of insolvency, bankruptcy, liquidation or consolidation proceedings or the appointment of a receiver, liquidator, conservator, trustee or similar official in respect of it or any of its assets. It is not transferring any Assets with any intent to hinder, delay or defraud any of its creditors.
- (r) Collateral Account. If applicable, all funds required pursuant to this Agreement, any Servicing Agreement or any Servicer Notice, if applicable, to be segregated and deposited into the Collateral Account have been so segregated and deposited as required by, and in accordance with this Agreement.
- (s) Chief Executive Office. Except as identified pursuant to a notice delivered in accordance with Section 9.2(j), its chief executive office is located at 4 Hutton Centre Drive, 10th Floor Santa Ana, CA 92707.

- (t) No Adverse Selection. Seller used no selection procedures that identified Assets offered for sale to Buyers hereunder as being less desirable or valuable than other comparable Assets owned by it.
- (u) MERS. It is a member of MERS in good standing.
- (v) Agency Approvals. Seller has all requisite Approvals and is in good standing with each Agency; and in each case, with no event having occurred or it having any reason whatsoever to believe or suspect that an event will occur (including, without limitation, a change in insurance coverage) which would either make it unable to comply with the eligibility requirements for maintaining all such applicable Approvals or require notification to the relevant Agency or to HUD, the FHA, the VA or the RD, as applicable.
- (w) No Adverse Actions. To the extent approved by an Agency, HUD, the FHA, the VA or the RD, or by a state or local government agency, it has not received from any Agency, HUD, the FHA, the VA or the RD, or any state or local government agency, a notice of extinguishment or a notice indicating material breach, default or material non-compliance which could be reasonably likely to cause such Agency or HUD, the FHA, the VA or the RD, or by a state or local government agency, to terminate, suspend, sanction or levy penalties against it, or a notice from any Agency, HUD, the FHA, the VA or the RD, or by a state or local government agency, indicating any adverse fact or circumstance in respect of it which could be reasonably likely to cause such Agency or HUD, the FHA, the VA, or the RD, or any state or local government agency, as the case may be, to revoke any of its Approvals or otherwise terminate, suspend it as an approved issuer, seller or servicer, as applicable, or with respect to which such adverse fact or circumstance has caused any Agency, HUD, the FHA, the VA or the RD, or any state or local government agency, to terminate it.
- (x) Accuracy of Wire Instructions. With respect to each Purchased Mortgage Loan subject to a Purchase Commitment by an Agency, as applicable, (1) either the wire transfer instructions as set forth on the applicable Agency Documents are identical to Administrative Agent's designated wire instructions or Administrative Agent has approved such wire transfer instructions in writing in its sole discretion, or (2) either the payee number set forth on the applicable Agency Documents is identical to the payee number that has been identified by Administrative Agent in writing as Administrative Agent's payee number or Administrative Agent, on behalf of Buyers, has approved the related payee number in writing in its sole discretion. With respect to each Pooled Mortgage Loan, the applicable Agency Documents are duly executed by it and designate Administrative Agent, on behalf of Buyers, or its designee as the party authorized to receive the related Mortgage- Backed Securities.
- (y) Anti-Money Laundering Laws. It has complied with all applicable anti-money laundering laws and regulations, including without limitation the Patriot Act (collectively, the "**Anti- Money Laundering Laws**"); it has established an anti-money laundering compliance program as required by the Anti-Money Laundering Laws, has conducted the requisite due diligence in connection with the acquisition of each Mortgage Loan for purposes of the Anti-Money Laundering Laws, and maintains, and will maintain, sufficient information to identify the applicable Mortgagor for purposes of the Anti-Money Laundering Laws.
- (z) Legal and Beneficial Owners of Equity Interests in Seller. The only equity (or other ownership) interest in Seller consists of member interests. The sole legal and beneficial

owners of an equity interest in Seller (each an “Owner” and, collectively, the “Owners”) and the nature of each Owner’s interest are set forth on Schedule 2 attached to, and made a part of, this Agreement.

- (aa) Intellectual Property; Trade Names. All copyrights, trademarks, and service marks and United States, state and foreign registrations thereof and applications therefor in which Seller has an interest as an owner or licensee have been disclosed to and approved in writing by Administrative Agent, on behalf of Buyers. All trade names of each of Seller and its Subsidiaries have been disclosed to and approved in writing by Administrative Agent, on behalf of Buyers.
- (bb) Environmental and Regulatory Compliance. The operations of Seller and its Subsidiaries and each of the real properties owned by them and, to the Seller’s best knowledge, each of the real properties leased by any of them, are presently in compliance in all material respects with, and has in full force and effect, all material permits or approvals required by all applicable building, zoning, antipollution, hazardous substance, hazardous material, oil, environmental, health, safety or other laws, ordinances or regulations, and the Seller has not received notification that any of them or any of such properties is in violation of any of the foregoing provisions. No inquiry, notice or threat to give notice by any governmental authority or third party has been received by Seller or any of its Subsidiaries with respect to the generation, storage, disposal, release or threat of release of any hazardous substance or hazardous material, or with respect to any violation of any federal, state or local environmental, health or safety statute or regulation.
- (cc) Anti-Terrorism; OFAC.
- (i) Neither it nor any Person controlling or controlled by it nor any Person having a direct beneficial interest in it nor any Person for whom it is acting as agent or nominee in connection with this transaction (1) is a Person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the “**Executive Order**”), (2) engages in any dealings or transactions prohibited by Section 2 of the Executive Order, or is otherwise associated with any such Person in any manner violative of Section 2 of the Executive Order, or (3) is a Person on the list of Specially Designated Nationals and Blocked Persons or is in violation of the limitations or prohibitions under any other OFAC regulation or executive order.
- (ii) No part of the proceeds of the Purchase Price will be used, directly or indirectly, by any Person for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.
- (iii) It acknowledges by executing this Agreement that Administrative Agent, on behalf of Buyers, has notified it that, pursuant to the requirements of the Patriot Act, Administrative Agent, on behalf of Buyers, is required to obtain, verify and record such information as may be necessary to identify Seller, and confirm that the administrator of it (or the administrator of the applicable direct or indirect owner

of Equity Interests of it) has obtained, verified and recorded such information as may be necessary to identify any Person owning ten percent (10%) or more of the direct Equity Interests of it (including, without limitation, the name and address of such Person), in each case, in accordance with the Patriot Act.

- 8.2 Representations and Warranties Concerning Purchased Assets. Seller represents and warrants to and covenants with Administrative Agent and Buyers that the representations and warranties contained on Exhibit H hereto are true and correct with respect to each Purchased Asset as of the related Purchase Date through and until the related Repurchase Date.
- 8.3 Continuing Representations and Warranties. By submitting a Transaction Request hereunder, Seller shall be deemed to have represented and warranted the truthfulness, correctness and completeness of the representations and warranties set forth in Exhibit H hereto.
- 8.4 Amendment of Representations and Warranties. From time to time, the representations and warranties set forth in Exhibit H hereto may be amended by mutual agreement among Administrative Agent, Buyers and Seller. Any such amendment shall not apply to Transactions entered into prior to the effective date of the amendment and in no event shall the amendment apply to any Transaction on a retroactive basis.

ARTICLE 9 AFFIRMATIVE COVENANTS

Seller hereby covenants and agrees with Administrative Agent and Buyers that during the term of this Agreement and for so long as there remain any obligations of Seller to be paid or performed under the Principal Agreements:

- 9.1 Financial Statements and Other Reports. Seller shall deliver to Administrative Agent, on behalf of Buyer, each of the financial statements, reports, documents and other deliverables as set forth on Schedule 4 hereto, which may be updated from time to time by Administrative Agent in its sole discretion by delivering an updated Schedule 4 to Seller.
- 9.2 Notice. Seller shall give Administrative Agent, on behalf of Buyers, prompt (but in no event later than five (5) Business Days after becoming aware, except for clause (p), with respect to which notice shall be provided immediately upon becoming aware) written notice, in reasonable detail, of:
- (a) any action, suit or proceeding instituted by or against Seller in any federal or state court or before any commission or other regulatory body (federal, state or local, foreign or domestic), or any such action, suit or proceeding threatened against Seller, in any case, if such action, suit or proceeding, or any such action, suit or proceeding threatened against Seller, (i) involves a potential liability, on an individual or aggregate basis, with respect to which there is a reasonable likelihood that such action, suit or proceeding will result in a liability equal to or greater than \$500,000, (ii) that causes the aggregate outstanding potential liability of actions, suits and proceedings with respect to which there is a reasonable likelihood of an adverse determination to exceed \$500,000, (iii) is reasonably likely to result in a Material Adverse Effect with respect to Seller, (iv) questions or challenges the validity or enforceability of any of the Principal Agreements or (v) questions or challenges compliance (x) with respect to any Purchased Asset or assets similar to the Purchased Assets, with the Ability to Repay Rule or (y) with respect to any Purchased

Asset (other than a Purchased Asset that is a Non-Qualified Mortgage Loan) or assets similar to the Purchased Assets, with the QM Rule;

- (b) the filing, recording or assessment of any federal, state or local tax lien against Seller, or any of Seller's assets, unless such filing, recording or assessment could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect with respect to Seller;
- (c) the occurrence of any Potential Default or Event of Default;
- (d) the actual, or threatened in writing, material suspension, revocation or termination (other than a termination by Seller without cause) of Seller's licensing or eligibility, in any respect, as an approved, licensed lender, seller, mortgagee or servicer of assets similar to the Purchased Assets;
- (e) the suspension, revocation or termination of any existing mortgage loan repurchase or warehouse facility for assets similar to the Purchased Assets (other than an ordinary course termination);
- (f) any Purchased Asset ceases to be an Eligible Asset;
- (g) any Approved Investor that threatens in writing to set-off amounts owed by Seller to such Approved Investor against the purchase proceeds owed by the Approved Investor to Seller for the Purchased Assets (excluding amounts owed by Seller to the Approved Investor which are directly related to Purchased Assets and which are expressly allowed to be set-off by the Approved Investor pursuant to the related Bailee Agreement or Purchase Commitment);
- (h) any fact that, after due inquiry, could reasonably be expected to have a Material Adverse Effect that has not been disclosed herein, in the other Principal Agreements or in a report, financial statement, exhibit, schedule, disclosure letter or other writing furnished to Administrative Agent, on behalf of Buyers, for use in connection with the transactions contemplated hereby or thereby;
- (i) any other action, event or condition of any nature that could reasonably be expected to lead to or result in a Material Adverse Effect with respect to Seller or that, with notice or lapse of time or both, would constitute a default under any material agreement, instrument or indenture to which Seller is a party or to which Seller, its properties or assets may be subject;
- (j) any (i) change to the location of its chief executive office/chief place of business from that specified in Section 8.1(s), (ii) change in the name or corporate structure (or the equivalent) of Seller or change in the location where Seller maintains its records with respect to the Purchased Assets or any Purchased Items, or (iii) reincorporation or reorganization of Seller under the laws of another jurisdiction;
- (k) in each case, other than in the ordinary course, upon Seller becoming aware of (i) any material penalties, sanctions or charges levied, or threatened to be levied, against Seller or any adverse change or threatened change made in writing in its Approval status, (ii) the commencement of any material non-routine investigation or the institution of any proceeding or the threat in writing of institution of any proceeding against Seller by any

Agency, HUD, the FHA, the VA, the RD or any supervisory or regulatory Governmental Authority supervising or regulating the origination or servicing of mortgage loans by, or the issuer or seller status of, Seller or (iii) the commencement of any material investigation, or the institution of any material proceeding or the threat in writing of institution of any material proceeding against Seller by any city, county or municipal supervisory or regulatory Governmental Authority supervising or regulating the origination or servicing of mortgage loans by, or the issuer or seller status of Seller;

- (l) upon Seller becoming aware that it or any Servicer will change the identity or location of the Collateral Account;
- (m) upon Seller becoming aware of any termination or termination threatened in writing by any Agency of the Custodian as an eligible custodian;
- (n) any change to the date on which Seller's fiscal year begins from Seller's current fiscal year beginning date;
- (o) upon the earlier of (i) the certification of any Purchased Mortgage Loan by a certifying custodian to an Agency that such Purchased Mortgage Loan meets all of the criteria specified in the related Agency Guide for the securitization thereof, or (ii) the pooling of any Purchased Mortgage Loan for the purpose of backing a Mortgage-Backed Security;
- (p) following the Effective Date, any settlement with, or issuance of a consent order by, any Governmental Authority, in which the fines, penalties, settlement amounts or any other amounts owed by Seller thereunder exceeds \$15,000,000 in the aggregate;
- (q) any Servicer failing to maintain a rating with Standard & Poor's Financial Services LLC of Average or its equivalent (i.e. SQ4+ by Moody's or level RPS3 by Fitch Ratings, Inc.);
- (r) any final judgment or decree entered against Seller or any of its Affiliates or Subsidiaries by a court, administrative tribunal or other body having jurisdiction involving a liability of \$500,000 or more;
- (s) upon Seller becoming aware of any Control Failure with respect to a Mortgage Loan that is an eMortgage Loan or any eNote Replacement Failure.

9.3 Existence, Etc. Seller shall (a) preserve and maintain its legal existence and all of its governmental licenses, authorizations, consents and approvals necessary for Seller to conduct its business and to perform its obligations under the Principal Agreements, (b) comply with the requirements of all applicable laws, rules, regulations and orders of Governmental Authorities (including, without limitation, truth in lending, real estate settlement procedures and all environmental laws) if the failure to comply with such requirements would be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect, (c) maintain adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied, and (d) pay and discharge all income and other taxes, assessments and governmental charges or levies imposed on it or on its income or profits or on any of its properties prior to the date on which penalties attach thereto, except for any such tax, assessment, charge or levy the payment of which is being contested in good faith and by proper proceedings and against which adequate reserves are being maintained in accordance with GAAP.

- 9.4 Servicing of Mortgage Loans. Subject to Section 6.2, Seller shall, and pursuant to the applicable Servicing Agreement, Seller shall cause each Servicer to, service all Purchased Mortgage Loans at Seller's expense and without charge of any kind to Administrative Agent or any Buyer. Seller may delegate its obligations hereunder to service the Purchased Mortgage Loans (subject to Section 6.2) to one or more Servicers; provided that any such Servicer has been approved by Administrative Agent, on behalf of Buyers, and such Servicer has executed a Servicing Agreement, in a form acceptable to Administrative Agent, on behalf of Buyers, with Seller. The failure of Seller to obtain the prior approval of Administrative Agent, on behalf of Buyers, regarding the delegation of its servicing obligations to a Servicer shall be considered an Event of Default hereunder. In any event, Seller or its delegate shall service such Purchased Mortgage Loans with the degree of care and in accordance with the servicing standards generally prevailing in the industry, including those required by Fannie Mae, Freddie Mac or Ginnie Mae, as applicable.
- 9.5 Evidence of Purchased Assets. Seller shall indicate on its books and records (including its computer records) that each Purchased Asset has been included in the Purchased Items.
- 9.6 Defense of Title; Protection of Purchased Items. Seller warrants and will defend the right, title and interest of Administrative Agent and each Buyer in and to all Purchased Items against all adverse claims and demands of all Persons whomsoever. Seller will comply in all material respects with all applicable laws, rules and regulations of any Governmental Authority applicable to Seller or relating to the Purchased Assets and cause the Purchased Assets to comply in all material respects with all applicable laws, rules and regulations of any such Governmental Authority. Following an Event of Default that is continuing, Seller shall allow Administrative Agent and any Buyer (a) to inspect any Mortgaged Property relating to a Purchased Mortgage Loan; (b) to appear in or intervene in any proceeding or matter affecting any Purchased Asset or other Purchased Item or the value thereof; (c) to initiate, commence, appear in and defend any foreclosure, action, bankruptcy or proceeding which could affect Administrative Agent's or any Buyer's ownership or security of the Purchased Items or the value thereof, or the rights and powers of Administrative Agent and Buyers; (d) to contest by litigation or otherwise any lien asserted against any Purchased Mortgage Loan (or against the related Mortgaged Property) or against any other Purchased Item, the improvements, or the personal property identified therein; and/or (e) to make payments on account of such encumbrances, charges, or liens and to service any Purchased Mortgage Loans and take any action it may deem appropriate to collect all amounts due and owing with respect to any Purchased Items or any part thereof or to enforce any rights with respect thereto. All reasonable costs and expenses, including reasonable attorneys' fees (including, but not limited to, those incurred on appeal), that Administrative Agent or Buyers may incur with respect to any of the foregoing and any expenditures it may make to protect or preserve the Purchased Items or the rights of Administrative Agent and Buyers, shall be payable by Seller. Seller shall repay the same to Administrative Agent, on behalf of Buyers, upon demand with interest, at the Default Rate, from the date any such expenditure shall have been made until the day it is repaid.
- 9.7 Further Assurances. Seller shall, at its expense, promptly procure, execute and deliver to Administrative Agent, on behalf of Buyers, upon reasonable request, all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of Seller in this Agreement.
- 9.8 Fidelity Bonds and Insurance. Seller shall maintain an insurance policy, in a form and substance reasonably satisfactory to Administrative Agent, on behalf of Buyers, covering against loss or damage relating to or resulting from any breach of fidelity by Seller, or any officer, director, employee or agent of Seller, any loss or destruction of documents (whether written or electronic), fraud, theft, misappropriation and errors and omissions, such that Administrative Agent, on behalf

of Buyers, shall have the right to pursue any claim for coverage available to any named insured to the full extent allowed by law. This policy shall name Administrative Agent, on behalf of Buyers, as a loss payee with an unlimited right of action and shall provide coverage in an amount required by Fannie Mae's Selling Guide. Seller shall not amend, cancel, suspend or otherwise change such policy in a manner prohibited by any applicable Agency without the prior written consent of Administrative Agent, on behalf of Buyers. Seller shall or shall cause to be provided notice of cancellation or reduction in the terms of any such insurance.

- 9.9 Wet Mortgage Loans. In connection with the funding of each Wet Mortgage Loan to a Closing Agent, Seller shall provide to the applicable Closing Agent, (i) the Irrevocable Closing Instructions and (ii) final closing instructions which shall, without limitation, make reference to the Irrevocable Closing Instructions and stipulate the title insurance company that will be issuing the applicable title insurance policy and Closing Protection Letter, which title insurance company shall be an Acceptable Title Insurance Company. In no event shall Seller use such final closing instructions to modify or attempt to modify the terms of the Irrevocable Closing Instructions unless such modifications are agreed to in advance and in writing by Administrative Agent, on behalf of Buyers. Seller shall not otherwise modify or attempt to modify the terms of the Irrevocable Closing Instructions without Administrative Agent's prior written approval. If the Closing Agent is not an Acceptable Title Insurance Company, Seller shall also (a) confirm that the closing is covered by a blanket Closing Protection Letter issued to Seller, and assignable to Administrative Agent, by the title insurance company stipulated in the final closing instructions, and be in possession of such Closing Protection Letter; or (b) be in possession of the following documents: (1) a Closing Protection Letter covering the closing issued to Seller by the title insurance company stipulated in the final closing instructions and (2) a duly executed Assignment of Closing Protection Letter relating to the above referenced Closing Protection Letter naming Seller and assignable to Administrative Agent, on behalf of Buyers.
- 9.10 ERISA. As soon as reasonably possible, and in any event within five (5) Business days after Seller has knowledge or has reason to believe that any of the events or conditions specified below with respect to any Plan or Multiemployer Plan has occurred or exists, a statement signed by a senior financial officer of Seller setting forth details respecting such event or condition and the action, if any, that Seller, any Subsidiary or any of their respective ERISA Affiliates, as applicable, propose to take with respect thereto (and a copy of any report or notice required to be filed with or given to PBGC by Seller, any such Subsidiary or any of their respective ERISA Affiliates with respect to such event or condition):
- (a) any Reportable Event or failure to meet minimum funding standards with respect to a Plan; provided that a failure to meet the minimum funding standard of Section 412 of the Code or Sections 302 or 303 of ERISA with respect to a Plan, including, without limitation, the failure to make on or before its due date a required installment under Section 430(j) of the Code or Section 303(j) of ERISA, shall be a reportable event regardless of the issuance of any waivers in accordance with Section 412(c) of the Code or any request for a waiver under Section 412(c) of the Code for any Plan;
 - (b) the distribution under Section 4041(c) of ERISA of a notice of intent to terminate any Plan or any action taken by Seller or an ERISA Affiliate to terminate any Plan;
 - (c) the institution by PBGC of proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by Seller, any Subsidiary thereof or their respective ERISA Affiliates of a notice from a Multiemployer Plan that such action has been taken by PBGC with respect to such Multiemployer Plan;

- (d) the complete or partial withdrawal from a Multiemployer Plan by Seller, any Subsidiary thereof or their respective ERISA Affiliates that results in liability under Section 4201 or 4204 of ERISA (including the obligation to satisfy secondary liability as a result of a purchaser default) or the receipt by Seller, any Subsidiary thereof or their respective ERISA Affiliates of notice from a Multiemployer Plan that it is in insolvency pursuant to Section 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A of ERISA;
- (e) the institution of a proceeding by a fiduciary of any Multiemployer Plan against Seller, any Subsidiary thereof or their respective ERISA Affiliates to enforce Section 515 of ERISA, which proceeding is not dismissed within thirty (30) calendar days; and
- (f) the adoption of an amendment to any Plan that, pursuant to Section 401(a)(29) and Section 436 of the Code, would result in the loss of tax-exempt status of the trust of which such Plan is a part if Seller, any Subsidiary thereof or their respective ERISA Affiliates fails to timely make a contribution or provide security to such Plan in accordance with the provisions of said Sections.

9.11 Additional Repurchase or Warehouse Facilities. On or before the date which is ninety (90) days after the Effective Date and thereafter throughout the term of this Agreement, Seller shall maintain with nationally recognized and established counterparties (other than Administrative Agent and Buyers) mortgage loan repurchase, warehouse or similar financing facilities that, in the aggregate:

- (i) provide funding in an amount equal to at least the Aggregate Transaction Limit; and (ii) accommodate wet mortgage loans in an amount not less than the amount provided hereunder.

9.12 MERS. Seller will comply in all material respects with the rules and procedures of MERS in connection with the servicing of all Purchased Mortgage Loans that are registered with MERS for as long as such Purchased Mortgage Loans are so registered. Administrative Agent, on behalf of Buyers, and Seller hereby confirm the appointment of Administrative Agent, on behalf of Buyers, as collateral agent with respect to MERS Mortgage Loans. During any time during which the Seller is using the MERS System, the Seller shall (i) at all times, maintain its status as a MERS Member,

- (ii) at all times, employ officers who have the authority, pursuant to a corporate resolution from MERS, to execute assignments of mortgage in the name of MERS in the event deregistration from the MERS System is necessary or desirable, (iii) at all times remain in compliance with all terms and conditions of membership in MERS, including the MERSCORP, Inc. "Rules of Membership" most recently promulgated by MERSCORP, Inc., the "MERS Procedures Manual" most recently promulgated by MERS, and any and all other guidelines or requirements set forth by MERS or MERSCORP, as each of the foregoing may be modified from time to time, including, but in no way limited to compliance with guidelines and procedures set forth with respect to technological capabilities, drafting and recordation of mortgages, registration of mortgages on the MERS System, including registration of the interest of the Administrative Agent, on behalf of Buyers, in such mortgages and membership requirements, (iv) promptly, upon the request of the Administrative Agent, on behalf of Buyers, execute and deliver to the Administrative Agent, on behalf of Buyers, an assignment of mortgage, in blank, with respect to any MERS Mortgage that the Administrative Agent, on behalf of Buyers, determines shall be removed from the MERS System, (v) at all times maintain the Electronic Tracking Agreement in full force and effect, (vi) immediately provide to Administrative Agent, on behalf of Buyers, a copy of any notice received from MERS or MERSCORP pursuant to Section 4(a) of the Electronic Tracking Agreement, and (vii) as soon as practical but in any event not later than seven (7) business days after any MERS Mortgage is funded from an advance of the Line of Credit, cause Administrative Agent, on behalf of Buyers, (by its MERS OrgID 1008498 to be designated as the "Interim Funder" in the Associated Member

category for such MERS Mortgage on the Registration Details Screen of the MERS System (and any MERS Mortgage not so designated within said period shall automatically cease to be an Eligible Mortgage Loan, anything in this Agreement to the contrary notwithstanding). The Seller shall not de-register or attempt to de-register any mortgage from the MERS System unless the Seller has complied with the requirements set forth in the Electronic Tracking Agreement and the requirements hereof and the other Principal Agreements relating to a release of a Mortgage Loan. Seller shall indemnify, defend (using counsel selected by Administrative Agent, on behalf of Buyers) and hold harmless Administrative Agent, on behalf of Buyers, its employees, agents, shareholders, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses (including, without limit, attorney fees) of whatever kind arising out of or related to (i) Seller's failure to comply with or breach of the provisions of this paragraph or the Electronic Tracking Agreement, or (ii) the use by Seller and Administrative Agent, on behalf of Buyers, of the MERS System in connection with Mortgage Loans under or in connection with this Agreement.

- 9.13 Agency Audit and Approval Maintenance. Seller shall (i) at all times maintain copies of relevant portions of all Agency Audits in which there are material adverse findings, including without limitation notices of defaults, notices of termination of approved status, notices of imposition of supervisory agreements or interim servicing agreements, and notices of probation, suspension, or non-renewal, (ii) to the extent not otherwise prohibited by reason of confidentiality or other non-disclosure restrictions, provide Administrative Agent, on behalf of Buyers, with copies of such Agency Audits promptly upon Administrative Agent's request, and (iii) take all actions necessary to maintain its Approvals.
- 9.14 Financial Covenants. Seller shall, at all times, comply with the financial covenants contained in the Section of the Transactions Terms Letter titled "Financial Covenants."
- 9.15 [Reserved].
- 9.16 Purchase Commitments. Seller shall comply with, perform, and discharge each and every obligation, covenant, condition, duty, and agreement contained in any Purchase Commitments that are to be performed by Seller.
- 9.17 Late Payment Fee. If the entire amount of any required principal and/or interest payment is not paid in full within ten (10) days after the same is due, including following any demand therefor in connection with acceleration of the same pursuant to Section 11.3, Seller will pay to Administrative Agent a late fee equal to the Late Payment Fee.
- 9.18 Master Custodial Agreement; Intercreditor Agreement. Seller shall provide Administrative Agent with at least sixty (60) days prior written notice of any proposed initial appointment of, or change in, as applicable, the Certifying Custodian, and in connection therewith, if Administrative Agent's consent to such initial appointment or change, as applicable, is given, the Seller shall make any revisions to its warehousing procedures that are requested by Administrative Agent or that are required to satisfy Administrative Agent's operations policies in place at such time, including, if requested or required by Administrative Agent, furnishing or causing to be furnished to Administrative Agent custodial and/or intercreditor agreements, in form and substance satisfactory to Administrative Agent, from Seller's proposed Certifying Custodian and/or any settlement agent. Further, if applicable, Seller shall at all times maintain the Collateral Account in a manner acceptable to Administrative Agent and comply with its obligations under the Master Custodial Agreement.

ARTICLE 10
NEGATIVE COVENANTS

Seller hereby covenants and agrees with Administrative Agent and Buyers that during the term of this Agreement and for so long as there remain any obligations of Seller to be paid or performed under this Agreement, Seller shall comply with the following:

- 10.1 Lines of Business. Seller shall not engage to any substantial extent in any line or lines of business activity other than the businesses generally carried on by it as of the Effective Date and reasonable extensions and developments thereof and businesses reasonably similar, ancillary or complementary thereto.
- 10.2 Debt and Subordinated Debt. Seller shall not, either directly or indirectly, without the prior written consent of Administrative Agent, on behalf of Buyers, pay any Debt or Subordinated Debt if such payment shall cause an Event of Default. Further, if an Event of Default shall have occurred and for as long as such is continuing, Seller shall not, either directly or indirectly, without the prior written consent of Administrative Agent, on behalf of Buyers, make any payment of any kind thereafter on such Debt or Subordinated Debt until all obligations of Seller hereunder have been paid and performed in full; provided, that Seller shall be permitted, at all times, without the prior written consent of Administrative Agent, on behalf of Buyers, to make ordinary course payments under any Debt (other than Subordinated Debt). Administrative Agent, Buyers and Seller each hereby acknowledge and agree that the payments permitted to be made by Seller pursuant to this Section 10.2 shall specifically exclude any optional payment with respect to, or early refinancing of, any Debt or Subordinated Debt.
- 10.3 Loss of Eligibility. Seller shall not, either directly or indirectly, without the prior written consent of Administrative Agent, on behalf of Buyers, take, or fail to take, any action that would cause Seller to lose all or any part of its status (as applicable) as an eligible lender, seller, mortgagee or servicer or willfully terminate its status as an eligible lender, seller, mortgagee or servicer.
- 10.4 Liens on Purchased Assets and Purchased Items. Seller acknowledges that with respect to each Transaction, Seller shall have sold the Purchased Assets and related Purchased Items and Seller shall have granted to Administrative Agent, on behalf of Buyers, a first priority security interest in such assets in the event such Transaction is deemed a loan. Accordingly, Seller shall not grant, create, incur, assume or suffer to exist any lien upon the Purchased Assets or the Purchased Items, other than as granted to Administrative Agent, on behalf of Buyers, herein.
- 10.5 Transactions with Affiliates. Seller shall not, directly or indirectly, enter into any transaction with its Affiliates, if any, without the prior written consent of Administrative Agent, on behalf of Buyers, including, without limitation, (a) making any loan, advance, extension of credit or capital contribution to an Affiliate, (b) transferring, selling, pledging, assigning or otherwise disposing of any of its assets to or on behalf of an Affiliate, (c) purchasing or acquiring assets from an Affiliate, or (d) paying management fees to or on behalf of an Affiliate; provided, however, that Seller may, without the prior written consent of Administrative Agent, on behalf of Buyers, and provided that an Event of Default is not existing and will not occur as a result thereof, engage in a transaction(s) with any or all of its Affiliates if (i) such transaction is in the ordinary course of Seller's business, and (ii) such transaction is upon fair and reasonable terms no less favorable to Seller had Seller entered into a comparable arm length's transaction with a Person which is not an Affiliate.
- 10.6 Consolidation, Merger, Sale of Assets and Change of Control. Seller shall not, directly or indirectly, (a) wind up, liquidate or dissolve its affairs; (b) enter into any transaction of merger or consolidation

with any Person; (c) convey, sell, lease or otherwise dispose of, or agree to do any of the foregoing at any future time, all or substantially all of its property or assets; (d) form or enter into any partnership, joint venture, syndicate or other combination which could be reasonably likely to result in a Material Adverse Effect with respect to Seller; or (e) allow a Change of Control to occur with respect to Seller; provided, however, that Seller may, without the prior written consent of Administrative Agent, on behalf of Buyers, and provided that a Potential Default or an Event of Default is not existing and will not occur as a result thereof: (i) merge or consolidate with any Person if Seller is the surviving and controlling entity, and (ii) in the ordinary course of Seller's mortgage banking business, sell any assets that it deems to be uneconomic or obsolete and to sell Mortgage Loans for resale and sell Mortgage Loans.

- 10.7 Purchased Items. Unless otherwise in connection with a Purchase Commitment, Seller shall not attempt to resell, reassign, retransfer or otherwise dispose of, or grant any option with respect to, or pledge or otherwise encumber any of the Purchased Assets or other Purchased Items or any interest therein.
- 10.8 Secondary Marketing, Underwriting, Third Party Origination and Interest Rate Risk Management Practices. Seller shall not, without the prior notification to Administrative Agent, on behalf of Buyers, change in any material respect any secondary marketing, underwriting, third party origination and interest rate risk management practices of Seller that exist as of the Effective Date. It shall be deemed an Event of Default hereunder if Seller changes any of the foregoing practices without having given such prior notice to Administrative Agent, on behalf of Buyers.

ARTICLE 11 DEFAULTS AND REMEDIES

- 11.1 Events of Default. The occurrence of any of the following conditions or events shall be an Event of Default:
- (a) failure of Seller to transfer the Purchased Assets to Administrative Agent and the applicable Buyer on the applicable Purchase Date (provided that Administrative Agent, on behalf of the applicable Buyers, has tendered the related Purchase Price);
 - (b) failure of Seller to (i) repurchase the Purchased Assets on the applicable Repurchase Date, (ii) repurchase Purchased Assets pursuant to Section 2.9, (iii) perform its obligations under Section 6.2(i)(i) or Section 6.3(b) or (iv) pay any other amount due under the Principal Agreements;
 - (c) failure of Seller to deliver any report (including financial statements) required to be delivered hereunder or under any Principal Agreement or Servicing Agreement and which failure continues uncured for five (5) days thereafter;
 - (d) Seller shall violate Section 14.5;
 - (e) Seller's representation and warranty in Section 8.1(o) shall be false or misleading at any time;
 - (f) a Material Adverse Effect with respect to Seller shall occur;
 - (g) Seller or any Subsidiary or Affiliate of Seller shall default under, or fail to perform as required under, or shall otherwise breach the terms of any instrument, agreement or

contract between Seller or such Subsidiary, on the one hand, and any other Person on the other with respect to Debt in excess of \$1,000,000, or any other obligation with annual payments or receipts in excess of \$1,000,000;

- (h) any representation, warranty or certification made or deemed made herein or in any other Principal Agreement by Seller or any certificate furnished to Administrative Agent, on behalf of Buyers, pursuant to the provisions thereof, shall prove to have been false or misleading in any material respect as of the time made or furnished; provided that the representations and warranties set forth in Section 8.2 and Section 8.3 shall be considered solely for the purpose of determining the Asset Value of the Purchased Assets;
- (i) the failure of Seller to perform, comply with or observe any term, covenant or agreement applicable to Seller as contained in this Agreement or other Principal Agreement and such occurrence or any default shall not have been remedied within the cure period provided therein;
- (j) an Insolvency Event shall have occurred with respect to Seller or any of its respective Affiliates or Subsidiaries; or Seller shall admit in writing its inability to, or intention not to, perform any of its obligations under this Agreement or any of the other Principal Agreements;
- (k) one or more judgments or decrees shall be entered against Seller, or any of its Affiliates or Subsidiaries by a court, administrative tribunal or other body having jurisdiction involving a liability of \$500,000 or more (to the extent that it is, in the reasonable determination of Administrative Agent, on behalf of Buyers, uninsured and provided that any insurance or other credit posted in connection with an appeal shall not be deemed insurance for these purposes);
- (l) any Governmental Authority or any person, agency or entity acting or purporting to act under governmental authority shall have taken any action to (i) condemn, seize or appropriate, or to assume custody or control of, all or any substantial part of the property or assets of Seller or any of its Affiliates or Subsidiaries; (ii) displace the management of Seller or any of its Affiliates or Subsidiaries or to curtail its authority in the conduct of their respective business; or (iii) to remove, limit or restrict the approval of Seller or any of its Affiliates or Subsidiaries as an issuer, buyer or a seller/servicer of Mortgage Loans or securities backed thereby, and any such action provided for in this Section 11.1(l) shall not have been discontinued or stayed within thirty (30) calendar days;
- (m) Seller or any Capital Maintenance Provider shall disavow their obligations hereunder or under any other Principal Agreement or shall contest the validity or enforceability of (i) the Principal Agreements or (ii) Administrative Agent's or any Buyer's interest in any Purchased Assets or other Purchased Items;
- (n) [Reserved];
- (o) any Principal Agreement shall for whatever reason (including an event of default thereunder) be terminated, without the consent of Administrative Agent, on behalf of Buyers, (other than, with respect to the Custodial Agreement, due to the resignation of the Custodian for reasons other than a breach by Seller of the Custodial Agreement), or the Lien granted herein to Administrative Agent, on behalf of Buyers, shall for any reason cease to be a valid, first priority lien upon the Purchased Assets or the Purchased Items or

this Agreement shall for any reason cease to create a valid, first priority security interest or ownership interest upon transfer of any of the Purchased Items or there exists any lien upon the Purchased Assets or the Purchased Items other than as granted herein to Administrative Agent, on behalf of Buyers;

- (p) Seller or a Servicer shall fail to maintain all Approvals relating to the Purchased Assets;
- (q) a Change of Control with respect to Seller shall occur;
- (r) a Servicer Termination Event shall occur and Seller has not appointed a Successor Servicer acceptable to Administrative Agent, on behalf of Buyers, and delivered a fully executed Servicing Agreement and Servicer Notice, if applicable, with such Successor Servicer, in each case within seven (7) calendar days following the occurrence of such breach or Servicer Termination Event;
- (s) Seller's membership in MERS is terminated for any reason;
- (t) a Servicer fails to make any servicing advance required to be made under the related Servicing Agreement, the related Servicer Notice, or this Agreement, as applicable, with respect to the Purchased Assets;
- (u) failure of Seller to perform, comply with or observe any term, covenant or agreement applicable to Seller contained in Section 9.14;
- (v) any Plan shall be terminated within the meaning of Title IV of ERISA or a trustee shall be appointed by an appropriate United States District Court to administer any Plan, or the Pension Benefit Guaranty Corporation (or any successor thereto) shall institute proceedings to terminate any Plan or to appoint a trustee to administer any Plan if as of the date thereof Seller's liability, any such Subsidiary's liability or any ERISA Affiliate's liability to the PBGC, the Plan or any other entity on termination under the Plan exceeds the then-current value of assets accumulated in such Plan by more than fifty thousand dollars (\$50,000) (or in the case of a termination involving Seller, any Subsidiary or any ERISA Affiliate, as a "substantial employer" (as defined in Section 4001 (a)(2) of ERISA) the withdrawing employer's proportionate share of such excess shall exceed such amount);
- (w) Seller or any Subsidiary of Seller or any of their respective ERISA Affiliates, in each case, as employer under a Multiemployer Plan shall have made a complete or partial withdrawal from such Multiemployer Plan and the plan sponsor of such Multiemployer Plan shall have notified such withdrawing employer that such employer has incurred a withdrawal liability in (i) an annual amount exceeding fifty thousand dollars (\$50,000), or (ii) an aggregate amount exceeding five hundred thousand dollars (\$500,000);
- (x) (i) any Person shall engage in any "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) a determination is made that a Plan is "at risk" (within the meaning of Section 303 of ERISA) or any Lien in favor of the PBGC or a Plan shall arise on the assets of Seller, any Subsidiary thereof or any of their respective ERISA Affiliates, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of Administrative Agent, on behalf of Buyers, likely to result in the termination of such Plan for purposes of

Title IV of ERISA, (iv) any Plan shall terminate for purposes of Title IV of ERISA, (v) Seller, or any Subsidiary thereof or any of their respective ERISA Affiliates shall, or in the reasonable opinion of Administrative Agent, on behalf of Buyers, is likely to, incur any liability in connection with a withdrawal from, or the insolvency of, a Multiemployer Plan,

(vi) Seller, any Subsidiary thereof or any of their respective ERISA Affiliates shall file an application for a minimum funding waiver under Section 302 of ERISA or Section 412 of the Code with respect to any Plan, (vii) any obligation of Seller, any Subsidiary thereof or any of their respective ERISA Affiliates for post-retirement medical costs (other than as required by COBRA) exists, or (viii) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (viii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to have a Material Adverse Effect, (ix) the assets of Seller or any Subsidiary thereof become “plan assets” within the meaning of 29 C.F.R. Section 2510.3-101, as modified by Section 3(42) of ERISA or (x) Seller or any Subsidiary is subject to any law applicable to governmental plans, which is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code that would be violated by any of the Transactions;

- (y) the Platform Delinquency Percentage shall be greater than or equal to 10%;
- (z) the Platform EPD Percentage shall be greater than or equal to 10%;
- (aa) the Platform Repurchase Percentage shall be greater than or equal to 10%; or
- (bb) if any regulatory enforcement action is instituted against Seller by any Governmental Authority.

With respect to any Event of Default which requires a determination to be made as to whether such Event of Default has occurred, such determination shall be made in Administrative Agent’s, on behalf of Buyers, discretion and Seller hereby agrees to be bound by and comply with any such determination by Administrative Agent. If Administrative Agent, on behalf of Buyers, expressly waives an Event of Default in writing, then such Event of Default shall be deemed to not be continuing.

11.2 Events of Early Termination.

- (a) The occurrence of any of the following conditions or events shall be an Event of Early Termination:
 - (i) If following the Effective Date, (A) Seller has entered into any settlement with, or consented to the issuance of a consent order by, any Governmental Authority in which the fines, penalties, settlement amounts or any other amounts owed by Seller thereunder exceed \$500,000 in the aggregate in the calendar year following the Effective Date and (B) Administrative Agent, on behalf of Buyers, has not, within five (5) Business Days following Seller’s entry into such settlement or consent, provided Seller with written notice that such settlement or consent by Seller is acceptable to Administrative Agent;
 - (ii) One or more judgments or decrees shall be entered against Seller or any of its Affiliates or Subsidiaries involving a liability of \$500,000 or more (to the extent that it is, in the reasonable determination of Administrative Agent, on behalf of Buyers, uninsured and provided that any insurance or other credit posted in

connection with an appeal shall not be deemed insurance for these purposes), and Seller has satisfied all such judgments or decrees;

- (iii) A Servicer Termination Event shall have occurred and Seller has not appointed a Successor Servicer acceptable to Administrative Agent, on behalf of Buyers, and delivered a fully executed Servicing Agreement and Servicer Notice, if applicable, with such Successor Servicer, in each case within seven (7) calendar days following the occurrence of such breach or Servicer Termination Event;
- (iv) Seller has opted to wind down this facility pursuant to Section 4.5(a) or (b); or
- (v) Seller shall violate Section 10.8.

Any determination to be made as to whether such Event of Early Termination has occurred shall be made in Administrative Agent's discretion and Seller hereby agrees to be bound by and comply with any such determination by Administrative Agent. An Event of Early Termination shall be deemed to be continuing unless expressly waived by Administrative Agent in writing, but shall be deemed to be not continuing upon Administrative Agent's express written waiver.

- (b) Upon the occurrence of an Event of Early Termination, Administrative Agent, on behalf of Buyers, may, by notice to Seller, (i) immediately terminate the obligation of Administrative Agent and any such Buyer to enter into Transactions hereunder and (ii) declare all or any portion of the Repurchase Prices related to the outstanding Transactions to be due and payable. The failure by Seller to repay such Repurchase Prices in accordance with the foregoing shall constitute an Event of Default under Section 11.1. Administrative Agent and Buyers shall be entitled to all rights and remedies in Section 11.3.

Administrative Agent's request for repayment of the Repurchase Prices pursuant to Section 11.2(b) shall not affect the outstanding obligations of Seller under this Agreement or any other Principal Agreement and all such outstanding obligations and the rights and remedies afforded Administrative Agent and each Buyer in connection therewith, including, without limitation, those rights and remedies afforded Administrative Agent and each Buyer under this Agreement, shall survive the termination of this Agreement. For the avoidance of doubt, Administrative Agent and Buyers shall not be liable to Seller for any costs, loss or damages arising from or relating to a termination by Administrative Agent, on behalf of Buyers, in accordance with any subsection of this Section 11.2.

- 11.3 Remedies. Upon the occurrence of an Event of Default, Administrative Agent, on behalf of Buyers, may, by notice to Seller, declare all or any portion of the Repurchase Prices related to the outstanding Transactions to be immediately due and payable, whereupon the same shall become immediately due and payable, and the obligation of Administrative Agent, on behalf of Buyers, to enter into Transactions shall thereupon terminate; provided that the acceleration of all Repurchase Prices and termination of Administrative Agent's and each Buyer's obligation to enter into Transactions shall immediately occur upon the occurrence of an Event of Default under Section 11.1 (i), (j)(I), and (m), notwithstanding that Administrative Agent and Buyers may not have provided any such notice to Seller. Further, it is understood and agreed that upon the occurrence of an Event of Default that has not been waived, Seller shall strictly comply with the negative covenants contained in Article 10 hereunder and in no event shall Seller declare and pay any dividends, incur additional Debt or Subordinated Debt, make payments on existing Debt or Subordinated Debt or otherwise distribute or transfer any of Seller's property and assets to any

Person without the prior written consent of Administrative Agent, on behalf of Buyers. Upon the occurrence of any Event of Default that has not been waived, Administrative Agent, on behalf of Buyers, may also, at its option, exercise any or all of the following rights and remedies:

- (a) enter the office(s) of Seller and take possession of any of the Purchased Items including any records that pertain to the Purchased Items;
- (b) communicate with and notify Mortgagors of the Purchased Mortgage Loans and obligors under other Purchased Assets or on any portion thereof, whether such communications and notifications are in oral, written or electronic form, including, without limitation, communications and notifications that the Purchased Assets have been assigned to Administrative Agent, on behalf of Buyers, and that all payments thereon are to be made directly to Administrative Agent, on behalf of Buyers, or its designee (subject to the rights of any Servicer under any Servicing Agreement); settle compromise, or release, in whole or in part, any amounts owing on the Purchased Assets or other Purchased Items or any portion of the Purchased Items, on terms acceptable to Administrative Agent, on behalf of Buyers; enforce payment and prosecute any action or proceeding with respect to any and all Purchased Assets or other Purchased Items; and where any Purchased Asset or other Purchased Item is in default, foreclose upon and enforce security interests in, such Purchased Asset or other Item by any available judicial procedure or without judicial process and sell property acquired as a result of any such foreclosure;
- (c) exercise any of its rights set forth in the Servicing Agreement or the Servicer Notice, if applicable, collect payments from Mortgagors and/or assume servicing of, or contract with a third party to subservice, any or all Purchased Mortgage Loans requiring servicing and/or perform any obligations required in connection with Purchase Commitments, with all of any such third party's fees to be paid by Seller. In connection with collecting payments from Mortgagors and/or assuming servicing of any or all Purchased Mortgage Loans, Administrative Agent, on behalf of Buyers, may take possession of and open any mail addressed to Seller, remove, collect and apply all payments for Seller, sign Seller's name to any receipts, checks, notes, agreements or other instruments or letters or appoint an agent to exercise and perform any of these rights. If Administrative Agent, on behalf of Buyers, so requests, Seller shall promptly forward (to the extent in Seller's possession), or cause to be forwarded to Administrative Agent, on behalf of Buyers, or its designee, all further mail and all "trailing" documents, such as title insurance policies, deeds of trust, and other documents, and all loan payment histories, in electronic format, in each case, as same relate to the Purchased Assets;
- (d) proceed against Seller under this Agreement;
- (e) (i) sell, without notice or demand of any kind, at a public or private sale and at such price or prices as Administrative Agent, on behalf of Buyers, may deem to be commercially reasonable for cash or for future delivery without assumption of any credit risk, any or all or portions of the Purchased Assets on a servicing-retained or servicing-released basis; provided that Administrative Agent, on behalf of Buyers, may purchase any or all of the Purchased Assets at any public or private sale or (ii) in its sole and absolute discretion elect, in lieu of selling all or a portion of such Purchased Assets, to give Seller credit for such Purchased Assets (including credit for the Servicing Rights in respect of sales on a servicing-retained basis) in an amount equal to the Market Value of the Purchased Mortgage Loans against the aggregate unpaid Repurchase Price and any other amounts owing by Seller hereunder; provided further that Seller shall remain liable to

Administrative Agent and Buyers for any amounts that remain owing to Administrative Agent and/or any Buyer following any such sale and/or credit;

- (f) enter into one or more hedging arrangements covering all or a portion of the Purchased Assets; and/or
- (g) pursue any rights and/or remedies available at law or in equity against Seller.

- 11.4 Treatment of Collateral Account. Notwithstanding any other provision of this Agreement, Seller shall have no right to withdraw or release any funds in the Collateral Account to itself or for its benefit, nor shall it have any right to set-off any amount owed to it by Administrative Agent or any Buyer against funds held by it for Administrative Agent, on behalf of Buyers, in the Collateral Account. During the continuance of an Event of Default, Seller shall, and/or shall cause the applicable Servicer to, pursuant to the applicable Servicing Agreement, and Servicer Notice, if applicable, promptly remit all funds related to the Purchased Assets in the Collateral Account to or at the direction of Administrative Agent, on behalf of Buyers.
- 11.5 Sale of Purchased Assets. With respect to any sale of Purchased Assets pursuant to Section 11.3(e), Seller acknowledges and agrees that it may not be possible to purchase or sell all of the Purchased Assets on a particular Business Day, or in a single transaction with the same purchaser, or in the same manner because the market for such Purchased Assets may not be liquid. Seller further agrees that in view of the nature of the Purchased Assets, liquidation of a Transaction or the underlying Purchased Assets does not require a public purchase or sale. Accordingly, Administrative Agent, on behalf of Buyers, may elect the time and manner of liquidating any Purchased Asset and nothing contained herein shall obligate Administrative Agent, on behalf of Buyers, to liquidate any Purchased Asset on the occurrence of an Event of Default, to liquidate all Purchased Assets in the same manner or on the same Business Day, or constitute a waiver of any right or remedy of Administrative Agent, on behalf of Buyers. Seller hereby waives any claims it may have against Administrative Agent or any Buyer arising by reason of the fact that the price at which the Purchased Assets may have been sold at such private sale was less than the price which might have been obtained at a public sale or was less than the aggregate Repurchase Price amount of the outstanding Transactions, even if Administrative Agent, on behalf of Buyers, accepts the first offer received and does not offer the Purchased Assets, or any part thereof, to more than one offeree. Seller hereby agrees that the procedures outlined in Section 11.3(e) and this Section 11.5 for disposition and liquidation of the Purchased Assets are commercially reasonable. Seller further agrees that it would not be commercially unreasonable for Administrative Agent or any Buyer to dispose of the Purchased Assets or any portion thereof by using internet sites that provide for the auction of assets similar to the Purchased Assets, or that have the reasonable capability of doing so, or that match buyers and sellers of assets.
- 11.6 No Obligation to Pursue Remedy. Administrative Agent and Buyers shall have the right to exercise any of its rights and/or remedies without presentment, demand, protest or further notice of any kind other than as expressly set forth herein, all of which are hereby expressly waived by Seller. Seller further waives any right to require Administrative Agent or any Buyer to (a) proceed against any Person, (b) proceed against or exhaust all or any of the Purchased Assets or pursue its rights and remedies as against the Purchased Assets in any particular order, or (c) pursue any other remedy in its power. Administrative Agent and Buyers shall not be required to take any steps necessary to preserve any rights of Seller against holders of mortgages prior in lien to the lien of any Purchased Asset or to preserve rights against prior parties. No failure on the part of Administrative Agent or any Buyer to exercise, and no delay in exercising, any right, power or remedy provided hereunder, at law or in equity shall operate as a waiver thereof; nor shall any single or partial exercise by

Administrative Agent or any Buyer of any right, power or remedy provided hereunder, at law or in equity preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Without intending to limit the foregoing, all defenses based on the statute of limitations are hereby waived by Seller. The remedies herein provided are cumulative and are not exclusive of any remedies provided at law or in equity.

- 11.7 No Judicial Process. Administrative Agent and each Buyer may enforce its rights and remedies hereunder without prior judicial process or hearing, and Seller hereby expressly waives, to the extent permitted by law, any right that Seller might otherwise have to require Administrative Agent or such Buyer, as applicable, to enforce its rights by judicial process. Seller also waives, to the extent permitted by law, any defense that Seller might otherwise have to its obligations under this Agreement arising from use of nonjudicial process, enforcement and sale of all or any portion of the Purchased Assets or from any other election of remedies. Seller recognizes that nonjudicial remedies are consistent with the usages of the trade, are responsive to commercial necessity and are the result of a bargain at arm's length.
- 11.8 Reimbursement of Costs and Expenses. Administrative Agent, on behalf of Buyers, may, but shall not be obligated to, advance any sums or do any act or thing necessary to uphold and enforce the lien and priority of, or the security intended to be afforded by, any Purchased Asset, including, without limitation, payment of delinquent taxes or assessments and insurance premiums. All advances, charges, reasonable and documented costs and expenses, including reasonable attorneys' fees and disbursements and losses resulting from any hedging arrangements entered into by Administrative Agent, on behalf of Buyers, pursuant to Section 11.3(f), incurred or paid by Administrative Agent, on behalf of Buyers, in exercising any right, power or remedy conferred by this Agreement, or in the enforcement hereof, together with interest thereon, at the Default Rate, from the time of payment until repaid, shall become a part of the Repurchase Price.
- 11.9 Application of Proceeds. The proceeds of any sale or other enforcement of Administrative Agent's or Buyer's interest in all or any part of the Purchased Assets shall be applied by Administrative Agent, on behalf of Buyers, in accordance with Section 6.2(i)(iii).
- 11.10 Rights of Set-Off. If Seller shall default in the payment or performance of any of its obligations under this Agreement, Administrative Agent, Buyers, and their respective Affiliates (the "**Buyer Parties**") shall have the right, at any time, and from time to time, without notice, to set-off claims and to appropriate or apply any and all deposits of money or property or any other Debt at any time held or owing by the Buyer Parties to or for the credit of the account of Seller against and on account of the obligations and liabilities of Seller under this Agreement, irrespective of whether or not Administrative Agent or any Buyer shall have made any demand hereunder and whether or not said obligations and liabilities shall have become due; provided, however, that the aforesaid right to set-off shall not apply to any deposits of escrow monies being held on behalf of the Mortgagors related to the Purchased Mortgage Loans or other third parties. Without limiting the generality of the foregoing, the Buyer Parties shall be entitled to set-off claims and apply property held by Buyer Parties with respect to any Transaction against obligations and liabilities owed by Seller to the Buyer Parties with respect to any other Transaction. The Buyer Parties may set off cash, the proceeds of any liquidation of the Purchased Assets and all other sums or obligations owed by the Buyer Parties to Seller against all of Seller's obligations to the Buyer Parties, whether under this Agreement, under a Transaction, or under any other agreement between the parties, or otherwise, whether or not such obligations are then due, without prejudice to the Buyer Parties' right to recover any deficiency. Administrative Agent, on behalf of Buyers, agrees promptly to notify Seller after any such set-off and application made by the Buyer Parties; provided that the failure to give such notice shall not affect the validity of such set-off and application.

ARTICLE 12
INDEMNIFICATION

- 12.1 **Indemnification.** Seller shall indemnify and hold harmless each of the Buyer Parties and any of their respective partners, officers, directors, employees, agents and advisors (each, an “**Indemnified Party**”) from and against any and all liabilities, obligations, losses, claims damages, penalties, judgments, suits, costs, expenses and disbursements of any kind whatsoever (including reasonable fees and disbursements of any of its counsel) (“**Losses**”) that may be imposed upon, incurred by or asserted against such Indemnified Party in any way relating to or arising out of (i) the execution or delivery of this Agreement or any other Principal Agreement or any agreement or instrument contemplated thereby, the performance by the parties thereto of their respective obligations thereunder or the consummation of the transactions contemplated thereby, (ii) the use of the proceeds of the Purchased Assets or the Transactions or Seller’s obligations thereunder, (iii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnified Party is a party thereto (and regardless of whether such matter is initiated by a third party or by Seller or any of its Affiliates or Subsidiaries, except to the extent that such Losses have been found in a final, non-appealable judgment by a court of competent jurisdiction (or, should the parties mutually agree to binding arbitration, a final determination of the arbitrator) to have resulted directly and solely from the Indemnified Party’s gross negligence or willful misconduct; or (iv) without limiting the generality of clauses (i) through (iii) above, any breach of Seller’s obligations under Section 14.27 of this Agreement. Seller also agrees to reimburse an Indemnified Party as and when billed by such Indemnified Party for all such Indemnified Party’s reasonable costs and expenses incurred in connection with the enforcement or the preservation of such Indemnified Party’s rights under this Agreement, any other Principal Agreement (provided that if the terms of any Principal Agreement conflict with the foregoing, the terms of the Principal Agreement shall control) or any transaction contemplated hereby or thereby, including without limitation the reasonable fees and documented, out-of-pocket disbursements of its external counsel. TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW, EACH PARTY HERETO SHALL NOT ASSERT, AND HEREBY WAIVES, ANY CLAIM, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THE PRINCIPAL AGREEMENTS OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, ANY TRANSACTION OR THE USE OF THE PROCEEDS THEREOF; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY WITH RESPECT TO LOSSES SUBJECT TO INDEMNIFICATION UNDER SECTION 12.1(iv). The agreements in this Section 12.1 shall survive the repayment, satisfaction or discharge of all the other obligations and liabilities of the parties under the Principal Agreements. All amounts due under this Section 12.1 shall be fully payable within ten (10) calendar days after demand therefor. This Section 12.1 shall not apply to any amounts due and owing pursuant to Section 4.5 or with respect to Taxes other than Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.
- 12.2 **Reimbursement.** Seller agrees to pay as and when billed by Administrative Agent or any Buyer all of the out-of-pocket costs and expenses incurred by Administrative Agent or any such Buyer in connection with (i) the consummation and administration of the transactions contemplated hereby including, without limitation, all the due diligence, inspection, testing and review costs and expenses incurred by Administrative Agent or any Buyer with respect to Purchased Assets prior to the Effective Date or pursuant to Section 6.6, or otherwise, (ii) the development, preparation and execution of, and any amendment, supplement or modification to, any Principal Agreement or any other documents prepared in connection therewith, (iii) all the reasonable costs and expenses of

Administrative Agent and Buyers in connection with any participation entered into by Administrative Agent, on behalf of Buyers, on the Effective Date and disclosed to Seller and (iv) all the reasonable fees, disbursements and expenses of counsel to Administrative Agent and Buyers incurred in connection with any of the foregoing.

12.3 Payment of Taxes.

- (a) All payments made by or on account of any obligation of Seller under any Principal Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, duties, deductions, charges, assessments, fees or withholdings (including backup withholdings), and all liabilities (including penalties, interest and additions to tax) with respect thereto imposed by any Governmental Authority (collectively, “**Taxes**”), except as required by applicable law. If Seller is required by law or regulation to deduct or withhold any Taxes from or in respect of any amount payable hereunder, it shall: (i) make such deduction or withholding; (ii) pay the amount so deducted or withheld to the appropriate Governmental Authority not later than the date when due; (iii) deliver to Administrative Agent, on behalf of Buyers, promptly, original tax receipts and other evidence satisfactory to Administrative Agent of the payment when due of the full amount of such Taxes; and (iv) if such Tax is an Indemnified Tax (as defined below), pay to Administrative Agent such additional amounts as may be necessary so that Administrative Agent receives, free and clear of all such Indemnified Taxes, a net amount equal to the amount it would have received under any Principal Agreement, as if no such deduction or withholding had been made. In addition, Seller agrees to timely pay to the relevant Governmental Authority in accordance with applicable law (or, at the option of Administrative Agent, timely reimburse it for the payment of) any current or future stamp, court or documentary taxes, intangible, filing or similar Taxes (including, without limitation, mortgage recording taxes, transfer taxes and similar fees) imposed by any Governmental Authority that arise from any payment made hereunder or from the execution, delivery, performance or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, the Principal Agreements except any such Taxes imposed on Administrative Agent or any Buyer with respect to an assignment, other than an assignment made at the request of Seller, by a jurisdiction (or political subdivision thereof) having a present or former connection with Administrative Agent or any Buyer (other than any connection arising from executing, delivering, being party to, engaging in any transaction pursuant to, performing its obligations under or enforcing this Agreement) (“**Other Taxes**”). Other Taxes and Taxes (other than Excluded Taxes) imposed on or with respect to any payment made by or on account of any obligation of Seller under any Principal Agreement shall be referred to in this Agreement as “**Indemnified Taxes.**”
- (b) Seller shall within five (5) calendar days after demand therefor, indemnify Administrative Agent and each Buyer for the full amount of any and all Indemnified Taxes (including any Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 12.3) arising with respect to the Purchased Assets, the Principal Agreements and other documents related thereto and fully indemnify and hold Administrative Agent and each Buyer harmless from and against any and all liabilities or reasonable expenses with respect to or resulting from any delay or omission to pay such Taxes, whether or not such Indemnified Taxes were correctly or legally imposed or assessed by the relevant Governmental Authority. A certificate as to the amount of any payment or liability of Administrative Agent and/or any Buyer with respect to such Indemnified Taxes delivered to Seller by Administrative Agent on its own behalf or on behalf of Buyers, or any Buyer

(with a copy to Administrative Agent) shall be conclusive absent manifest error. As soon as practicable after any payment of Taxes by Seller to a Governmental Authority pursuant to this Section 12.3, Seller shall deliver to Administrative Agent, on behalf of Buyers, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Administrative Agent, and provided further that in no event shall Administrative Agent or any Buyer be required to complete, execute or submit to Seller any of the documentation listed in Section 12.3(d) if there is a change in United States law prohibiting provision of any such documentation which occurs subsequent to the date on which applicable documentation listed under Section 12.3(d) was previously provided by Administrative Agent, on behalf of Buyers, to Seller in accordance with the requirements of Section 12.3(d).

- (c) If Administrative Agent or any Buyer is entitled to an exemption or reduction of withholding Tax with respect to payments made under this Agreement, Administrative Agent or such Buyer (with a copy to Administrative Agent) shall deliver to Seller, at the time or times reasonably requested by Seller, such properly completed and executed documentation reasonably requested by Seller as will permit such payments to be made without withholding or at a reduced rate of withholding; provided that the completion, execution and submission of such documentation (other than the documentation listed in Section 12.3(d)) shall not be required if in Administrative Agent's or such Buyer's judgment such completion, execution or submission would subject Administrative Agent or such Buyer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of Administrative Agent or such Buyer.
- (d) Without limiting the generality of Section 12.3(c), if any Buyer is (i) not incorporated under the laws of the United States, any State thereof, or the District of Columbia or (ii) not otherwise treated as a "United States person" within the meaning of the Code (a "**Foreign Buyer**") and is entitled to an exemption from or reduction of U.S. federal withholding Taxes with respect to payments made under this Agreement, Administrative Agent or such Buyer (with a copy to Administrative Agent), as applicable, shall provide Seller with an original, properly completed and duly executed United States Internal Revenue Service ("**IRS**") Form W-8BEN, W-8BEN-E, W-8IMY or W-8ECI or any successor form prescribed by the IRS, (i) certifying that such Foreign Buyer is entitled to benefits under an income tax treaty to which the United States is a party which reduces or eliminates the rate of withholding tax on payments of interest or setting forth a basis to claim the benefits of the exemptions from U.S. withholding taxes for portfolio interest under Section 881(c) of the Code or (ii) certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States on or prior to the date upon which each such Foreign Buyer becomes a Buyer. If an IRS form previously delivered expires or becomes obsolete or inaccurate in any respect, each Foreign Buyer will update such form or promptly notify Seller and Administrative Agent of its legal inability to do so. Should a Foreign Buyer, which is otherwise exempt from a withholding tax, become subject to Taxes because of its failure to deliver an IRS form required hereunder, Seller shall, at no cost or expense to Seller, take such steps as such Foreign Buyer shall reasonably request to assist such Foreign Buyer to recover such Taxes. Upon the execution of this Agreement or otherwise becoming a Buyer, each Buyer that is a "United States person" within the meaning of the Code shall deliver to Seller and Administrative Agent an original, properly completed and duly executed IRS Form W-9 or such other documentation or information prescribed by applicable laws or reasonably

requested by Seller or the Administrative Agent as will enable Seller to determine whether or not such Buyer is subject to backup withholding or information reporting requirements.

- (e) Nothing contained in this Section 12.3 shall require Administrative Agent or any Buyer to make available any of its Tax returns or other information that it deems to be confidential or proprietary or otherwise subject Administrative Agent or any Buyer to any material unreimbursed cost or expense or materially prejudice the legal or commercial position of Administrative Agent or any Buyer, except for such IRS forms Administrative Agent or such Buyer is required to deliver to Seller under Section 12.3(d).
- (f) If a payment made to Administrative Agent, on behalf of Buyers, under any Principal Agreement would be subject to U.S. federal withholding tax imposed under FATCA if such Administrative Agent or such Buyer were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), Administrative Agent or such Buyer shall deliver to Seller at the time or times prescribed by law and at such time or times reasonably requested by Seller such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Seller or Administrative Agent as may be necessary for Seller or Administrative Agent to comply with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. For purposes of this clause, "FATCA" shall include any amendments made to FATCA after the date of this Agreement.
- (g) If Administrative Agent, on behalf of Buyers, determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 12.3 (including by the payment of additional amounts pursuant to this section), it shall pay to Seller an amount equal to such refund (but only to the extent of indemnity payments and additional payments made under this section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of Administrative Agent and Buyers and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Seller, upon the request of Administrative Agent or such Buyer, shall repay to Administrative Agent or such Buyer, as applicable, the amount paid over pursuant to this Section 12.3(g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that Administrative Agent or any Buyer is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 12.3(g), in no event will Administrative Agent or any Buyer be required to pay any amount to Seller pursuant to this Section 12.3(g) the payment of which would place Administrative Agent or such Buyer in a less favorable net after-Tax position than Administrative Agent or such Buyer would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid.
- (h) Each Buyer (other than Administrative Agent) shall severally indemnify the Administrative Agent, within ten (10) calendar days after demand therefor, for (i) any Indemnified Taxes attributable to such Buyer (but only to the extent that Seller has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of Seller to do so), (ii) any Taxes attributable to such Buyer's failure to comply with the provisions of Section 14.7 relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Buyer, in each case, that are payable or paid by the Administrative Agent in connection with any Principal Agreement, and any reasonable expenses arising therefrom or with respect thereto, whether or not such

Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Buyer by the Administrative Agent shall be conclusive absent manifest error. Each Buyer hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Buyer under any Principal Agreement or otherwise payable by the Administrative Agent to the Buyer from any other source against any amount due to the Administrative Agent under this Section 12.3(h).

- 12.4 Administrative Agent and Buyer Payment. If Seller fails to pay when due any costs, expenses or other amounts payable by it under this Article 12, such amount may be paid on behalf of Seller by Administrative Agent or such Buyer, as applicable, in its discretion and Seller shall remain liable for any such payments by Administrative Agent or such Buyer, as applicable. No such payment by Administrative Agent or Buyer shall be deemed a waiver of any of Administrative Agent's and each Buyer's rights under any of the Principal Agreements.
- 12.5 Agreement not to Assert Claims. Seller agrees not to assert any claim against any Indemnified Party on any theory of liability, for special, indirect, consequential or punitive damages arising out of or otherwise relating to the Principal Agreements, the actual or proposed use of the proceeds of the Transactions, this Agreement or any of the transactions contemplated hereby or thereby. THE FOREGOING INDEMNITY AND AGREEMENT NOT TO ASSERT CLAIMS EXPRESSLY APPLIES, WITHOUT LIMITATION, TO THE NEGLIGENCE (BUT NOT GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF THE INDEMNIFIED PARTIES.
- 12.6 Survival. Without prejudice to the survival of any other agreement of Seller hereunder, the covenants and obligations of Seller contained in this Article 12 shall survive the payment in full of the Repurchase Prices and all other amounts payable hereunder and delivery of the Purchased Assets by Administrative Agent, on behalf of Buyers, against full payment therefor.

ARTICLE 13 TERM AND TERMINATION

- 13.1 Term. (a) Provided that no Event of Default or Event of Early Termination has occurred and is continuing, and except as otherwise provided for herein, this Agreement shall commence on the Effective Date and continue until the Facility Termination Date. On the date of expiration or termination of this Agreement, all amounts due Administrative Agent, on behalf of Buyers, under the Principal Agreements shall be immediately due and payable without notice to Seller and without presentment, demand, protest, notice of protest or dishonor, or other notice of default, and without formally placing Seller in default, all of which are hereby expressly waived by Seller.
- (b) SELLER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER'S COMPLIANCE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN, AND THE ABSENCE OF ANY EVENT OF DEFAULT, EVENT OF EARLY TERMINATION, POTENTIAL DEFAULT OR CEASE FUNDING EVENT HEREUNDER, SHALL NOT, IN ANY WAY WHATSOEVER, LIMIT, RESTRICT OR OTHERWISE AFFECT OR IMPAIR ADMINISTRATIVE AGENT'S, ON BEHALF OF BUYERS, RIGHT OR ABILITY TO MAKE DEMAND FOR PAYMENT OF ANY OR ALL OF THE OBLIGATIONS AT ANY SUCH TIME, IN ADMINISTRATIVE AGENT'S SOLE AND ABSOLUTE DISCRETION, WITH OR WITHOUT REASON OR CAUSE, AND THE EXISTENCE OF ANY EVENT OF DEFAULT EVENT OF EARLY TERMINATION, POTENTIAL DEFAULT OR CEASE FUNDING EVENT HEREUNDER DOES NOT NEED TO BE THE SOLE REASON OR BASIS FOR ENABLING

ADMINISTRATIVE AGENT, ON BEHALF OF BUYERS, TO MAKE DEMAND FOR PAYMENT OF ALL OR ANY PART OF SUCH OBLIGATIONS.

- 13.2 Termination. Upon termination of this Agreement in accordance with this Agreement, all outstanding amounts due to Administrative Agent, on behalf of Buyers, under the Principal Agreements shall be immediately due and payable without notice (except as expressly set forth in this Agreement) to Seller and without presentment, demand, protest, notice of protest or dishonor, or other notice of default, and without formally placing Seller in default, all of which are hereby expressly waived by Seller. Further, any termination of this Agreement shall not affect the outstanding obligations of Seller under this Agreement or any other Principal Agreement and all such outstanding obligations and the rights and remedies afforded Administrative Agent, on behalf of Buyers, in connection therewith, including, without limitation, those rights and remedies afforded Administrative Agent, on behalf of Buyers, under this Agreement, shall survive any termination of this Agreement. Administrative Agent and Buyers shall not be liable to Seller for any costs, loss or damages arising from or relating to a termination by Administrative Agent, on behalf of Buyers, in accordance with any subsection of this Section 13.2.
- 13.3 Extension of Term. Upon mutual agreement of Seller and Administrative Agent, on behalf of Buyers, the term of this Agreement may be extended. Such extension may be made subject to the terms and conditions hereunder and to any other terms and conditions as Administrative Agent, on behalf of Buyers, may determine to be necessary or advisable. Under no circumstances shall such an extension by Administrative Agent, on behalf of Buyers, be interpreted or construed as a forfeiture by Administrative Agent or any Buyer of any of its rights, entitlements or interest created hereunder. Seller acknowledges and understands that Administrative Agent and Buyers are under no obligation whatsoever to extend the term of this Agreement beyond the initial term.

ARTICLE 14 GENERAL

- 14.1 Integration; Servicing Provisions Integral and Non-Severable. This Agreement, together with the other Principal Agreements, and all other documents executed pursuant to the terms hereof and thereof, constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which such communications are merged herein. All Transactions hereunder constitute a single business and contractual relationship and each Transaction has been entered into in consideration of the other Transactions. Accordingly, each of Administrative Agent, on behalf of Buyers, and Seller agrees that payments, deliveries, and other transfers made by either of them in respect of any Transaction shall be deemed to have been made in consideration of payments, deliveries, and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries, and other transfers may be applied against each other and netted. Without limiting the generality of the foregoing, the provisions of this Agreement related to the servicing and Servicing Rights of the Purchased Mortgage Loans are integral, interrelated, and are non-severable from the purchase and sale provisions of the Agreement. Administrative Agent and Buyers have relied upon such provisions as being integral and non-severable in determining whether to enter into this Agreement and in determining the Purchase Price methodology for such Mortgage Loans. The integration of these servicing provisions is necessary to enable Administrative Agent and Buyers to obtain the maximum value from the sale of the Purchased Mortgage Loans by having the ability to sell the Servicing Rights related to such Purchased Mortgage Loans free from any claims or encumbrances. Further, the fact that Seller or any Servicer may be entitled to a servicing fee for interim servicing of the Purchased Mortgage Loans or that Administrative Agent, on behalf of Buyers, may provide a separate notice of default

to Seller or any Servicer regarding the servicing of the Purchased Mortgage Loans shall not affect or otherwise change the intent of Seller, Administrative Agent and Buyers regarding the integral and non-severable nature of the provisions in the Agreement related to servicing and Servicing Rights nor will such facts affect or otherwise change Administrative Agent's, on behalf of Buyers, ownership of the Servicing Rights related to the Purchased Mortgage Loans.

- 14.2 Amendments. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against whom the enforcement of such modification, waiver, amendment, discharge or change is sought.
- 14.3 No Waiver. No failure or delay on the part of Seller, Administrative Agent or Buyers in exercising any right, power or privilege hereunder and no course of dealing between Seller and Administrative Agent, on behalf of Buyers, shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.
- 14.4 Remedies Cumulative. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies that Seller, Administrative Agent or Buyers would otherwise have. No notice or demand on Seller in any case shall entitle Seller to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Administrative Agent or any Buyer to any other or further action in any circumstances without notice or demand.
- 14.5 Rehypothecation; Assignment. The Principal Agreements may not be assigned by Seller. The Principal Agreements, along with Administrative Agent's right, title and interest, including its security interest, in any or all of the Purchased Assets and other Purchased Items, may, at any time, be transferred or assigned, in whole or in part, by Administrative Agent. A Buyer may, upon prior written consent of Administrative Agent in its sole and absolute discretion, transfer or assign, in whole or in part, its respective right, title and interest, including its security interest, in any or all of the Purchased Assets and other Purchased Items. Any transferee or assignee of Administrative Agent or any such Buyer may enforce the Principal Agreements and such security interest directly against Seller.

Administrative Agent, on behalf of Buyers, shall have free and unrestricted use of all Purchased Assets and nothing shall preclude Administrative Agent, on behalf of Buyers, from engaging in repurchase transactions with such Purchased Assets or otherwise pledging, replugging, transferring, hypothecating, or rehypothecating such Purchased Assets; provided, that no such transaction shall affect the obligations of Administrative Agent to transfer the Purchased Assets to Seller on the Repurchase Date free and clear of any pledge, Lien, security interest, encumbrance, charge or other adverse claim as set forth in Section 6.5.

Administrative Agent, on behalf of Buyers, acting solely for this purpose as a non-fiduciary agent of Seller, shall maintain a register (the "**Register**") on which it shall record the rights of Administrative Agent and any assignee of Administrative Agent under this Agreement, and each assignment. The Register shall include the names and addresses of each Buyer (including all assignees or successors) and the percentage or portion of such rights and obligations assigned. The entries in the Register shall be conclusive absent manifest error, and Administrative Agent, Buyers and Seller shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Buyer hereunder for all purposes of this agreement; provided, however, that a failure to make any such recordation, or any error in such recordation shall not affect Seller's obligations in respect of such rights.

- 14.6 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

14.7 Participations. Upon prior written consent of Administrative Agent in its sole and absolute discretion, Buyers may from time to time sell or otherwise grant participations in this Agreement and the holder of any such participation, if the participation agreement so provides, (a) shall, with respect to its participation, be entitled to all of the rights of such Buyer and (b) may exercise any and all rights of set-off or banker's lien with respect thereto, in each case as fully as though Seller were directly obligated to the holder of such participation in the amount of such participation; provided, however, that Seller shall not be required to send or deliver to any of the participants other than such Buyer any of the materials or notices required to be sent or delivered by it under the terms of this Agreement, nor shall they have to act except in compliance with the instructions of Administrative Agent and the applicable Buyer; provided, further, that, Administrative Agent, in its capacity as a Buyer hereunder, may from time to time sell or otherwise grant participations in this Agreement without prior consent of any other Buyer or Seller.

If any Buyer sells a participation, such Buyer shall, acting solely for this purpose as a non-fiduciary agent of Seller, maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant's interest in the Purchased Assets and other Purchased Items under the Principal Agreements (the "**Participant Register**"); provided that such Buyer shall not have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any Purchased Asset and other Purchased Item under the Principal Agreements) to any person except to the extent that such disclosure is necessary to establish that such interest is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Buyer and participant shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

14.8 Invalidity. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been included.

14.9 Additional Instruments. Seller shall execute and deliver such further instruments and shall do and perform all matters and things necessary or expedient to be done or observed for the purpose of effectively creating, maintaining and preserving the security and benefits intended to be afforded by this Agreement.

14.10 Survival. All representations, warranties, covenants and agreements herein contained on the part of Seller shall survive any Transaction and shall be effective so long as this Agreement is in effect or there remains any obligation of Seller hereunder to be performed.

14.11 Notices.

(a) All notices, demands, consents, requests and other communications required or permitted to be given or made hereunder in writing shall be mailed (first class, return receipt requested and postage prepaid) or delivered in person or by overnight delivery service or by electronic mail, addressed to the respective parties hereto at their respective addresses set forth below or, as to any such party, at such other address as may be designated by it in a notice to the other:

If to Seller: SUCCESS Lending, LLC
4 Hutton Centre Drive, 10th Floor
Santa Ana, CA 92707
Attention: _____
Telephone No: [Redacted]
Email:

If to Administrative Agent: Flagstar Bank FSB
301 W. Michigan Ave.
Jackson, MI 49201
Attention: Tara Greene
Telephone No.: [Redacted]
Email: [Redacted]

If to a Buyer: Such address set forth on such Buyer's signature page attached hereto.

All written notices shall be conclusively deemed to have been properly given or made when duly delivered, if delivered in person or by overnight delivery service, or on the fifth (5th) Business Day after being deposited in the mail, if mailed in accordance herewith, or upon transmission by the sending party of an electronic mail with respect to which no delivery failure is received by such sending party, if delivered by electronic mail. Notwithstanding the foregoing, any notice of termination shall be deemed effective upon mailing, transmission, or delivery, as the case may be.

- (b) All notices, demands, consents, requests and other communications required or permitted to be given or made hereunder which are not required to be in writing may also be provided electronically either (i) as an electronic mail sent and addressed to the respective parties hereto at their respective electronic mail addresses set forth below, or as to any such party, at such other electronic mail address as may be designated by it in a notice to the other, (ii) with respect to Administrative Agent, via a posting of such notice on Administrative Agent's customer website(s) or (iii) with respect to any Buyer, the electronic mail addresses set forth on such Buyer's signature page attached hereto.

If to Seller: _____

If to Administrative Agent: [Redacted]

- 14.12 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with and governed by the laws of the State of New York, without regard to principles of conflicts of laws (other than Sections 5-1401 and 5-1402 of the New York General Obligations Law).
- 14.13 Submission to Jurisdiction; Service of Process; Waivers. All legal actions between or among the parties regarding this Agreement, including, without limitation, legal actions to enforce this Agreement or because of a dispute, breach or default of this Agreement, shall be brought in the federal or state courts located in New York County, New York, which courts shall have sole and exclusive in personam, subject matter and other jurisdiction in connection with such legal actions. The parties hereto irrevocably consent and agree that venue in such courts shall be convenient and

appropriate for all purposes and, to the extent permitted by law, waive any objection that they may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. The parties hereto further irrevocably consent and agree that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to its address set forth in Section 14.11(a), and that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction.

- 14.14 Waiver of Jury Trial. Each of Seller, Administrative Agent and Buyers hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement, any other Principal Agreement or the transactions contemplated hereby or thereby.
- 14.15 Counterparts. This Agreement may be executed in one or more counterparts (which may be delivered electronically), each of which shall be deemed to be an original, and all such counterparts shall together constitute one and the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, “pdf”, “tif” or “jpg”) and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. Each of the parties hereto agrees that the transaction consisting of this Agreement may be conducted by electronic means. Each party agrees, and acknowledges that it is such party’s intent, that if such party signs this Agreement using an electronic signature, it is signing, adopting, and accepting this agreement and that signing this Agreement using an electronic signature is the legal equivalent of having placed its handwritten signature on this Agreement on paper. Each party acknowledges that it is being provided with an electronic or paper copy of this Agreement in a usable format.
- 14.16 Headings. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning or interpretation of any provisions hereof.
- 14.17 Confidential Information. Each of the parties hereto acknowledges and agrees that all written or computer readable information provided by one party to any other regarding the terms set forth in any of the Principal Agreements, any related agreement or the transactions contemplated thereby or regarding Bank Data, operations, computer systems, technical data, business methods, and other information designated by the disclosing party or its agent to be confidential, or that should be considered confidential in nature by a reasonable person given the nature of the information and the circumstances of its disclosure (the “Confidential Terms”) shall be kept confidential and shall not be divulged to any person (including, without limitation, any Service Providers or other third-party vendors or other third-party agents) without the prior written consent of such other party except to the extent that (a) it is necessary to do so in working with legal counsel, auditors, taxing authorities or other governmental agencies or regulatory bodies or in order to comply with any applicable federal, state or local laws, process, or the rules and regulations of any stock exchange,
(b) any of the Confidential Terms are in the public domain other than due to a breach of this

covenant, (c) any assignee or any prospective assignee who has agreed in a written contract to comply with the requirements substantially similar to this Section 14.17 or (d) in the event of an Event of Default that is continuing Administrative Agent, on behalf of Buyers, determines such information to be necessary to disclose in connection with the marketing and sales of the Purchased Assets or otherwise to enforce or exercise Administrative Agent's, on behalf of Buyers, rights hereunder, notwithstanding the foregoing or anything to the contrary contained herein or in any other Principal Agreement, the parties hereto may disclose to any and all persons, without limitation of any kind, the federal, state and local tax treatment of the Principal Agreements, any fact relevant to understanding the federal, state and local tax treatment of the Principal Agreements, and all materials of any kind (including opinions or other tax analyses) relating to such federal, state and local tax treatment and that may be relevant to understanding such tax treatment; provided that none of Administrative Agent, any Buyer or Seller may disclose the name of or identifying information with respect to the other or any pricing terms or other nonpublic business or financial information (including any sublimits and financial covenants) that is unrelated to the federal, state and local tax treatment of the Principal Agreements and is not relevant to understanding the federal, state and local tax treatment of the Principal Agreements, without the prior written consent of the other, provided that Seller may identify Administrative Agent, Buyers and the Aggregate Transaction Limit to its lenders under other facilities and its other third party creditors.

- (b) Notwithstanding anything in this Agreement to the contrary, Administrative Agent, Buyers and Seller shall comply with all applicable local, state and federal laws, including, without limitation, all privacy and data protection law, rules and regulations that are applicable to the Purchased Assets, Purchased Items and/or any applicable terms of this Agreement (the "Confidential Information"). Administrative Agent, Buyers and Seller understand that the Confidential Information may contain "nonpublic personal information", as that term is defined in section 509(4) of the Gramm Leach Bliley act (the "GLB Act"), and each agrees to maintain such nonpublic personal information that it receives hereunder in accordance with the GLB Act and other applicable federal and state privacy laws. Administrative Agent, Buyers and Seller shall each implement such physical and other security measures as shall be necessary to (a) ensure the security and confidentiality of the "nonpublic personal information" of the "customers" and "consumers" (as those terms are defined in the GLB Act) of such party or any affiliate of such party which that party holds, (b) protect against any threats or hazards to the security and integrity of such nonpublic personal information, and (c) protect against any unauthorized access to or use of such nonpublic personal information. Administrative Agent, Buyers and Seller shall each, at a minimum, establish and maintain such data security program as is necessary to meet the objectives of the standards for safeguarding customer information issued by the Federal Trade Commission as set forth in the code of federal regulations at 16 C.F.R. part 314 or interagency guidelines establishing standards for safeguarding customer information as set forth in the code of federal regulations at 12 C.F.R. parts 30, 168, 170, 208, 211, 225, 263, 308 and 364. Upon request, Administrative Agent, Buyers or Seller, as applicable, will provide evidence reasonably satisfactory to allow the requesting party to confirm that the non-requesting party has satisfied its obligations as required under this section, without limitation, this may include the requesting party's review of audits, summaries of test results, and other equivalent evaluations of the nonrequesting party. Administrative Agent, Buyers and Seller each shall notify the other promptly following discovery of any breach or compromise of the security, confidentiality, or integrity of nonpublic personal information of the customers and consumers of the non-notifying party or any affiliate of the non-notifying party provided directly to the notifying party by the non-notifying party of such affiliate, the notifying party shall provide such notice to the non-notifying party by personal delivery, by facsimile with confirmation of receipt, or by overnight courier with confirmation of receipt of the applicable requesting individual.

- (c) Seller further agrees that, Bank Data is and shall remain the exclusive property of Administrative Agent. Seller shall not store, process, or use Bank Data for any purpose, except as expressly permitted pursuant to the terms of this Agreement. Seller shall not permit any Bank Data to be sold, assigned, leased or otherwise provided to third parties. Administrative Agent reserves all rights not expressly granted herein in or to the Bank Data.
- (d) The provisions set forth in this Section 14.17 shall survive the termination of this Agreement.

14.18 Intent. Seller, Administrative Agent and each Buyer recognize and intend that:

- (a) this Agreement and each Transaction hereunder constitutes a “repurchase agreement” as that term is defined in Section 101(47)(A)(i) of the Bankruptcy Code, a “securities contract” as that term is defined in Section 741(7)(A)(i) of the Bankruptcy Code and a “master netting agreement” as that term is defined in Section 101(38A)(A) of the Bankruptcy Code and that the pledge of the Related Credit Enhancement in Section 6.1 constitutes “a security agreement or other arrangement or other credit enhancement” that is “related to” the Agreement and Transactions hereunder within the meaning of Sections 101(38A)(A), 101(47)(A)(v) and 741(7)(A)(xi) of the Bankruptcy Code and that each Purchased Asset constitutes either a “mortgage loan” or “an interest in a mortgage” as such terms are used in the Bankruptcy Code. Seller, Administrative Agent and each Buyer further recognize and intend that this Agreement is an agreement to provide financial accommodations and is not subject to assumption pursuant to Bankruptcy Code Section 365(a). Each of Seller and Buyer further agree that neither shall challenge, and each hereby waives to the fullest extent available under applicable law its right to challenge, the characterization of this Agreement or any Transaction hereunder as a “master netting agreement,” “repurchase agreement” and/or “securities contract” within the meaning of the Bankruptcy Code;
- (b) Administrative Agent’s, on behalf of Buyers, right to liquidate the Purchased Assets delivered to it in connection with the Transactions hereunder or to accelerate or terminate this Agreement or otherwise exercise any other remedies herein is a contractual right to liquidate, accelerate or terminate such Transaction as described in Bankruptcy Code Sections 555, 559 and 561 and any payments or transfers of property made with respect to this Agreement or any Transaction to: (i) satisfy a Margin Deficit, or (ii) comply with a Margin Call, shall in each case be considered a “margin payment” as such term is defined in Bankruptcy Code Section 741(5); and any payments or transfers of property by Seller (i) on account of a Haircut, (ii) in partial or full satisfaction of a repurchase obligation, or (iii) fees and costs under this Agreement or under any Transaction shall in each case constitute “settlement payments” as such term is defined in Bankruptcy Code Section 741(8) and Administrative Agent’s, on behalf of Buyers, right to set-off claims and appropriate and apply any and all deposits of money or property or any other indebtedness at any time held or owing by Buyer to or for the credit of the account of any Affiliate against and on account of the obligations and liabilities of Seller pursuant to Section 11.10 hereof is a contractual right as described in Bankruptcy Code Sections 553 and 561; and
- (c) this Agreement and each Transaction hereunder is intended to create a mutuality of obligations among the parties, and as such, the Agreement and each Transaction constitutes a contract that (i) is between all of the parties and (ii) places each party in the same right and capacity.

- 14.19 Right to Liquidate. It is understood that either party's right to liquidate Purchased Assets delivered to it in connection with Transactions hereunder or to terminate or accelerate obligations under this Agreement or any individual Transaction, are contractual rights for same as described in Sections 555 and 561 of the Bankruptcy Code.
- 14.20 Insured Depository Institution. If a party hereto is an "insured depository institution" as such term is defined in the Federal Deposit Insurance Act (as amended, the "**FDIA**"), then each Transaction hereunder is a "qualified financial contract" as that term is defined in the FDIA and any rules, orders or policy statements thereunder except insofar as the type of assets subject to such Transaction would render such definition inapplicable.
- 14.21 Netting Contract. This Agreement constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("**FDICIA**") and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation," respectively, as defined in and subject to the FDICIA except insofar as one or more of the parties hereto is not a "financial institution" as that term is defined in the FDICIA.
- 14.22 Tax Treatment. Each party to this Agreement acknowledges that it is its intent, solely for U.S. federal income tax law and any relevant provisions of state or local tax law, but not for bankruptcy or any other non-tax purpose, to treat each Transaction as indebtedness of Seller that is secured by the Purchased Assets and to treat the Purchased Assets as beneficially owned by Seller in the absence of an Event of Default by Seller. All parties to this Agreement agree to such tax treatment and agree to take no action inconsistent with this treatment, unless required by law.
- 14.23 Examination and Oversight by Regulators. Seller agrees that the transactions with Administrative Agent, on behalf of Buyers, under this Agreement may be subject to regulatory examination and oversight by one or more Governmental Authorities. Seller shall comply with all reasonable requests made by Administrative Agent, on behalf of Buyers, to assist Administrative Agent, on behalf of Buyers, in complying with regulatory requirements imposed on Administrative Agent or any Buyer.
- 14.24 Anti-Money Laundering Laws Notice. Administrative Agent, on behalf of Buyers, hereby notifies Seller that pursuant to the requirements of Anti-Money Laundering Laws, it is required to obtain, verify and record information that identifies Seller, which information includes the name and address of Seller and other information that will allow it to identify Seller in accordance with Anti-Money Laundering Laws. Seller shall, and shall cause each of its Subsidiaries to, provide to the extent commercially reasonable, such information and take such other actions as are reasonably requested by Administrative Agent, on behalf of Buyers, in order to assist Administrative Agent or any Buyer in maintaining compliance with Anti-Money Laundering Laws.
- 14.25 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Principal Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Principal Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:
- (a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and the effects of any Bail-In Action on any

such liability, including, if applicable: a reduction in full or in part or cancellation of any such liability;

- (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Principal Document; or
- (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

- 14.26 Reasonable Assurances. If, at any time during the term of the Agreement, Administrative Agent, on behalf of Buyers, has reason to believe that Seller is not conducting its business in accordance with, or otherwise is not satisfying: (i) all applicable statutes, regulations, rules, and notices of federal, state, or local governmental agencies or instrumentalities, all applicable requirements of Approved Investors and Insurers and prudent industry standards or (ii) all applicable requirements of Administrative Agent and Buyers, as set forth in this Agreement, then, Administrative Agent, on behalf of Buyers, shall have the right to demand, pursuant to notice from Administrative Agent, on behalf of Buyers, to Seller specifying with particularity the alleged act, error or omission in question, reasonable assurances from Seller that such a belief is in fact unfounded, and any failure of Seller to provide to Administrative Agent, on behalf of Buyers, such reasonable assurances in form and substance reasonably satisfactory to Administrative Agent, within the time frame specified in such notice, shall itself constitute an Event of Default hereunder, without a further cure period. Seller hereby authorizes Administrative Agent, on behalf of Buyers, to take such actions as may be necessary or appropriate to confirm the continued eligibility of Seller for Transactions hereunder, including without limitation (i) ordering credit reports and/or appraisals with respect to any Purchased Mortgage Loan, (ii) contacting Mortgagers, licensing authorities and Approved Investors or Insurers, and (iii) performing due diligence reviews on the Purchased Mortgage Loans and related Mortgage Loan Files pursuant to Section 6.6 and other Purchased Assets.
- 14.27 Service Providers. Seller shall not be permitted to (a) subcontract or delegate performance of its obligations under this Agreement to any third party (each, a “Service Provider”) or (b) otherwise engage any Service Provider to provide any services (or perform any actions on its behalf) in connection with this Agreement, including for purposes of uploading documents or files with respect to any Purchased Asset or otherwise using Administrative Agent’s electronic platforms, websites or systems for or on behalf of Seller. Administrative Agent shall have the right, at any time in its sole and absolute discretion, to limit (i) Seller’s or any Service Provider’s access to any of Administrative Agent’s electronic platforms, websites or systems, or (ii) any Service Provider’s ability to otherwise perform any actions on behalf of Seller under this Agreement, if Administrative Agent believes that Seller or any Service Provider is acting or has acted in violation of this Section 14.27.
- 14.28 No Liability With Respect to Benchmark. Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Daily Simple SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic

equivalence of, or have the same volume or liquidity as, Daily Simple SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of Daily Simple SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Seller. Administrative Agent may select information sources or services in its reasonable discretion to ascertain Daily Simple SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to Seller or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service

ARTICLE 15 ADMINISTRATIVE AGENT

- 15.1 Appointment of Administrative Agent. Each Buyer irrevocably appoints and authorizes the Administrative Agent to act on behalf of such Buyer under this Agreement and the other Principal Agreements and to exercise such powers hereunder and thereunder as are specifically delegated to Administrative Agent by the terms hereof and thereof, together with such powers as may be reasonably incidental thereto, including without limitation the power to execute or authorize the execution of financing or similar statements or notices, and other documents. In performing its functions and duties under this Agreement, the Administrative Agent shall act solely as Administrative Agent of the Buyers and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any other Person.
- 15.2 Account with Administrative Agent or any Buyer. Seller authorizes Administrative Agent and each Buyer, in Administrative Agent's or such Buyer's sole discretion, upon notice to Seller to charge any account of Seller maintained with the Administrative Agent or such Buyer for the amount of any principal, interest, or other amounts or costs due under this Agreement when the same become due and payable under the terms of this Agreement.
- 15.3 Scope of Administrative Agent's Duties. The Administrative Agent shall have no duties or responsibilities except those expressly set forth herein, and shall not, by reason of this Agreement or otherwise, have a fiduciary relationship with any Buyer (and no implied covenants or other obligations shall be read into this Agreement against the Administrative Agent). None of Administrative Agent, its Affiliates nor any of their respective directors, officers, employees or Administrative Agents shall be liable to any Buyer for any action taken or omitted to be taken by it or them under this Agreement or any document executed pursuant hereto, or in connection herewith or therewith, with the consent or at the request of each other Buyer (or all of the Buyers for those acts requiring consent for all of the Buyers) (except for its or their own willful misconduct or gross negligence), nor be responsible for or have any duties to ascertain, inquire into or verify
- (a) any recitals or warranties made by any party or any Affiliate of any party, or any officer thereof contained herein or therein, (b) the effectiveness, enforceability, validity or due execution of this Agreement or any document executed pursuant hereto or any security thereunder, (c) the performance by the parties of their respective obligations hereunder or thereunder, or (d) the satisfaction of any condition hereunder or thereunder, including without limitation in connection with entering into any Transaction hereunder. Administrative Agent and its Affiliates shall be entitled to rely upon any certificate, notice, document or other communication (including electronic mail, facsimile transmission or oral communication) believed by it to be genuine and correct and to have been sent or given by or on behalf of a proper person. Administrative Agent may employ

other agents and may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable to any Buyer (except as to money or property received by them or their authorized Administrative Agents), for the negligence or misconduct of any such Administrative Agent selected by it with reasonable care or for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

- 15.4 Successor Administrative Agent. Administrative Agent may resign as such at any time upon at least thirty (30) days prior notice to Seller and each of the Buyers. If Administrative Agent at any time shall resign or if the office of Administrative Agent shall become vacant for any other reason, Buyers shall, by written instrument, appoint successor agent(s) ("Successor Administrative Agent") satisfactory to Buyers and, so long as no Event of Default, Event of Early Termination, Potential Default, Material Adverse Effect with respect to Seller or Cease Funding Event has occurred, to Seller (which approval shall not be unreasonably withheld or delayed); provided, however that any such successor Administrative Agent shall be a bank or a trust company or other financial institution which maintains an office in the United States, or a commercial bank organized under the laws of the United States or any state thereof, or any Affiliate of such bank or trust company or other financial institution which is engaged in the banking business, and shall have a combined capital and surplus of at least \$500,000,000. Such Successor Administrative Agent shall thereupon become the Administrative Agent hereunder, as applicable, and Administrative Agent shall deliver or cause to be delivered to any Successor Administrative Agent such documents of transfer and assignment as such Successor Administrative Agent may reasonably request. If a Successor Administrative Agent is not so appointed or does not accept such appointment before the resigning Administrative Agent's resignation becomes effective, the resigning Administrative Agent may appoint a temporary successor to act until such appointment by Buyers and, if applicable, Seller, is made and accepted, or if no such temporary successor is appointed as provided above by the resigning Administrative Agent, Buyers shall thereafter perform all of the duties of the resigning Administrative Agent hereunder until such appointment by Buyers and, if applicable, Seller, is made and accepted. Such Successor Administrative Agent shall succeed to all of the rights and obligations of the resigning Administrative Agent as if originally named. The resigning Administrative Agent shall duly assign, transfer and deliver to such Successor Administrative Agent all moneys at the time held by the resigning Administrative Agent hereunder after deducting therefrom its expenses for which it is entitled to be reimbursed hereunder. Upon such succession of any such Successor Administrative Agent, the resigning Administrative Agent shall be discharged from its duties and obligations, in its capacity as Administrative Agent hereunder, except for its gross negligence or willful misconduct arising prior to its resignation hereunder, and the provisions of this Article 15 shall continue in effect for the benefit of the resigning Administrative Agent in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent.
- 15.5 Credit Decisions. Each Buyer expressly acknowledges that neither Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates has made any representations or warranties to it and that no act by Administrative Agent hereafter taken, including any review of the affairs of Seller or any Affiliate or the Purchased Assets or Eligible Mortgage Loans, shall be deemed to constitute any representation or warranty by Administrative Agent to such Buyer. Each Buyer acknowledges that it has, independently of Administrative Agent and each other Buyer and based on the financial statements of Seller and such other documents, information and investigations as it has deemed appropriate, made its own credit decision to fund a Transaction hereunder from time to time. Each Buyer also acknowledges that it will, independently of Administrative Agent and each other Buyer and based on such other documents, information and investigations as it shall deem appropriate at any time, continue to make its own credit decisions as to exercising or not exercising from time to time any rights and privileges

available to it under this Agreement, any Principal Agreement or any other document executed pursuant hereto.

- 15.6 Authority of Administrative Agent to Enforce This Agreement. Each Buyer, subject to the terms and conditions of this Agreement, grants the Administrative Agent full power and authority as attorney-in-fact to institute and maintain actions, suits or proceedings for the collection and enforcement of any Transaction or Debt outstanding under this Agreement or any other Principal Agreement and to file such proofs of debt or other documents as may be necessary to have the claims of the Buyers allowed in any proceeding relative to any party, or their respective creditors or affecting their respective properties, and to take such other actions which Administrative Agent considers to be necessary or desirable for the protection, collection and enforcement of this Agreement or the other Principal Agreements.
- 15.7 Indemnification of Administrative Agent. The Buyers agree (which agreement shall survive the expiration or termination of this Agreement) to indemnify the Administrative Agent and its Affiliates (to the extent not reimbursed by Seller, but without limiting any obligation of Seller to make such reimbursement), ratably according to their respective Allocation Percentages, from and against any and all claims, damages, losses, liabilities, costs or expenses of any kind or nature whatsoever (including, without limitation, reasonable fees and expenses of house and outside counsel) which may be imposed on, incurred by, or asserted against the Administrative Agent and its Affiliates in any way relating to or arising out of this Agreement, any of the other Principal Agreements or the transactions contemplated hereby or any action taken or omitted by the Administrative Agent and its Affiliates under this Agreement or any of the Principal Agreements; provided, however, that no Buyer shall be liable for any portion of such claims, damages, losses, liabilities, costs or expenses resulting from the Administrative Agent's or its Affiliate's gross negligence or willful misconduct. Without limitation of the foregoing, each Buyer agrees to reimburse the Administrative Agent and its Affiliates promptly upon demand for its ratable share of any reasonable out-of-pocket expenses (including, without limitation, reasonable fees and expenses of house and outside counsel) incurred by the Administrative Agent and its Affiliates in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any of the other Principal Agreements, to the extent that the Administrative Agent and its Affiliates are not reimbursed for such expenses by Seller, but without limiting the obligation of Seller to make such reimbursement. Each Buyer agrees to reimburse the Administrative Agent and its Affiliates promptly upon demand for its ratable share of any amounts owing to the Administrative Agent and its Affiliates by the Buyers pursuant to this Section 15.7, provided that, if the Administrative Agent or its Affiliates are subsequently reimbursed by Seller for such amounts, they shall refund to the Buyers on a pro rata basis the amount of any excess reimbursement. If the indemnity furnished to the Administrative Agent and its Affiliates under this Section 15.7 shall become impaired as determined in the Administrative Agent's reasonable judgment or Administrative Agent shall elect in its sole discretion to have such indemnity confirmed by the Buyers (as to specific matters or otherwise), Administrative Agent shall give notice thereof to each Buyer and, until such additional indemnity is provided or such existing indemnity is confirmed, the Administrative Agent may cease, or not commence, to take any action. IN NO EVENT SHALL ADMINISTRATIVE AGENT BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, EVEN IF ADMINISTRATIVE AGENT HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH LOSS OR DAMAGE AND REGARDLESS OF THE FORM OF ACTION. In no event shall Administrative Agent be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including, but not limited to, acts of God,

flood, war (whether declared or undeclared), terrorism, pandemic, fire, riot, embargo, government action, including any laws, ordinances, regulations, governmental action or the like which delay, restrict or prohibit the providing of the services contemplated by this Agreement.

- 15.8 Knowledge of Default. It is expressly understood and agreed that the Administrative Agent shall be entitled to assume that no Event of Default, Event of Early Termination, a Potential Default, a Material Adverse Effect with respect to Seller or a Cease Funding Event has occurred and is continuing, unless the officers of the Administrative Agent immediately responsible for matters concerning this Agreement shall have received a written notice from a Buyer or a Seller specifying such Event of Default, Event of Early Termination, Potential Default, Material Adverse Effect with respect to Seller or Cease Funding Event has occurred and stating that such notice is a “notice of default”. Upon receiving such a notice, the Administrative Agent shall promptly notify each Buyer of such Event of Default, Event of Early Termination, Potential Default, Material Adverse Effect with respect to Seller or Cease Funding Event and provide each Buyer with a copy of such notice and shall endeavor to provide such notice to the Buyers within three (3) Business Days (but without any liability whatsoever in the event of its failure to do so). The Administrative Agent shall also furnish the Buyers, promptly upon receipt, with copies of all other notices or other information required to be provided by Seller hereunder.
- 15.9 Administrative Agent’s Authorization; Action by Buyers. Except as otherwise expressly provided herein, whenever the Administrative Agent is authorized and empowered hereunder on behalf of the Buyers to give any approval or consent, or to make any request, or to take any other action on behalf of the Buyers (including without limitation the exercise of any right or remedy hereunder or under the other Principal Agreements), the Administrative Agent shall be required to give such approval or consent, or to make such request or to take such other action only when so requested in writing by Buyers. Action that may be taken by Buyers, any other specified Allocation Percentage of the Buyers or all of the Buyers, as the case may be (as provided for hereunder) may be taken (i) pursuant to a vote of the requisite percentages of Buyers as required hereunder at a meeting (which may be held by telephone conference call); provided that, Administrative Agent exercises good faith, diligent efforts to give all of Buyers reasonable advance notice of the meeting, or (ii) pursuant to the written consent of the requisite percentages of the Buyers as required hereunder; provided that, all of the Buyers are given reasonable advance notice of the requests for such consent.
- 15.10 Enforcement Actions by the Administrative Agent. Except as otherwise expressly provided under this Agreement or in any of the other Principal Agreements and subject to the terms hereof, Administrative Agent will take such action, assert such rights and pursue such remedies under this Agreement and the other Principal Agreements as the Buyers shall direct; provided, however, that the Administrative Agent shall not be required to act or omit to act if, in the reasonable judgment of the Administrative Agent, such action or omission may expose the Administrative Agent to personal liability for which Administrative Agent has not been satisfactorily indemnified hereunder or is contrary to this Agreement, any of the Principal Agreements or applicable law. Except as expressly provided above or elsewhere in this Agreement or the other Principal Agreements, no Buyer (other than the Administrative Agent, acting in its capacity as agent) shall be entitled to take any enforcement action of any kind under this Agreement or any of the other Principal Agreements.
- 15.11 Collateral Matters.
- (a) The Administrative Agent is authorized on behalf of all of the Buyers, without the necessity of any notice to or further consent from the Buyers, from time to time to take any action with respect to any Purchased Asset, Purchased Item or the documents related thereto

which may be necessary to perfect and maintain a perfected security interest in and Liens upon the Purchased Assets and related Purchased Items granted pursuant to the Principal Agreements.

- (b) The Buyers irrevocably authorize the Administrative Agent, in its reasonable discretion, to the full extent set forth herein, (1) to release or terminate any Lien granted to or held by the Administrative Agent upon any Purchased Assets and related Purchased Items (a) upon termination of the Seller's ability to request a Transaction and payment in full of all repurchase obligations under this Agreement and any other payment obligations under any other Principal Agreement; (b) constituting property (including, without limitation, Equity Interests in any Person) sold or to be sold or disposed of as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction and including the property of any Subsidiary that is disposed of as permitted hereby) permitted in accordance with the terms of this Agreement; (c) constituting property in which a party owned no interest at the time the Lien was granted or at any time thereafter; or (d) if approved, authorized or ratified in writing by the all of the Buyers; (2) to subordinate the Lien granted to or held by Administrative Agent on any Purchased Asset or related Purchased Item to any other holder of a Lien on such Purchased Asset or related Purchased Item which is permitted herein; and (3) if all of the Equity Interests held by the Seller in any Person are sold or otherwise transferred to any transferee other than Seller or a Subsidiary of Seller as part of or in connection with any disposition (whether by sale, by merger or by any other form of transaction) permitted in accordance with the terms of this Agreement, to release such Person from all of its obligations under the Principal Agreements (including, without limitation, under any guaranty). Upon request by the Administrative Agent at any time, the Buyers will confirm in writing the Administrative Agent's authority to release particular types or items of the Purchased Assets or related Purchased Items pursuant to this Section 15.11(b).

15.12 Administrative Agent in its Individual Capacity. Flagstar Bank FSB and its Affiliates, successors and assigns shall each have the same rights and powers hereunder as any other Buyer and may exercise or refrain from exercising the same as though such Buyer were not the Administrative Agent. Flagstar Bank FSB and its Affiliates may (without having to account therefor to any Buyer) accept deposits from, lend money to, and generally engage in any kind of banking, trust, financial advisory or other business with the parties hereto as if such Buyer were not acting as the Administrative Agent hereunder, and may accept fees and other consideration therefor without having to account for the same to the Buyers.

15.13 Administrative Agent or other Titles. Any Buyer identified on the facing page or signature page of this Agreement or in any amendment hereto or as designated with consent of the Administrative Agent in any assignment agreement as lead arranger, documentation administrative agent, syndications administrative agent or any similar titles, shall not have any right, power, obligation, liability, responsibility or duty under this Agreement as a result of such title other than those applicable to all Buyers as such. Without limiting the foregoing, the Buyers so identified shall not have or be deemed to have any fiduciary relationship with any Buyer as a result of such title. Each Buyer acknowledges that it has not relied, and will not rely, on the Buyer so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

15.14 No Reliance on Administrative Agent's Customer Identification Program.

- (a) Each Buyer acknowledges and agrees that neither such Buyer, nor any of its Affiliates, participants or assignees, may rely on the Administrative Agent to carry out such Buyer's,

Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other anti-terrorism law, including any programs involving any of the following items relating to or in connection with Seller or any of its Subsidiaries, any of their respective Affiliates or agents, the Principal Agreements or the transactions hereunder: (i) any identify verification procedures, (ii) any record keeping, (iii) any comparisons with government lists, (iv) any customer notices or (v) any other procedures required under the CIP Regulations or such other laws.

- (b) Each Buyer or assignee or participant of a Buyer that is not organized under the laws of the United States or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA Patriot Act and the applicable regulations because it is both (i) an Affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to the Administrative Agent the certification, or, if applicable, recertification, certifying that such Buyer is not a "shell" and certifying to other matters as required by Section 313 of the USA Patriot Act and the applicable regulations: (x) within ten (10) days after the Effective Date, and (y) at such other times as are required under the USA Patriot Act.

15.15 Subordination Agreements. Each Buyer hereby irrevocably appoints, designates and authorizes Administrative Agent to enter into any subordination or intercreditor agreement pertaining to any Subordinated Debt, on its behalf and to take such action on its behalf under the provisions of any such agreement (subject to the last sentence of this Section 15.15). Each Buyer further agrees to be bound by the terms and conditions of each subordination or intercreditor agreement pertaining to any Subordinated Debt. Each Buyer hereby authorizes Administrative Agent to issue blockages notices in connection with any Subordinated Debt at the direction of Buyers (it being agreed and understood that Administrative Agent will not act unilaterally to issue such blockage notices).

15.16 Erroneous Payments.

(a) If the Administrative Agent notifies a Buyer, or any Person who has received funds on behalf of a Buyer (any such Buyer or other recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Buyer or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of Administrative Agent, and such Buyer shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than one (1) Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in

accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Buyer, or any Person who has received funds on behalf of a Buyer, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by Administrative Agent (or any of its Affiliates), or (z) that such Buyer, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

- (i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case with respect to such payment, prepayment or repayment; and
- (ii) such Buyer shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one (1) Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 15.17(b).

(c) Each Buyer hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Buyer under any Principal Agreement, or otherwise payable or distributable by the Administrative Agent to such Buyer from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Buyer that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “Erroneous Payment Return Deficiency”), upon the Administrative Agent’s notice to such Buyer at any time, (i) such Buyer shall be deemed to have assigned its rights to receive any payments due and owing to it hereunder with respect to any such Transaction and related Repurchase Price or any other Income or payments with respect thereto which such Erroneous Payment was made (the “Erroneous Payment Impacted Transaction”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as Administrative Agent may specify) (such assignment of the payments due and owing to it hereunder with respect to any such Transaction and related Repurchase Price or any other Income or payments with respect thereto, the “Erroneous Payment Deficiency Assignment”) at par plus any accrued and unpaid interest (with any assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with Seller) deemed to execute and deliver an assignment and assumption with respect to such Erroneous Payment Deficiency Assignment, and such Buyer shall deliver such amounts to the Seller or Administrative Agent, (ii) Administrative Agent as the assignee Buyer shall be deemed to acquire

the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Buyer shall become a Buyer hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Buyer shall cease to be a Buyer hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable obligations hereunder which shall survive as to such assigning Buyer, and (iv) Administrative Agent may reflect in the Register its ownership interest in the Purchased Assets subject to the Erroneous Payment Deficiency Assignment. Administrative Agent may, in its discretion, sell any Purchased Assets acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Buyer shall be reduced by the net proceeds of the sale of such Purchased Asset (or portion thereof), and Administrative Agent shall retain all other rights, remedies and claims against such Buyer (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the obligations of any Buyer and shall remain available in accordance with the terms of this Agreement, including, for the avoidance of doubt, any amounts due and owing from Buyer in connection with Section 3.4(e). In addition, each party hereto agrees that, except to the extent that Administrative Agent has sold a Purchased Asset (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether Administrative Agent may be equitably subrogated, Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Buyer under the Principal Agreements with respect to each Erroneous Payment Return Deficiency (the “*Erroneous Payment Subrogation Rights*”).

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any repurchase obligations owed by the Seller, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Seller for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party’s obligations, agreements and waivers under this Section 15.17 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Buyer, the termination of the repayment, satisfaction or discharge of all repurchase obligations (or any portion thereof) under any Principal Agreement.

15.17 Defaulting Buyers. The obligations of the Buyers hereunder to pay its Allocation Percentage of the Purchase Price and to make payments pursuant to this Agreement are several and not joint. The failure of any Buyer to make pay any such Allocation Percentage of the Purchase Price or to make any payment on any date required pursuant to this Agreement shall not relieve any other Buyer of its corresponding obligation to do so on such date, and no Buyer shall be responsible for the failure of any other Buyer to so make its Allocation Percentage of the Purchase Price or to make any of its other payment required under this Agreement.

- (a) Notwithstanding anything to the contrary contained in this Agreement, if any Buyer becomes a Defaulting Buyer, then, until such time as that Buyer is no longer a Defaulting Buyer, to the extent permitted by Applicable Law:
- (b) To the extent a Buyer has become a Defaulting Buyer due to its failure to Allocation Percentage of the Purchase Price or make a payment pursuant to clause (a) or (b) of the definition of “Defaulting Buyer”, then the other Buyers, or any of them, shall have the right, but not the obligation to purchase all or any part of its Allocation Percentage of any such Defaulting Buyer Deficiency that should have been made by the Defaulting Buyer, and the Defaulting Buyer agrees to repay upon demand to each of the Buyers who has advanced a portion of the Defaulting Buyer Deficiency the amount advanced on behalf of the Defaulting Buyer, together with price differential thereon at the Default Rate (which, for the avoidance of doubt, shall not be payable or reimbursable by Seller). To the extent that the Defaulting Buyer thereafter funds such Defaulting Buyer Deficiency with price differential thereon, if applicable, such Buyer shall no longer be a Defaulting Buyer. If more than one Buyer elects to advance a portion of a Defaulting Buyer Deficiency, such Buyers’ advances shall be made based on the relative Applicable Percentage of each such advancing Buyer or as otherwise agreed by such Buyers. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Buyer arising from such Buyer having become a Defaulting Buyer, including any claim of any Non-Defaulting Buyer as a result of such Non-Defaulting Buyer’s increased exposure following such reallocation.
- (c) Any payment of any Repurchase Price, fees or other amounts received by Administrative Agent for the account of such Defaulting Buyer (whether voluntary or mandatory, at maturity or otherwise) or received by Administrative Agent from a Defaulting Buyer shall be applied at such time or times as may be determined by Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Buyer to Administrative Agent hereunder; second, as may request (so long as no Default or Event of Default exists), to the funding of any Purchase Price in respect of which such Defaulting Buyer has failed to fund its portion thereof as required by this Agreement, as determined by Administrative Agent; third, if so determined by Administrative Agent and Seller, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Buyer’s potential future funding obligations with respect to Purchase Prices under this Agreement; fourth, to the payment of any amounts owing to the Buyers as a result of any judgment of a court of competent jurisdiction obtained by any Buyer against such Defaulting Buyer as a result of such Defaulting Buyer’s breach of its obligations under this Agreement; fifth, so long as no Margin Deficit, Default or Event of Default exists, to the payment of any amounts owing to Seller as a result of any judgment of a court of competent jurisdiction obtained by Seller against such Defaulting Buyer as a result of such Defaulting Buyer’s breach of its obligations under this Agreement; and sixth, to such Defaulting Buyer or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the Repurchase Price with respect to any Purchased Asset in respect of which such Defaulting Buyer has not fully funded its appropriate share of any related Purchase Price, such payment shall be applied solely to pay the Purchase Price of all Non-Defaulting Buyers on a pro rata basis prior to being applied to the payment of any Purchase Price of such Defaulting Buyer until such time as all Purchase Price are held by the Buyers pro rata in accordance with the Allocation Percentages hereunder. Any payments, prepayments or other amounts paid or payable to a Defaulting Buyer that are applied (or held) to pay amounts owed by a Defaulting Buyer pursuant to this Section 15.18(c) shall be deemed

paid to and redirected by such Defaulting Buyer, and each Buyer irrevocably consents hereto.

- (d) If Seller and Administrative Agent agree in writing that a Buyer is no longer a Defaulting Buyer, Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Buyer will, to the extent applicable, purchase at par that portion of outstanding Purchase Price of the other Buyers or take such other actions as Agent may determine to be necessary to cause the Purchase Prices to be held on a pro rata basis by the Buyers in accordance with their Allocation Percentages, whereupon such Buyer will cease to be a Defaulting Buyer; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Seller while that Buyer was a Defaulting Buyer; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Buyer to Buyer will constitute a waiver or release of any claim of any party hereunder arising from that Buyer's having been a Defaulting Buyer.
- (e) No Buyer shall be responsible for the failure of any Defaulting Buyer to pay any Purchase Price or other payment required hereunder. The rights and remedies against a Defaulting Buyer under this Agreement are in addition to any other rights and remedies, at law, in equity or otherwise that Administrative Agent, any Buyer, or Seller may have against such Defaulting Buyer with respect to any Defaulting Buyer Deficiency or otherwise.

(Signature pages to follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

FLAGSTAR BANK FSB,
as Administrative Agent and as a Buyer

By: _____

Name: Tara Greene

Title: Vice President

SUCCESS LENDING, LLC,
as Seller

By: _____

Name: _____

Title: _____

Signature Page to Master Repurchase Agreement

EXHIBIT A

GLOSSARY OF DEFINED TERMS

“Ability to Repay Rule”: 12 C.F.R. Section 1026.43(c), including all applicable official staff commentary, as may hereafter from time to time be amended.

“Acceptable Title Insurance Company”: A nationally recognized title insurance company that is acceptable to the Agencies and has not been disapproved by Administrative Agent, on behalf of Buyers, in a writing provided to Seller.

“Accepted Servicing Practices”: With respect to any Purchased Mortgage Loan, those mortgage servicing practices of prudent mortgage lending institutions which service mortgage loans of the same type as such Purchased Mortgage Loan in the jurisdiction where the related Mortgaged Property is located.

“Account Bank”: (i) Flagstar Bank, FSB or (ii) such other entity maintaining the Collateral Account that has been approved by Administrative Agent, on behalf of Buyers, in writing.

“Account Control Agreement”: If required hereunder, an agreement among Seller, Administrative Agent and an account bank, to perfect Administrative Agent’s security interest in the Collateral Account, in form and substance acceptable to Administrative Agent in its sole discretion, as the same may be amended from time to time.

“Adjusted Tangible Net Worth”: The excess of the Seller’s Total Assets over Total Liabilities, except that the following assets shall be excluded from the Seller’s Total Assets: (i) advances or loans to shareholders (or other equity owners, e.g., in the case of a limited liability company, any member of such company or any beneficial owner of one or more of the economic attributes of an interest in such company), directors, officers, employees, or affiliates of the Seller; (ii) investments in affiliates; (iii) assets pledged to secure any liabilities not included in the debt of the Seller; (iv) any real estate, except for the fair value of commercial real estate of which the Seller is the principal occupant and from which the Seller engages in the residential mortgage lending business; (v) any cash or marketable securities pledged to third parties, including any such assets held in (or available, directly or indirectly, as collateral to secure obligations with respect to) a margin account; (vi) any securities or other assets for which Administrative Agent determines, in its discretion, that there is not a ready market; (vii) any repurchased loan, promissory note, or the like carried on the Seller’s balance sheet in excess of its fair value; (ix) 30% of the fair market value of any Servicing Rights held by Seller; (x) any intangible assets; and (xi) any other asset that Administrative Agent, in its discretion, deems unacceptable.

“Affected Financial Institution”: Either (a) any EEA Financial Institution or (b) any UK Financial Institution.

“Affiliate”: With reference to any Person:

(a) any other Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the specified Person,

(b) any other Person that is an officer, stockholder, member, or trustee of, or partner in, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, shareholder, member, partner or trustee, or with respect to which the specified Person serves in a similar capacity,

(c) any other Person that, directly or indirectly, is the beneficial owner of 25% or more of any class of equity securities of, or otherwise has a beneficial interest equivalent to 25% or more ownership interest in, the specified Person,

(d) a Person of which the specified Person is directly or indirectly the owner of 25% or more of any class of equity securities or in which the specified Person has a beneficial interest equivalent to 25% or more ownership interest, and

(e) for purposes of Sections 8.1(l), 9.10, 11.1(v), 11.1(w) and 11.1(x) (as it relates to any Plan), “Affiliate” instead means, within the meaning of Section 414(b), (c), (m) or (o) of the Code, (i) any member of a controlled group that includes Seller, (ii) any trade or business, whether or not incorporated, under common control with Seller, and (iii) any member of an affiliated service group that includes the Seller.

“**Agency**”: Fannie Mae, Freddie Mac or Ginnie Mae, as applicable.

“**Agency Audit**”: Any Agency, HUD, FHA, VA and RD audits, examinations, evaluations, monitoring reviews and reports of its origination and servicing operations (including those prepared on a contract basis for any such Agency, HUD, FHA, VA or RD).

“**Agency Documents**”: The documents set forth on Exhibit B to the Custodial Agreement and all additional documents as may be required, supplemented or modified from time to time by the applicable Agency.

“**Agency Eligible Mortgage Loan**”: A Mortgage Loan that is originated in, and at all times remains in, Strict Compliance with the Agency Guides and the eligibility requirements specified for the applicable Agency Program, and is eligible for sale to or securitization by such Agency.

“**Agency Guides**”: The Ginnie Mae Guide, the Fannie Mae Guide, the Freddie Mac Guide, the FHA Regulations, the VA Regulations or the RD Regulations, as the context may require, in each case as such guidelines have been or may be amended, supplemented or otherwise modified from time to time (i) by Ginnie Mae, Fannie Mae, Freddie Mac, the FHA, the VA or the RD, as applicable, in the ordinary course of business and not at the request of Seller or any of its Affiliates and provided that any such amendment, supplement or other modification is applicable to at least one other Person that is not an Affiliate of Seller in addition to the Seller or (ii) at the request of Seller to Ginnie Mae, Fannie Mae, Freddie Mac, the FHA, the VA or the RD, as applicable, and as to which with respect to this clause (ii), (x) Seller has given prior written notice to Administrative Agent, on behalf of Buyers, of any such amendment, supplement or other modification and (y) Administrative Agent, on behalf of Buyers, shall not have reasonably objected.

“**Agency Program**”: The Ginnie Mae Program, the Fannie Mae Program and/or the Freddie Mac Program, as the context may require.

“**Agency-Required eNote Legend**”: The legend or paragraph required by Fannie Mae or Freddie Mac, as applicable, to be set forth in the text of an eNote, which includes the provisions set forth on Exhibit K attached hereto, as may be amended from time to time by Fannie Mae or Freddie Mac, as applicable.

“**Aggregate Outstanding Purchase Price**”: The aggregate outstanding Purchase Price of all Transactions or specified Purchased Assets, as the case may be, as of any date of determination. For purposes of clarity, the Aggregate Outstanding Purchase Price shall include any Purchase Price funded irrespective of whether a Wet Mortgage Loan subject to the related Transaction actually closed until such Purchase Price is returned pursuant to this Agreement.

“Aggregate Transaction Limit”: The maximum aggregate principal amount of Transactions (measured by the related outstanding Purchase Price) that may be outstanding at any one time, as set forth in the Transactions Terms Letter.

“Aging Event”: With respect to any Purchased Asset and any date of determination, such Purchased Asset has been subject to one or more Transactions for a period greater than ninety (90) calendar days.

“Aging Event Asset”: If applicable per the Transactions Terms Letter, as of any date of determination, a Purchased Asset that is not a Defective Asset and was not repurchased prior to the occurrence of an Aging Event with respect to such Purchased Asset.

“Aging Fee”: The aging fee set forth in the Transactions Terms Letter. The Aging Fee shall be non- refundable.

“Allocation Percentage”: With respect to any Buyer, the percentage of the Aggregate Transaction Limit specified opposite such Buyer’s name in the column entitled “Allocation Percentage” on Schedule 3, as adjusted from time to time in accordance with the terms hereof.

“Allocation Transaction”: A Transaction Request submitted to Administrative Agent by Seller the related Purchase Price of which is funded by Administrative Agent in accordance with Section 3.4(e) hereof in an amount not to exceed the Aggregate Transaction Limit.

“Anti-Money Laundering Laws”: As defined in Section 8.1(y) of this Agreement.

“Applicable Pricing Rate”: Subject to Section 4.7, with respect to any date of determination, the greater of (a) the Benchmark and (b) the Floor. Notwithstanding the foregoing, under no circumstance shall the Applicable Pricing Rate be less than zero. Each determination by Administrative Agent of the Applicable Pricing Rate under this Agreement shall be conclusive and binding upon Seller in all respects absent manifest error and may be computed using any reasonable averaging and attribution method.

“Appraisal”: A written appraisal made for the originator of the Mortgage Loan at the time of origination of the Mortgage Loan by a Qualified Appraiser, which (i) complies with the requirements of FIRREA, (ii) provides an accurate estimate of the bona fide market value of the related Mortgaged Property at the time of origination, (iii) complies in all respects with all applicable appraiser independence requirements, restrictions and guidelines including those contained in the Appraiser Independence Requirements as adopted by Fannie Mae or Freddie Mac, and (iv) was delivered prior to the final approval of the Mortgage Loan.

“Approvals”: With respect to Seller or any Servicer, the approvals obtained by the applicable Agency, HUD, the VA or the RD in designation of Seller or such Servicer, as applicable, as a Ginnie Mae-approved issuer, a FHA-approved mortgagee, a VA-approved lender, a RD-approved lender, a Fannie Mae-approved lender or a Freddie Mac-approved Seller/Servicer, as applicable, in good standing.

“Approved Investor”: With respect to: (i) eMortgage Loans, (x) Fannie Mae or Freddie Mac and (y) any private institution or Governmental Authority (other than Ginnie Mae), if approved by Administrative Agent, on behalf of Buyers, in its sole discretion and (ii) any other Mortgage Loans, any Agency, Governmental Authority, Affiliate of Seller, or any other private institution, in each case, as approved by Administrative Agent, on behalf of Buyers, in its sole discretion, purchasing such Purchased Mortgage Loans or Mortgage-Backed Securities on a forward basis from Seller pursuant to a Purchase Commitment.

“Approved Payee”: Any of (a) a Closing Agent approved in accordance with Section 3.5 of this Agreement or (b) a Qualified Originator.

“Asset”: A Mortgage Loan, or in the case of a Pooled Mortgage Loan, the resulting Mortgage-Backed Security pursuant to Section 3.6.

“Asset Value”: With respect to each Purchased Asset and any date of determination, an amount equal to the following, as applicable, as the same may be reduced in accordance with Section 4.3, and, in the case of each Purchased Mortgage Loan, as shall include the related Servicing Rights:

- (a) if the Purchased Asset is not a Defective Asset, the product of the related Type Purchase Price Percentage and the least of: (i) the Market Value of such Purchased Asset; (ii) the unpaid principal balance of such Purchased Asset; (iii) the purchase price paid by Seller for such Purchased Asset in an arms-length transaction with a Person that is not an Affiliate of Seller if it is a Mortgage Loan; and (iv) the Takeout Price committed by the related Approved Investor, if applicable, as evidenced by the related Purchase Commitment; or
- (b) if the Purchased Asset is a Defective Asset, zero.

“Assignment”: A duly executed assignment to Administrative Agent, on behalf of Buyers, in recordable form of a Purchased Mortgage Loan, of the indebtedness secured thereby and of all documents and rights related to such Purchased Mortgage Loan.

“Assignment of Closing Protection Letter”: An assignment assigning and subrogating Administrative Agent, on behalf of Buyers, to all of Seller’s rights in a Closing Protection Letter, substantially in the form of Exhibit D hereto.

“Authoritative Copy”: With respect to an eNote, the unique copy of such eNote that is within the Control of the Controller.

“Bail-In Action”: The exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“Bail-In Legislation”: With respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bailee Agreement”: A bailee agreement or bailee letter that is in a form acceptable to Administrative Agent.

“Bank Data”: Any data or information (including personal data, text, sound, software, and/or image files) and associated records, in any form or medium, (i) of Administrative Agent, Buyer or any of their respective Affiliates or any of their respective suppliers, customers, or other business partners that is transmitted, uploaded, or otherwise provided to, or obtained by, Seller in the performance of Seller’s obligations under, or in connection with the negotiation and execution of, this Agreement, (ii) that is created, generated, collected, processed, maintained, stored, archived, or received using or in connection with this Agreement, (iii) that is entered into, processed by, or stored on or in, or is accessed through software, equipment, or systems provided, operated, supported, or used by Seller in connection with this Agreement, (iv) that is derived or compiled from data and information described in clauses (i) – (iii) above (including metadata and correlations, trends, patterns, algorithms, and findings directly or indirectly derived or compiled by or

on behalf of any supplier from such data and information), whether by using such data or information exclusively or in combination with other data or information, and/or (v) summaries and analyses of or involving data and information described in clauses (i) – (iv) above.

“Bankruptcy Code”: Title 11 of the United States Code, now or hereafter in effect, as amended, or any successor thereto.

“Benchmark”: Initially, Daily Simple SOFR; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to Daily Simple SOFR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 4.7(a).

“Benchmark Replacement”: With respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by Administrative Agent for the applicable Benchmark Replacement Date (provided that, in its sole discretion, Administrative Agent may elect alternative (4) instead of alternative (3)):

- (1) the sum of: (a) any Daily Simple SOFR-based rate as determined by Administrative Agent in its sole discretion and (b) the related Benchmark Replacement Adjustment;
- (2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;
- (3) the sum of: (a) BSBYIM and (b) the related Benchmark Replacement Adjustment;
- (4) the sum of: (a) the alternate benchmark rate that has been selected by Administrative Agent as the replacement for the then-current Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then- prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for U.S. dollar-denominated syndicated or bilateral credit facilities at such time and (b) the related Benchmark Replacement Adjustment;

If the Benchmark Replacement as determined pursuant to clause (1), (2), (3) or (4) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Principal Agreements.

“Benchmark Replacement Adjustment”: With respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any setting of such Unadjusted Benchmark Replacement: the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) will be determined by Administrative Agent for the applicable benchmark and be based upon, at Administrative Agent’s sole discretion, either (x) any evolving or then- prevailing market convention for the selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated or bilateral credit facilities; or (y) the historical median difference between such Benchmark and the applicable Unadjusted Benchmark Replacement over the five (5) year period immediately prior to the applicable Benchmark Transition Event. If fewer than five (5) years of relevant data is available for use in calculating such spread adjustment, Administrative Agent will use the longest span of relevant data available. For the avoidance of doubt, Administrative Agent in its sole discretion may determine that no spread adjustment shall be used for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement.” Determination of such

spread adjustment by Administrative Agent shall be presumptively correct absent manifest error and may be computed using any reasonable averaging and attribution method as determined by Administrative Agent.

“Benchmark Replacement Date”: The earliest to occur of the following events with respect to the then-current Benchmark:

- (1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide such Benchmark (or such component thereof); or
- (2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date as of which such Benchmark has been deemed by the regulatory supervisor for the administrator of such Benchmark to be no longer representative pursuant to the public statement or publication of information referenced therein.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and

(ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event”: The occurrence of one or more of the following events with respect to the then-current Benchmark:

- (1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof);
- (2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark (or such component thereof); or
- (3) a public statement or publication of information by the Federal Reserve Board, the Federal Reserve Bank of New York, the regulatory supervisor for the administrator of such

Benchmark (or the published component used in the calculation thereof) announcing that such Benchmark (or such component thereof) is no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**”: The period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Principal Agreement in accordance with Section 4.7 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Principal Agreement in accordance with Section 4.7.

“**BSBY1M**”: For each Reset Date, the 1-month tenor Bloomberg Short-Term Bank Yield Index (ticker BSBY1M) benchmark interest rate provided by Bloomberg Index Services Limited as administrator of such benchmark, or any successor administrator for such benchmark reasonably determined by Administrative Agent from time to time, at approximately 8:00 a.m., ET, two (2) Business Days prior to such Reset Date.

“**Business Day**”: Any day on which the head office of Administrative Agent or any Buyer is open for transactions of all of its normal and customary business.

“**Buyer Parties**”: As defined in Section 11.10 of this Agreement.

“**Capital Maintenance Agreement**”: The document executed by the Capital Maintenance Providers, each as a capital sponsor, the Seller and the Administrative Agent.

“**Capital Maintenance Provider**”: Shall mean eXp World Holdings, Inc. and/or Kind Lending, LLC, either individually or collectively as the context may require.

“**Cash Equivalents**”: Any (a) securities with maturities of ninety (90) calendar days or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (b) certificates of deposit and Eurodollar time deposits with maturities of ninety (90) calendar days or less from the date of acquisition and overnight bank deposits of any commercial bank having capital, surplus and retained earnings in excess of \$25,000,000.00, (c) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than seven (7) calendar days with respect to securities issued or fully guaranteed or insured by the United States Government, (d) commercial paper of a domestic issuer rated at least “A-1” or the equivalent thereof by S&P or “p-1” or the equivalent thereof by Moody’s and in either case maturing within ninety (90) calendar days after the day of acquisition, (e) securities with maturities of ninety (90) calendar days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least “A” by S&P or “A” by Moody’s, (f) securities with maturities of ninety (90) calendar days or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition, or (g) shares of money market, mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

“Cease Funding Event”: Any of the following:

- (a) the aggregate original Asset Value of those Purchased Assets that are deemed to be Defective Assets is greater than or equal to ten percent (10%) of the outstanding Transactions for more than two (2) consecutive Business Days or longer in Administrative Agent’s discretion;
- (b) a breach of any servicing obligations of any Servicer, including, but not limited to, its failure to deposit any funds required to be deposited under Section 6.2(i) into the Collateral Account; or
- (c) Seller’s membership in MERS is terminated for any reason without the consent of Administrative Agent, which consent shall not be unreasonably withheld.

“Certifying Custodian”: Any Person acting as Seller’s “document custodian”, “custodian” or “certifying custodian,” as such terms are used in the Agency Guides, for purposes of (a) certifying that the documentation relating to Mortgage Loans received by such Person from Seller is complete and acceptable under an applicable Agency Guide for purposes of including such Mortgage Loan in Mortgage- Backed Securities and (b) holding such documentation following formation of such pools and issuance of such Mortgage-Backed Security. Each Certifying Custodian shall at all times meet the eligibility requirements set in the applicable Agency Guide(s) and be a party to an Agency custodial agreement among the applicable Agency, Seller and such Certifying Custodian. Initially, the Certifying Custodian is Administrative Agent. Before appointing or making any change in the Certifying Custodian, Seller shall obtain the prior written approval of Administrative Agent. At any time that there is more than one Certifying Custodian, references in this Agreement to the “Certifying Custodian” means any or all Certifying Custodians, as applicable.

“Change of Control”: With respect to Seller or any Servicer, Change of Control shall mean any of the following:

- (a) if such Person is a corporation, any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”)), other than a trustee or other fiduciary holding securities of such Person under an employee benefit plan of such Person, becomes the “beneficial owner” (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of Person representing 50% or more of (i) the outstanding shares of common stock of such Person or (ii) the combined voting power of such Person’s then-outstanding securities;
- (b) if such Person is a legal entity other than a corporation, the majority voting control of such Person, or its equivalent, under such Person’s governing documents is transferred to any Person;
- (c) such Person is party to a merger or consolidation, or series of related transactions, which results in the voting securities or majority voting control interest of such Person outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities or a majority voting controlling interest of the surviving or another entity) at least fifty percent (50%) of the combined voting power of the voting securities or majority voting control interest of such Person or such surviving or other entity outstanding immediately after such merger or consolidation;
- (d) the dissolution or liquidation of such Person;

- (e) the sale, transfer or other disposition of all or substantially all of such Person's assets;
- (f) the dissolution or liquidation of such Person; or
- (g) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing.

“Closing Agent”: The Person designated in accordance with Section 3.5, to receive Purchase Prices from Administrative Agent, for the account of Seller, for the purpose of (i) funding a Purchased Mortgage Loan or (ii) in the case of a new origination Wet Mortgage Loan or Dry Mortgage Loan as to which the origination funds are being remitted to the closing table, originating such Mortgage Loan in accordance with local law and practice in the jurisdiction where such Mortgage Loan is being originated.

“Closing Protection Letter”: A document issued by a title insurance company to Seller and/or Administrative Agent and relied upon by Administrative Agent to provide closing protection for one or more mortgage loan closings and to insure Seller and/or Administrative Agent, without limitation, against embezzlement by the Closing Agent and loss or damage resulting from the failure of the Closing Agent to comply with all applicable closing instructions.

“COBRA”: As defined in Section 8.1(l) of this Agreement.

“Code”: The Internal Revenue Code of 1986, as amended.

“Collateral Account”: The account described in Section 6.2(i) of this Agreement.

“Collection Period”: (a) Initially, the period commencing on the Effective Date up to but not including the first day of the following calendar month, and (b) thereafter, the period commencing on the first day of each calendar month up to but not including the first day of the following calendar month.

“Concentration Limit”: Any concentration limit with respect to the Purchased Asset which may become effective upon notice to Seller by Administrative Agent, on behalf of the Buyers, in its sole and absolute discretion. On any date of determination:

- (a) the Aggregate Outstanding Purchase Price of Purchased Assets which are Second Mortgage Loans shall not exceed \$500,000;
- (b) the Aggregate Outstanding Purchase Price of Purchased Assets which are Non-Agency Mortgage Loans shall not exceed \$7,500,000;

“Conforming Changes”: With respect to either the use or administration of Daily Simple SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day”, the definition of “U.S. Government Securities Business Day,” the definition of “Collection Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that Administrative Agent decides may be appropriate to reflect the adoption and implementation of such rate or to permit the use and administration thereof by Administrative Agent in a manner substantially consistent with market practice (or, if Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as

Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Principal Agreements).

“Connection Income Taxes”: Taxes that are imposed as a result of a present or former connection (other than any connection arising from executing, delivering, being party to, engaging in any transaction pursuant to, performing its obligations under or enforcing this Agreement, being the legal owner of the Purchased Assets or selling or assigning an interest in this Agreement) to the jurisdiction imposing such Tax (or any political subdivision thereof) and that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Contingent Obligations”: Any obligation of a Person arising from an existing condition or situation that involves uncertainty as to outcome and that will be resolved by the occurrence or nonoccurrence of some future event, including, without limitation, any obligation guaranteeing or intended to guarantee any Debt, leases, dividends or other obligations of any other Person in any manner, whether directly or indirectly; provided, however, that endorsements of instruments for deposit or collection in the ordinary course of business shall not be included. With respect to guarantees, the amount of the Contingent Obligation shall be equal to the stated or determinable amount of the primary obligation in respect of the guarantee or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof, as determined by Administrative Agent, on behalf of Buyers.

“Control”: With respect to an eNote, the “control” of such eNote within the meaning of UETA and/or, as applicable, E-SIGN, which is established by reference to the MERS eRegistry and any party designated therein as the Controller.

“Control Failure”: With respect to an eNote subject to a Transaction, (i) if the Controller status of the eNote shall not have been transferred to Administrative Agent, on behalf of Buyers, (ii) Administrative Agent, on behalf of Buyers, shall otherwise not be designated as the Controller of such eNote in the MERS eRegistry (other than pursuant to the Custodial Agreement), (iii) if the eVault shall have released the Authoritative Copy of an eNote in contravention of the requirements of the Custodial Agreement, or (iv) if the Custodian initiated any changes on the MERS eRegistry in contravention of the terms of the Custodial Agreement.

“Controller”: With respect to an eNote, the party designated in the MERS eRegistry as the “Controller”, and who in such capacity shall be deemed to be “in control” or to be the “controller” of such eNote within the meaning of UETA or E-SIGN, as applicable

“Conventional Conforming Mortgage Loan”: Unless defined otherwise in the Transactions Terms Letter, a first lien mortgage loan that fully conforms to all underwriting standards, loan amount limitations and other requirements of that standard mortgage loan purchase programs of Fannie Mae or Freddie Mac accepting only the highest quality mortgage loans underwritten without dependence on expanded criteria provisions, or that is approved by Desktop Underwriter or Loan Prospector.

“Custodial Agreement”: The Custodial Agreement executed among Administrative Agent, Seller and Custodian with respect to this Agreement, as the same shall be modified and supplemented and in effect from time to time.

“Custodian”: Flagstar Bank FSB, any of its successors or permitted assigns, or any such other party approved by Administrative Agent.

“Customer Information”: As defined in Section 14.17 of this Agreement.

“Daily Simple SOFR”: For any day, SOFR, with the conventions for this rate (which will include a lookback) being established by Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for business loans; provided, that if Administrative Agent decides that any such convention is not administratively feasible, then Administrative Agent may establish another convention in its reasonable discretion.

“Debt”: The debt of a Person consisting of, without duplication: (a) indebtedness for borrowed money, including principal, interest, fees and other charges; (b) obligations evidenced by bonds, debentures, notes or other similar instruments; (c) obligations to pay the deferred purchase price of property or services, other than (i) deferred purchase price that is contingent upon performance and (ii) trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business, so long as such trade accounts payable are payable within 90 days after the date the respective goods are delivered or the respective services are rendered; (d) obligations as lessee under leases that shall have been or should be in accordance with GAAP, recorded as capital leases; (e) obligations secured by any lien upon property or assets owned by such Person, even though such Person has not assumed or become liable for payment of such obligations; (f) obligations in connection with any letter of credit issued for the account of such Person; and (g) obligations under direct or indirect guarantees in respect of obligations, contingent or otherwise, to purchase or otherwise acquire, or otherwise assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to above.

“Default Rate”: The lesser of (a) the Applicable Pricing Rate plus five percent (5%), or (b) the maximum non-usurious interest rate, if any, that at any time, or from time to time, may be contracted for, taken, reserved, charged or received under the laws of the United States and the State of New York, per annum.

“Defaulting Buyer”: Subject to Section 15.18, any Buyer that (a) has failed to (i) fund all or any of its portion of any Purchase Price within two (2) Business Days of the date such Purchase Price was required to be funded hereunder or (ii) pay to Administrative Agent or any other Buyer any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, (b) has notified the Seller or Administrative Agent in writing that it does not intend to comply with its purchase obligations hereunder, or has made a public statement to that effect, (c) has failed, within two (2) Business Days after written request by Administrative Agent or Seller, to confirm in writing to Administrative Agent and Seller that it will comply with its prospective purchase obligations hereunder (provided that such Buyer shall cease to be a Defaulting Buyer pursuant to this clause (c) upon receipt of such written confirmation by Administrative Agent and Seller), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any insolvency law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-In Action; provided that a Buyer shall not be a Defaulting Buyer solely by virtue of the ownership or acquisition of any capital stock in that Buyer or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Buyer with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Buyer (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Buyer. Any determination by Administrative Agent that a Buyer is a Defaulting Buyer under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Buyer shall be deemed to be a Defaulting Buyer (subject to Section 15.18) as of the date established therefor by Administrative Agent in a written notice of such determination, which shall be delivered by Administrative Agent to the Seller and each other Buyer promptly following such determination.

“Defaulting Buyer Deficiency”: Means the amount which a Defaulting Buyer has failed to pay pursuant to the terms hereof and which has caused such Buyer to become a Defaulting Buyer.

“Defective Asset”: A Purchased Asset:

- (a) that is not or at any time ceases to be an Eligible Asset;
- (b) that is a Mortgage Loan and is the subject of fraud by any Person (including any originator of such Mortgage Loan) involved in the origination of such Mortgage Loan;
- (c) that is a Mortgage Loan and the related Mortgaged Property is the subject of material damage or waste;
- (d) for which any breach of a warranty or representation set forth in Section 8.2 occurs;
- (e) that is a Mortgage Loan where the related Mortgagor fails to make the first payment due under the Mortgage Note on or before the applicable due date, including any applicable grace period;
- (f) that was rejected by the Approved Investor set forth in the related Purchase Commitment;
- (g) that is a Purchased Mortgage Loan and it is determined to be ineligible for sale as a Purchased Mortgage Loan of the Type originally stipulated; or
- (h) for which the aggregate unpaid principal balance with respect to such Purchased Asset causes the Purchased Assets to exceed any Concentration Limit.

“Delegatee”: With respect to an eNote, the party designated in the MERS eRegistry as the “Delegatee” or “Delegatee for Transfers”, who in such capacity is authorized by the Controller to perform certain MERS eRegistry transactions on behalf of the Controller such as Transfers of Control and Transfers of Control and Location.

“Delinquent Mortgage Loan”: Any mortgage loan with respect to which the related Mortgagor is greater than thirty (30) calendar days delinquent following the first date of delinquency under the MBA method of delinquency.

“Depository”: The Federal Reserve Bank of New York, or as otherwise defined in the glossary of the Ginnie Mae Guide, the Fannie Mae Guide or the Freddie Mac Guide, as applicable.

“Draw Fee”: With respect to each Purchased Asset, the draw fee set forth in the Transactions Terms Letter payable by Seller on or prior the Purchase Date related to such Purchased Asset. Each Draw Fee shall be non-refundable.

“Dry Mortgage Loan”: A Mortgage Loan for which Administrative Agent, on behalf of Buyers, or its Custodian has possession of the related Mortgage Loan Documents, in a form and condition acceptable to Administrative Agent, on behalf of Buyers, (which for the avoidance of doubt could be a Wet Mortgage Loan on the related Purchase Date and convert to a Dry Mortgage Loan once all Mortgage Loan Documents have been received by Administrative Agent, on behalf of Buyers, or its Custodian).

“EEA Financial Institution”: Any (a) credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) entity established

in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country”: Any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority”: Any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date”: That effective date set forth in the Transactions Terms Letter.

“Electronic Agent”: MERSCORP Holdings, Inc., or its successor in interest or assigns.

“Electronic Record”: With respect to an eMortgage Loan, the related eNote and all other documents comprising the Mortgage Loan File electronically created and that are stored in an electronic format, if any.

“Electronic Tracking Agreement”: One or more Electronic Tracking Agreements among, Administrative Agent, Seller, MERSCORP Holdings, Inc. and MERS as the same may be amended, restated, supplemented or otherwise modified from time to time with respect to (x) the tracking of changes in the ownership, mortgage servicers and servicing rights ownership of Mortgage Loans held on the MERS System, and (y) the tracking of the Control of eNotes held on the MERS eRegistry, each in a form acceptable to Administrative Agent.

“Eligible Asset”: With respect to any Transaction (a) from and after the related Purchase Date, an Eligible Mortgage Loan, and (b) from and after the related Pooling Date, an Eligible Mortgage Loan that is a Pooled Mortgage Loan, as the context may require.

“Eligible Mortgage Loan”: A Mortgage Loan that meets the eligibility criteria set forth in the Transactions Terms Letter.

“eMortgage Loan”: A Mortgage Loan with respect to which there is an eNote.

“eNote”: With respect to any eMortgage Loan, the electronically created and stored Mortgage Note that is a Transferable Record.

“eNote Replacement Failure”: As defined in the Custodial Agreement.

“EPD Mortgage Loan”: Any mortgage loan with respect to which the related Mortgagor has not timely made the first three monthly payments following the origination date of such mortgage loan, irrespective of any applicable grace period.

“Equity Interests”: Any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership (or profit) interests in a Person (other than a corporation), securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interest in) such Person, and any and all warrants, rights or options to purchase any of the foregoing, whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

“ERISA”: The Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statute.

“ERISA Affiliate”: Any person (as defined in Section 3(9) of ERISA) that together with Seller or any of Seller’s Subsidiaries would be a member of the same “controlled group” or treated as a single employer within the meaning of Section 414 of the Code or ERISA Section 4001.

“Erroneous Payment”: As defined in Section 15.17(a).

“Erroneous Payment Deficiency Assignment”: As defined in Section 15.17(d).

“Erroneous Payment Impacted Transaction”: As defined in Section 15.17(d).

“Erroneous Payment Return Deficiency”: As defined in Section 15.17(d).

“Erroneous Payment Subrogation Rights”: As defined in Section 15.17(d).

“EU Bail-In Legislation Schedule”: The EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“E-SIGN”: The Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq.

“eVault”: An electronic repository established and maintained by the Custodian for delivery and storage of eNotes.

“Event of Default”: Any of the conditions or events set forth in Section 11.1 of this Agreement.

“Event of Early Termination”: Any of the conditions or events set forth in Section 11.2 of this Agreement.

“Excluded Taxes”: Any of the following Taxes imposed on or with respect to Administrative Agent or any Buyer or required to be withheld or deducted from a payment to Administrative Agent or any Buyer,

(a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, imposed as a result of Administrative Agent or any Buyer being organized under the laws of, having its principal office or applicable lending office located in, or having another present or former connection (other than any connection arising from executing, delivering, being party to, engaging in any transaction pursuant to, performing its obligations under or enforcing this Agreement, being the legal owner of the Purchased Assets or selling or assigning an interest in this Agreement) to, the jurisdiction imposing such Tax (or any political subdivision thereof), (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of Administrative Agent or any Buyer under this Agreement pursuant to a law in effect on the date on which (i) Administrative Agent or such Buyer becomes a party hereto or

(ii) Administrative Agent or such Buyer (other than at the request of Seller) changes its lending office, except, in each case, to the extent that, pursuant to Section 12.3, amounts with respect to such Taxes were payable either to Administrative Agent’s or such Buyer’s assignor, as applicable, immediately before Administrative Agent or such Buyer became a party hereto or to Administrative Agent or such Buyer immediately before it changed its lending office, (c) Taxes attributable to Administrative Agent’s or any Buyer’s failure to comply with Sections 12.3(c), (d) and (f) and (d) any U.S. federal withholding Taxes imposed under FATCA.

“Executive Order”: As defined in Section 8.1(y)(i) of this Agreement.

“Expiration Date”: As set forth in the Transactions Terms Letter.

“Facility Termination Date”: The earliest of (a) the Expiration Date set forth in the Transactions Terms Letter, (b) at Administrative Agent’s option, upon the occurrence of an Event of Default that has not been waived, (c) the date that is twelve (12) calendar months following the Effective Date; provided that, such date shall be automatically extended for an additional day on each day after the Effective Date unless Administrative Agent delivers a termination notice to Seller, in which case the Facility Termination Date determined under this clause (c) shall be the date that is twelve (12) calendar months following the date of such notice of termination or (d) the date on which this Agreement shall terminate in accordance with the provisions hereof or by operation of law.

“Fannie Mae”: The Federal National Mortgage Association and any successor thereto.

“Fannie Mae Guide”: The Fannie Mae MBS Selling and Servicing Guide, as such guide may hereafter from time to time be amended.

“Fannie Mae Program”: The Fannie Mae Guaranteed Mortgage-Backed Securities Programs, as described in the Fannie Mae Guide.

“FATCA”: (a) Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any associated regulations; (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the United States and any other jurisdiction, which (in either case) implements any law or regulation referred to in clause (a) above; and (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in clause (a) or (b) above with any Governmental Authority in any jurisdiction.

“Federal Funds Effective Rate”: For any day, a fluctuating interest rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Administrative Agent from three federal funds brokers of recognized standing selected by Administrative Agent, all as conclusively determined by Administrative Agent, such sum to be rounded upward, if necessary, in the discretion of Administrative Agent, to the nearest whole multiple of one one-hundredth of one percent (1/100th of 1%).

“Federal Reserve Board”: The Board of Governors of the Federal Reserve System of the United States.

“FHA”: The Federal Housing Administration of the United States Department of Housing and Urban Development and any successor thereto.

“FHA Mortgage Insurance”: Mortgage insurance authorized under Sections 203(b), 213, 221(d)(2), 222, and 235 of the Federal Housing Administration Act and provided by the FHA.

“FHA Mortgage Insurance Contract”: A contractual obligation of the FHA respecting the insurance of a Mortgage Loan.

“FHA Regulations”: The regulations promulgated by HUD under the FHA Act, codified in 24 Code of Federal Regulations, and other HUD issuances relating to Agency Eligible Mortgage Loans, including the related handbooks, circulars, notices and mortgagee letters.

“**FICO Score**”: The credit score of the Mortgagor provided by Fair, Isaac & Company, Inc. or such other organization providing credit scores on the origination date of a Mortgage Loan; provided, that if (a) two separate credit scores are obtained on such origination date, the FICO Score shall be the lower credit score; and (b) three separate credit scores are obtained on such origination date, the FICO Score shall be the middle credit score.

“**FIRREA**”: The Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended from time to time.

“**First Mortgage**”: A Mortgage that evidences a mortgage lien (or comparable property right under applicable state law) on the real property (including improvements) described in the Mortgage, which lien (or comparable right) encumbers the interests of the legal and beneficial owners of the described real estate, is enforceable against such owners (and any person claiming by or through such owners), and is prior (both in time of recordation and right of enforcement) to any other lien, security interest, similar right encumbering such real property, or any other property interest (other than utility easements and the like not adversely affecting the marketability or value of the title to such real property) in or to, or otherwise encumbering or affecting, the described real property or to which the real property is subject.

“**Floor**”: As defined in the Transactions Terms Letter.

“**Foreign Buyer**”: As defined in Section 12.3(d) of this Agreement.

“**Freddie Mac**”: The Federal Home Loan Mortgage Corporation and any successor thereto.

“**Freddie Mac Guide**”: The Freddie Mac Seller’s and Servicers’ Guide, as such guide may hereafter from time to time be amended.

“**Freddie Mac Program**”: The Freddie Mac Home Mortgage Guarantor Program or the Freddie Mac FHA/VA Home Mortgage Guarantor Program, as described in the Freddie Mac Guide.

“**Funding Account**”: A non-interest bearing deposit account with Administrative Agent which shall be titled as designated by Administrative Agent.

“**GAAP**”: Generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and the statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession and that are applicable to the circumstances as of the date of determination.

“**Ginnie Mae**”: Government National Mortgage Association and any successor thereto.

“**Ginnie Mae Guide**”: The Ginnie Mae Mortgage-Backed Securities Guide I or II, as such guide may hereafter from time to time be amended.

“**Ginnie Mae Program**”: The Ginnie Mae Mortgage-Backed Securities Programs, as described in the Ginnie Mae Guide.

“**Governmental Authority**”: With respect to any Person, any nation or government, any state or other political subdivision, agency or instrumentality thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any court or arbitrator having jurisdiction over such Person, any of its Subsidiaries or any of its properties.

“Haircut”: With respect to a Mortgage Loan and as shall be detailed in the related Transaction Request, the excess of (a) the amount required to be paid to the Approved Payee over (b) the related Purchase Price.

“Hash Value”: With respect to an eNote, the unique, tamper-evident digital signature of such eNote that is stored with MERS.

“HUD”: The United States Department of Housing and Urban Development or any successor thereto.

“Income”: With respect to any Purchased Asset, all of the following (in each case with respect to the entire par amount of the Purchased Mortgage Loan represented by such Purchased Asset and not just with respect to the portion of the par amount represented by the Purchase Price paid against such Purchased Mortgage Loan): (a) all payments and prepayments of principal received and applied as principal in connection with any Transaction for such Purchased Mortgage Loan, including insurance and condemnation proceeds and recoveries from liquidation or foreclosure, (b) all payments of interest, income, receipts, dividends, and any other collections and distributions received from time to time in connection with any such Purchased Mortgage Loan, (c) all other income, distributions, receipts, payments, collections, prepayments, recoveries, proceeds (including insurance and condemnation proceeds) and other payments or amounts of any kind paid, received, collected, recovered or distributed on, in connection with or in respect of such Purchased Mortgage Loan, including prepayment fees, extension fees, exit fees, any rental payments, if any, transfer fees, make whole fees, late charges, late fees and all other fees or charges of any kind or nature, premiums, yield maintenance charges, penalties, default interest, dividends, gains, receipts, allocations, rents, interests, profits, payments in kind, returns or repayment of contributions, net sale, foreclosure, liquidation, securitization or other disposition proceeds, insurance payments, settlements and proceeds, (d) all Mortgage Loan Sale Proceeds, (e) all payments received from hedge counterparties pursuant to interest rate protection agreements related to such Purchased Mortgage Loan; and (f) all other “proceeds” as defined in Section 9-102(64) of the UCC, including all collections or distributions thereon or other income or receipts therefrom or in respect thereof; provided, that any amounts that under the applicable Mortgage Loan Documents are required to be deposited into and held in escrow or reserve to be used for a specific purpose, such as taxes and insurance, shall not be included in the term “Income” unless and until (i) an event of default exists under such Mortgage Loan Documents, (ii) the holder of the related Purchased Mortgage Loan has exercised or is entitled to exercise rights and remedies with respect to such amounts, (iii) such amounts are no longer required to be held for such purpose under such Mortgage Loan Documents, or (iv) such amounts may be applied to all or a portion of the outstanding indebtedness under such Mortgage Loan Documents.

“Indemnified Party” or **“Indemnified Parties”**: As defined in Section 12.1 of this Agreement.

“Indemnified Taxes”: As defined in Section 12.3(a) of this Agreement.

“Insolvency Event”: The occurrence of any of the following events:

- (a) such Person shall become insolvent or generally fail to pay, or admit in writing its inability to pay, its debts as they become due, or shall voluntarily commence any proceeding or file any petition under any bankruptcy, insolvency or similar law, which proceeding or petition seeks dissolution, liquidation or reorganization or the appointment of a receiver, trustee, custodian, conservator or liquidator for itself or a substantial portion of its property, assets or business or to effect a plan or other arrangement with its creditors, or shall file any answer admitting the jurisdiction of the court and the material allegations of an involuntary petition filed against it in any bankruptcy, insolvency or similar proceeding, or shall be adjudicated bankrupt, or shall make a general assignment for the benefit of creditors, or such Person, or a substantial part of its property, assets or business, shall be subject to,

consent to or acquiesce in the appointment of a receiver, trustee, custodian, conservator or liquidator for itself or a substantial property, assets or business;

- (b) corporate action shall be taken by such Person for the purpose of effectuating any of the foregoing;
- (c) an order for relief shall be entered in a case under the Bankruptcy Code in which such Person is a debtor; or
- (d) involuntary proceedings or an involuntary petition shall be commenced or filed against such Person under any bankruptcy, insolvency or similar law, which proceeding or petition seeks dissolution, liquidation or reorganization of such Person or the appointment of a receiver, trustee, custodian, conservator or liquidator for such Person or of a substantial part of the property, assets or business of such Person, or any writ, order, judgment, warrant of attachment, execution or similar process shall be issued or levied against a substantial part of the property, assets or business of such Person.

“Investment Company Act”: As defined in Section 8.1(o) of this Agreement.

“Insurer”: A private mortgage insurer, which is acceptable to the Administrative Agent.

“Irrevocable Closing Instructions”: Closing instructions, including wire instructions, in the form of Exhibit B, issued in connection with funds disbursed for the funding, from time to time, of new origination Wet Mortgage Loans or Dry Mortgage Loans as to which the origination funds are being remitted to the closing table.

“Jumbo Mortgage Loan”: Unless defined otherwise in the Transactions Terms Letter, a first lien Mortgage Loan (i) for which the original loan amount is greater than the applicable conventional conforming loan limits set by the Federal Housing Finance Authority in the jurisdiction where the related Mortgaged Property is located, including any first lien Mortgage Loan saleable to any Governmental Authority or Agency that exceeds the applicable conventional conforming loan limits set by the Federal Housing Finance Authority in the jurisdiction where the related Mortgaged Property is located and (ii) which meets the transaction requirements set forth on Schedule 1 of the Transactions Terms Letter.

“Late Payment Fee”: The late payment fee set forth in the Transactions Terms Letter. The Late Payment Fee shall be non-refundable.

“Lien”: Any mortgage, lien, pledge, charge, security interest or similar encumbrance.

“Liquidity”: As of any date of determination, Seller’s unrestricted cash and Cash Equivalents. By way of example but not limitation, cash in escrow and/or impound accounts shall not be included in this calculation.

“Location”: With respect to an eNote, the location of such eNote which is established by reference to the MERS eRegistry.

“Losses”: As defined in Section 12.1 of this Agreement.

“LTV”: With respect to any Mortgage Loan, the ratio of the original unpaid principal balance of the Mortgage Loan to the lesser of (i) the appraised value of the Mortgaged Property set forth in such appraisal and (ii) the sales price of the Mortgaged Property.

“Manual”: The guidelines set forth in the correspondent training usage guidelines of Administrative Agent

“Manufactured Home”: A prefabricated or manufactured home on which a lien secures a Mortgage Loan and which is considered and treated as “real estate” under applicable law.

“Manufactured Home Loan”: A Conventional Conforming Mortgage Loan secured by a manufactured home (as defined by HUD); provided that (a) such manufactured home is attached to a permanent foundation, is no longer transportable (mobile homes) and is considered and treated as “real estate” under applicable law, (b) such manufactured home is originated in compliance with Title II under FHA 203(b) and (c) such Conventional Conforming Mortgage Loan is eligible for securitization by an Agency pursuant to the terms of the applicable Agency Guides.

“Margin Call”: A margin call, as defined and described in Section 6.3(b) of this Agreement.

“Margin Deficit”: A margin deficit, as defined and described in Section 6.3(b) of this Agreement.

“Market Value”: With respect to an Asset, the fair market value of the Asset as determined by Administrative Agent, on behalf of Buyers, in its sole discretion without regard to any market value assigned to such Asset by Seller. Administrative Agent’s determination of Market Value shall be conclusive upon the parties, absent manifest error on the part of Administrative Agent. At no time and in no event will the Market Value of a Purchased Mortgage Loan be greater than the Market Value of such Purchased Mortgage Loan on the initial Purchase Date. Any Mortgage Loan that is not an Eligible Mortgage Loan shall have a Market Value of zero.

“Master Collateral Account”: If the securities custodian is any Person other than Administrative Agent, a securities custodial account established and maintained by Seller with Administrative Agent or such other party as Administrative Agent may direct (i.e., a custodian) for the purpose of holding all Mortgage-Backed Securities and the settlement proceeds thereof until such settlement proceeds shall be transferred to the Master Collateral Account pursuant to the Master Custodial Agreement. The Master Collateral Account shall be a “no access” account to Seller maintained in the custodian’s or nominee name (i.e., as bailee of, and custodian for, Administrative Agent) for the benefit of Administrative Agent. Administrative Agent shall have exclusive control over the disposition of all Mortgage-Backed Securities and funds held in the Master Collateral Account, and Seller shall not have any right to transfer, trade or otherwise direct the disposition of such Mortgage-Backed Securities or funds held in the Master Collateral Account, except as otherwise specifically set forth in the Master Custodial Agreement.

“Master Custodial Agreement”: A written Master Clearing and Custodial Agreement among the Administrative Agent, Seller and a custodian party thereto (or such other securities intermediary as shall be acceptable to Administrative Agent in its sole and absolute discretion), as custodian, in form and substance acceptable to Seller and Administrative Agent, as it may be supplemented, amended, restated or replaced from time to time.

“Material Adverse Effect”: Any of the following, in each case, as such material adverse effect or material change is determined by Administrative Agent, on behalf of Buyers, in its sole and absolute discretion:

(a) with respect to Seller, the occurrence of a material adverse change with respect to the business, operations, performance, condition (financial or otherwise) or prospects of Seller. (b) any material adverse effect on the ability of Seller or any Affiliate that is a party to a Principal Agreement to perform its obligations under any of the Principal Agreements to which it is a party, (c) a material adverse effect on the validity or enforceability against Seller or any Affiliate that is a party to a Principal Agreement, of any of the Principal Agreements, (d) a material adverse effect on the rights and remedies of Administrative Agent

and/or Buyers under any of the Principal Agreements or (e) a material adverse effect on the marketability, collectability or enforceability of the Purchased Assets.

“Maximum Dwell Time”: For any Purchased Asset that is not a Defective Asset, the maximum number of days such Purchased Asset cannot be repurchased by Seller before such Purchased Asset may be deemed to be a Defective Asset, as set forth in the Transactions Terms Letter.

“MERS”: Mortgage Electronic Registration Systems, Inc., a Delaware corporation, or any successor in interest thereto.

“MERS eDelivery”: The transmission system operated by the Electronic Agent that is used to deliver eNotes, other Electronic Records and data from one MERS eRegistry member to another using a system- to-system interface and conforming to the standards of the MERS eRegistry.

“MERS eRegistry”: The electronic registry operated by the Electronic Agent that acts as the legal system of record that identifies the Controller, Delegatee and Location of the Authoritative Copy of registered eNotes.

“MERSCORP”: MERSCORP Holdings, Inc.

“MERS Member”: Any entity which is a member of MERS, in good standing and in compliance with all rules, regulations, procedures and requirements set forth by MERS, including, but not limited to the payment of membership dues.

“MERS Mortgage”: Any Mortgage registered or which will be registered by Seller on the MERS System.

“MERS Org ID”: As defined in the Custodial Agreement.

“MERS System”: The mortgage electronic registry system operated by the Electronic Agent that tracks changes in Mortgage ownership, mortgage servicers and servicing rights ownership.

“Minimum Maintenance Amount”: With respect to the Purchased Assets as of the close of business on any date of determination, the aggregate Asset Value of all Purchased Assets as of such date of determination.

“Moody’s”: Moody’s Investors Service, Inc. or any successor thereto.

“More Favorable Agreement”: Any repurchase agreement or credit facility entered into by Seller or any Affiliate thereof that is substantially similar to the Transactions contemplated hereunder in respect of asset type and term with any Person other than Administrative Agent or any Buyer or an Affiliate of Administrative Agent or any Buyer which by its terms provides more favorable terms to buyer, lender or other party with respect to such repurchase agreement or credit facility, as applicable, with respect to any covenants set forth in this Agreement or any substantially similar covenants.

“Mortgage”: A mortgage, deed of trust, security deed or similar instrument on improved real property (including for the avoidance of doubt any proprietary lease or cooperative shares in connection with cooperative loans).

“Mortgage-Backed Security”: Any fully-modified pass-through mortgage-backed security that is
(a) either issued by a Seller and fully guaranteed by Ginnie Mae or issued and fully guaranteed with respect to timely payment of interest and ultimate payment of principal by Fannie Mae or Freddie Mac;
(b) evidenced by a book-entry account in a depository institution having book-entry accounts at the

applicable Depository; and (c) backed by a Pool, in substantially the principal amount and with substantially the other terms as specified with respect to such Mortgage-Backed Security in the related Purchase Commitment.

“Mortgage Loan”: Any mortgage loan of a Type identified on any schedule attached to the Transactions Terms Letter, which Mortgage Loan may be either a Dry Mortgage Loan or a Wet Mortgage Loan.

“Mortgage Loan Documents”: With respect to each Purchased Mortgage Loan, each document listed on Exhibit A to the Custodial Agreement.

“Mortgage Loan File”: With respect to each Mortgage Loan, that file that contains the Mortgage Loan Documents and is delivered to Custodian pursuant to the Custodial Agreement.

“Mortgage Loan Sale Proceeds”: The proceeds of any sale, securitization or other disposition of any of the Purchased Assets, including without limitation, the proceeds of any Purchase Commitment.

“Mortgage Note”: A promissory note secured by a Mortgage and evidencing a Mortgage Loan, including, with respect to any eMortgage Loan, the related eNote.

“Mortgaged Property”: The real property (or other collateral relating to cooperative loans) securing repayment of the debt evidenced by a Mortgage Note.

“Mortgagor”: The obligor of a Mortgage Loan.

“Multiemployer Plan”: A multiemployer plan within the meaning of Sections 3(37) or 4001(a)(3) of ERISA.

“Net Income”: With respect to any period and Person, the pre-tax net income of such Person for such period, determined in accordance with GAAP, excluding, to the extent expressly set forth in the financial statements delivered in accordance with Section 9.1 and clauses (a) and (b) on Schedule 4 attached hereto, any mark to market fair value adjustment on mortgage servicing rights and gains and losses associated with hedging transactions in respect of mortgage servicing rights.

“Net Worth”: With respect to any Person, the excess of total assets of such Person, over total liabilities of such Person, determined in accordance with GAAP.

“Non-Defaulting Buyer”: At any time, each Buyer that is not a Defaulting Buyer at such time.

“Non-Qualified Mortgage Loan”: A Mortgage Loan that is not a Qualified Mortgage.

“OFAC”: The U.S. Department of Treasury’s Office of Foreign Asset Control.

“Other Investor Report Cards”: The Periodic information (whether in the form of a report or otherwise) that each residential mortgage loan investor (other than Buyer) provides to the Seller with respect to residential mortgage loans that the Seller has sold to such investor (or with respect to which the investor delivers to or for the benefit of the Seller one or more commitments or agreements) to purchase residential mortgage loans from the Seller, which information or report typically indicates the number (and aggregate dollar amount) of loans that such investor has purchased from the Seller, as well as the "pull through," delinquency, and early payoff statistics applicable to the Seller's activities with such investor.

“Other Mortgage Loan Documents”: In addition to the Mortgage Loan Documents, with respect to any Mortgage Loan, and as applicable, the following: (a) the original recorded Mortgage, if not included in the Mortgage Loan Documents; (b) a copy of the preliminary title commitment showing the policy number or preliminary attorney’s opinion of title and the original policy of mortgagee’s title insurance or unexpired commitment for a policy of mortgagee’s title insurance, if not included in the Mortgage Loan Documents; (c) the original Closing Protection Letter and a copy of the Irrevocable Closing Instructions; (d) the original Purchase Commitment, if any; (e) the original FHA certificate of insurance or commitment to insure, the VA certificate of guaranty or commitment to guaranty, the RD Loan Guaranty Agreement and the Insurer’s certificate or commitment to insure, as applicable; (f) the survey, flood certificate, hazard insurance policy and flood insurance policy, as applicable; (g) the original of any assumption, modification, consolidation or extension agreements, with evidence of recording thereon or copies stamp certified by an authorized officer of Seller to have been sent for recording, if any; (h) copies of each instrument necessary to complete identification of any exception set forth in the exception schedule in the title policy; (i) the loan application; (j) verification of the Mortgagor’s employment and income, if applicable; (k) verification of the source and amount of the down payment; (l) credit report on Mortgagor; (m) appraisal of the Mortgaged Property, or a waiver thereof, and/or a point value estimate, as permitted by the applicable Agency Guides; (n) the original executed disclosure statement; (o) tax receipts, insurance premium receipts, ledger sheets, payment records, insurance claim files and correspondence, current and historical computerized data files, underwriting standards used for origination and all other related papers and records; (p) the original of any guarantee executed in connection with the Mortgage Note (if any); (q) the original of any security agreement, chattel mortgage or equivalent document executed in connection with the Mortgage; (r) all copies of powers of attorney or similar instruments, if applicable; (s) copies of all documentation in connection with the underwriting and origination of any Purchased Mortgage Loan that evidences compliance with the Ability to Repay Rule and, other than with respect to any Purchased Mortgage Loan that is a Non-Qualified Mortgage Loan, the QM Rule, as applicable; and; and (t) all other documents relating to the Purchased Mortgage Loan.

“Other Taxes”: As defined in Section 12.3(a) of this Agreement.

“Participant Register”: As defined in Section 14.7 of this Agreement.

“Patriot Act”: The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56 (signed into law October 26, 2001), as amended.

“Payment Recipient”: As defined in Section 15.17(a).

“PBGC”: The Pension Benefit Guaranty Corporation and any successor thereto.

“Person”: Includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof.

“Plan”: Any “employee pension benefit plan” within the meaning of Section 3(2) of ERISA that is subject to Title IV of ERISA or Section 412 of the Code (other than a Multiemployer Plan) and that is maintained and contributed to by (or to which there is an obligation to contribute of), or at any time during the five (5) calendar years preceding the date of this Agreement was maintained or contributed to by (or to which there was an obligation to contribute of), Seller, any Subsidiary thereof or any of their respective ERISA Affiliates.

“Platform Delinquency Percentage”: The percentage, as of any date of determination, resulting from the ratio of (a) the unpaid principal balances of all mortgage loans originated by Seller or any of its Affiliates and serviced as of such date of determination by Seller or any servicer on behalf of Seller that are Delinquent Mortgage Loans divided by (b) the unpaid principal balances of all mortgage loans that have been originated by Seller or any of its Affiliates and serviced as of such date of determination by Seller or any servicer on behalf of Seller.

“Pool”: A pool of fully amortizing first lien residential Mortgage Loans eligible in the aggregate to back a Mortgage-Backed Security.

“Pooled Mortgage Loan”: Any Mortgage Loan that is part of a Pool of Mortgage Loans certified by the Custodian to an Agency that will be exchanged on the related Settlement Date for a Mortgage-Backed Security backed by such Pool in accordance with the terms of the applicable Agency Guide.

“Pooling Date”: With respect to Pooled Mortgage Loans, the date on which an Agency pool number is assigned to the related Pool.

“Potential Default”: The occurrence of any event or existence of any condition that, but for the giving of notice, the lapse of time, or both, could, in the sole discretion of the Administrative Agent, on behalf of Buyers, constitute an Event of Default.

“Power of Attorney”: A power of attorney, substantially in the form attached hereto as Exhibit E.

“Price Differential”: For each Purchased Asset or Transaction as of any date of determination, an amount equal to the product of (a) (i) prior to the occurrence of an Event of Default, the sum of the Applicable Pricing Rate plus the applicable Type Margin, or (ii) following the occurrence and during the continuance of an Event of Default, the Default Rate, and (b) the Purchase Price for such Purchased Asset or Transaction. Price Differential will be calculated in accordance with Section 2.6.

“Price Differential Date”: The third (3rd) Business Day of each month (or such later date that is three (3rd) Business Days following Seller’s receipt of an invoice provided by Administrative Agent, on behalf of Buyers, pursuant to Section 2.6(b)).

“Principal Agreements”: This Agreement, the Transactions Terms Letter, the Custodial Agreement, the Master Custodial Agreement, any Servicing Agreement together with the related Servicer Notice, the Account Control Agreement (if any), the Electronic Tracking Agreement, the Capital Maintenance Agreement, all Trade Assignments and related Purchase Commitments, any Transaction Request, any intercreditor agreement and all other documents and instruments evidencing the Transactions, as same may from time to time be supplemented, modified or amended, and any other agreement entered into among Administrative Agent, Buyers and Seller in connection herewith or therewith.

“Privacy Requirements”: As defined in Section 14.17 of this Agreement.

“Proceeds”: The total amount receivable or received when a Purchased Asset or other Purchased Item is sold, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including, without limitation, all rights to payment, including return premiums, with respect to any insurance relating thereto and all escrow withholds and escrow payments for Property Charges, as applicable.

“Processing Fee”: The processing fee set forth in the Transactions Terms Letter. The Processing Fee shall be non-refundable.

“Property Charges”: All taxes, fees, assessments, water, sewer and municipal charges (general or special) and all insurance premiums, leasehold payments or ground rents.

“Purchase Advice”: In connection with each wire transfer to be made to Administrative Agent by Seller or an Approved Investor, a written or electronic notification setting forth (a)(i) the loan number assigned by Seller or last name of the Mortgagor for each Mortgage Loan that is related to the Transaction in connection with which a payment is being made, or (ii) the CUSIP of any related Mortgage-Backed Security; (b) the amount of the wire transfer to be applied in the Transaction; and (c) the total amount of the wire.

“Purchase Commitment”: A trade ticket or other written commitment issued in favor of Seller by an Approved Investor pursuant to which that Approved Investor commits to purchase one or more Purchased Assets, and as to which the Takeout Price for such Purchased Assets is for an amount that is not less than the outstanding Repurchase Price for such Purchased Assets, together with the related correspondent, whole loan or forward purchase agreement by and between Seller and the Approved Investor governing the terms and conditions of any such purchases, all in form and substance satisfactory to Administrative Agent, on behalf of Buyers.

“Purchase Date”: The date on which Administrative Agent, on behalf of Buyers, purchases a Purchased Asset from Seller. If the Purchase Price is paid by wire transfer, the Purchase Date shall be the date such funds are wired. If the Purchase Price is paid by a funding draft, the Purchase Date shall be the date that the draft is posted by the bank on which the draft is drawn.

“Purchase Price”: The price at which each Asset is transferred by Seller to Administrative Agent, on behalf of Buyers, which, except as otherwise may be set forth in the Transactions Terms Letter, shall be equal to the product of the applicable Type Purchase Price Percentage and the least of (a) the unpaid principal balance of such Asset, (b) the Market Value of such Asset, (c) the Takeout Price committed by the related Approved Investor, if applicable, as evidenced by the related Purchase Commitment, or (d) the purchase price paid by Seller for such Asset in an arms-length transaction with a Person that is not an Affiliate of Seller. For Pooled Mortgage Loans, the Purchase Price shall be the Type Purchase Price Percentage multiplied by the Takeout Price. For the sake of clarity, the Purchase Price for each Mortgage-Backed Security subject to a Transaction pursuant to [Section 3.6](#) shall be the same Purchase Price that was paid for the Purchased Mortgage Loans backing such Mortgage-Backed Security.

“Purchased Assets”: Purchased Mortgage Loans. The term “Purchased Assets” with respect to any Transaction at any time shall also include Mortgage-Backed Securities that replace the related Purchased Mortgage Loans pursuant to [Section 3.6](#).

“Purchased Items”: All now existing and hereafter arising right, title and interest of Seller in, under and to the following:

- (a) all Purchased Mortgage Loans, now owned or hereafter acquired for which a Transaction has been entered into between Administrative Agent, on behalf of Buyers, and Seller hereunder and for which the Repurchase Price has not been received by Administrative Agent, on behalf of Buyers, including all Mortgage Notes and Mortgages evidencing such Mortgage Loans and the related Mortgage Loan Documents, which, from time to time, are delivered, or caused to be delivered, to Administrative Agent, on behalf of Buyers (including delivery to a custodian or other third party on behalf of Administrative Agent and Buyers) as additional security for the performance of Seller’s obligations hereunder;

- (b) all Mortgage-Backed Securities issued in exchange for Purchased Mortgage Loans for which the Repurchase Price has not been received by Administrative Agent, on behalf of Buyers;
- (c) all Income related to the Purchased Assets and all rights to receive such Income;
- (d) if applicable, all amounts on deposit in the Collateral Account relating directly to the Purchased Mortgage Loans;
- (e) all rights of Seller under all related Purchase Commitments (including the right to receive the related Takeout Price), purchase agreements or other hedging arrangements, agreements, contracts or take-out commitments relating to or constituting any or all of the foregoing, now existing and hereafter arising, covering any part of the Purchased Assets, and all rights to receive documentation relating thereto, and all rights to deliver Purchased Mortgage Loans and related Mortgage-Backed Securities to permanent investors and other purchasers pursuant thereto and all Proceeds resulting from the disposition of such Purchased Assets;
- (f) all now existing and hereafter established accounts maintained with broker dealers by Seller for the purpose of carrying out transactions under Purchase Commitments relating to any part of the Purchased Assets;
- (g) all now existing and hereafter arising rights of Seller to service, administer and/or collect on the Purchased Assets hereunder and any and all rights to the payment of monies on account thereof;
- (h) all Servicing Rights related to the Purchased Mortgage Loans, all related Servicing Records, and all rights of Seller to receive from any third party or to take delivery of any Servicing Records or other documents which constitute a part of the Mortgage Loan Files, including without limitation, the Other Mortgage Loan Documents;
- (i) all now existing and hereafter arising accounts, contract rights and general intangibles constituting or relating to any of the Purchased Assets;
- (j) all mortgage and other insurance and all commitments issued by Insurers, the FHA, the VA or the RD, as applicable, to insure or guaranty any Purchased Asset, including, without limitation, all FHA Mortgage Insurance Contracts, VA Loan Guaranty Agreements and RD Loan Guaranty Agreements relating to such Purchased Assets and the right to receive all insurance proceeds and condemnation awards that may be payable in respect of the premises encumbered by any Mortgage; and all other documents or instruments delivered to Administrative Agent, on behalf of Buyers, in respect of the Purchased Assets;
- (k) all documents, files, surveys, certificates, correspondence, appraisals, computer programs, tapes, discs, cards, accounting records and other information and data of Seller relating to Purchased Assets;
- (l) all rights, but not any obligations or liabilities, of Seller with respect to the Approved Investors;
- (m) all property of Seller, in any form or capacity now or at any time hereafter in the possession or control of Administrative Agent, on behalf of Buyers, including, without limitation, all

deposit accounts and any funds at any time held therein, into which Proceeds of the Purchased Assets are at any time deposited;

- (n) all Proceeds of the Purchased Assets;
- (o) any funds of Seller at any time deposited or held in the Funding Account;
- (p) all deposit accounts, deposits, money, investment property or other property (except real property which is not a fixture) which are now or later in possession or control of Administrative Agent or any Buyer, or as to which Administrative Agent or any Buyer now or later controls possession by documents or otherwise; and
- (q) all attachments, accessions, accessories, increases, and additions to and all replacements of and substitutions for any other collateral described above, (ii) with respect to software, any and all licenses, options, warranties, service contracts, program services, test rights, maintenance rights, support rights, improvement rights, renewal rights and indemnifications and any model conversions, (iii) all proceeds, products, and substitutions of any of the property described above, including, without limit, insurance and condemnation proceeds, and cash or other property which were proceeds and are recovered by a bankruptcy trustee or otherwise as a preferential transfer by Seller, and (iv) all records and data relating to any of the property described above, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, and all of Seller's right, title, and interest in and to all software required to utilize, create, maintain and process any such records or data on electronic media.

“Purchased Mortgage Loan”: A Mortgage Loan that has been purchased by Administrative Agent, on behalf of Buyers, from Seller in connection with a Transaction and which has not been repurchased by Seller hereunder.

“QM Rule”: 12 C.F.R. Section 1026.43(e) and all applicable official staff commentary, as may hereafter from time to time be amended.

“Qualified Appraiser”: With respect to each Mortgage Loan, an appraiser duly appointed by the originator of the Mortgage Loan who (i) complies with the requirements of FIRREA, (ii) does not have any direct or indirect interest in the Mortgaged Property or the transaction, and (iii) complies in all respects with all applicable appraiser independence requirements, restrictions and guidelines including those contained in the Appraiser Independence Requirements as adopted by Fannie Mae or Freddie Mac.

“Qualified Mortgage”: A Mortgage Loan that satisfies the criteria for a “qualified mortgage” as set forth in the QM Rule.

“Qualified Originator”: Seller or an originator acceptable to Administrative Agent in its sole discretion.

“RD”: The United States Department of Agriculture Rural Development and any successor thereto.

“RD Loan Guaranty Agreement”: The obligation of the United States to pay a specific percentage of a Mortgage Loan (subject to a maximum amount) upon default of the Mortgagor.

“RD Regulations”: The regulations promulgated by the RD under the Consolidated Farm and Rural Development Act of 1977; and other RD issuances relating to rural housing loans codified in the Code of Federal Regulations.

“**RHS**”: The Rural Housing Service, an agency of the United States Department of Agriculture and any successor thereto, and including the Farmers Home Administration, as the predecessor in interest to the Rural Housing Service.

“**Rebuttable Presumption Qualified Mortgage**”: A Qualified Mortgage with an annual percentage rate that exceeds the average prime offer rate for a comparable mortgage loan as of the date the interest rate is set by 1.5 or more percentage points for a first-lien Mortgage Loan or by 3.5 or more percentage points for a subordinate-lien Mortgage Loan.

“**Reference Time**”: With respect to any setting of the then-current Benchmark means the time determined by Administrative Agent in its reasonable discretion.

“**Register**”: As defined in Section 14.5 of this Agreement.

“**Related Credit Enhancement**”: As defined in Section 6.1 of this Agreement.

“**Relevant Governmental Body**”: The Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto.

“**Renewal Fee**”: The renewal fee set forth in the Transactions Terms Letter. The Renewal Fee shall be non- refundable.

“**Reportable Event**”: An event described in Section 4043(c) of ERISA with respect to a Plan as to which the thirty (30) days’ notice requirement has not been waived by the PBGC.

“**Repurchase Acceleration Event**”: Any of the conditions or events set forth in Section 4.2 of this Agreement.

“**Repurchase Date**”: The date on which Seller is to repurchase a Purchased Asset subject to a Transaction from Administrative Agent, on behalf of Buyers, which is either (a) the date specified in the related Transactions Terms Letter and/or Transaction Request or (b) the date identified to Administrative Agent, on behalf of Buyers, by Seller as the date that the related Purchased Asset is to be sold pursuant to a Purchase Commitment. The Repurchase Date for each Purchased Asset shall in no event occur later than one (1) year after the Purchase Date of such Purchased Asset.

“**Repurchase Mortgage Loans**”: Any mortgage loan that a Seller has been required to repurchase from an Agency, any Approved Investor or any Person related in any way to a securitization, due to breaches of representations or warranties.

“**Repurchase Price**”: The price at which a Purchased Asset is to be transferred from Administrative Agent, on behalf of Buyers, or its designee to Seller or Approved Investor, as applicable, upon termination of a Transaction, which shall equal the sum of (a) the Purchase Price, (b) any applicable fees and indemnities owed by Seller in connection with the Purchased Asset and (c) the Price Differential due on such Purchase Price pursuant to Section 2.6 as of the date of such determination.

“**Repurchase Transaction**”: As defined in Section 6.5 of this Agreement.

“**Request for Temporary Increase**”: As defined in Section 2.9 of this Agreement.

“Reset Date”: (i) The date of this Agreement, (ii) the first (1st) day of each month thereafter, provided, that, if any such day is not a Business Day, then the first succeeding day that is a Business Day shall instead apply.

“Resolved Asset”: Any Purchased Asset which is repaid in full, sold, repurchased, liquidated, charged-off, or otherwise disposed of.

“Safe Harbor Qualified Mortgage”: A Qualified Mortgage with an annual percentage rate that does not exceed the average prime offer rate for a comparable mortgage loan as of the date the interest rate is set by 1.5 or more percentage points for a first-lien Mortgage Loan or by 3.5 or more percentage points for a subordinate-lien Mortgage Loan.

“Second Mortgage”: A Mortgage that (a) secures a Mortgage Loan, (b) does not qualify as a First Mortgage because of the priority of its lien on the residential real estate that secures such Mortgage Loan or other characteristics, (c) is subject to no Mortgage other than a First Mortgage, and (d) which meets the transaction requirements set forth on Schedule 1 of the Transactions Terms Letter.

“Second Mortgage Loan”: A Mortgage Loan secured by a Second Mortgage.

“Servicer”: (i) SUCCESS Lending, LLC or (ii) such other entity responsible for servicing of the Purchased Mortgage Loans and that has been approved by Administrative Agent, on behalf of Buyers, in writing, or, in each case, any successor or permitted assigns thereof.

“Servicer Field”: With respect to an eNote, the field entitled, “Servicing” in the MERS eRegistry.

“Servicer Notice”: The notice acknowledged by the Servicer which is substantially in the form of Exhibit G hereto.

“Servicer Termination Event”: The occurrence of any of the following conditions or events shall be a Servicer Termination Event:

- (a) a Servicer ceases to meet the qualifications for maintaining any of its Approvals, such Approvals are revoked or such Approvals are materially modified;
- (b) a Servicer becomes subject to any penalties and/or sanctions by any Agency, HUD, FHA, VA or RD;
- (c) a Servicer fails to service the Eligible Assets subject to Transactions in accordance with applicable Agency Guides;
- (d) a Servicer fails to service the Eligible Assets subject to Transactions in accordance with the related Servicing Agreement;
- (e) a Servicer fails to maintain all state and federal licenses necessary to do business in any jurisdiction where Mortgaged Property is located if such license is required, or to be in compliance with any licensing laws of any jurisdiction where Mortgaged Property is located with respect to the Purchased Assets;
- (f) (i) a Servicer or any of its Subsidiaries or Affiliates shall default under, or fail to perform as required under, or shall otherwise breach the terms of any instrument, agreement or contract between Servicer or such other entity on the one hand, and Administrative Agent,

on behalf of Buyers, or any of Administrative Agent's Affiliates on the other; or (ii) Servicer or any of its Subsidiaries or Affiliates shall default under, or fail to perform as required under, the terms of any repurchase agreement, loan and security agreement or similar credit facility, any agreement for borrowed funds or any other material agreement entered into by Servicer or such other entity and any third party;

- (g) an Insolvency Event shall have occurred with respect to Servicer or any of its Affiliates or Subsidiaries; or Servicer shall admit in writing its inability to, or intention not to, perform any of its obligations under this Agreement or any of the other Principal Agreements to which it is a party; or Administrative Agent, on behalf of Buyers, shall have determined in good faith that Servicer is unable to meet its financial commitments as they come due;
- (h) a Material Adverse Effect with respect to a Servicer shall occur;
- (i) a Servicer fails to maintain a rating with Standard & Poor's Financial Services LLC of Average or its equivalent (i.e. SQ4+ by Moody's or Level RPS3 by Fitch Ratings, Inc.);
- (j) a Servicer fails to make any servicing advance required to be made under the related Servicing Agreement, the related Servicer Notice, or this Agreement, as applicable, with respect to the Purchased Assets;
- (k) Seller fails, or fails to cause any Servicer, to deposit all amounts required to be deposited into the Collateral Account by Seller with respect to the Purchased Mortgage Loans when due under this Agreement;
- (l) a Servicer fails to deposit all amounts required to be deposited into any account by such Servicer with respect to the Purchased Mortgage Loans when due under the related Servicing Agreement or the related Servicer Notice;
- (m) termination of a substantial portion of existing servicing contracts or any material dispute, licensing issue, litigation, audit, revocation, sanctions, penalties, investigation, proceeding or suspension between a Servicer or subservicer and any governmental authority or any Agency as to which individually or in the aggregate, in Administrative Agent's sole and absolute discretion, is reasonably likely to have a Material Adverse Effect;
- (n) a Change of Control with respect to Servicer shall occur without the prior written consent of Administrative Agent, on behalf of Buyers;
- (o) the Platform Delinquency Percentage is greater than or equal to 10%;
- (p) the occurrence of an Event of Default;
- (q) the occurrence of any conditions or events that permit a Servicer to be terminated under a Servicing Agreement or a Servicer initiates termination under a Servicing Agreement;
- (r) any representation, warranty or certification made or deemed made in a Servicing Agreement by a Seller or any certificate furnished by a Servicer pursuant to the provisions thereof, shall prove to have been false or misleading in any material respect as of the time made or furnished; or
- (s) the failure of a Servicer to perform, comply with or observe any term, covenant or agreement applicable to a Servicer and related to its financial condition as contained in a Servicing

Agreement and such occurrence or any default shall not have been remedied within the cure period provided therein.

“Servicing Agent”: Means, with respect to an eNote, the field entitled, “Servicing Agent” in the MERS eRegistry.

“Servicing Agreement”: If the Purchased Mortgage Loans are serviced by any servicer that is not Administrative Agent or an Affiliate of Administrative Agent, in each case, the agreement with the third party servicer, in form and substance acceptable to Administrative Agent, on behalf of Buyers.

“Servicing Records”: All servicing agreements, files, documents, records, data bases, computer tapes, copies of computer tapes, proof of insurance coverage, insurance policies, appraisals, other closing documentation, payment history records, and any other records relating to or evidencing the servicing of a Mortgage Loan.

“Servicing Rights”: The contractual, possessory or other rights of Seller, Servicer or any other Person, whether arising under a Servicing Agreement, the Custodial Agreement or otherwise, to administer or service a Mortgage Loan or to possess related Servicing Records.

“Settlement Date”: With respect to a Mortgage-Backed Security, the date on which the applicable Agency delivers such Mortgage-Backed Security to the Depository and it is registered as a book-entry security in the name of the Depository.

“SOFR”: A rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator”: The Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“Strict Compliance”: The compliance of Seller and Mortgage Loans that are intended to be Agency Eligible Mortgage Loans with the requirements of the applicable Agency Guide, as applicable and as amended by any agreements between Seller and the applicable Agency, sufficient to enable Seller to issue and Ginnie Mae to guarantee or Fannie Mae or Freddie Mac to issue and guarantee a Mortgage-Backed Security; provided, that until copies of any such agreements between Seller and the applicable Agency have been provided to Administrative Agent, on behalf of Buyers, by Seller and agreed to by Administrative Agent, such agreements shall be deemed, as between Seller and Administrative Agent, not to amend the requirements of the applicable Agency Guide.

“Subordinated Debt”: Debt of Seller that either (a) has been subordinated to Administrative Agent as provided in this Agreement or (b) has been otherwise approved by Administrative Agent.

“Subsidiary”: With respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person.

“Successor Servicer”: Any successor servicer of the Purchased Mortgage Loans appointed by Administrative Agent, on behalf of Buyers, as described in Section 6.2(h) of this Agreement.

“**S&P**”: S&P Global Ratings, a division of S&P Global Inc., and any successor thereto.

“**Takeout Price**”: The purchase price to be paid for a Purchased Asset or related Mortgage-Backed Security by the related Approved Investor pursuant to the related Purchase Commitment.

“**Taxes**”: As defined in Section 12.3(a) of this Agreement.

“**Total Assets**”: Seller’s assets as of the relevant date, determined in accordance with GAAP.

“**Total Liabilities**”: Total liabilities, determined in accordance with GAAP, as of the date of any calculation thereof.

“**Temporary Increase**”: As defined in Section 2.9 of this Agreement.

“**Temporary Aggregate Transaction Limit**”: As defined in Section 2.9 of this Agreement.

“**TILA-RESPA Integrated Disclosure Rule**”: The Truth-in-Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure Rule, adopted by the Consumer Financial Protection Bureau, which is effective for residential mortgage loan applications received on or after October 3, 2015.

“**Trade Assignment**”: An assignment to Administrative Agent, on behalf of Buyers, of a forward trade between an Approved Investor and Seller with respect to one or more Purchased Assets or related Mortgage- Backed Security, in each case in substantially the form of Exhibit I, together with the related Purchase Commitment that has been fully executed, is enforceable and is in full force and effect and confirms the details of such forward trade.

“**Transaction**”: As set forth in the Recitals of this Agreement.

“**Transferable Record**”: An Electronic Record under E-SIGN and UETA that (i) would be a note under the Uniform Commercial Code if the Electronic Record were in writing, (ii) the issuer of the Electronic Record has expressly agreed is a “transferable record”, and (iii) for purposes of E-SIGN, relates to a loan secured by real property.

“**Transfer of Control**”: With respect to an eNote, a MERS eRegistry transfer transaction used to request a change to the current Controller of such eNote.

“**Transfer of Control and Location**”: With respect to an eNote, a MERS eRegistry transfer transaction used to request a change to the current Controller and Location of such eNote.

“**Transfer of Control and Servicing Agent**”: With respect to an eNote, a MERS eRegistry transfer transaction used to request a change to the current Controller and Servicing Agent of such eNote.

“**Transfer of Location**”: With respect to an eNote, a MERS eRegistry transfer transaction used to request a change to the current Location of such eNote.

“**Transfer of Servicing**”: With respect to an eNote, a MERS eRegistry transfer transaction used to request a change to the current Servicer Field or Servicing Agent of such eNote.

“**Transaction Request**”: A request submitted by Seller to Administrative Agent, on behalf of Buyers, in the format approved by Administrative Agent, in its sole and absolute discretion, in accordance with the Manual, notifying Administrative Agent, on behalf of Buyers, that Seller wishes to enter into a Transaction

hereunder; provided that if a Purchased Asset has an Asset Value of zero by operation of clause (b) of the definition of “Asset Value” as a result of such Purchased Asset that was a Wet Mortgage Loan exceeding its Maximum Dwell Time, and subsequently the Custodian provides an electronic mail notification to Administrative Agent, on behalf of Buyers, and Seller that such Purchased Asset has become a Dry Mortgage Loan, such electronic mail notification shall be deemed to be, and Seller hereby acknowledges and agrees that such electronic mail notification shall constitute, (i) notification to Administrative Agent, on behalf of Buyers, by Seller that Seller wishes to enter into a Transaction hereunder, (ii) a Transaction Request with respect to such Purchased Asset with a Repurchase Date and an Aggregate Outstanding Purchase Price with respect to such Purchased Asset the same as the Repurchase Date and Aggregate Outstanding Purchase Price with respect to such Purchased Asset, as applicable, with respect to the previous Transaction Request with respect to the applicable Mortgage Loan related to such repurchased Asset and the Seller’s wiring instructions with respect to such Purchased Asset at the following: Bank Name: Flagstar Bank, FSB; ABA Number: 272471852; Acct. Name: SUCCESS Lending, LLC; Account Number:

_____; FFC: _____, (iii) a representation and warranty by Seller that (a) as of the applicable Purchase Date, all conditions precedent to a Transaction as set forth in Section 7.1 and Section 7.2, as applicable of this Agreement have been satisfied, (b) the representations and warranties of Seller set forth in Article 8 of this Agreement are true and correct in all material respects as if made on and as of the date of the applicable Transaction and (c) no Potential Default, Event of Early Termination, Event of Default, Material Adverse Effect with respect to Seller or Cease Funding Event has occurred and is continuing.

“**Transactions Terms Letter**”: The document executed by Administrative Agent, Buyers and Seller, referencing this Agreement and setting forth certain specific terms, and any additional terms, with respect to this Agreement.

“**Type**”: A specific type of Purchased Asset, as set forth in the Transactions Terms Letter.

“**Type Margin**”: With respect to each Type of Purchased Asset, the corresponding annual rate of interest for such Type as set forth in the Transactions Terms Letter that shall be added to the Applicable Pricing Rate to determine the annual rate of interest for the related Purchase Price.

“**Type Purchase Price Percentage**”: With respect to each Type of Purchased Asset, the corresponding purchase price percentage for such Type, as set forth in the Transactions Terms Letter.

“**Type Sublimit**”: Any of the applicable Type Sublimits, as set forth in the Transactions Terms Letter.

“**UK Financial Institution**”: Any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**”: The Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**UETA**”: The Official Text of the Uniform Electronic Transactions Act as approved by the National Conference of Commissioners on Uniform State Laws at its Annual Conference on July 29, 1999.

“**Unadjusted Benchmark Replacement**”: The applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unauthorized Servicing Modification”: With respect to an eNote, an unauthorized Transfer of Location, an unauthorized Transfer of Servicing or any unauthorized change in any other information, status or data initiated by the Servicer or a vendor of the Servicer with respect to such eNote on the MERS eRegistry.

“Underwriting Guidelines”: The loan purchase and/or origination guidelines, policies, procedures and matrices, as applicable, of Seller delivered to Administrative Agent on or before the Effective Date as may be updated from time to time by Seller with prior written consent of Administrative Agent.

“Uniform Commercial Code”: The Uniform Commercial Code as in effect on the date hereof in the State of New York or the Uniform Commercial Code as in effect in the applicable jurisdiction.

“Unused Fee”: The unused fee set forth in the Transactions Terms Letter. The Unused Fee shall be non- refundable.

“USDA”: The United States Department of Agriculture and any successor thereto.

“VA”: The Department of Veterans Affairs and any successor thereto.

“VA Loan Guaranty Agreement”: The obligation of the United States to pay a specific percentage of a Mortgage Loan (subject to a maximum amount) upon default of the Mortgagor pursuant to the Servicemen’s Readjustment Act, together with all amendments, modifications, supplements and restatements thereto.

“VA Regulations”: Regulations promulgated by the U.S. Department of Veterans Affairs pursuant to the Servicemen’s Readjustment Act, as amended, codified in 38 Code of Federal Regulations, and other VA issuances relating to Agency Eligible Mortgage Loans, including related handbooks, circulars and notices.

“Wet Mortgage Loan”: A closed and fully funded Mortgage Loan that Administrative Agent, on behalf of Buyers, purchases from Seller on the closing date of such Mortgage Loan prior to receipt by Administrative Agent, on behalf of Buyers, or its Custodian of the related Mortgage Loan Documents, subject to Seller’s obligation to deliver the related Mortgage Loan Documents to Administrative Agent, on behalf of Buyers, or its Custodian within the applicable Maximum Dwell Time with respect to Seller’s obligation to deliver the related Mortgage Loan Documents to Administrative Agent, on behalf of Buyers, or its Custodian. For the sake of clarity, no eMortgage Loan shall be a Wet Mortgage Loan.

“Write-Down and Conversion Powers”: With respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

EXHIBIT B
FORM OF IRREVOCABLE CLOSING INSTRUCTIONS

INTENTIONALLY OMITTED

Exhibit B-1

EXHIBIT C
FORM OF OFFICER'S COMPLIANCE CERTIFICATE

INTENTIONALLY OMITTED

Exhibit C-1

EXHIBIT D
ASSIGNMENT OF CLOSING PROTECTION LETTER

INTENTIONALLY OMITTED

Exhibit D-1

EXHIBIT E
FORM OF POWER OF ATTORNEY
INTENTIONALLY OMITTED

Exhibit E-1

EXHIBIT F
WIRING INSTRUCTIONS

INTENTIONALLY OMITTED

Exhibit F-1

EXHIBIT G
FORM OF SERVICER NOTICE

INTENTIONALLY OMITTED

Exhibit G-1

EXHIBIT H
REPRESENTATIONS AND WARRANTIES

INTENTIONALLY OMITTED

Exhibit H-1

EXHIBIT I
FORM OF TRADE ASSIGNMENT

INTENTIONALLY OMITTED

Exhibit I-1

EXHIBIT J
FORM OF REQUEST FOR TEMPORARY INCREASE

INTENTIONALLY
OMITTED

Exhibit J-1

EXHIBIT K

FORM OF AGENCY REQUIRED E-NOTE LEGEND

INTENTIONALLY OMITTED

Exhibit K-1

EXHIBIT L

FORM OF OFFICER'S CERTIFICATE

INTENTIONALLY OMITTED

Exhibit L-1

EXHIBIT M

FORM OF RESOLUTIONS ADOPTED BY UNANIMOUS WRITTEN CONSENT
INTENTIONALLY OMITTED

T

Exhibit M-1

EXHIBIT N

FORM OF EXHIBIT TO UCC-1 FINANCING STATEMENT

INTENTIONALLY OMITTED

Exhibit N-1

SCHEDULE 1

Filing Jurisdictions and Offices

INTENTIONALLY OMITTED

Schedule 1

SCHEDULE 2

Ownership Interests of Seller

INTENTIONALLY

OMITTED

Secheule 2

SCHEDULE 3

Allocation Percentages

<u>Buyer</u>	<u>Funding Percentage</u>	<u>Amount</u>
---------------------	----------------------------------	----------------------

*INTENTIONALLY
OMITTED*

Schedule 3

SCHEDULE 4

Financial Statements and Other Reports

INTENTIONALLY OMITTED

Schedule 4

MORTGAGE WAREHOUSE AGREEMENT

by and between

SUCCESS LENDING, LLC, A DELAWARE LIMITED LIABILITY COMPANY,

and

TEXAS CAPITAL BANK

AGREEMENT DATE:

JANUARY 18, 2022

AGREEMENT NO.:

5088

NOTICE: Certain information has been excluded from the exhibit because it is both not material and is the type that the registrant treats as private or confidential.

MORTGAGE WAREHOUSE AGREEMENT

THIS MORTGAGE WAREHOUSE AGREEMENT (this "Agreement") is made and entered into as of JANUARY 18, 2022 (the "Agreement Date") (but effective as of the Effective Date) between SUCCESS LENDING, LLC, A DELAWARE LIMITED LIABILITY COMPANY (the foregoing are each individually and collectively referred to herein as "Seller") and TEXAS CAPITAL BANK.

RECITALS

- A. Seller is actively engaged in Mortgage Loan Activities.
- B. Seller is seeking additional funding sources for its Mortgage Loan Activities through the sale of Participation Interests in Mortgage Loans generated by such Mortgage Loan Activities.
- C. Bank is, among other things, in the business of purchasing participation interests in Mortgage Loans.
- D. Seller shall have no obligation to offer for sale, and Bank shall have no obligation to purchase, Participation Interests in such Mortgage Loans. However, Seller and Bank desire to set forth the terms under which such offers and purchases, if any, can be made.

AGREEMENT

NOW, THEREFORE, for and in consideration of the covenants, representations, warranties and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **Specific Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below:

"Advance Request Termination Date" shall mean the final day on which Seller may submit to Bank a Request. The Advance Request Termination Date is the earlier to occur of: (a) the date which is twelve (12) months after the Effective Date; or (b) the date on which Seller's rights hereunder to submit any and all Requests to Bank shall terminate pursuant to the provisions of this Agreement or any other Warehouse Document (including, pursuant to Section 5.2, 5.3 or 9.2).

"Bank Document Deliverables" shall mean, with respect to any Participated Mortgage Loan, (a) the original of the fully executed Mortgage Note for such Participated Mortgage Loan, together with the Required Endorsements related thereto (including, without limitation, each original executed allonge required by Bank in connection therewith) and (b) any other agreements, files, records and other documents related to such Participated Mortgage Loan which are required to be delivered to Bank in connection with the purchase of the Participation Interest in such Participated Mortgage Loan pursuant to the Warehouse Program Guide in effect as of the related Purchase Date.

"Document Custodian" shall mean Bank.

"Eligible Mortgage Loan" shall mean any Mortgage Loan: (a) that is a Seller Originated Mortgage Loan; (b) that is in all respects in compliance with the provisions of the Warehouse Program Guide applicable to such Mortgage Loan; (c) for which all of the representations and warranties set forth in Section 6.10 shall be true, complete and correct on and as of the Purchase Date of a Participation Interest in such Mortgage Loan and at all times thereafter; and (d) which is otherwise acceptable to Bank in its sole and absolute discretion on and as of such Purchase Date.

"Funding Fee" shall mean a fee payable by Seller to Bank in an amount equal to FIFTY and No/100 Dollars (\$50.00) for each Participated Mortgage Loan. Subject to applicable Law, Bank may, in its sole and absolute discretion, adjust the Funding Fee applicable to Participated Mortgage Loans upon thirty (30) days advance written notice to Seller, in which case, commencing upon the thirty-first (31st) day after the date of such notice, the Funding Fee set forth in such written notice shall apply to any and all Mortgage Loans in which Bank elects to purchase Participation Interests on or after such thirty-first (31st) day.

"Maximum Participation Amount" shall mean an amount equal to TWENTY-FIVE MILLION and No/100 Dollars (\$25,000,000.00); provided, however, that during any Overline Period, the Maximum Participation Amount shall be the amount set forth for the same in the related Overline Confirmation for such Overline Period.

"Minimum Pledged Balance" shall mean good funds in an amount not less than ONE HALF OF ONE Percent (0.50%) of the Maximum Participation Amount; provided, however, that during any Overline Period, the Minimum Pledged Balance shall be the amount set for the same in the related Overline Confirmation for such Overline Period.

"Mortgage Loan Activities" shall mean the processing, origination, administration, servicing and selling of Mortgage Loans by Seller and any other business activities related thereto or contemplated by this Agreement (including any activities related to Mortgage Loan Transactions).

"Mortgage Loan Transaction" shall mean, with respect to any Mortgage Loan, the closing and funding of such Mortgage Loan by the applicable Escrow Agent.

"Participation Interest Rate" shall mean, with respect to any Participated Mortgage Loan, the per annum rate of interest payable to Bank in connection with such Participated Mortgage Loan and its Participation Interest therein, which rate shall be calculated as a variable rate equal to the greater of: (a) Term SOFR as of the related Purchase Date, as Term SOFR may vary from day to day thereafter, plus TWO HUNDRED FIVE (2.05) basis points; or (b) the Participation Interest Rate Floor; provided, however, that the Participation Interest Rate for any Participated Mortgage Loan shall not at any time be greater than the maximum rate permitted under applicable Law. Subject to applicable Law, Bank may, in its sole and absolute discretion, adjust the Participation Interest Rate applicable to Participated Mortgage Loans upon thirty (30) days advance written notice to Seller, in which case, commencing upon the thirty-first (31st) day after the date of such notice, the Participation Interest Rate for any and all Mortgage Loans in which Bank elects to purchase Participation Interests on or after such thirty-first (31st) day shall be the lesser of (a) the rate of interest set forth in such written notice or (b) the maximum rate permitted under applicable Law for the applicable Participated Mortgage Loan. All interest hereunder shall be calculated on the basis of a three hundred sixty (360) day year and shall accrue on the actual number of days elapsed for any whole or partial month in which interest is being calculated.

"Participation Interest Rate Floor" shall mean an interest rate equal to THREE HUNDRED TEN Basis Points (3.10%) per annum. Subject to applicable Law, Bank may, in its sole and absolute discretion, adjust the Participation Interest Rate Floor applicable to Participated Mortgage Loans upon thirty (30) days advance written notice to Seller, in which case, commencing upon the thirty-first (31st) day after the date of such notice, the Participation Interest Rate Floor set forth in such written notice shall apply to any and all Mortgage Loans in which Bank elects to purchase Participation Interests on or after such thirty-first (31st) day.

"Repayment Account" shall mean the deposit account established, owned and controlled by Bank, into which all proceeds from each sale of any Participated Mortgage Loan by Bank and Seller to a Take-Out Purchaser shall be funded and deposited, and such account and all funds deposited or maintained therein shall be disbursed and applied by Bank pursuant to the terms of this Agreement. The account number for the Repayment Account is [Redacted] or such other deposit account number designated by Bank from time to time as the Repayment Account in a written notice delivered by Bank to Seller pursuant to this Agreement.

"Required Endorsements" shall mean, with respect to any Mortgage Note, at Bank's election, either: (a) the endorsement pursuant to applicable Law of such Mortgage Note in blank by Seller (which may, in Bank's discretion, be evidenced by an original allonge, in form and content acceptable to Bank, executed by Seller and affixed to such Mortgage Note); or (b) no endorsement of such Mortgage Note by Seller, if Bank shall have received and accepted a valid power of attorney, in form and content satisfactory to Bank, authorizing Bank to endorse such Mortgage Note for and on behalf of Seller (provided that prior to any delivery of such Mortgage Note by Bank to a Take-Out Purchaser, such Mortgage Note shall be endorsed in favor of such Take-Out Purchaser by Bank as agent for Seller under such power of attorney).

"Standard Participation Percentage" shall mean a percentage equal to NINETY- NINE percent (99.00%).

"Target Usage Amount" shall mean an amount equal to Seventy-Five Percent (75.00%) of the Maximum Participation Amount.

1.2 **General Defined Terms.** In addition to the terms defined in Section 1.1, as used in this Agreement, the following terms shall have the meanings set forth below:

"Accepted Lending Practices" shall mean the loan origination practices to be observed by the originators of the Mortgage Loans, which practices shall be conducted in all material respects:

(a) in a commercially reasonable manner and in good faith; (b) in accordance with the provisions of this Agreement; (c) in accordance with all applicable Laws; (d) in accordance with the requirements (if any) of the Warehouse Program Guide; and (e) in a manner consistent with customary and usual standards of practice of prudent originators of residential mortgage loans.

"Accepted Servicing Practices" shall mean the loan servicing practices to be observed by Seller in connection with Participated Mortgage Loans, which practices shall be conducted in all material respects: (a) in a commercially reasonable manner and in good faith; (b) in accordance with the provisions of this Agreement; (c) in accordance with all applicable Laws; (d) in accordance with the Warehouse Program Guide; (e) in a manner consistent with customary and usual standards of practice of prudent servicers of residential mortgage loans; and (f) to the extent commercially reasonable and consistent with the foregoing, in a manner to maximize the timely and complete recovery of all Mortgage Loan Collections.

"Account" or "Accounts" shall mean any of the deposit accounts to be established and maintained pursuant to this Agreement, including: (a) the Participation Account; (b) the Pledged Account; (c) the Remittance Account; (d) the Repayment Account; and (e) such other accounts as Bank may require Seller to establish pursuant to or in connection with this Agreement or any other Warehouse Document.

"Advance" shall mean each payment of funds by Bank to Seller pursuant to the terms of this Agreement to pay the Purchase Price for the purchase of a Participation Interest. Such payment by Bank to Seller of the Purchase Price for a Participation Interest shall be effected through the delivery by Bank on behalf of Seller of the proceeds of the related Advance directly to the applicable Funding Recipient, which proceeds shall be applied towards satisfying Seller's obligations with respect to the applicable Mortgage Loan Transaction. With respect to any Participated Mortgage Loan, an Advance shall be deemed to be made on the date on which funds are wired or otherwise transferred by Bank to the related Funding Recipient regardless of whether funds are actually received by such Funding Recipient on the date of the initiation of such wire or other transfer.

"Aged Participated Mortgage Loan" shall mean any Participated Mortgage Loan which does not constitute a Retired Participated Mortgage Loan on or after the thirtieth (30th) day after the Purchase Date for such Participated Mortgage Loan.

"Agency," shall mean FHA, FHLMC, FNMA, GNMA, VA or USDA.

"Agency Approvals" shall mean: (a) all approvals and requirements of FNMA necessary for Seller to sell Eligible Mortgage Loans to FNMA and/or to service Eligible Mortgage Loans; (b) all approvals and requirements of FHLMC necessary for Seller to sell Eligible Mortgage Loans to FHLMC and/or to service Eligible Mortgage Loans; and (c) all approvals and requirements of GNMA for Seller to be an approved issuer of securities comprising any Eligible Mortgage Loans.

"Agreement Date" shall have the meaning given to such term in the first paragraph of this Agreement. The Agreement Date is for reference purposes only in order to identify in the Warehouse Documents the date of this Agreement. The effective date of this Agreement shall be the Effective Date.

"Agreement Termination Date" shall mean the date on which this Agreement shall terminate and cease to be in force and effect (except with respect to the provisions of this Agreement which expressly survive termination). The Agreement Termination Date is the earlier to occur of: (a) the date on which this Agreement shall terminate pursuant to Section 5.2(c); or (b) the date on which this Agreement shall otherwise terminate in accordance with the express terms of this Agreement or any other Warehouse Document.

"Bank" shall mean TEXAS CAPITAL BANK, and its successors and assigns.

"Bank Payment Deliverables" shall mean any and all checks, commercial paper, notes, cash or other forms of payment of any and all sums: (a) required to be paid to Bank hereunder but which have been received by Seller (including any and all proceeds received by Seller from the sale of any Participated Mortgage Loan to a Take-Out Purchaser); or (b) received by Seller during the continuance of an Event of Default which sums relate to any Participated Mortgage Loan.

"Bankruptcy Code" shall mean Title 11 of the United States Code, as now or hereafter in effect.

"Bailee Letter" shall mean a letter, in such form and content required by Bank, delivered or caused to be delivered by Bank to any Take-Out Purchaser in connection with the proposed purchase of a Participated Mortgage Loan by such Take-Out Purchaser or its designee, which letter, among other things, directs such Take-Out Purchaser to hold, as bailee for Bank, the Mortgage Loan Documents for such Participated Mortgage Loan.

"Blanket Assignment" shall mean an assignment agreement in the form of Exhibit I, or in such other form required by Bank, executed and acknowledged by Seller and Bank, which evidences, among other things, the sale, transfer, assignment and conveyance by Seller to Bank of any and all Participation Interests in the Participated Mortgage Loans and the Mortgage Loan Documents related thereto now or hereafter purchased by Bank from Seller.

"Borrower" shall mean any Person who is an obligor on or under a Mortgage Loan.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which commercial banks are authorized or required to be closed under the Laws of the State of Texas. Unless otherwise provided herein, the term "day" means a calendar day.

"Collateral" shall have the meaning given to such term in the UCC-1 financing statement attached hereto as Exhibit D

"Effective Date" shall mean the date of Seller's execution of this Agreement, as set forth below Seller's signature block hereto; provided that this Agreement shall not be effective until fully executed by both Seller and Bank.

"Escrow Agent" shall mean, with respect to any Mortgage Loan, the title company or agency, approved in advance by Bank, which is responsible for the closing and funding of such Mortgage Loan.

"Event of Default" shall mean any of the events specified in Section 9.1.

"FHA" shall mean the Federal Housing Administration, or its successor.

"FHLMC" shall mean the Federal Home Loan Mortgage Corporation, or its successor.

"FNMA" shall mean the Federal National Mortgage Association, or its successor.

"Funding Recipient" shall mean, with respect to any Participated Mortgage Loan, the Person to whom Bank shall directly pay the Purchase Price for the purchase of a Participation Interest in such Participated Mortgage Loan, as set forth in the related Request, provided that such Person meets the qualifications set forth in the Warehouse Program Guide for being a Funding Recipient with respect to such Participated Mortgage Loan.

"Generally Accepted Accounting Principles" or "GAAP" shall mean those generally accepted accounting principles and practices which are recognized as such by the American Institute of Certified Public Accountants acting through its Accounting Principles Board or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof and which are consistently applied for all applicable periods, except that any accounting principle or practice required to be changed by the said Accounting Principles Board or Financial Accounting Standards Board (or other appropriate board or committee of the said Boards) in order to continue as a generally accepted accounting principle or practice may be so changed.

"GNMA" shall mean the Government National Mortgage Association, or its successor.

"Governmental Authority" shall mean any and all (domestic or foreign) federal, state, county, municipal, city or other government department, commission, board, court, agency or any other instrumentality of any of them (including any Agency) having jurisdiction over Bank, Seller, the Mortgage Loans or any of the transactions contemplated herein.

"Guarantor" shall mean any Person who now or hereafter has executed and delivered to Bank a Guaranty Agreement.

"Guaranty Agreement" shall mean, individually and collectively, each guaranty agreement, in such form and content required by Bank, now or hereafter executed and delivered to Bank in connection with this Agreement and the transactions contemplated hereby, including each agreement (if any) attached hereto as Exhibit C.

"Investor" shall mean any Person (other than a Securitizer), approved in advance by Bank, who purchases or agrees to purchase any Participated Mortgage Loan from Seller and Bank pursuant to an Investor Loan Purchase Agreement.

"Investor Loan Purchase Agreement" shall mean, with respect to any Participated Mortgage Loan to be sold by Seller and Bank to any Investor, a current, valid, binding and enforceable commitment issued by such Investor in favor of Seller, and/or other written agreement or arrangement between such Investor and Seller, to purchase such Participated Mortgage Loan (including any such commitment or agreement which does not specifically identify such Participated Mortgage Loan but which contemplates the purchase of Mortgage Loans by such Investor from time to time on a best-efforts basis), which Investor Loan Purchase Agreement provides for a purchase price to be paid by such Investor of not less than the Take-Out Purchase Price for such Participated Mortgage Loan and which is otherwise on terms and in such form and content acceptable to Bank.

"Law" or "law" shall mean any and all present and future law, statute, code, ordinance, order, rule, regulation, judgment, decree, injunction, franchise, permit, certificate, license, guideline, authorization or other direction or requirement of the United States, or of any city or municipality, state, commonwealth, nation, country, territory or possession or of any court or governmental department, commission, board, bureau, agency or instrumentality. The terms "Law" and "law" include: (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. Law No. 111-203, 124 Stat. 1376 (2010), and any and all Laws issued thereunder or in connection therewith, as may be amended from time to time (collectively, the "Dodd-Frank Act"); (b) the Interagency Appraisal and Evaluation Guidelines jointly issued on December 2, 2010 by the Office of the Comptroller of Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration, as the same may be amended from time to time (collectively, the "Interagency Appraisal Guidelines"); (c) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. §§ 5101 et seq.) and any and all applicable state Laws related thereto, as may be amended from time to time (collectively, the "S.A.F.E. Act"); (d) any and all similar Laws from time to time in effect; (e) any and all interpretations, rules, and regulations promulgated by any Government Authority in connection with the foregoing; and (f) any and all amendments to or replacements of the foregoing.

"Lien" shall mean any lien, mortgage, security interest, assignment, tax lien, pledge or encumbrance, or conditional sale or title retention agreement, any financing lease having

substantially the same economic effect as any of the foregoing, or any other interest in Property designed to secure the repayment of indebtedness.

"Loan Application" shall mean a completed application for the applicable Mortgage Loan in its final form, signed by all applicable Borrowers, and which is in compliance with all applicable Laws.

"Material Adverse Effect" shall mean any set of circumstances or event which with respect to any Person: (a) could reasonably be expected to have a material adverse effect upon the validity, performance, or enforceability of any Warehouse Document against such Person; (b) is or could reasonably be expected to have a material adverse effect upon the condition (financial or otherwise), properties, liabilities (actual or contingent), business operations or prospects of such Person; (c) could reasonably be expected to materially impair the ability of such Person to perform its obligations under any Warehouse Document to which it is a party; or (d) could reasonably be expected to cause an Event of Default.

"Maximum Judgment Amount" shall mean the lesser of: (a) \$100,000.00; or (b) at any particular time, the amount equal to one percent (1.0%) of the sum of Seller's cash, cash equivalents (certificates of deposit and other depository accounts established at FDIC-insured banks), United States government-issued securities and other registered, unrestricted equity or debt securities which are publicly traded on a recognized United States exchange and have been approved by Bank, in its sole and absolute discretion and which, in all events, are held in Seller's name and are free and clear of all Liens (except Liens in favor of Bank).

"Mortgage Loan" shall mean a residential mortgage loan evidenced by a Mortgage Note and secured by a Security Instrument.

"Mortgage Loan Collections" shall mean all checks, instruments, funds, and other property from time to time paid on, under or with respect to any Participated Mortgage Loan under any Mortgage Loan Document or otherwise related thereto, including, without limitation, all payments of principal, interest, fees, charges, costs, expenses, indemnities and other amounts, and all proceeds of sale of such Participated Mortgage Loan.

"Mortgage Loan Documents" shall mean, with respect to any Mortgage Loan, the Mortgage Note evidencing such Mortgage Loan, the Security Instrument securing such Mortgage Loan, and all other agreements, instruments and documents governing, evidencing, guaranteeing or relating to such Mortgage Loan, Mortgage Note or Security Instrument.

"Mortgage Loan File" shall mean, with respect to any Participated Mortgage Loan, any and all Mortgage Loan Documents and other agreements, files, records and other documents related to such Participated Mortgage Loan (including the related credit file and underwriting standards under which Seller approved such Participated Mortgage Loan).

"Mortgage Note" shall mean, with respect to any Mortgage Loan, a full recourse promissory note evidencing such Mortgage Loan and secured by a Security Instrument.

"Mortgage Note Rate" shall mean, with respect to any Mortgage Loan, the per annum rate of interest in effect and accruing from time to time on the outstanding principal balance of such Mortgage Loan, as set forth in the Mortgage Note evidencing such Mortgage Loan.

"Mortgaged Property." shall mean, with respect to any Mortgage Loan, the Residential Real Property subject to a Security Instrument securing such Mortgage Loan.

"Obligated Party." shall mean Seller, or any other Person who is or becomes party to any agreement that guarantees or secures payment or performance of Seller's obligations to Bank under this Agreement.

"Outstanding Participation Balance" shall mean, at any given time, an amount, as reflected on Bank's books and records, equal to the aggregate sum of the outstanding Advances hereunder made by Bank for the purchase of Participated Mortgage Loans which do not at such time constitute Retired Participated Mortgage Loans.

"Participated Mortgage Loan" shall mean any Mortgage Loan in which Bank has elected to purchase a Participation Interest from Seller pursuant to the terms and conditions of this Agreement. A Mortgage Loan in which Bank has purchased a Participation Interest shall cease to be a Participated Mortgage Loan hereunder at such time as such Mortgage Loan is a Retired Participated Mortgage Loan.

"Participation Account" shall mean the deposit account established and maintained by Seller at Bank for the purpose of holding funds of Seller to be used to pay Seller's Funding Amounts. The account number for the Participation Account is identified in Schedule 1 to the Pledge Agreement.

"Participation Interest" shall mean, with respect to any Mortgage Loan, an undivided percentage ownership interest in all rights, titles and interests in, to and under such Mortgage Loan (including, all Mortgage Loan Collections payable on, and with respect to such Mortgage Loan, all of such Mortgage Loan Documents and all other obligations thereunder, all claims, suits, causes of action, and any other rights, known or unknown, against any of the related Borrower, guarantor or other Person relating to any of the foregoing, all collateral, guarantees and other security of or provided by any of the related Borrower or any other Person of any kind for or in respect to any and all of the foregoing, and all proceeds of any and all of the foregoing) purchased by Bank from Seller hereunder and owned by Bank. The undivided percentage ownership interest of Bank in any such Mortgage Loan shall be equal to the Participation Percentage for such Mortgage Loan in effect from time to time.

"Participation Percentage" shall mean, with respect to any Participation Interest in a Participated Mortgage Loan, a percentage of undivided ownership interest in such Participated Mortgage Loan equal to: (a) the Standard Participation Percentage; or (b) if Bank elects, in its sole discretion, to make an Advance for the purchase of such Participation Interest which is greater or less than the amount equal to the Standard Participation Percentage multiplied by the outstanding principal amount of such Participated Mortgage Loan as of the related Purchase Date, then the amount of such Advance divided by such outstanding principal amount, expressed as a percentage; as the Participation Percentage for such Participated Mortgage Loan is reflected on Bank's books and records. Upon any repurchase of all or any portion of Bank's outstanding Participation Interest in any Participated Mortgage Loan by Seller hereunder, Bank's then-current Participation Percentage in such Participated Mortgage Loan shall be adjusted pursuant to this Agreement to give effect to such repurchase. The Participation Percentage for any Participated Mortgage Loan shall be the percentage reflected on Bank's books and records from time to time for such Participation Percentage, absent manifest error conclusively established by Seller.

"Party." shall mean each of Seller and Bank.

"Permitted Encumbrances" shall mean, with respect to any Mortgage Loan: (a) the Lien of current real property taxes and assessments not yet due and payable; (b) covenants, conditions and restrictions, rights of way, easements and other matters of the public record as of the date of recording being acceptable pursuant to Accepted Lending Practices and specifically referred to in the lender's title insurance policy delivered to the originator of such Mortgage Loan and which do not adversely affect the appraised value of the Mortgaged Property for such Mortgage Loan; and (c) other matters to which like properties are commonly subject which are acceptable pursuant to Accepted Lending Practices and do not, individually or in the aggregate, materially interfere with the benefits of the security intended to be provided by the Security Instrument for such Mortgage Loan or the use, enjoyment, value or marketability of the related Mortgaged Property.

"Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

"Pledge Agreement" shall mean, individually and collectively, each pledge or security agreement, in such form and content required by Bank, now or hereafter executed for the benefit of Bank in connection with this Agreement and the transactions contemplated hereby, including each agreement attached hereto as Exhibit B.

"Pledged Account" shall mean the depository account or accounts established and maintained by Seller at Bank for the purpose of holding funds of Seller to be used as a source of funds to pay the Repurchase/Sale Obligations. The account number for the Pledged Account is identified in Schedule 1 to the Pledge Agreement.

"Proceeding" means any action, claim, investigation, lawsuit or other proceeding.

"Property." shall mean any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"Purchase Date" shall mean, with respect to any Participated Mortgage Loan, the date and time of the Advance for the purchase by Bank of a Participation Interest in such Participated Mortgage Loan.

"Purchase Price" shall mean, with respect to a Participation Interest in any Mortgage Loan to be purchased by Bank, an amount equal to the outstanding principal amount of such Mortgage Loan on the related Purchase Date multiplied by the Bank's Participation Percentage for such Participation Interest in such Mortgage Loan.

"Remittance Account" shall mean the deposit account established and maintained by Seller at Bank into which Bank shall deposit any and all funds received by Bank from time to time which are attributable hereunder to Seller's Retained Percentage in any Participated Mortgage Loan and which are required to be paid by Bank to Seller hereunder.

"Repurchase Participation Percentage" shall mean, with respect to a Participation Interest in any Participated Mortgage Loan: (a) the portion of Bank's outstanding Participation Percentage in such Participated Mortgage Loan which is required by Bank to be repurchased by Seller from Bank pursuant to Section 4.7, expressed as a percentage (for example, if Bank's Participation Percentage immediately prior to the repurchase is 99.0%, and Bank's Participation Percentage is required to be reduced to 89.0% in connection with the repurchase, then the Repurchase Participation Percentage would equal 10.0%); or (b) one hundred percent (100.0%) of Bank's

outstanding Participation Percentage in such Mortgage Loan which is required by Bank to be repurchased in its entirety by Seller from Bank pursuant to Section 4.8 (for example, if Bank's Participation Percentage immediately prior to the repurchase is 99.0%, and Bank's Participation Percentage is required to be reduced to 0.0% in connection with the repurchase, then the Repurchase Participation Percentage would equal 99.0%).

"Repurchase Price" shall mean, with respect to a Participation Interest in any Participated Mortgage Loan, the amount to be paid by Seller to Bank for the repurchase of all or any portion of such Participation Interest which is required by Bank to be repurchased by Seller from Bank pursuant to Sections 4.7 or 4.8, which amount shall be equal to: (a) the amount of any then-earned and unpaid Funding Fee payable by Seller to Bank hereunder with respect to such Participated Mortgage Loan as of the date of such repurchase; plus (b) an amount equal to (i) the outstanding principal amount of such Participated Mortgage Loan on the related Purchase Date, multiplied by (ii) the Repurchase Participation Percentage for such Participated Mortgage Loan; plus (c) the amount of Bank's pro rata share of accrued interest on such Participated Mortgage Loan (which is allocable to the portion of the Participation Interest that is required to be repurchased by Seller), determined at the Participation Interest Rate for such Participated Mortgage Loan, during the period of time commencing on the Purchase Date for such Participated Mortgage Loan and ending on the date of such repurchase; plus (d) any and all other amounts related to such Participated Mortgage Loan which are then due and payable by Seller to Bank under this Agreement as of the date of such repurchase (including, without limitation, any and all costs and expenses of Bank incurred in enforcing its rights and remedies hereunder in connection with the related Mortgage Loan); less (e) all amounts (if any) received and applied by Bank hereunder, as of the date of such repurchase, towards payment of Bank's pro rata share (determined in accordance with Bank's Participation Percentage in effect from time to time with respect to such Participation Interest) of principal and interest (determined at the applicable Participation Interest Rate) on such Participated Mortgage Loan.

"Repurchase/Sale Obligations" shall mean: (a) any and all obligations of Seller, whether now existing or hereafter arising, to (i) arrange for the sale by and on behalf of the Parties of each Participated Mortgage Loan to a Take-Out Purchaser, and complete each such sale, as and when required pursuant to the terms and conditions of this Agreement and (ii) repurchase all or any portion of Bank's Participation Interest in each Participated Mortgage Loan as and when required pursuant to the terms and conditions of this Agreement; (b) any and all liabilities of Seller to Bank in connection with the obligations described in clause (a) of this sentence; and (c) any and all costs and expenses incurred by Bank in connection with the collection, administration or enforcement of all or any part of the obligations and liabilities described in clauses (a) and (b) of this sentence or the protection or preservation of, or realization upon, any collateral securing all or any part of such liabilities and obligations, including, without limitation, all reasonable attorneys' fees.

"Request" shall mean any request by Seller to Bank for the purchase by Bank from Seller of a Participation Interest in an Eligible Mortgage Loan and the Advance by Bank of funds for the Purchase Price for such Participation Interest, which Request shall be delivered by Seller to Bank in such manner and shall contain such information as may be required by Bank from time to time.

"Residential Real Property" shall mean a single platted lot of land improved with a one-to- four family residence.

"Restricted Accounts" shall mean the Participation Account and the Pledged Account.

"Retained Percentage" shall mean, with respect to any Participated Mortgage Loan, the percentage of undivided ownership interest retained by Seller in such Participated Mortgage Loan, after giving effect to the sale by Seller and purchase by Bank of such Participation Interest hereunder, which percentage shall be, for any such Mortgage Loan, equal to the difference of one hundred percent (100.0%) less the Bank's Participation Percentage in such Participated Mortgage Loan. Upon any repurchase of all or any portion of Bank's outstanding Participation Interest in any Participated Mortgage Loan by Seller hereunder, Seller's then-current Retained Percentage in such Participated Mortgage Loan shall be adjusted to give effect to such repurchase. The Retained Percentage for any Participated Mortgage Loan shall be the percentage reflected on Bank's books and records from time to time for such Retained Percentage, absent manifest error conclusively established by Seller.

"Retired Participated Mortgage Loan" shall mean any Mortgage Loan in which Bank has purchased a Participation Interest: (a) which has been subsequently sold in its entirety to a Take-Out Purchaser and the full amount of the Take-Out Purchase Price for such sale has been received and applied by Bank (as reflected on the Bank's books and records), all pursuant to the terms of this Agreement; (b) for which the Participation Interest in such Mortgage Loan has been subsequently repurchased in its entirety by Seller from Bank and the full amount of the Repurchase Price for such repurchase has been received and applied by Bank (as reflected on the Bank's books and records), all pursuant to the terms of this Agreement; or (c) for which the entire principal balance and all accrued interest for such Mortgage Loan has been subsequently paid in full by the related Borrower, and Bank's pro rata share of such amounts (determined in accordance with Bank's Participation Percentage and the Participation Interest Rate in effect from time to time with respect to such Mortgage Loan) have been received and applied by Bank (as reflected on the Bank's books and records), all pursuant to the terms of this Agreement.

"Security Instrument" shall mean, with respect to any Mortgage Loan, a full recourse mortgage or deed of trust securing such Mortgage Loan and granting a perfected first priority lien on the Residential Real Property related thereto.

"Securitizer" shall mean any Person, approved in advance by Bank in its sole and absolute discretion, who or which purchases or agrees to purchase any Participated Mortgage Loan from Seller and Bank pursuant to a Securitization Loan Purchase Agreement in connection with the securitization of a pool of mortgage loans.

"Securitization Loan Purchase Agreement" shall mean, with respect to any Participated Mortgage Loan to be sold by Seller and Bank to a Securitizer, a current, valid, binding and enforceable mortgage loan purchase and sale agreement and/or other written agreement between the Securitizer and Seller regarding the sale of mortgage loans by Seller to, and purchase by, the Securitizer in connection with the securitization of a pool of residential mortgage loans, which Securitization Loan Purchase Agreement provides for a purchase price to be paid by the Securitizer of not less than the Take-Out Purchase Price for such Participated Mortgage Loan and which is otherwise on terms and in such form and content acceptable to Bank in its sole and absolute discretion.

"Seller's Funding Amount" shall mean, with respect to any Participated Mortgage Loan and the related Mortgage Loan Transaction, the total amount to be paid by Seller (through sources other than an Advance) in connection with such Mortgage Loan Transaction, which Seller's Funding Amount shall be equal to the Total Funding Amount for such Participated Mortgage Loan less the Purchase Price for the Participation Interest therein.

"Seller Originated Mortgage Loan" shall mean any Mortgage Loan: (a) originated by Seller and closed in the name of Seller as lender; and (b) with respect to which Seller is (or shall be upon the closing thereof) the holder of the Mortgage Note for such Mortgage Loan and otherwise owns all rights, titles and interests in and to such Mortgage Loan.

"Take-Out Purchase Agreement" shall mean any Investor Loan Purchase Agreement or Securitizer Loan Purchase Agreement.

"Take-Out Purchase Price" shall mean, with respect to any Participated Mortgage Loan to be sold by Seller and Bank to a Take-Out Purchaser pursuant to a Take-Out Purchase Agreement, an amount which is not less than: (a) as of the date of such sale, the outstanding principal balance of such Mortgage Loan plus any and all accrued and unpaid interest thereon; or (b) such other amount approved by Bank as confirmed in writing by Bank to Seller prior to such sale.

"Take-Out Purchaser" shall mean any Securitizer or any Investor approved in advance by Bank in its sole and absolute discretion for the purchase of a Mortgage Loan from Seller and Bank.

"Term SOFR" means, with respect to each Advance, the 1 month Term SOFR Reference Rate ("CME Term SOFR"), as of the date two (2) Business Days prior to the applicable determination date, as announced and published by CME Group Benchmark Administration Limited ("CBA") on the website of the CBA, currently at <https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr.html>, or in any widely circulated and publicly available source designated and approved by Bank in Bank's sole discretion, or, if CME Term SOFR shall, in Bank's sole discretion, cease to be widely utilized as a reference rate by commercial banks in the United States, an alternative independent rate publicly available and widely utilized by US commercial banks, selected by Bank and reasonably equivalent to CME Term SOFR. If at any time Term SOFR as determined in accordance with the foregoing provisions of this definition would otherwise be less than zero, then Term SOFR shall be deemed zero for purposes of this Agreement.

"Title Policy" shall mean, with respect to any Participated Mortgage Loan, a title insurance policy relating to such Participated Mortgage Loan, in such form acceptable to Bank, which title insurance policy: (a) is issued by a nationally recognized title insurance company acceptable to Bank; (b) provides insurance to the lender named therein, and such lender's successors and assigns, in the full amount of such Participated Mortgage Loan and insures that that the lien of the Security Instrument for such Participated Mortgage Loan is a first and prior lien upon the related Mortgaged Property, without any exceptions, except for Permitted Encumbrances; (c) includes such endorsements thereto which are consistent with Accepted Lending Practices; and (d) satisfies the requirements (if any) of the Warehouse Program Guide.

"Total Funding Amount" shall mean, with respect to any Participated Mortgage Loan and the related Mortgage Loan Transaction, the total amount to be paid by Seller in connection with such Mortgage Loan Transaction (including amounts to be provided on behalf of Seller by Bank through the making of an Advance for the purchase of a Participation Interest in such Participated Mortgage Loan), as set forth in the related Request.

"UCC" shall mean the Uniform Commercial Code of the State of Texas or other applicable jurisdiction, as it may be amended from time to time.

"USDA" shall mean the United States Department of Agriculture, or its successor.

"VA" shall mean the United States Department of Veterans Affairs, or its successor.

"Warehouse Documents" shall mean this Agreement, the Blanket Assignment, the Pledge Agreement and any and all other agreements, instruments and documents evidencing, securing or pertaining to Bank's discretionary purchase of Participation Interests in Mortgage Loans from Seller hereunder, as shall from time to time be executed and delivered to Bank by Seller, any Obligated Party or any other Person pursuant to or in connection with this Agreement or the transactions contemplated hereby, including each addendum to this Agreement (if any) executed by Bank and Seller, any future amendments hereto, or restatements hereof, together with any and all renewals, extensions, and restatements of, and amendments and modifications to, any such agreements, documents and instruments.

"Warehouse Program Guide" shall mean, collectively, the "Warehouse Lending Program Guide" issued by Bank and made available to Seller pursuant to the provisions of this Agreement, as amended, modified or supplemented from time to time by Bank, and including any notices or bulletins issued by Bank concerning the guidelines, procedures and requirements for the transactions contemplated by this Agreement.

1.3 **Other Defined Terms.** In addition to the terms defined in Section 1.1 and Section 1.2, as used in this Agreement, other capitalized terms contained in this Agreement shall have the meanings assigned to them.

1.4 **Other Definitional Provisions.**

(a) All terms defined in this Agreement shall have the herein defined meanings when used in any document, certificate, report or other document, instrument, or writing made or delivered pursuant to this Agreement or any other Warehouse Document, unless the context therein shall otherwise require.

(b) Words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

(c) The words "herein," "hereof," "hereunder" and other similar compounds of the word "here" when used in this Agreement shall refer to the entire Agreement and not to any particular provision or section; and the word "including," as used herein, shall mean "including, without limitation."

(d) All references herein to "Articles" and "Sections" are, unless specified otherwise, references to articles and sections of this Agreement. All references herein to an "Exhibit," "Schedule" or "Addendum" are references to exhibits, schedules or addenda attached hereto, all of which are made a part hereof for all purposes, the same as if set forth herein verbatim, it being understood that if any exhibit, schedule or addendum attached hereto, which is to be executed and delivered, contains blanks, the same shall be completed correctly and in accordance with the terms and provisions contained and as contemplated herein prior to or at the time of the execution and delivery thereof.

ARTICLE 2
PURCHASE OF PARTICIPATION INTERESTS

2.1 **Request for Purchase.**

(a) At any time prior to the Advance Request Termination Date, Seller may submit a Request to Bank for Bank to purchase a Participation Interest in one or more Eligible Mortgage Loans from Seller hereunder by delivering or causing to be delivered to Bank, by electronic data submission or in such other manner, as may be required by Bank from time to time, the information and other items for such Eligible Mortgage Loans required by Bank pursuant to the Warehouse Program Guide.

(b) To assist Bank in making its decision whether to purchase a Participation Interest in any particular Eligible Mortgage Loan, Seller will timely provide Bank or Bank's agents with the information and other items for such Eligible Mortgage Loan required by Bank pursuant to the Warehouse Program Guide.

(c) Each submission of a Request shall be deemed to constitute a representation and warranty by Seller to Bank on the date of such Request and on the date of an Advance made by Bank to purchase a Participation Interest in any Mortgage Loan in connection with such Request that: (i) such Request relates to an Eligible Mortgage Loan; and (ii) the information and materials submitted to Bank in connection with such Mortgage Loan and such Request are true, correct and complete in all respects.

(d) Each submission of a Request shall constitute Seller's agreement and reaffirmation of the terms of the Blanket Assignment, such that, if Bank elects to purchase from Seller a Participation Interest in the Mortgage Loan referenced in such Request, then effective upon payment by Bank to Seller of the Purchase Price for such Participation Interest pursuant to the terms of this Agreement, Seller shall have (and shall be conclusively deemed to have) irrevocably and unconditionally sold, transferred, assigned and conveyed to Bank, and Bank shall have (and shall be conclusively deemed to have) purchased and accepted from Seller, all of Seller's rights, titles, and interests in, to and under such Participation Interest in such Mortgage Loan and the related Mortgage Loan Documents, and such sale, transfer, assignment and conveyance shall be evidenced by the Blanket Assignment (including the Schedule thereto which shall be updated and maintained by Bank, and which Seller hereby confirms and accepts, and shall be conclusive absent manifest error conclusively established by Seller).

2.2 **Decision to Purchase.** Each decision of Bank whether to purchase any Participation Interest in any Mortgage Loan from Seller hereunder shall be made by Bank in its sole and absolute discretion. Bank shall be under no obligation hereunder to purchase any Participation Interest in any Mortgage Loan nor shall Bank have any obligation hereunder to purchase any minimum amount of Participation Interests in Mortgage Loans. In each instance where a Request is submitted to Bank, Bank will make an independent decision whether to purchase a Participation Interest in any Mortgage Loan contemplated by the Request. Bank may decline to purchase any Participation Interest in any Mortgage Loan for any reason or for no reason whatsoever. The election of Bank to purchase a Participation Interest in any Mortgage Loan shall be evidenced by the making of an Advance by Bank for the payment of the Purchase Price related thereto. If for any reason whatsoever Bank fails to make an Advance for the payment of the Purchase Price for a Participation Interest in any Mortgage Loan, then it shall be conclusive evidence of Bank's election not to purchase a Participation Interest in such Mortgage Loan.

2.3 **Conditions to Each Purchase.** As a condition precedent to any purchase of a Participation Interest by Bank from Seller hereunder, in addition to all other requirements set forth herein, Seller shall deliver to Bank all of the following, each being duly executed, endorsed, notarized where applicable and delivered and in form and content satisfactory to Bank in its sole and absolute discretion:

- (a) The information and other items required to be delivered to Bank pursuant to Section 2.1;
- (b) If requested by Bank, a written certification from Seller to Bank that the representations and warranties of Seller contained in this Agreement and each other Warehouse Document (other than those representations and warranties which are, by their terms, expressly limited to the date of the agreement in which they were initially made) are true and correct in all material respects on and as of the date of such purchase;
- (c) If requested by Bank, a written certification from Seller that no Event of Default has occurred or is continuing as of the date of the Advance;
- (d) Seller has adequate available funds on deposit in the Participation Account in an amount not less than Seller's Funding Amount for such Mortgage Loan; and
- (e) Such other documents as Bank may reasonably request at any time at or prior to the date of the first Advance hereunder or as a condition to any subsequent Advance hereunder, including any and each Pledge Agreement required by Bank to be executed in connection with the transactions contemplated by this Agreement.

Each submission of a Request shall be deemed to constitute a representation and warranty by Seller to Bank on the date of such Request and on the date of the applicable Advance made to purchase a Participation Interest in connection with such Request as to the facts and statements specified in clauses (a), (b), (c) and (d) immediately above and in Sections 5.1(e), (g) and (h) are true and correct. It is understood and agreed that Bank shall not make any Advance for the Purchase Price of any Participation Interest unless with respect thereto Bank is in receipt of all agreements and documents required to be delivered to Bank under this Agreement and all other conditions precedent and requirements set forth herein are satisfied or waived by Bank in writing.

All conditions precedent hereunder to the purchase of a Participation Interest are solely for the benefit of Bank. Bank's election, in its sole discretion, to waive any condition precedent hereunder for the purchase of any Participation Interest shall not constitute a waiver of the satisfaction of such condition precedent for any subsequent purchase of any other Participation Interest. No such condition precedent shall be deemed waived unless waived in writing by Bank.

2.4 Funding of Mortgage Loan Transactions; Purchase of Participation Interests. With respect to each Participated Mortgage Loan, Bank and Seller agree that:

- (a) Bank shall (and is authorized to) debit funds from the Participation Account in an amount equal to Seller's Funding Amount for such Participated Mortgage Loan and deliver on behalf of Seller by wire transfer such funds directly to the account of the Funding Recipient designated in the related Request (provided, however, if such Funding Recipient is an Escrow Agent, then such account shall be an escrow account) or deliver such funds on behalf of Seller to such Funding Recipient in any other manner acceptable to Bank. Bank shall not make an Advance for the purchase of a Participation Interest in any Mortgage Loan unless Seller has good funds on deposit in the Participation Account in an amount not less than Seller's Funding Amount for such Mortgage Loan;
- (b) As payment by Bank to Seller for the purchase of a Participation Interest in such Participated Mortgage Loan, Bank shall make an Advance in an amount equal to the related Purchase Price. Seller hereby irrevocably and unconditionally instructs Bank, with respect to any

such Advance, to deliver by wire transfer the proceeds of such Advance on behalf of Seller directly to the account of the Funding Recipient designated in the related Request or to deliver such proceeds on behalf of Seller to such Funding Recipient in any other manner acceptable to Bank; and

(c) Upon the making of an Advance by Bank to or on behalf of Seller for the purchase of a Participation Interest in such Participated Mortgage Loan as described above in this Section:

(i) Bank shall immediately have purchased such Participation Interest from Seller, and shall immediately have become fully vested with, an undivided percentage ownership interest in all of Seller's rights, titles and interests in and to such Participated Mortgage Loan and the related Mortgage Loan Documents, which undivided percentage ownership interest shall equal the Participation Percentage for such Participated Mortgage Loan; and (ii) Seller shall immediately make proper entries on its books and records disclosing the absolute sale by Seller to Bank of such Participation Interest in such Participated Mortgage Loan and the related Mortgage Loan Documents. The purchase and sale of a Participation Interest in any Participated Mortgage Loan hereunder shall be conclusively established by the making of an Advance by Bank for the Purchase Price for such Participation Interest as and in the manner provided in this Section and shall be evidenced by the Blanket Assignment.

2.5 **Failure to Complete Mortgage Loan Transaction.** Each Advance made by Bank to purchase a Participation Interest from Seller in a Mortgage Loan is intended by Bank and Seller to be made in connection with a Mortgage Loan Transaction, which Mortgage Loan Transaction is to occur on or about the date on which the related Request for such Advance is submitted by Seller to Bank for Bank to purchase a Participation Interest in such Mortgage Loan or on such date otherwise specified in such Request. With respect to any Mortgage Loan for which Seller has submitted a Request to Bank for Bank to purchase a Participation Interest therein, if the Mortgage Loan Transaction related thereto is not expected by Seller to occur or fails to occur within two (2) days of such Request then Seller shall immediately provide notice thereof to Bank. Should the Mortgage Loan Transaction related to any Mortgage Loan not be expected by Seller to occur or fail to occur within two (2) days of the Request to Bank for Bank to purchase a Participation Interest therein and Bank shall have delivered on behalf of Seller to the related Funding Recipient the proceeds of the Advance for the purchase by Bank of such Participation Interest, then: (a) the proceeds of such Advance shall immediately be returned directly to Bank and Bank may instruct such Funding Recipient to immediately return such proceeds directly to Bank; and (b) Seller shall (i) immediately instruct and cause such Funding Recipient to return the proceeds of such Advance directly to Bank and (ii) cooperate with Bank to effect the immediate return of the proceeds of such Advance directly to Bank and, at the request of Bank, take such actions and do such things deemed necessary or appropriate by Bank to effect the immediate return directly to Bank of the proceeds of such Advance.

2.6 **Funding Fee.** Seller shall pay to Bank a Funding Fee for each Participated Mortgage Loan as compensation for Bank's costs and expenses incurred in connection with underwriting and processing its purchase of the Participation Interest in such Participated Mortgage Loan and administering such Participation Interest hereunder. The Funding Fee with respect to any Participated Mortgage Loan shall be: (a) earned in full by Bank on the related Purchase Date; and (b) payable to Bank by Seller upon the earlier to occur of the date on which: (i) all or any portion of the related Participation Interest is to be repurchased by Seller from Bank as contemplated by and in accordance with the terms of this Agreement; (ii) such Participated Mortgage Loan is sold to a Take-Out Purchaser as contemplated by and in accordance with the terms of this Agreement; or (iii) the entire principal balance of such Participated Mortgage Loan has been paid in full by the related Borrower.

2.7 **Maximum Participation Amount.** Notwithstanding anything to the contrary contained herein, Bank shall not purchase and hold, at any one time, Participation Interests such that the Outstanding

Participation Balance exceeds the Maximum Participation Amount; provided, however, that Bank may, in its sole and absolute discretion, elect to temporarily increase the Maximum Participation Amount upon written notice to Seller pursuant to Section 2.8. Nothing contained in this Section shall limit, impair or affect the provisions of Section 2.2.

2.8 **Overline Facility Increases**. Upon Seller's request from time to time, Bank may, in its sole and absolute discretion, elect to temporarily increase the amount of the Maximum Participation Amount (each, an "**Overline Facility Increase**") by providing written notice thereof to Seller (each, an "**Overline Confirmation**"). Each Overline Confirmation shall set forth the terms on which Bank agrees to temporarily increase the Maximum Participation Amount, including: (a) the amount to which the Maximum Participation Amount will be temporarily increased; (b) the date on which such temporary increase in the Maximum Participation Amount shall commence and terminate (the "**Overline Period**"); and (c) the amount to which the Minimum Pledged Balance shall be increased in connection with such Overline Facility Increase. As a condition precedent to the effectiveness of any Overline Facility Increase, Seller shall deposit into the Pledged Account good funds in such amount required in order to maintain therein the Minimum Pledged Balance set forth in the related Overline Confirmation. During any Overline Period, the Maximum Participation Amount and Minimum Pledged Balance shall equal the respective amounts set forth on the Overline Confirmation and, upon the expiration of the Overline Period, the Maximum Participation Amount and Minimum Pledged Balance shall automatically be reduced to the respective amounts in effect prior to the commencement of any Overline Period.

2.9 **Client-to-Client Funding**. If Seller submits a Request to Bank for Bank to purchase a Participation Interest in a Mortgage Loan from Seller hereunder to pay off a Mortgage Loan in which Bank already holds an ownership interest pursuant to a separate agreement with a different mortgage company (each, a "**Client-to-Client Funding**"), then Seller: (a) shall provide any and all documents and information Bank requests regarding or related to such Participation Interest representing the Client-to-Client Funding; and (b) acknowledges and agrees that, without limiting any other provision in this Article 2 relating to the purchase of such Participation Interest, any such Client-to-Client Funding shall be conditioned upon the timely satisfaction of all other conditions Bank may in its sole and absolute discretion determine to be necessary or appropriate, including the consent of the original mortgage company to the Client-to-Client Funding and Bank's agreement to the application of the funds advanced under the Client-to-Client Funding.

ARTICLE 3 **DELIVERY OF BANK DOCUMENT DELIVERABLES**

3.1 **Documents to be Delivered to the Document Custodian After an Advance**. Subject to Sections 3.2 and 3.3, within five (5) Business Days after the Purchase Date for any Participated Mortgage Loan, Seller shall deliver or cause to be delivered to the Document Custodian all of the Bank Document Deliverables for such Participated Mortgage Loan. Bank reserves the right to require copies of any of the Bank Document Deliverables for review prior to making any Advance for the purchase of a Participation Interest in any specific Mortgage Loan.

3.2 **Procedure for Delivery of Bank Document Deliverables**. Seller shall cause the Bank Document Deliverables for each Participated Mortgage Loan to be: (i) delivered directly to Seller (and, in the event that the applicable Funding Recipient for such Participated Mortgage Loan is or is required hereunder to be an Escrow Agent, such Bank Document Deliverables shall be delivered directly to Seller from escrow by the Escrow Agent for such Participated Mortgage Loan); and (ii) thereafter, delivered directly to the Document Custodian by Seller within five (5) Business Days after the Purchase Date for such Participated Mortgage Loan, unless otherwise expressly provided by Bank in writing to Seller with respect to such Participated Mortgage Loan (it being understood that any such writing from Bank shall only apply to the specific Participated Mortgage Loan referenced therein). Seller acknowledges and agrees that

the foregoing arrangement (which allows for Seller, subject to Subsection (c) of this Section, to directly deliver to the Document Custodian the Bank Document Deliverables within five (5) Business Days after the Purchase Date for the related Participated Mortgage Loan) is being made as an accommodation to Seller and that Bank may, in its sole discretion, by providing written notice to Seller: (i) terminate Seller's authorization to deliver directly to the Document Custodian any or all of the Bank Document Deliverables; and (ii) require that within (2) two Business Days after the Purchase Date for any Participated Mortgage Loan, any or all Bank Document Deliverables shall be delivered directly to the Document Custodian (and, in the event that the applicable Funding Recipient for such Participated Mortgage Loan is or is required hereunder to be an Escrow Agent, such Bank Document Deliverables shall be delivered directly to the Document Custodian from escrow by the Escrow Agent for such Participated Mortgage Loan).

3.3 **Bank Document Deliverables Held By Seller.** Without limiting the requirements set forth in Section 3.2, Seller acknowledges and agrees that each and every Bank Document Deliverable for any Participated Mortgage Loan which is at any time in the custody, possession or control of Seller after Bank's purchase of a Participation Interest in such Participated Mortgage Loan shall be held and delivered to the Document Custodian pursuant to the terms and conditions of Section 5.11 of the Warehouse Agreement. Nothing contained in this Section authorizes or permits the delivery to Seller or any other Person (other than the Document Custodian) of any of the Bank Document Deliverables which are required to be delivered directly to the Document Custodian pursuant to the provisions of this Section.

ARTICLE 4

SALE OF LOANS TO TAKE-OUT PURCHASERS; AGED LOANS; REPURCHASE OBLIGATIONS

4.1 **Short Term Nature of Investment**

(a) It is understood that each Participation Interest which Bank purchases in any Mortgage Loan shall be purchased by Bank for its own account for the short term investment of its capital and in reliance of Seller's agreement hereunder that: (i) Seller shall arrange and complete the sale by and on behalf of the Parties of the related Participated Mortgage Loan as and when required pursuant to the terms of this Agreement; or (ii) repurchase all or any portion of such Participation Interest as and when required pursuant to the terms of this Agreement, if such sale is not arranged and completed by Seller as and when required pursuant to the terms of this Agreement. In order to secure the prompt and complete performance by Seller of its Repurchase/Sale Obligations, Seller does hereby pledge, assign and grant to Bank a continuing security interest in and to the Collateral. For this purpose, this Agreement shall constitute a security agreement in accordance with the UCC, and Bank shall have all the rights of a secured creditor with respect to such security.

(b) For each Participated Mortgage Loan, it is the intention of Bank and Seller that such Participated Mortgage Loan and the related Mortgage Loan Documents will be sold and delivered to a Take-Out Purchaser, and for such Take-Out Purchaser to have paid the full amount of the Take-Out Purchase Price for such Participated Mortgage Loan, within thirty (30) days of the Purchase Date for such Participated Mortgage Loan. Notwithstanding the foregoing, it is understood and agreed that Bank shall not have and does not undertake any duty, obligation or liability arising from or related to any Take-Out Purchase Agreement or any Take-Out Purchaser.

4.2 **Sale of Participated Mortgage Loans to Take-Out Purchasers**

(a) The sale of each Participated Mortgage Loan by Seller and Bank to any Take-Out Purchaser shall be in accordance with the terms of the related Take-Out Purchase Agreement. If a

Take-Out Purchaser fails to perform or anticipatorily breaches its obligations under a Take-Out Purchase Agreement to purchase any Participated Mortgage Loan, then Seller shall promptly locate and consummate the sale by Bank and Seller of such Participated Mortgage Loan to another Take-Out Purchaser acceptable to Bank at a price which is not less than the Take-Out Purchase Price for such Participated Mortgage Loan; provided, however, that the foregoing shall not limit or qualify any other rights or remedies available to Bank hereunder with respect to such Participated Mortgage Loan or any Participation Interest therein.

(b) Notwithstanding anything to the contrary in any Take-Out Purchase Agreement, the procedures of sale to a Take-Out Purchaser by Seller and Bank of any Participated Mortgage Loan shall be as follows:

(i) Seller shall deliver to the Take-Out Purchaser the Mortgage Loan Documents for such Participated Mortgage Loan (other than the related Mortgage Note and other Mortgage Loan Documents, if any, which are then being held by the Document Custodian). Such Mortgage Loan Documents shall be delivered by Seller to the Take-Out Purchaser under the provisions of the Take-Out Purchase Agreement which govern the Take-Out Purchaser's custody and possession of such Mortgage Loan Documents or under such other written custodial or similar agreement between Seller and the Take-Out Purchaser acceptable to Bank. Seller shall provide prompt written notice to Bank of the transmittal and delivery of such Mortgage Loan Documents to the Take-Out Purchaser.

(ii) Bank shall deliver or cause to be delivered to the Take-Out Purchaser, under a Bailee Letter, the Mortgage Loan Documents for such Participated Mortgage Loan which are then held by the Document Custodian pursuant to this Agreement, including the original Mortgage Note for such Participated Mortgage Loan accompanied by: (A) the Required Endorsements; and (B) if such Mortgage Note was not endorsed in blank by Seller, an allonge endorsed in favor of such Take-Out Purchaser by Bank, as agent for Seller, pursuant to (and if and to the extent that Bank shall have received and accepted) a valid power of attorney, in form and content satisfactory to Bank, authorizing Bank to endorse such Mortgage Note for and on behalf of Seller.

(c) Within a period of time acceptable to Bank, but in no event more than twenty (20) days after the delivery by the Document Custodian to the Take-Out Purchaser of the Mortgage Note evidencing such Participated Mortgage Loan, Seller shall cause the Take-Out Purchaser to pay or cause to be paid directly to Bank, as payment to Seller and Bank for the purchase by the Take-Out Purchaser of such Participated Mortgage Loan, immediately available funds in an amount not less than the Take-Out Purchase Price for such Participated Mortgage Loan.

(d) All of the proceeds from the sale by Seller and Bank of a Participated Mortgage Loan to a Take-Out Purchaser shall be paid directly to Bank pursuant to Section 4.3 and shall be applied by Bank on behalf of Bank and Seller in accordance with Section 4.4.

(e) Subject to Section 4.4(b), Bank and Seller's ownership interests in any Participated Mortgage Loan to be sold to a Take-Out Purchaser shall continue in full force and effect, and Bank and Seller shall not have (and shall not be deemed to have) sold such Participated Mortgage Loan to a Take-Out Purchaser unless and until such time as Bank shall have received immediately available funds from the Take-Out Purchaser for such sale in an amount not less than the Take-Out Purchase Price for such Participated Mortgage Loan and applied such funds in accordance with Section 5.12.

4.3 **Payments From Take-Out Purchasers.** In connection with each sale of a Participated Mortgage Loan by Seller and Bank to a Take-Out Purchaser, Seller shall cause the Take-Out Purchase Price to be paid by the Take-Out Purchaser for the purchase of the Participated Mortgage Loan to be paid by the Take-Out Purchaser, in immediately available funds, directly to Bank into the Repayment Account.

4.4 **Processing Payments From Take-Out Purchasers.** With respect to any immediately available funds on deposit in the Repayment Account which constitute the proceeds of any Take-Out Purchase Price (each a "Take-Out Purchaser Payment"):

(a) Seller shall promptly confirm to Bank the Participated Mortgage Loan to which such Take-Out Purchaser Payment applies; provided, however, that if Seller shall not have provided such confirmation to Bank by the last Business Day of the calendar month in which Bank provided notice to Seller of the Take-Out Purchaser Payment, then Bank may, in its sole discretion, determine and designate the Participated Mortgage Loan to which such Take-Out Purchaser Payment applies to the extent Bank is able to make such a determination based on information available to it;

(b) Bank reserves the right, in its sole discretion, to determine whether to accept or reject such Take-Out Purchaser Payment in the event that insufficient funds were delivered by the Take-Out Purchaser to Bank to fully pay the Take-Out Purchase Price for the Participated Mortgage Loan to which the Take-Out Purchaser Payment applies. Seller acknowledges and agrees that: (i) if Bank elects, in its sole discretion, to reject a Take-Out Purchaser Payment for which insufficient funds were delivered, then Bank's related Participation Interest shall not have been sold (and shall be deemed to not have been sold) to such Take-Out Purchaser, and Seller shall immediately notify such Take-Out Purchaser that no sale of such Participated Mortgage Loan by Bank and Seller to such Take-Out Purchaser has occurred; and (ii) if Bank elects, in its sole discretion, not to reject a Take-Out Purchaser Payment for which insufficient funds were delivered, then Bank shall have the right to offset any amounts in any Account in order to effect full payment of Bank's share of such Take-Out Purchase Price; and

(c) If such Take-Out Purchaser Payment is accepted by Bank, the proceeds of the Take-Out Purchaser Payment shall be applied by Bank pursuant to Section 5.12.

All notices to be given and actions to be taken pursuant to this Section shall be effectuated electronically or in such other manner, as required by Bank from time to time pursuant to the Warehouse Program Guide.

4.5 **Reserved.**

4.6 **Participation Interest Rate for Aged Participated Mortgage Loans.**

(a) With respect to any Aged Participated Mortgage Loan, to the extent permitted by applicable Law, Bank may from time to time, in its sole discretion, increase the then-current Participation Interest Rate with respect to such Aged Participated Mortgage Loan by an amount, as determined by Bank, in accordance with the following:

Number of days elapsed since the Purchase Date for the Participation Interest in the Aged Participated Mortgage Loan	Maximum <i>aggregate total</i> amount by which Bank may increase the applicable Participation Interest Rate pursuant to this Section	Date on which the increase (if any) in the Participation Interest Rate is effective
---	---	--

60 days or more	up to 2.0%	60 th day following the Purchase Date of the Participation Interest
-----------------	------------	--

(b) Notwithstanding anything herein to the contrary, the Participation Interest Rate for any Participated Mortgage Loan shall not at any time exceed the maximum rate permitted under applicable Law.

(c) The provisions of this Section shall not limit or qualify any rights or remedies of Bank hereunder (including, without limitation, any rights or remedies of Bank under Sections 4.7 or 4.8).

[Remainder of Page Intentionally Left Blank]

4.7 **Curtailment of Aged Participated Mortgage Loans.**

(a) With respect to any Aged Participated Mortgage Loan, to the extent permitted by applicable Law, Bank may from time to time, in its sole and absolute discretion, require Seller to repurchase from Bank any portion of the Participation Interest then owned by Bank in such Aged Participated Mortgage Loan, as determined by Bank, in accordance with the following table:

Number of days elapsed since the Purchase Date for the Participation Interest in the Aged Participated Mortgage Loan	Maximum <i>aggregate total</i> portion of the Participation Percentage (as of the Purchase Date for the related Participation Interest) in the applicable Aged Participated Mortgage Loan which Bank may require to be repurchased by Seller pursuant to this Section
60 days or more but less than 90 days	up to 10.0%

(b) To effect the repurchase by Seller from Bank of any portion of a Participation Interest required by Bank to be repurchased under this Section, Seller shall pay to Bank an amount equal to the applicable Repurchase Price for such portion of such Participation Interest, which amount shall be due and payable upon any demand therefor made by Bank pursuant to the terms of this Section. Bank shall have the right to offset any amounts in the Pledged Account in order to effect full payment of any Repurchase Price when due and payable under this Section, and upon any such offset, Seller shall immediately deposit funds into the Pledged Account in the amount required to fully restore the Minimum Pledged Balance.

(c) Upon Bank's receipt from Seller of the full amount of the Repurchase Price for the portion of the Participation Interest in any Aged Participated Mortgage Loan required to be repurchased by Seller from Bank pursuant to this Section, effective as of the date of receipt of such funds and the application by Bank of such funds pursuant to the terms of this Agreement, Seller shall have repurchased from Bank such portion of such Participation Interest equal to the Repurchase Participation Percentage for such Participation Interest, and Bank's respective Participation Percentage in such Aged Participated Mortgage Loan and Seller's respective Retained Percentage in such Aged Participated Mortgage Loan shall be correspondingly adjusted, all as indicated on the Bank's books and records.

(d) The provisions of this Section shall not limit or qualify any rights or remedies of Bank hereunder (including, without limitation, any rights or remedies of Bank under Sections 4.6 or 4.8).

4.8 **Full Repurchase of Participation Interests.**

(a) With respect to any specific Participated Mortgage Loan, Bank shall have the right to require Seller, upon demand by Bank, to repurchase from Bank, in its entirety, all of Bank's then- outstanding Participation Interest in such Participated Mortgage Loan, if Bank reasonably determines at any time, that: (i) any representation or warranty made or deemed made by Seller to Bank under Sections 2.1 or 6.10 as to such Participated Mortgage Loan was false, misleading, or erroneous in any material respect at the time on or as of the Purchase Date for such Participated Mortgage Loan; (ii) such Participated Mortgage Loan was not an Eligible Mortgage Loan on or as of the Purchase Date for such Participated Mortgage Loan or no longer qualifies as an Eligible Mortgage Loan anytime thereafter; (iii) any Mortgage Loan Document related to such Participated Mortgage Loan was erroneous, unsigned or incomplete in any material respect on the Purchase

Date for such Participated Mortgage Loan and such error, lack of signature or incompleteness has not been corrected to the reasonable satisfaction of Bank within a commercially reasonable time period following such Purchase Date; (iv) any fraud occurred on the part of Seller or its agents or employees or of Borrower or any other Person with respect to the origination, underwriting, closing or funding of such Mortgage Loan; or (v) any of the Bank Document Deliverables for such Participated Mortgage Loan have not been delivered to the Document Custodian as and when required pursuant to the provisions of this Agreement. In addition, if an Event of Default shall have occurred, Bank shall have the right to require Seller, upon demand by Bank, to repurchase from Bank, in their entirety, all of Bank's then-outstanding Participation Interests in the Participated Mortgage Loans identified in such demand.

(b) In Bank's sole and absolute discretion, Seller shall automatically be required to immediately repurchase from Bank, in its entirety, all of Bank's then-outstanding Participation Interest in any Aged Participated Mortgage Loan on the ninetieth (90th) day after the Purchase Date for such Participation Interest if such Aged Participated Mortgage Loan does not constitute a Retired Participated Mortgage Loan by such ninetieth (90th) day. In addition, Seller shall automatically be required, whether or not Bank has made demand therefor, to immediately repurchase from Bank, in their entirety, all of Bank's then-outstanding Participation Interests in any and all Participated Mortgage Loan upon the occurrence of an Event of Default under Sections 9.1(e) or (f) with respect to Seller.

(c) To effect the repurchase of any Participation Interest required under this Section, Seller shall pay to Bank an amount equal to the applicable Repurchase Price for such Participation Interest, which amount shall be due and payable: (i) on the date Bank has made demand for the repurchase of such Participation Interest, if such repurchase is required pursuant to Section 4.8(a); or (ii) on the ninetieth (90th) day after the Purchase Date for such Participation Interest, if such repurchase is required pursuant to Section 4.8(b). Bank shall have the right to offset any amounts in the Pledged Account in order to effect full payment of any Repurchase Price when due and payable under this Section, and upon any such offset, Seller shall immediately deposit funds into the Pledged Account in the amount required to fully restore the Minimum Pledged Balance.

(d) Upon Bank's receipt from Seller of the full amount of the Repurchase Price for the Participation Interest in any Participated Mortgage Loan to be repurchased in its entirety by Seller from Bank pursuant to this Section, and so long as such payment is not disgorged or revoked by a court of competent jurisdiction: (i) effective as of the date of receipt of such funds and the application by Bank of such funds pursuant to the terms of this Agreement, Seller shall have repurchased from Bank such Participation Interest in its entirety, and Bank's respective Participation Percentage in such Participated Mortgage Loan and Seller's respective Retained Percentage in such Participated Mortgage Loan shall be correspondingly adjusted, all as indicated on the Bank's books and records; and (ii) Bank shall thereafter deliver or cause to be delivered to Seller the Mortgage Note and any other Mortgage Loan Documents for such Participated Mortgage Loan then in the Document Custodian's possession.

(e) The provisions of this Section shall not limit or qualify any rights or remedies of Bank hereunder (including, without limitation, any rights or remedies of Bank under Sections 4.6 or 4.7).

4.9 Bank's Direct Contact with Take-Out Purchasers. Seller irrevocably authorizes Bank and its agents and representatives to directly deliver all pertinent documentation to, and communicate with, disclose to, receive from and share information with, any Take-Out Purchaser, which is related to any Participated Mortgage Loan which is to be purchased or has been purchased by such Take-Out Purchaser.

ARTICLE 5
GENERAL PROVISIONS

5.1 **Conditions to Effectiveness of Agreement.** As a condition precedent to effectiveness of this Agreement, in addition to all other requirements set forth herein, Seller shall deliver to Bank all of the following, each being duly executed, endorsed, notarized where applicable and delivered and in form and content satisfactory to Bank in its sole and absolute discretion:

- (a) This Agreement, the Blanket Assignment, and the Pledge Agreement;
- (b) One (1) limited power of attorney in the form of Exhibit A executed by Seller;
- (c) All financing statements required by Bank, including a UCC-1 financing statement identifying Seller, as debtor, and Bank, as secured party, which covers the Collateral, and Seller hereby authorizes Bank and its representatives to execute, deliver and file of record all such financing statements;
- (d) Such signature cards, depository account agreements, USA PATRIOT Act forms and information, and such other documents and instruments, as Bank may require for Seller to establish at Bank, the Pledged Account, the Participation Account and the Remittance Account or to otherwise implement the arrangements contemplated herein;
- (e) Evidence that all necessary action on the part of Seller and each other Obligated Party has been taken with respect to the execution and delivery of the Warehouse Documents and the performance of the matters contemplated thereby, so that this Agreement and all of the other Warehouse Documents shall be valid and binding upon each Person executing and delivering the same. Such evidence shall include certified organizational documents, certified resolutions, and certificates of incumbency for Seller and each other Obligated Party that is not a natural person;
- (f) For Seller and each Obligated Party that is not a natural person, a copy, certified as true, complete and correct, by an authorized officer, partner, member, manager or other representative of such entity, of the documents evidencing the formation and governance of the operations and affairs of such entity, together with all amendments thereto;
- (g) For Seller and each Obligated Party that is not a natural person, a certificate of existence and good standing showing that such entity is in good standing under the Laws of the state of its formation and certificates indicating that such entity has qualified to transact business and is in good standing in all other states where it transacts business;
- (h) Evidence that Seller has received any and all licenses, permits, approvals and other consents under any and all applicable Laws to permit Seller to lawfully engage in the Mortgage Loan Activities, and evidence that the same are currently in existence and good standing; and
- (i) Such other documents, information and materials as Bank may require to be delivered or caused to be delivered by Seller to Bank prior to the execution of this Agreement by Bank.

5.2 **Termination; Burn-Down.**

- (a) Seller's rights hereunder to submit any Request to Bank shall automatically terminate on the Advance Request Termination Date.

(b) Notwithstanding anything herein to the contrary, and without limiting Bank's rights and remedies under Section 9.2, prior to the Advance Request Termination Date, either Party may immediately terminate for any reason whatsoever Seller's rights hereunder to submit any Request to Bank to purchase a Participation Interest by providing written notice thereof to the other Party. It is understood that the Parties intend the continuation of this Agreement by Bank (and, accordingly, the continuation of Seller's rights hereunder to submit any Request to Bank for Bank to purchase a Participation Interest) will be based upon the quality of the Mortgage Loans owned by Seller and Seller's performance of its obligations in connection therewith and herewith and also based upon market conditions and the business objectives of Bank and Seller which may change from time to time.

(c) Any and all outstanding Participation Interests in Participated Mortgage Loans owned by Bank on or before the Advance Request Termination Date shall continue to be subject to the terms and conditions of this Agreement. Unless extended by a written agreement executed by Seller and Bank, this Agreement shall automatically terminate and cease to be in force and effect (except with respect to the provisions of this Agreement which expressly survive termination) without any action or notice upon such time as: (i) Seller shall no longer have any rights hereunder to submit any Request to Bank to purchase a Participation Interest; (ii) each Participated Mortgage Loan constitutes a Retired Participated Mortgage Loan; (iii) Bank has received full, final and indefeasible payment of all other amounts due and payable by Seller to Bank pursuant to the terms hereof and any other Warehouse Document; (iv) Seller has fully performed and discharged each of its duties, covenants and obligations under each Warehouse Document; and (v) Bank has remitted to Seller all amounts, if any, required hereunder to be remitted by Bank to Seller hereunder.

5.3 **Target Usage; Termination for Non-Usage.** While pursuant to Section 2.2, Bank is not obligated to purchase, and Seller is not obligated to sell, any Participation Interests, or any minimum amount of Participation Interests, Bank and Seller contemplate that Seller shall sell, and Bank shall purchase, Participation Interests such that, at any given time, the Outstanding Participation Balance shall equal or exceed the Target Usage Amount. Should for any calendar quarter, the Outstanding Participation Balance, on average for such calendar quarter, not equal or exceed the Target Usage Amount, Bank may elect to increase the Participation Interest Rate Floor or, pursuant to Section 5.2(b), terminate Seller's right hereunder to submit any Request to Bank to purchase a Participation Interest.

5.4 **Seller's Accounts.**

(a) Seller shall at all times during the term of this Agreement maintain each Restricted Account with Bank. With respect to each Restricted Account, Seller may deposit funds into the Restricted Account, however Seller shall not be permitted to withdraw, transfer or otherwise exercise any rights to access any funds held therein and Seller shall have no rights to exercise dominion or control over the Restricted Account.

(b) Seller shall at all times during the term of this Agreement maintain the Remittance Account with Bank. Subject to the terms and conditions of this Agreement and the other Warehouse Documents, Seller shall be permitted to withdraw, transfer and otherwise exercise rights to access any funds held therein; provided, that notwithstanding the foregoing, during the continuance of an Event of Default, Seller shall not be permitted to withdraw, transfer or otherwise exercise any rights to access any funds held therein and Seller shall have no rights to exercise dominion or control over the Remittance Account.

(c) Concurrently with the execution hereof Seller shall deposit into the Pledged Account, and thereafter for the duration of this Agreement Seller shall maintain in the Pledged

Account, good funds in an amount not less than the Minimum Pledged Balance. Seller shall replenish funds in the Pledged Account, such that the Pledged Account is fully restored to the Minimum Pledged Balance, in the event Bank shall offset or apply funds from the Pledged Account in accordance with the terms of this Agreement.

(d) In order to secure the prompt and complete performance by Seller of its Repurchase/Sale Obligations, Seller does hereby pledge, assign and grant to Bank a continuing security interest in and to the Restricted Accounts, the Remittance Account and the other Collateral. For this purpose, this Agreement shall constitute a security agreement in accordance with the UCC, and Bank shall have all the rights of a secured creditor with respect to such security, and Bank shall have the right to hold and "freeze" such Accounts and the funds maintained therein during the continuance of an Event of Default. Without limiting any rights and remedies available to Bank hereunder, Bank may exercise the right to offset and apply all or any portion of the funds of Seller held in one or more of the Accounts towards the payment of all or any portion of any amount due and payable by Seller to Bank hereunder in connection with Seller's Repurchase/Sale Obligations. Bank is hereby authorized to debit funds from the Accounts in accordance with the provisions of this Agreement without any notice to or permission from Seller.

5.5 **Subordination.** It is expressly understood and agreed that all of Seller's rights, title and interests in and to any Participated Mortgage Loan (including Seller's servicing rights, if any) are subordinate and inferior to Bank's Participation Interest in such Participated Mortgage Loan, from and after the Purchase Date for such Participated Mortgage Loan.

5.6 **Power of Attorney.** Seller hereby irrevocably appoints Bank and each officer of Bank as its attorney-in-fact, with full power of substitution, for, on behalf of, and in the name of Seller, to: (a) endorse and deliver to any Person any notes, checks, drafts, money orders or other instruments of payment coming into Bank's possession and representing any payment made on or with respect to any Participated Mortgage Loan or otherwise received in connection with any Participated Mortgage Loan (including the proceeds from the sale of any such Participated Mortgage Loan received from a Take-Out Purchaser), and any collateral and any Take-Out Purchase Agreement therefor; (b) prepare, complete, execute, deliver and record, and do anything else necessary or desirable to effect, (i) any endorsement to Bank, any Take-Out Purchaser or any other Person, of any Mortgage Note evidencing a Participated Mortgage Loan, or (ii) any transfer, assignment or conveyance to Bank, any Take-Out Purchaser or any other Person, of any or all rights, titles and interests in and to any Mortgage Note and the Mortgage Loan Documents related thereto in which Bank has purchased a Participation Interest (including servicing rights); (c) do anything necessary or desirable to effect the sale, transfer, assignment or conveyance, of any or all rights, titles and interests of Seller and/or Bank in and to any Participated Mortgage Loan and the related Mortgage Loan Documents related thereto to any Take-Out Purchaser or any other Person; (d) commence, prosecute, settle, discontinue, defend, or otherwise dispose of any claim relating to any Take-Out Purchase Agreement or any Participated Mortgage Loan; (e) sign Seller's name wherever appropriate, as determined by Bank, to effectuate the purposes of this Agreement; and (f) to take any such further action as Bank may deem appropriate, and to act under changed circumstances, the exact nature of which may not be currently foreseen or foreseeable, in order to fully and completely effectuate Bank's rights under this Agreement. The powers and authorities herein conferred on Bank may be exercised by Bank through any Person who, at the time of the execution of a particular instrument, is an officer of Bank. The limited power of attorney conferred by this Section is granted for a valuable consideration and is coupled with an interest and, therefore, is irrevocable so long as any duties or obligations to Bank under this Agreement or any other Warehouse Document, or any part thereof, shall remain unpaid or otherwise unsatisfied, and so long as Bank may elect to purchase any Participation Interests hereunder. The limited power of attorney conferred hereunder shall not be affected by any subsequent disability or incapacity of the principal or by the lapse of time. To facilitate processing, Bank may request that Seller execute and deliver a separate, limited power of attorney in such form and

content required by Bank, but any failure of Bank to request or obtain any such separate power of attorney instrument shall not mitigate or undermine the rights and powers conferred under this Section.

5.7 **Private Recording Systems.** Bank reserves the right to require or permit that any or all Participated Mortgage Loans be registered and processed on the MERS® System and/or any other similar mortgage registration or processing system (collectively, "Private Recording System"). Should Bank require or permit the registration or processing of any or all Participated Mortgage Loans on any Private Recording System: (a) each such Participated Mortgage Loan shall be registered and processed on the Private Recording System approved by Bank in accordance with the requirements of the Warehouse Program Guide; and (b) Bank may terminate and revoke any such requirement or permission regarding the registration and processing of any such Participated Mortgage Loans on any Private Recording System.

5.8 **Regulatory Compliance.** With respect to each Participated Mortgage Loan, Seller hereby represents, warrants and certifies to Bank that such Participated Mortgage Loan and each related Mortgage Loan Document was originated, made, negotiated, executed and delivered pursuant to and in accordance with the applicable terms and provisions of the Federal Truth in Lending Act, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act, Dodd-Frank Act, the Interagency Appraisal Guidelines, and all other applicable Laws relating to the financing of Residential Real Property, each of which Laws have been fully satisfied and strictly complied with by Seller and such other applicable parties, and that Bank shall have no obligation with respect to the compliance with any such Laws, or the filing of any reports, certifications or other documents or items with or to any Borrower, any Governmental Authority, or any other Person whatsoever. **IN THIS RESPECT, SELLER WILL RELEASE, HOLD HARMLESS AND INDEMNIFY EACH INDEMNIFIED PARTY FROM AND AGAINST ANY AND ALL LOSSES WHICH ARE INCURRED BY OR ASSERTED AGAINST BANK IN CONNECTION WITH ANY BREACH OR INACCURACY OF THE TERMS CONTAINED IN THIS SECTION.**

5.9 **Verifications.** Bank shall have the right and authority to re-verify all information obtained by Seller regarding any Borrower, including verification of employment, verification of deposit and all information included in each related Loan Application. Seller shall cooperate with Bank in such re-verification process. Further, Bank shall have full right and authority to obtain an updated credit report on any Borrower. In such verification process, Seller shall, upon the request of Bank, supply a copy of Borrower's handwritten, typed or signed Loan Application.

5.10 **Servicing Responsibilities.**

(a) Seller shall administer, manage, collect and enforce each Participated Mortgage Loan for and on behalf of and for the benefit of Bank and Seller in accordance with Accepted Servicing Practices (collectively, the "Mortgage Loan Services"). With respect to each Participated Mortgage Loan, Seller shall promptly take any and all actions, and exercise any and all available remedies, under the related Mortgage Loan Documents or otherwise which are necessary or advisable to perform the Mortgage Loan Services pursuant to this Agreement.

(b) At the request of Bank: (i) Seller shall promptly provide to Bank such information requested by Bank regarding any default, breach, violation or event of acceleration related to any Participated Mortgage Loan, and the actions which Seller has taken or proposes to take in connection therewith; and (ii) Seller shall promptly take any and all actions, and exercise any and all remedies, under the Mortgage Loan Documents or otherwise for any Participated Mortgage Loan which Bank shall deem, in its discretion, reasonably necessary or advisable to effect the provisions of this Section.

(c) With respect to any Participated Mortgage Loan, any and all Mortgage Loan Collections received by Seller from the exercise of any rights or remedies under the related Mortgage Loan Documents or in connection with the full repayment of the outstanding principal balance and all accrued and unpaid interest for such Participated Mortgage Loan shall (i) be immediately transferred or delivered by Seller to Bank (and, if required by Bank, into the Repayment Account) and (ii) upon receipt by Bank, be applied pursuant to the provisions of this Agreement.

(d) Notwithstanding anything herein to the contrary, during the continuance of an Event of Default: (i) Seller shall not exercise any remedies under any of the Mortgage Loan Documents for any Participated Mortgage Loan without the prior written consent of Bank; and (ii) Bank may at any time: (A) provide written notice to Seller terminating any or all rights, duties and obligations of Seller to provide Mortgage Loan Services with respect to any Participated Mortgage Loan (each, a "Servicing Termination Notice"); and/or (B) require that Seller instruct in writing any Borrower or other Person obligated on any Participated Mortgage Loan to deliver any and all payments to be made by such Borrower or such other Person on or in respect of such Participated Mortgage Loan directly to Bank or to the Repayment Account, and Seller shall not make any changes to any such instructions so provided without first obtaining the prior written consent of Bank. With respect to each Participated Mortgage Loan specified in any Servicing Termination Notice, Seller shall at its expense: (i) immediately turn over to Bank or its designee all books, records and other documents related to the Mortgage Loan Services for such Participated Mortgage Loan; (ii) cooperate with Bank in the immediate and orderly transfer of the administration and servicing responsibilities for such Participated Mortgage Loan to Bank or its designee; and (iii) upon Bank's request, immediately execute and deliver to Bank all documents, agreements and instruments, and take such other actions and do such other things, deemed necessary or advisable by Bank in connection with the transfer to Bank of the administration and servicing responsibilities for such Participated Mortgage Loan.

5.11 **Trust Provisions.**

(a) Any and all amounts required hereunder to be paid to Bank shall be paid to Bank pursuant to the terms and conditions of this Agreement. Without limiting the foregoing, any and all Bank Payment Deliverables received by Seller at any time (and any and all Bank Payment Deliverables that are or are deemed to be in or under the custody, possession or control of Seller at any time) shall be held in trust by Seller as the property and for the benefit of Bank. In such event, Seller shall, and Seller has a fiduciary duty to Bank, (i) to hold in trust, as the property and for the benefit of Bank, the Bank Payment Deliverables and (ii) (A) to immediately turn over and deliver to Bank each Bank Payment Deliverable, in kind, and in the exact form received, no later than one (1) Business Day after receipt thereof, and concurrently, endorse to Bank any instrument or other form of payment payable to Seller, but which is to be paid to Bank under this Agreement, (B) not to release any Bank Payment Deliverable to any other Person without Bank's prior written consent, and (C) not to negotiate or otherwise seek to convert to cash any Bank Payment Deliverables which are in the form of a check or other form of payment without Bank's prior written consent. Nothing contained in this Section authorizes or permits payment to Seller or any other Person (other than Bank) of any amounts which are required under this Agreement to be paid directly to Bank.

(b) Any and all Bank Document Deliverables required hereunder to be delivered to the Document Custodian shall be delivered to the Document Custodian pursuant to the terms and conditions of this Agreement. Without limiting the foregoing, any and all Bank Document Deliverables received by Seller at any time (and any and all Bank Document Deliverables that are or are deemed to be in or under the custody, possession or control of Seller at any time) shall be

held in trust by Seller as the property and for the benefit of Bank. In such event, Seller shall, and Seller has a fiduciary duty to Bank, (i) to hold in trust for Bank, and as the property and for the benefit of Bank, the Bank Document Deliverables and (ii) (A) to immediately turn over and deliver to the Document Custodian each Bank Document Deliverable no later than one (1) Business Day after receipt thereof (except that Seller may deliver the applicable Bank Document Deliverables to the Document Custodian by such later time, if any, permitted by the express terms of this Agreement) and (B) not to release any Bank Document Deliverable to any Person (other than the Document Custodian). Nothing contained in this Section authorizes or permits the delivery to Seller or any other Person (other than the Document Custodian) of any Bank Document Deliverables which are required under this Agreement to be delivered directly to the Document Custodian.

(c) The Mortgage Loan Files for Participated Mortgage Loans (other than any portions thereof which constitute Bank Document Deliverables or which have been delivered to Bank) shall be held in trust by Seller as the property and for the benefit of Bank. Seller shall, and Seller has a fiduciary duty to Bank, (i) to hold in trust for Bank, and as the property and for the benefit of Bank, such Mortgage Loan Files and (ii) (A) to turn over and deliver to Bank such Mortgage Loan Files no later than one (1) Business Day after Bank's request and (B) not to release such Mortgage Loan Files to any Person (other than Bank) except as otherwise expressly permitted hereunder.

5.12 Application of Payments.

(a) Except as expressly provided otherwise herein, any and all Mortgage Loan Collections received by Bank with respect to any Participated Mortgage Loan (each, a "Payment"), including all proceeds from the sale of such Participated Mortgage Loan by Seller and Bank to a Take-Out Purchaser, shall be credited and applied in the following order of priority upon Bank's actual receipt of such sums, and Seller hereby instructs Bank to so apply such proceeds:

(i) To the payment of any then-earned and outstanding Funding Fees payable by Seller to Bank hereunder in connection with such Participated Mortgage Loan;

(ii) To the payment of any other outstanding fees, costs and expenses assessed or incurred by Bank and payable by Seller to Bank under this Agreement or any other Warehouse Document with respect to such Mortgage Loan;

(iii) To the reimbursement of all outstanding amounts (other than the Advance made by Bank to purchase a Participation Interest in such Participated Mortgage Loan), if any, disbursed by Bank in connection with such Participated Mortgage Loan;

(iv) To the payment of Bank's pro rata share (determined in accordance with the Participation Interest Rate in effect from time to time for such Participated Mortgage Loan) of all interest that accrued on such Participated Mortgage Loan from and after the related Purchase Date, but which has not been previously paid to Bank;

(v) To the repayment of Bank's pro rata share (determined in accordance with Bank's Participation Percentage in effect from time to time for such Participated Mortgage Loan) of the outstanding principal amount of such Participated Mortgage Loan (as of the related Purchase Date) which has not been previously paid to Bank;

(vi) During the continuance of an Event of Default, if required by Bank, to the payment of any of the amounts set forth above with respect to any other Participated

Mortgage Loan, to be applied in the same order of priority as set forth above;

(vii) To any other amounts payable by Seller to Bank;

(viii) To restoring (in whole or in part) the Minimum Pledged Balance of the Pledged Account if the balance thereof is less than the Minimum Pledged Balance. Any such funds shall be deposited directly by Bank into the Pledged Account;

(ix) To the payment of Seller's pro rata share (determined in accordance with the Seller's Retained Percentage in effect from time to time with respect to such Participated Mortgage Loan) of: (A) the outstanding principal amount of such Participated Mortgage Loan (as of the related Purchase Date) which has not been previously paid to or otherwise received by Seller; and (B) interest that has accrued on such Participated Mortgage Loan from and after the related Purchase Date (including any portion of such interest that accrued at a rate in excess of the Participation Interest Rate in effect from time to time for such Participated Mortgage Loan), but which has not been previously paid to or otherwise received by Seller. Any and all of the foregoing amounts due to Seller shall be paid by Bank to Seller on or before the next Business Day after receipt by Bank of the applicable Payment and shall be disbursed by Bank into the Remittance Account; and

(x) Thereafter, as otherwise required to be in compliance with this Agreement.

(b) Notwithstanding anything to the contrary in Section 5.12(a), with respect to any Participated Mortgage Loan, Bank may elect, in its sole and absolute discretion, to defer applying any proceeds of any Payment to any of the items described in Section 5.12(a)(i), (ii) or (iii), in which case Bank reserves the right to satisfy any outstanding amount for such items with the proceeds of any future Payment with respect to such Participated Mortgage Loan.

(c) If the amount of any Take-Out Purchaser Payment received by Bank in connection with the sale of any Participated Mortgage Loan to a Take-Out Purchaser is insufficient to pay any and all amounts payable to Bank under Section 5.12(a) with respect to such Participated Mortgage Loan, then Bank shall be entitled to offset and apply available funds in the Pledged Account to satisfy the deficiency in such amounts payable to Bank. In such event, if after resorting the foregoing described sources of payment, any amounts remain payable to Bank under Section 5.12(a) with respect to such Participated Mortgage Loan, then Seller shall immediately pay such amounts to Bank upon demand.

(d) In the event that Bank offsets or applies any funds in the Pledged Account to satisfy amounts payable to Bank, then Seller shall immediately deposit funds into the Pledged Account in the amount required to fully restore the Minimum Pledged Balance. Bank shall have no duty or obligation at any time to apply any amounts due from any Take-Out Purchaser or from any other Person with respect to any purchase of any Participated Mortgage Loan until Bank has actually received such amounts in immediately available funds. Further, notwithstanding anything herein to the contrary, Bank shall be under no duty at any time to apply any amounts representing Take- Out Purchaser Payments except pursuant to the procedures set forth in Section 4.4.

5.13 **Warehouse Program Guide.**

(a) Seller agrees to comply in all material respects at all times with all of the provisions of the Warehouse Program Guide in effect from time to time. Notwithstanding anything herein to the contrary, each Participated Mortgage Loan: (i) shall be subject to the provisions of the

Warehouse Program Guide in effect as of the Purchase Date for such Participated Mortgage Loan; and (ii) shall not be subject to any material amendment, modification or supplement to the Warehouse Program Guide which occurs after the Purchase Date for such Participated Mortgage Loan. The Warehouse Program Guide is hereby incorporated into this Agreement by reference as if it was fully set forth herein.

(b) Bank shall make available to Seller the Warehouse Program Guide by: (i) posting the Warehouse Program Guide on a web portal or website (including the Electronic Platform) to which Seller will be granted access (if Bank shall elect to maintain a web portal or web site for such purpose and if Bank shall grant Seller access thereto); or (ii) by providing a written copy of the Warehouse Program Guide to Seller. Bank may, in its sole discretion, amend, modify or supplement the Warehouse Program Guide from time to time. If Bank shall have granted Seller access to a web portal or website on which the Warehouse Program Guide is posted, then: (i) any amendments, modifications or supplements to the Warehouse Program Guide shall become effective as to Seller upon such time as the same are posted on such web portal or website, without any further action or notice by Bank; and (ii) Seller shall be solely responsible for monitoring such web site or web portal for any amendments, modifications or supplements to the Warehouse Program Guide. If Bank shall have provided to Seller written copies of any amendments, modifications or supplements to the Warehouse Program Guide, then such amendments, modifications or supplements to the Warehouse Program Guide shall become effective as to Seller upon Seller's receipt thereof (unless Bank shall have also granted Seller access to a web portal or website to which such amendments, modifications or supplements are posted, in which case, such amendments, modifications or supplements shall become effective as to Seller upon the earlier of the posting thereof on such web portal or website or Seller's receipt of written copies thereof).

(c) Each submission of a Request by Seller to Bank shall constitute: (i) the ratification by Seller of the provisions of the Warehouse Program Guide in effect as of the Purchase Date (if any) for the Mortgage Loan that is the subject of the Request; and (ii) the agreement by Seller to be bound by all of the provisions of the Warehouse Program Guide (which is in effect as of such Purchase Date) applicable to the Mortgage Loan that is the subject of the Request.

5.14 **Financial Covenants**. At all times prior to the Agreement Termination Date (and thereafter if expressly required), Seller shall promptly and fully perform, observe and comply with the provisions set forth in Exhibit E.

5.15 **Supplemental Provisions**. At all times prior to the Agreement Termination Date (and thereafter if expressly required), Seller shall promptly and fully perform, observe and comply with the provisions set forth in Exhibit F.

5.16 **Other Warehousing Facilities**. Seller represents and warrants to Bank that any and all mortgage warehousing facilities of Seller (other than with Bank) in effect as of the Effective Date hereof are identified on Exhibit G. Seller covenants and agrees to: (a) notify Bank in writing prior to entering into any other mortgage warehousing facilities; and (b) promptly notify Bank in writing regarding any material change in any mortgage warehousing facility of Seller (including as to the maximum amount of any such facility and as to any termination, suspension or non-renewal of any such facility) or any default by Seller under any such mortgage warehousing facility.

5.17 **Affiliate Escrow Agents**. Seller represents and warrants to Bank that any and all title companies and other Persons that provide closing services in connection with residential mortgage loan transactions which are directly or indirectly owned or controlled by Seller or under common ownership or control with Seller (each an "Affiliate Escrow Agent") as of the Effective Date are identified on Exhibit H.

Seller represents and warrants that, prior to the Effective Date, Seller has delivered to Bank true, correct and complete copies of the financial statements for each Affiliate Escrow Agent. Seller covenants and agrees to promptly notify Bank in writing regarding any new Affiliate Escrow Agents arising after the Effective Date.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Bank as of the Effective Date and thereafter:

6.1 **Organization and Good Standing.** Seller is duly organized, validly existing, and in good standing under the Laws of the state of its formation, and is duly qualified to transact business and is in good standing in each jurisdiction where the nature and extent of Seller's business and property requires the same except where the failure to be so qualified would not likely result in a Material Adverse Effect.

6.2 **Authorization and Power.** Seller has: (a) the requisite power and authority to, and has taken all action necessary to authorize it to, execute, deliver and perform this Agreement, the other Warehouse Documents to which Seller is a party, and all of the other documents herein contemplated to be executed by Seller or otherwise to be executed by Seller from time to time in connection herewith; (b) all requisite authority, power, licenses, permits and franchises to conduct its business; and (c) received, has in its possession, and will maintain in full force and effect and in good standing, any and all federal, state and local licenses or approvals which may be necessary for Seller to undertake the actions required of it pursuant to this Agreement and to conduct its business except where the failure to do so would not likely result in a Material Adverse Effect.

6.3 **No Conflicts.** Not the execution and delivery of this Agreement, the other Warehouse Documents to which Seller is a party, or any other documents to be executed in connection herewith, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or with the terms and provisions thereof, will contravene or materially conflict with any applicable Law, or any loan agreement, lease, promissory note, indenture, mortgage, deed of trust, or other agreement or instrument to which Seller is a party or by which Seller or any of its Property may be bound or be subject, or violate any provision of the documents creating or governing Seller except where such a contravention or conflict would not likely result in a Material Adverse Effect.

6.4 **Enforceable Obligations.** This Agreement and each other Warehouse Document to which Seller is or will become a party are or upon execution will be the legal, valid and binding obligations of Seller, are enforceable in accordance with their respective terms, except as limited by bankruptcy, insolvency or other Laws of general application relating to the enforcement of creditors' rights.

6.5 **Financial Condition.** Seller has delivered to Bank copies of its most recent balance sheet, and the related statements of income, stockholders' equity and changes in financial position for the year ending on the date indicated therein, audited by independent certified public accountants; such financial statements are true and correct, fairly present the financial condition of Seller as of such date and have been prepared in accordance with GAAP as of the date hereof; there are no obligations, liabilities or indebtedness (including contingent and indirect liabilities and obligations or unusual forward or long term commitments) of Seller which are not reflected in such financial statements; and no change having a material adverse effect has occurred in the financial condition or business of Seller since the date of such financial statements.

6.6 **Material Agreements.** To the best of Seller's knowledge, Seller is not in default under any loan agreement, mortgage, security agreement or other material agreement or obligation to which it is a party or by which any of its Properties is bound where such default could likely result in a Material

Adverse Effect, and the execution of this Agreement and the other Warehouse Documents to which Seller is a party, and Seller's performance of its duties and obligations hereunder and thereunder, will not cause a default under any loan agreement, mortgage, security agreement or other material agreement or obligation to which Seller is a party or by which any of its Properties is bound.

6.7 **Disclosure of Proceedings.** Except as previously disclosed to Bank in writing prior to the Effective Date or pursuant to Section 7.15, there are no: (a) (i) Proceedings by any Governmental Authority pending, or to the knowledge of Seller, threatened against Seller or (ii) any other Proceedings pending, or to the knowledge of Seller, threatened against Seller which, if determined adversely to Seller, may have a Material Adverse Effect; or (b) outstanding or unpaid judgments against Seller.

6.8 **Taxes.** All tax returns required to be filed by Seller in any jurisdiction have been filed. All taxes, assessments, fees and other governmental charges upon Seller or upon any of its Properties, income or franchises have been paid (if applicable, prior to the time that such taxes, assessments, fees or other governmental charges could give rise to a Lien), other than those being protested in good faith by appropriate proceedings, with respect to which no Lien exists and for which Seller has set aside adequate reserves.

6.9 **No Approvals Required.** Neither the execution and delivery of this Agreement and the other Warehouse Documents to which Seller is a party, nor the consummation of any of the transactions contemplated hereby or thereby, requires the consent or approval of, the giving of notice to, or the registration, recording or filing of any document with, or the taking of any other action in respect of, any Governmental Authority or other Person other than such consents and approvals already obtained by Seller.

6.10 **Representations Regarding Participated Mortgage Loans.** Each Participated Mortgage Loan is in all material respects in compliance with the provisions of the Warehouse Program Guide. Without limiting the generality of the foregoing, Seller hereby represents and warrants to Bank with respect to each Participated Mortgage Loan:

(a) Except for the Participation Interest in such Participated Mortgage Loan and any and all other rights, titles or interests of Bank in or to such Participated Mortgage Loan and the related Mortgage Loan Documents: (i) Seller is the sole direct, legal and beneficial owner of all rights, titles and interests in and to such Participated Mortgage Loan and the related Mortgage Loan Documents; (ii) such Participated Mortgage Loan and the related Mortgage Loan Documents are free and clear of all Liens; and (iii) no right, title, or interest in or to such Participated Mortgage Loan or the related Mortgage Loan Documents, or any part thereof, has been transferred, assigned or conveyed to any Person. Seller has the full right to sell to Bank a Participation Interest in such Participated Mortgage Loan and the related Mortgage Loan Documents free and clear of any Lien;

(b) Bank is the sole legal and beneficial owner of a Participation Interest in such Mortgage Loan, having an undivided percentage ownership interest equal to the Participation Percentage therefor;

(c) The Mortgage Note evidencing such Participated Mortgage Loan contains the Required Endorsements. The endorsement of such Mortgage Note pursuant to the Required Endorsements (including any endorsement of such Mortgage Note on behalf of Seller pursuant to the power of attorney granted herein or such other power of attorney delivered by Seller to Bank in accordance with this Agreement) and the assignment of such Mortgage Note and the other Mortgage Loan Documents related to such Participated Mortgage Loan (whether executed by Seller or by Bank pursuant to the general power of attorney herein granted or such other power of attorney delivered by Seller to Bank in accordance with this Agreement) is or will be valid and enforceable

under all applicable Law;

(d) Any and all portions of the Participated Mortgage Loan required hereunder to be funded by Seller have been funded from sources other than any loan, credit facility or other financing or sale arrangement;

(e) (i) The Mortgage Loan Documents for such Participated Mortgage Loan have been duly executed and delivered by the related Borrower, and where applicable, acknowledged, and recorded; and (ii) such Participated Mortgage Loan is valid and complies with all applicable lending Laws applicable to the related Borrower, Seller and Bank and the Mortgaged Property securing such Participated Mortgage Loan;

(f) (i) Such Participated Mortgage Loan is secured by a valid first Lien on the Mortgaged Property described in the Security Instrument for such Participated Mortgage Loan; (ii) such Mortgaged Property is free and clear of all Liens, claims and encumbrances having priority over the Lien of the Security Instrument which secures such Participated Mortgage Loan, except for Permitted Encumbrances; and (iii) there is no subordinate Lien encumbering such Mortgaged Property;

(g) A Title Policy has been obtained by Seller, in the full amount of such Participated Mortgage Loan, which provides insurance to Seller (and its successors and/or assigns) that the Lien of the Security Instrument securing such Participated Mortgage Loan is a first and prior Lien upon the related Mortgaged Property, without any exceptions, except for Permitted Encumbrances, and which Title Policy includes such endorsements thereto which are consistent with Accepted Lending Practices;

(h) Such Participated Mortgage Loan and the related Mortgage Loan Documents are valid, binding and enforceable in accordance with their respective terms, in full force and effect, except as such enforceability may be limited by bankruptcy, insolvency or other Laws of general application relating to the enforcement of creditors' rights;

(i) The Mortgage Note evidencing such Participated Mortgage Loan is genuine in all respects as appearing on its face and as represented in the books and records of Seller, and all information set forth therein is true and correct;

(j) (i) The Mortgage Loan Documents evidencing such Participated Mortgage Loan contain the entire agreement of the parties thereto with respect to the subject matter thereof, have not been modified or amended in any respect not expressed in writing therein and are free of concessions or understandings with the obligor thereon of any kind not expressed in writing therein; and (ii) such Participated Mortgage Loan and the related Mortgage Loan Documents are in all respects consistent with, and contain the same terms as represented by Seller to Bank in, the related Request, except as disclosed by Seller to Bank in writing prior to the time of the Purchase Date for such Participated Mortgage Loan;

(k) No default or breach has occurred under any Mortgage Loan Document relating to such Participated Mortgage Loan;

(l) (i) Such Participated Mortgage Loan is in all material respects in compliance with all Laws applicable thereto, including all Laws applicable to the processing, origination, underwriting, closing and funding of such Participated Mortgage Loan; and (ii) without limiting the foregoing, Seller is in compliance with all Laws applicable to Seller in connection with such

Participated Mortgage Loan;

(m) (i) The full principal amount of such Participated Mortgage Loan has been advanced; (ii) the outstanding principal balance of such Participated Mortgage Loan as of the Purchase Date related thereto is as stated in the related Request; and (iii) all costs, fees and expenses incurred in making, closing and recording such Participated Mortgage Loan have been paid;

(n) (i) All payments and other deposits made with respect to such Participated Mortgage Loan have been paid in cash by the related Borrower; (ii) Seller has not advanced funds, or induced, solicited or knowingly received any advance of funds by a Person other than such Borrower, directly or indirectly, for the payment of any amount required by such Participated Mortgage Loan, except for interest accruing from the date of the disbursement of the proceeds of such Participated Mortgage Loan to the day which precedes by one (1) month the due date of the first installment of principal and interest thereunder; and (iii) other than as disclosed to Bank in writing, there have been no prepayments made on such Participated Mortgage Loan;

(o) To the best of Seller's knowledge, all taxes, governmental assessments, insurance premiums, water, sewer and municipal charges (relating to any of the Mortgaged Property for such Participated Mortgage Loan) which previously became due and owing have been paid, or an escrow of funds has been established in an amount sufficient to pay for every such item which remains unpaid;

(p) Such Participated Mortgage Loan which Seller represents to be insured by a private mortgage insurer is so insured;

(q) With respect to such Participated Mortgage Loan, all conditions as to the validity of the applicable insurance as required by applicable Law, the related Mortgage Loan Documents and by private mortgage insurance companies or other insurers, if and to the extent applicable, have been properly satisfied, and said insurance is valid and enforceable;

(r) To the best of Seller's knowledge: (i) the Mortgaged Property for such Participated Mortgage Loan is (A) in good repair and (B) free from damage (normal wear and tear excepted) since the date of the origination of such Participated Mortgage Loan; and (ii) there is no proceeding pending for the total or partial condemnation of any portion of such Mortgaged Property;

(s) (i) Seller has arranged to sell such Participated Mortgage Loan to a Take-Out Purchaser pursuant to a Take-Out Purchase Agreement, which sale is to be completed pursuant to the terms of such Take-Out Purchase Agreement no later than thirty (30) days after the Purchase Date for such Participated Mortgage Loan; and (ii) such Participated Mortgage Loan satisfies the eligibility, qualifications and other requirements under such Take-Out Purchase Agreement for the purchase thereunder by such Take-Out Purchaser;

(t) (i) If such Participated Mortgage Loan shall have been represented by Seller to Bank to be a Mortgage Loan eligible for purchase by any Agency or is required by Bank pursuant to the Warehouse Program Guide to be eligible for purchase by any Agency, (A) Seller has fully complied with the underwriting requirements of such Agency (in effect at the time such Participated Mortgage Loan was made) and such other underwriting requirements of the Warehouse Program Guide (in effect as of the date of the Purchase Date for such Participated Mortgage Loan) and (B) such Participated Mortgage Loan is otherwise in compliance with any and all other rules, regulations, policies, procedures and other requirements of such Agency for the purchase of such Participated Mortgage Loan; or (ii) if such Participated Mortgage Loan shall not have been

represented by Seller to Bank to be a Mortgage Loan eligible for purchase by any Agency or is not required by Bank pursuant to the Warehouse Program Guide to be eligible for purchase by any Agency, Seller has fully complied with the underwriting requirements of the applicable Take-Out Purchaser for such Participated Mortgage Loan and complied with the underwriting requirements of the "general overlays" within the Warehouse Program Guide (in effect as of the date of the Purchase Date for such Participated Mortgage Loan);

(u) Except as otherwise provided in this Agreement, Seller has obtained, and has in its possession, in due form, fully executed originals of all of the Mortgage Loan Documents relating to such Participated Mortgage Loan required to legally effect such Participated Mortgage Loan, and all such Mortgage Loan Documents will be held and delivered by Seller pursuant to the terms and conditions of this Agreement;

(v) To the best of Seller's knowledge, all of the improvements which are included for the purpose of determining the appraised value of the Mortgaged Property related to such Participated Mortgage Loan lie wholly within the boundaries of such Mortgaged Property and do not encroach upon building restriction lines, and no improvements on adjoining properties encroach upon such Mortgaged Property. Seller has obtained a Title Policy without exceptions for boundary line and building line encroachments;

(w) To the best of Seller's knowledge, no circumstances or conditions exist with respect to such Participated Mortgage Loan, the related Mortgaged Property or the related Borrower (including its credit standing) that could be reasonably expected: (i) to cause the Take-Out Purchaser committed to purchase such Participated Mortgage Loan from Seller to not purchase such Participated Mortgage Loan; (ii) to cause any other private institutional investors or any Agency to regard such Participated Mortgage Loan as an unacceptable investment; (iii) to cause the occurrence of a default under the related Mortgage Loan Documents; or (iv) to adversely affect the value or marketability of such Participated Mortgage Loan;

(x) The information regarding such Participated Mortgage Loan (including with regard to the related Borrower) provided to Bank is true, complete and correct in all material respects as of the Purchase Date for such Participated Mortgage Loan; and

(y) The Mortgage Loan Transaction for such Participated Mortgage Loan shall have been completed on and as of the Purchase Date related thereto.

6.11 **Survival of Representations.** All representations and warranties by Seller herein shall survive the termination or expiration of this Agreement and the making of any and all Advances. Any and all investigations at any time made by or on behalf of Bank shall not limit, impair or diminish Bank's right to rely on any and all representations and warranties by Seller herein.

ARTICLE 7 **AFFIRMATIVE COVENANTS**

At all times prior to the Agreement Termination Date (and thereafter if expressly required hereunder), Seller covenants and agrees with Bank that:

7.1 **Financial Statements and Reports.** Seller shall furnish to Bank the following, all in form and detail satisfactory to Bank:

(a) Promptly after becoming available, and in any event within ninety (90) days after the close of each fiscal year of Seller, an audited balance sheet of Seller as of the end of such year, and an audited statement of income and retained earnings of Seller for such year, setting forth in each case in comparative form the corresponding figures for the preceding fiscal year, accompanied by the related report of independent certified public accountants acceptable to Bank, which report shall be to the effect that such statements have been prepared in accordance with GAAP;

(b) If requested by Bank, on or before the thirtieth (30th) day of any calendar month:

(i) a statement of income and expenses of Seller for the prior calendar month; and (ii) a statement, in form and content acceptable to Bank, setting forth the status, as of the last day of the prior calendar month, of all Loan Applications being processed by Seller for closing;

(c) Promptly after becoming available, and in any event within thirty (30) days after the close of each fiscal quarter of Seller, a balance sheet of Seller as of the end of such fiscal quarter, a statement of income and retained earnings for such fiscal quarter and an operating statement of Seller for such fiscal quarter setting forth in each case in comparative form the corresponding figures for the corresponding fiscal quarter of the preceding fiscal year, prepared in accordance with GAAP and certified by the principal financial officer of Seller;

(d) If Seller has been approved by Bank to sell Mortgage Loans to Securitizers, weekly hedging reports, in such form and content required by Bank;

(e) Promptly upon receipt thereof, a copy of each other report submitted to Seller by independent accountants in connection with any annual, interim or special audit of the books of Seller; and

(f) Such other information concerning the business, Properties or financial condition of Seller, or regarding any Participated Mortgage Loan, as Bank may reasonably request.

7.2 **Taxes and Other Liens.** Seller shall pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income or upon any of its Property as well as all claims of any kind (including claims for labor, materials, supplies and rent) which, if unpaid, might become a Lien upon any or all of its Property or the Mortgage Loans; provided, however, Seller shall not be required to pay any such tax, assessment, charge, levy or claim regarding its Property (other than with respect to Participated Mortgage Loans) if the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings diligently conducted by or on behalf of Seller and if Seller shall have set up reserves therefor adequate under GAAP.

7.3 **Maintenance.** Seller shall: (a) maintain its existence and all of its licenses, permits, franchises, qualifications and rights that are necessary in order for Seller to conduct its business; and (b) observe and comply in all material respects with all applicable Laws. Without limiting the generality of the foregoing, Seller shall at all times maintain all Agency Approvals in good standing, and none of the Agency Approvals shall at any time be suspended or terminated.

7.4 **Further Assurances.** Seller shall promptly cure any defects in the execution and delivery of this Agreement and any other Warehouse Document. Seller shall, at its expense, promptly execute and deliver to Bank, upon Bank's reasonable request, all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of Seller in this Agreement, the other Warehouse Documents and all documents executed in connection herewith. In addition, Seller will provide Bank with any and all documentation and other information required by Bank

relating to the business and background of Seller and its directors, officers, employees and representatives, and any certifications reasonably required by Bank to verify Seller's compliance with any applicable Laws.

7.5 **Accounts.** To facilitate the transfer of funds contemplated by this Agreement, Seller shall establish and maintain at Bank each of the Accounts. All other deposit accounts, certificate of deposit and other similar account of Seller shall be maintained only in accounts at federally insured financial institutions.

7.6 **Use of Electronic Platform.** Seller shall be required to use the Internet-based electronic platform established by Bank (as modified, replaced, enhanced or upgraded by Bank from time to time, the "Electronic Platform") in connection with the purchase and sale of Participation Interests and the other transactions contemplated in this Agreement, subject to the following:

(a) Bank hereby grants to Seller a revocable, non-exclusive, non-transferable license to access and use the Electronic Platform solely for the limited purpose of facilitating the sale by Seller to Bank of Participation Interests and the other transactions contemplated by this Agreement. Seller shall not permit any Person to utilize the Electronic Platform other than employees of Seller who have been approved in advance by Bank in writing (each an "Authorized User"). Seller shall immediately notify Bank of any unauthorized use of the Electronic Platform.

(b) Seller shall take all reasonable precautions to prevent unauthorized Persons from obtaining access to or use of the Electronic Platform. Bank shall have the right to rely upon any information received in the Electronic Platform from any Person using a password assigned to an Authorized User, and will incur no liability for such reliance. Seller shall be responsible for securing such passwords and shall be responsible for any actions taken using such passwords. In the event of any breach of the security measures established by Bank, including use of the Electronic Platform by any unauthorized Person, Bank shall have the right to immediately terminate or suspend access to the affected portion of the Electronic Platform by Seller and their Authorized Users until such time such breach has been secured to Bank's satisfaction.

(c) Bank shall not be required to perpetually license, maintain, service or support the Electronic Platform. Bank may at any time discontinue the Electronic Platform by providing written notice thereof to Seller. In addition, Bank may at any time terminate the license granted to Seller to use, and Seller's access to, the Electronic Platform by providing written notice thereof to Seller. Bank reserves the right to modify, replace, enhance or upgrade the Electronic Platform from time to time in Bank's sole discretion.

(d) SELLER UNDERSTANDS AND AGREES THAT THE ELECTRONIC PLATFORM IS BEING LICENSED, DELIVERED AND MADE AVAILABLE "AS IS", "WHERE IS", "WITH ALL FAULTS", AND WITH ANY AND ALL LATENT AND PATENT DEFECTS, WITHOUT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY BY BANK, AND BANK HEREBY DISCLAIMS AND SELLER HEREBY WAIVES ANY AND ALL IMPLIED REPRESENTATIONS, WARRANTIES AND COVENANTS. EXCEPT AS EXPRESSLY STATED HEREIN, BANK HAS NOT MADE AND DOES NOT HEREBY MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND BANK HEREBY DISCLAIMS AND RENOUNCES ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES.

(e) Seller is fully aware of the inherent security risks of any Internet-based application (such as the Electronic Platform) and, in particular, the risk that unauthorized third-parties may through unauthorized use, "hacking", "Trojan horses", viruses or otherwise be able to access and manipulate the use of the Electronic Platform and the data made available thereby without Bank in any way being aware that the user is not Seller. Seller voluntarily assumes all such risks. Accordingly, **SELLER WILL RELEASE, HOLD HARMLESS AND INDEMNIFY EACH INDEMNIFIED PARTY FROM AND AGAINST ANY AND ALL LOSSES WHICH ARE RELATED TO ANY UNAUTHORIZED PARTY'S ACCESS THAT RESULTS IN THE DIVERSION, MISAPPROPRIATION OR USE OF THE INFORMATION MADE AVAILABLE THROUGH THE ELECTRONIC PLATFORM OR SELLER'S FUNDS AT BANK OR OTHERWISE.**

(f) Notwithstanding anything in this Section to the apparent contrary, the provisions of this Section shall not be deemed to limit or release Bank from its obligations under Section 10.26.

7.7 **Reimbursement of Expenses.** Seller shall pay, upon demand by Bank, any and all out of pocket fees and expenses incurred by Bank in negotiating or entering into, or in administering or enforcing its rights or remedies, under this Agreement or any other Warehouse Document, which amounts shall include all court costs, attorneys' fees (including for trial, appeal or other proceedings), fees of auditors and accountants, and investigation expenses reasonably incurred by Bank in connection with any such matters, together with interest at the highest rate allowed by applicable Law on each such amount from the date of written demand or request for reimbursement until the date of reimbursement. Seller and Bank shall otherwise each be responsible for their own out of pocket expenses unless expressly provided otherwise in this Agreement or any other Warehouse Document.

7.8 **Insurance.** Seller shall at all times maintain in force and effect such insurance required under the Warehouse Program Guide. Without limiting the generality of the foregoing, such insurance shall be issued by such insurers, insure against such risks, be in such form, have such coverage amounts, deductibles, limits and retentions, contain such endorsements and otherwise be in such form, as required under the Warehouse Program Guide.

7.9 **Accounts and Records.** Seller shall keep books of record and account in which full, true and correct entries will be made of all dealings or transactions in relation to its business and activities, including the sale of any Participation Interests to Bank, in accordance with GAAP.

7.10 **Books and Records.** Seller agrees to maintain customary books and records relating to the Participation Interests sold by Seller to Bank hereunder. Seller shall properly reflect in its books and records the sale by Seller to Bank of all Participation Interests sold to Bank and the Percentage Interests of Bank in such Participation Interests. Upon request, Seller shall furnish to Bank copies of any of Seller's books and records and financial statements relating to the Participation Interests purchased by Bank from Seller hereunder.

7.11 **Mortgage Loan Files.** Except as expressly permitted or required hereunder, and subject to the provisions of Section 5.11, at all times after the Purchase Date for any Participated Mortgage Loan, Seller shall have and maintain in its direct custody and possession the Mortgage File for such Participated Mortgage Loan.

7.12 **Document Retention.** With respect to each Participated Mortgage Loan, Seller will maintain in its files all records relating to such Participated Mortgage Loan for the period of time required by applicable Law, but in no event for less than twenty-five (25) months from the Purchase Date for such

Participated Mortgage Loan. Within twenty-four (24) hours following any demand therefor, Seller will supply Bank with certified copies and/or originals of any such records.

7.13 **Right of Inspection.** Seller shall permit any officer, employee, agent or representative of Bank: (a) with at least twenty-four (24) hours written notice, to examine (at any office of Seller selected by Bank) Seller's books and records, accounts and any and all files, records and documents relating to the Mortgage Loans in which Bank has purchased or will purchase Participation Interests (including any in-file credit reports), and to make copies and extracts of any and all of the foregoing; and (b) to discuss the affairs, finances, books and records, and accounts of Seller with Seller's officers, accountants and auditors and other representatives.

7.14 **Audit.** Seller shall permit any third-party consultant engaged by Bank (each an "Auditor"), at the expense of Seller, to inspect and conduct an audit of Seller's business operations and records related thereto; provided, however, if such audit is conducted by Bank more than once during any fiscal year, and such additional audit is not the result of the occurrence of an Event of Default, Bank shall be responsible for the fee payable to the Auditor that performed such additional audit. In connection with each audit, Seller shall cooperate with the Auditor and will cause Seller's employees, agents and contractors to cooperate with the Auditor, and Seller shall furnish or cause to be furnished to the Auditor such information and documentation the Auditor may consider necessary or useful in connection with the performance of the audit.

7.15 **Notice from Seller of Certain Events.**

(a) Seller shall promptly, but in any event within ten (10) days of obtaining knowledge thereof (or by such earlier time if expressly required hereunder), notify Bank in writing of any event or circumstance or notice thereof which has had, or could reasonably be expected to have, a Material Adverse Effect upon Seller. Without limiting the generality of the foregoing:

(i) Seller shall promptly, but in any event within ten (10) days of obtaining knowledge thereof, notify Bank in writing of: (A) any Proceeding by any Governmental Authority pending, or to the knowledge of Seller, threatened against Seller; and (B) any other Proceeding pending, or to the knowledge of Seller, threatened against Seller which, if determined adversely to Seller, may have a Material Adverse Effect upon Seller. Seller shall immediately notify Bank in writing upon obtaining any knowledge thereof of any judgment, decision, order, finding, determination or other disposition in connection with a Proceeding that has resulted in a Material Adverse Effect upon Seller.

(ii) Seller shall promptly, but in any event within ten (10) days of receipt, deliver to Bank copies of all notices and other documents and correspondence from any Governmental Authority regarding any alleged non-compliance or potential non-compliance with the Dodd-Frank Act or any other applicable Law related to the financing and sale of Mortgage Loans.

(b) If there is any pending or threatened audit or investigation of Seller by any applicable Agency, or any other Proceeding involving Seller, which could reasonably be expected to result in any Agency Approval being suspended or terminated (including due to the failure of Seller to comply with the results or findings of any such audit or investigation), then Seller shall provide written notice thereof to Bank within ten (10) days of Seller obtaining any knowledge thereof. If any Agency Approval is not in good standing or is otherwise suspended or terminated, then Seller shall provide immediate written notice thereof to Bank.

(c) Seller shall furnish to Bank immediately upon becoming aware of the existence of any Event of Default, a written notice specifying the nature and period of existence thereof and the action which Seller is taking or proposes to take with respect thereto.

7.16 **Compliance with Warehouse Documents.** Seller shall promptly and fully perform, observe and comply with any and all provisions of this Agreement and the other Warehouse Documents to which Seller is a party.

7.17 [Reserved].

7.18 **INDEMNIFICATION. SELLER SHALL INDEMNIFY, DEFEND, PROTECT AND HOLD HARMLESS BANK, BANK'S PARENTS, SUBSIDIARIES AND AFFILIATES, AND ALL DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING (EACH AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, CLAIMS, PENALTIES, JUDGMENTS, OBLIGATIONS, DISBURSEMENTS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES), ACTIONS, PROCEEDINGS OR DISPUTES (COLLECTIVELY, "LOSSES") INCURRED BY ANY INDEMNIFIED PARTY OR TO WHICH ANY INDEMNIFIED PARTY MAY BECOME SUBJECT WHICH DIRECTLY OR INDIRECTLY ARISE FROM OR RELATE TO THIS AGREEMENT, ANY OTHER WAREHOUSE DOCUMENT, ANY PARTICIPATED MORTGAGE LOAN OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER WAREHOUSE DOCUMENT, INCLUDING ANY AND ALL LOSSES DUE TO: (A) ANY NEGLIGENT OR FRAUDULENT ACT OR OMISSION OF SELLER OR ANY OF ITS AGENTS, REPRESENTATIVES OR EMPLOYEES; (B) ANY BREACH BY SELLER OF ANY REPRESENTATION OR WARRANTY CONTAINED HEREIN; (C) ANY BREACH BY SELLER OF ANY PROVISION OF THIS AGREEMENT OR ANY OTHER WAREHOUSE DOCUMENT; (D) ANY EVENT OF DEFAULT; (E) SELLER'S USE FOR ANY MORTGAGE LOAN OF ANY FORM OR DOCUMENT NOT PROVIDED OR APPROVED BY BANK; (F) ANY MISCALCULATIONS OR OTHER ERRORS WHICH RESULT FROM SELLER'S INDEPENDENT PROCESSING PROCEDURES OR ITS MISUSE OR ALTERATION OF ANY FORMS OR DOCUMENTS PROVIDED OR APPROVED BY BANK; (G) ANY FAILURE BY SELLER TO COMPLY WITH ANY LAW; (H) THE UNMARKETABILITY OF ANY PARTICIPATED MORTGAGE LOAN RESULTING FROM ANY MATTER DESCRIBED IN CLAUSES (A) THROUGH (G) OF THIS SENTENCE; AND (I) ANY UNAUTHORIZED ACCESS TO OR USE OF THE ELECTRONIC PLATFORM OR THE INFORMATION MADE AVAILABLE THEREBY DUE TO ANY ACT OR OMISSION OF SELLER. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT EACH INDEMNIFIED PARTY TO BE INDEMNIFIED UNDER THIS SECTION OR ANY OTHER SECTION OF THIS AGREEMENT (INCLUDING, SECTIONS 5.8, 7.6 AND 10.23) OR UNDER ANY OTHER WAREHOUSE DOCUMENT SHALL BE INDEMNIFIED FROM AND HELD HARMLESS AGAINST ANY AND ALL LOSSES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF, OR ARE CLAIMED TO BE CAUSED BY OR ARISE OUT OF, THE NEGLIGENCE (WHETHER SOLE, COMPARATIVE OR CONTRIBUTORY) OR STRICT LIABILITY OF SUCH INDEMNIFIED PARTY; PROVIDED, HOWEVER, THAT SUCH INDEMNITIES SHALL NOT APPLY TO A PARTICULAR INDEMNIFIED PARTY WITH REGARD TO, AND TO THE EXTENT OF THE AMOUNT OF, THOSE CERTAIN LOSSES (IF ANY) WHICH ARE DETERMINED BY A FINAL NON-APPEALABLE ORDER OF A COURT OF COMPETENT JURISDICTION TO HAVE BEEN PROXIMATELY CAUSED SOLELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY.** Each Indemnified Party may employ an attorney or attorneys to protect or enforce its respective rights, remedies

and recourses under this Agreement and any other Warehouse Documents, and to advise and defend it with respect to any such actions and other matters. Seller shall reimburse each Indemnified Party for its respective reasonable attorneys' fees and expenses (including expenses and costs for experts) immediately upon receipt of a written demand therefor, whether on a monthly or other time interval, and whether or not an action is actually commenced or concluded. All other reimbursement and indemnity obligations hereunder shall become due and payable when actually incurred by such Indemnified Party. Any payments not made within five (5) days after written demand therefor shall bear interest at the highest rate permitted under applicable Law from the date of such demand until fully paid. The provisions of this Section and the other indemnity and hold harmless provisions of this Agreement (including Sections 5.8, 7.6 and 10.23) and the other Warehouse Documents shall survive the termination of this Agreement.

7.19 **Interest Rate Hedging**. Seller shall at all times hedge against the interest rate risk associated with any and all Mortgage Loans owned in whole or in part by Seller, as may be reasonably required by Bank from time to time.

7.20 **Reserved**.

ARTICLE 8

NEGATIVE COVENANTS

At all times prior to the Agreement Termination Date (and thereafter if expressly required hereunder), Seller covenants and agrees with Bank that:

8.1 **Management or Control**. Without the prior written consent of Bank: (a) there shall not be any change in direct or indirect management or control of Seller; and (b) Seller, and each entity which directly manages or controls Seller, shall not cease to maintain key management and executive personnel at a level of experience and ability equivalent to the present executive management and executive personnel as of the date hereof.

8.2 **Transfer of Ownership Interest**. Without the prior written consent of Bank, which consent shall not be unreasonably withheld or delayed, there shall not be any sale, transfer or assignment to any Person of the direct or indirect ownership interest in Seller if such sale, transfer or assignment shall result in such Person holding, directly or indirectly, ten percent (10.0%) or more of the total outstanding ownership interest in Seller; provided, however, that any sale, transfer or assignment of direct or indirect ownership interest in eXp World Holdings, Inc. shall be exempt from this Section 8.2.

8.3 **Merger**. Without the prior written consent of Bank, Seller shall not: (a) become a party to any merger or consolidation; (b) [reserved]; (c) sell or otherwise sell, transfer or assign all or substantially all of the assets or Properties of Seller to any other Person; or (d) wind-up, dissolve or liquidate.

8.4 **Fiscal Year; Method of Accounting**. Seller shall not, without giving prior written notice to Bank, change its fiscal year or method of accounting.

8.5 **Actions with respect to Mortgage Loans**. Seller shall not:

(a) Release the Lien of any Security Instrument of any Participated Mortgage Loan;

(b) Amend, modify or supplement in any material respect any Mortgage Loan Document related to any Participated Mortgage Loan;

(c) Grant, create, incur, permit or suffer to exist any Lien upon the Mortgaged Property which is security for any Participated Mortgage Loan, except for the Lien granted under the Security Instrument for such Participated Mortgage Loan; or

(d) Sell, transfer or assign any of Seller's rights, titles or interests in or to any Participated Mortgage Loan to any Person except as expressly provided in this Agreement, or otherwise with the prior written consent of Bank.

8.6 **Compliance with Material Agreements.** Seller shall not permit any default to occur with respect to any agreement, indenture, mortgage or document binding on it or affecting its Property or business, if such default would likely have a Material Adverse Effect upon Seller.

8.7 **Representations Regarding Interests Sold.** Seller will not represent to any Person that Seller owns all or any portion of the Participation Interests purchased by Bank under this Agreement.

ARTICLE 9
EVENTS OF DEFAULT;
CERTAIN RIGHTS AND REMEDIES OF BANK

9.1 **Events of Default.** An Event of Default shall exist if any one or more of the following occurs:

(a) Seller or any other Obligated Party shall fail to punctually make any payment of fees or other sums when due hereunder, or under any other Warehouse Document to which it is a party, and such failure shall continue for a period of three (3) days thereafter (provided that Bank shall not be required to provide any such three (3)-day grace period more than two (2) times in any twelve (12)-month period);

(b) The failure or refusal of Seller or any other Obligated Party to perform, observe or comply with any covenant or agreement contained in this Agreement or any other Warehouse Document to which it is a party, which failure or refusal is not otherwise addressed in this Section, and such failure or refusal continues for a period of five (5) days (provided that Bank shall not be required to provide any such five (5)-day grace period more than two (2) times in any twelve (12)- month period);

(c) Any material statement, warranty or representation made at any time by or on behalf of Seller or any other Obligated Party in this Agreement or any other Warehouse Document, or in any writing or communication (including any Request), or any statement or representation made in any certificate, report, or opinion delivered to Bank pursuant to or in connection with this Agreement or any other Warehouse Document to which it is a party, is false, calculated to mislead, misleading or erroneous in any material respect at the time made;

(d) Default shall occur (after the expiration of any applicable grace and cure periods):
(i) in the punctual payment of any material indebtedness of Seller or any other Obligated Party owing to any Person (other than Bank), or in the performance, observance or compliance with any other covenant, agreement or obligation of any agreement executed in connection therewith; or (ii) in the performance of any other material agreement binding upon Seller or any other Obligated Party;

(e) Seller or any other Obligated Party shall: (i) apply for or consent to the appointment of a receiver, trustee, custodian, intervenor or liquidator of such Person or of all or a

substantial part of its assets; (ii) file a voluntary petition in bankruptcy, admit in writing that it is unable to pay its debts as they become due or generally not pay its debts as they become due; (iii) make a general assignment for the benefit of creditors; (iv) file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy or insolvency laws; (v) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or (vi) take any action for the purpose of effecting any of the foregoing;

(f) An involuntary petition or complaint shall be filed against Seller or any other Obligated Party seeking bankruptcy or reorganization of such Person or the appointment of a receiver, custodian, trustee, intervenor or liquidator of it, or of all or substantially all of its assets, and such petition or complaint shall not have been dismissed within thirty (30) days of the filing thereof; or an order, order for relief, judgment or decree shall be entered by any court of competent jurisdiction or other competent authority approving a petition or complaint seeking reorganization of such Person or appointing a receiver, custodian, trustee, intervenor or liquidator of such Person, or of all or substantially all of its assets, and such order, judgment or decree shall continue unstayed and in effect for a period of thirty (30) days;

(g) Seller shall fail within thirty (30) days to pay, bond or otherwise discharge any judgment or order for payment of money in excess of the Maximum Judgment Amount that is not otherwise being satisfied in accordance with its terms and is not stayed on appeal or otherwise being contested in good faith;

(h) Any default or event of default shall occur (after the expiration of any applicable grace and cure periods) under any indebtedness of Seller or any other Obligated Party to Bank (other than arising out of or pursuant to this Agreement) or under any document evidencing, securing or pertaining to any indebtedness of Seller or any other Obligated Party to Bank;

(i) Any Person shall levy on, seize, or attach all or any material portion of the Property of Seller or any other Obligated Party which is not permanently dismissed or discharged within thirty (30) days after commencement of such action;

(j) The failure of Seller to repurchase any Participation Interest (or any portion thereof) as and when required pursuant to the provisions of this Agreement;

(k) The dissolution of Seller or any other Obligated Party that is an entity for any reason, or the death or incapacity of any Obligated Party that is a natural person;

(l) If (i) any Agency Approval is not in good standing, (ii) any Agency Approval is suspended or terminated, or (iii) Seller failed to provide any written notice as and when required pursuant to Section 7.15(b);

(m) If (i) there is any Proceeding by any Governmental Authority pending, or threatened against Seller which, if determined adversely to Seller, may have a Material Adverse Effect, (ii) there is any judgment, decision, order, finding, determination or other disposition in connection with a Proceeding that has resulted in a Material Adverse Effect upon Seller, or (iii) Seller failed to provide any written notice as and when required pursuant to Section 7.15(a)(i);

(n) (i) Any change in the financial condition of Seller or any other Obligated Party from the condition shown on the financial statements submitted to Bank and relied upon by Bank in connection with the execution of this Agreement, which change would have a Material Adverse

Effect upon Seller or any other Obligated Party, the materiality and adverse effect of such change in financial condition to be reasonably determined by Bank in accordance with its credit standards and underwriting practices in effect at the time of making such determination; or (ii) if Bank in good faith believes that any other act, event, condition or circumstance exists or has occurred (including a material management or organizational change in Seller or any other Obligated Party) that would have a Material Adverse Effect upon Seller or any other Obligated Party; or

(o) Any Warehouse Document ceases to be in full force and effect, or to be enforceable in accordance with its terms.

9.2 **Default Remedies.** Upon the occurrence of an Event of Default, without any presentment, demand, protest, notice of protest and nonpayment, or other notice of any kind, all of which are hereby expressly waived by Seller, Bank may, in its sole and absolute discretion, immediately: (a) terminate or suspend Seller's right hereunder to submit any Request to Bank for Bank to purchase Participation Interests; (b) pursuant to the power of attorney conferred to Bank by Seller in connection with this Agreement (and in reliance of Section 10.18 in the event that Bank exercises the following remedy after the occurrence of an Event of Default specified in Sections 9.1(e) or (f)), sell in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as Bank shall reasonably deem satisfactory, any or all rights, titles and interest of Bank and Seller in and to any or all Participated Mortgage Loans and apply the proceeds thereof to the aggregate outstanding Advances made by Bank in connection with such Participated Mortgage Loans and to any other amounts payable to Bank in connection with this Agreement or any other Warehouse Document, in such order and amounts determined by Bank; (c) exercise its rights and remedies under any Pledge Agreement or other Warehouse Document; and/or (d) exercise any other right or remedy otherwise available to Bank under this Agreement or any other Warehouse Document or at law or in equity. Notwithstanding the foregoing, if an Event of Default specified in Sections 9.1(e) or (f) occurs, fees and other sums due hereunder shall become automatically and immediately due and payable, both without any action by Bank and without presentment, demand, protest, notice of protest and nonpayment, notice of acceleration or of intent to accelerate, or any other notice of any kind, all of which are hereby expressly waived, notwithstanding anything contained herein to the contrary.

9.3 **Option to Purchase Retained Percentage.** Without limiting the generality of Section 9.2, during the continuance of an Event of Default, Bank shall have the right at any time, in its sole and absolute discretion, to purchase from Seller the Retained Percentage in any or all Participated Mortgage Loans (the "Retained Interest Purchase Option"). To effect the purchase by Bank from Seller of the Retained Percentage in any Participated Mortgage Loan in connection with the Bank's exercise of the Retained Interest Purchase Option, Bank shall pay to Seller an amount (the "Retained Interest Purchase Price") equal to (a) the then outstanding principal balance of such Participated Mortgage Loan, as of the date of the exercise by Bank of the Retained Interest Purchase Option, multiplied by the Retained Percentage of Seller therein as of such date, less (b) the amount of Bank's pro rata share of any and all principal payments (which are allocable to Bank's Participation Interest in such Participated Mortgage Loan), determined in accordance with Bank's Participation Percentage in effect from time to time for such Participated Mortgage Loan, made on such Participated Mortgage Loan during the period of time commencing on the Purchase Date for such Participated Mortgage Loan and ending on the date of the exercise by Bank of the Retained Interest Purchase Option, but that have not been previously paid to Bank, less (c) the amount of Bank's pro rata share of any and all interest payments (which are allocable to Bank's Participation Interest in such Participated Mortgage Loan), determined in accordance with the Participation Interest Rate in effect from time to time for such Participated Mortgage Loan, made on such Participated Mortgage Loan during the period of time commencing on the Purchase Date for such Participated Mortgage Loan and ending on the date of the exercise by Bank of the Retained Interest Purchase Option, but that have not been previously paid to Bank, less (d) the amount of any then-earned and unpaid Funding Fee payable by Seller to Bank hereunder with respect to such Participated Mortgage Loan as of the date of the exercise by Bank of the

Retained Interest Purchase Option, less (e) any other amounts due and payable by Seller to Bank hereunder as of the date of the exercise by Bank of the Retained Interest Purchase Option, by depositing the Retained Interest Purchase Price into the Remittance Account. Effective immediately upon Bank's deposit into the Remittance Account of the Retained Interest Purchase Price for the Retained Percentage in any Participated Mortgage Loan, without any further action by or notice to any Person, Bank shall have purchased from Seller such Retained Percentage as reflected on Bank's books and records.

ARTICLE 10
MISCELLANEOUS

10.1 **Accounting Principles.** Where the character or amount of any asset or liability or item of income or expense is required to be determined or other financial or accounting computation is required to be made for the purposes of this Agreement or any other Warehouse Document, such determination shall be made in accordance with GAAP, except where such principles are inconsistent with the requirements of this Agreement or such other Warehouse Document. In addition, any accounting term used in this Agreement or any other Warehouse Document shall have, unless otherwise specifically provided therein, the meaning customarily given to such term in accordance with GAAP or other method of accounting acceptable to Bank.

10.2 **Time.** Time is of the essence of each and every term of this Agreement and the other Warehouse Documents.

10.3 **Titles of Articles, Sections and Subsections.** All titles or headings to articles, sections, subsections or other divisions of this Agreement or any other Warehouse Document or the exhibits or addenda hereto or thereto are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the content of such articles, sections, subsections or other divisions, such content being controlling as to the agreement between the parties hereto.

10.4 **Seller's Status.** It is agreed that the relationship of Seller and Bank hereunder shall be that of the seller and purchaser of interests in Mortgage Loans. Seller and Bank are not partners or joint venturers, and nothing contained herein shall be construed to create a partnership, joint venture or similar relationship between the parties. Seller shall not act as or hold itself out to the public as being an agent for Bank, but is to act in all loan origination, administration and servicing matters hereunder for itself and in its name only, except to the extent that Seller is required under this Agreement to act as a trustee with fiduciary duties to hold for the benefit of Bank the Participated Mortgage Loans and the related Mortgage Loan Documents, and any and all funds and receipts, whether as principal, interest, escrows or otherwise, in respect of any Participated Mortgage Loan, and to make the remittances of any and all such documents and funds as specified in this Agreement. It further is agreed that Seller, as trustee, shall not assign its responsibilities under this Agreement except in accordance with this Agreement.

10.5 **Notices.** Any and all notices, requests and other communications required or permitted to be given under or in connection with this Agreement or any other Warehouse Document, except as otherwise provided herein or therein, shall be in writing and mailed or sent by electronic mail to the respective address, and to the attention of the designated recipient, provided below for Bank and provided on the signature page of this Agreement for Seller (or to such other address or to such designated recipient, as either party may designate in a written notice to the other party furnished pursuant to this Section). Such notices, requests and other communications so sent shall be deemed to have been given immediately if made by electronic mail (confirmed by concurrent written notice sent first class U.S. mail, postage prepaid), or one (1) day after sending by recognized national overnight courier company, signature of recipient required if to Seller or Bank; any notice, request and other communication sent by any other means shall be deemed made when actually received in writing by the designated recipient of the party to which notice

is provided in accordance with this Section; provided, however, that any notice provided to Seller shall not be deemed delivered unless and until a copy is transmitted via email to legal@successlending.com. Notwithstanding the foregoing, Requests or communications related to a Request shall not be effective until actually received by Bank. Bank's address for notices is:

TEXAS CAPITAL BANK
2221 Lakeside Boulevard, Suite 800
Richardson, Texas 75082
Attention: Bruce Karda
E-mail: [Redacted]

10.6 **Amendments and Waivers.** Subject to Section 10.7, any provision of this Agreement or any other Warehouse Document may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by all the parties to this Agreement, such Warehouse Document or such other documents, as the case may be. The acceptance of Bank at any time and from time to time of part payment on any amounts payable to Bank hereunder shall not be deemed to be a waiver of the balance of such amounts. No waiver by Bank of any Event of Default shall be deemed to be a waiver of any other then- existing or subsequent Event of Default. No waiver by Bank of any of its rights or remedies under this Agreement, any other Warehouse Document, or otherwise, shall be considered a waiver of any other or subsequent right or remedy of Bank. No delay or omission by Bank in exercising any right or remedy under this Agreement or any other Warehouse Document shall impair such right or remedy or be construed as a waiver thereof or any acquiescence therein, nor shall any single or partial exercise of any such right or remedy preclude other or further exercise thereof, or the exercise of any other right or remedy under this Agreement, any other Warehouse Document or otherwise.

10.7 **Amendment Due to Government Regulation.** Both Bank and Seller understand that Bank is subject to the supervision of various Governmental Authorities. Should any Governmental Authority direct Bank to discontinue any practice set forth herein or to amend the terms hereof, Bank shall take immediate action to do so and shall notify Seller of such action. Seller hereby consents to such action and agrees to enter into any amendment or termination hereof as may be reasonably required by Bank to bring Bank into full compliance with applicable Laws.

10.8 **Participations.** Seller agrees that Bank may elect, at any time and in its sole discretion, to sell, assign and convey an undivided percentage ownership interest, or grant an undivided participation interest, in all or any portion of the Participation Interests (or any portion of any such Participation Interest) to one or more financial institutions, private investors and/or other Persons (collectively, "Participants"). Seller further agrees that Bank may disseminate to any such actual or potential Participants all documents and information (including any and all financial information) which has been or is hereafter provided to or known to Bank in connection with this Agreement and the other Warehouse Documents and the transactions contemplated hereby and thereby, including, information with respect to Seller, each Obligated Party and each Mortgage Loan in which Bank has purchased a Participation Interest.

10.9 **Invalidity.** In the event that any one or more of the provisions contained in this Agreement or any other Warehouse Document, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement or the other Warehouse Documents.

10.10 **Survival.** All covenants, agreements, representations and warranties made herein and in any other Warehouse Document shall continue in full force and effect as long as Bank has the right to purchase Participation Interests hereunder and until all obligations to Bank hereunder and thereunder have been fully satisfied and discharged. Without limiting the generality of the foregoing, termination of this

Agreement by either party pursuant to the terms of this Agreement shall not relieve Seller of: (a) its duties, obligations, representations, warranties, covenants, agreements or indemnities which accrued under this Agreement prior to the Advance Request Termination Date or the Agreement Termination Date; or (b) performance of its duties and obligations hereunder so long as there is any Participated Mortgage Loan which does not constitute a Retired Participated Mortgage Loan.

10.11 **Successors and Assigns.** All covenants and agreements contained by or on behalf of Seller in this Agreement or any Warehouse Document shall bind Seller's successors and assigns and shall inure to the benefit of Bank and its successors and assigns. Seller shall not, however, have the right to assign its rights under this Agreement or any interest herein, without the prior written consent of Bank, which consent may be withheld by Bank for any reason.

10.12 **Renewal.** If, as of the Effective Date, Bank holds any outstanding undivided percentage ownership interests (each an "Existing Participation Interest") in any Mortgage Loan purchased by Bank from Seller pursuant to a written mortgage warehouse agreement or similar written agreement executed by Bank and Seller prior to the Effective Date (as amended or modified from time to time, the "Existing Warehouse Agreement"), then, as of the Effective Date, unless expressly agreed to otherwise by Seller and Bank in writing after the date of the Existing Warehouse Agreement: (a) Seller shall not have any rights under the Existing Warehouse Agreement to request Bank to purchase additional undivided percentage ownership interests in Mortgage Loans, and any and all such requests and purchases on or after the Effective Date shall be governed by the terms and conditions of this Agreement; (b) any and all Existing Participation Interests shall continue to be subject to the terms and conditions of the Existing Warehouse Agreement; (c) the Existing Warehouse Agreement shall automatically terminate and cease to be in force and effect (except with respect to the provisions of the Existing Warehouse Agreement which expressly survive termination) without any action or notice upon such time as (i) pursuant to the terms and conditions of the Existing Warehouse Agreement, with respect to each Mortgage Loan in which Bank purchased an Existing Participation Interest (A) such Mortgage Loan has been sold in its entirety and the full amount of the proceeds of such sale have been received and applied by Bank thereunder or (B) the Existing Participation Interest in such Mortgage Loan has been repurchased in its entirety by Seller and the full amount of the proceeds of such repurchase have been received and applied by Bank thereunder, (ii) Bank has received full and indefeasible payment of all amounts due and payable to Bank pursuant to the Existing Warehouse Agreement, and (iii) Bank has remitted to Seller all sums, if any, required by the Existing Warehouse Agreement to be remitted by Bank to Seller; and (d) the Maximum Participation Amount shall be reduced by the sum, as such sum may vary from time to time, of (i) the Outstanding Participation Balance calculated with respect to the outstanding Existing Participation Interests plus (ii) all other amounts due and payable to Bank pursuant to the Existing Warehouse Agreement. The terms of this Section supersede and modify any and all inconsistent provisions in any Existing Warehouse Agreement.

10.13 **Bank's Consent or Approval.** Except where otherwise expressly provided in this Agreement or the other Warehouse Documents, in any instance under this Agreement or the other Warehouse Documents where the approval, consent or the exercise of judgment of Bank is required: (a) the granting or denial of such approval or consent and the exercise of such judgment shall be (i) within the sole and absolute discretion of Bank and (ii) deemed to have been given only by a specific writing intended for that purpose and executed by Bank; and (b) in order to be effective, such approval, consent or exercise of judgment must be given by Bank prior to the applicable action to be taken by Seller which requires Bank's approval, consent or exercise of judgment, unless otherwise agreed to in writing by Bank. Each provision for consent, approval, inspection, review, or verification by Bank is for Bank's own purposes and benefit only.

10.14 **Cumulative Rights.** The rights and remedies of Bank under this Agreement and any other Warehouse Document shall be cumulative, and shall be in addition to any rights and remedies of Bank at law or in equity.

10.15 **Acceptance of Agreement in Texas; Governing Law.** Seller has signed this Agreement and submits it to Bank for acceptance at Bank's offices in Richardson, Collin County, Texas. Seller and Bank shall make all payments and perform all other obligations arising hereunder at Collin County, Texas, and this Agreement is made and entered into at Collin County, Texas. This Agreement and all of the terms and conditions hereof and the rights of the parties hereto shall be governed by and interpreted in accordance with the Laws of the State of Texas and venue for any legal action brought hereunder shall lie in Collin County, Texas or Dallas County, Texas.

10.16 **Seller's Understanding.** Seller has read this Agreement and has had the opportunity to seek and/or receive counsel from an attorney of Seller's choice as to the effects hereof.

10.17 **Nature of Transactions.**

(a) The relationship established by this Agreement and the other Warehouse Documents between Bank and Seller is that of a seller and purchaser of Participation Interests in Mortgage Loans, and not that of a lender and borrower. Subject to Section 10.17(b), it is the intention of Bank and Seller that: (i) the purchase and sale of each Participation Interest hereunder shall be treated and construed as a sale by Seller to Bank, and the purchase by Bank from Seller, of a certain undivided percentage ownership interest in the related Mortgage Loan and the related Mortgage Loan Documents; and (ii) each sale of a Participation Interest by Seller to Bank, and each purchase of a Participation Interest by Bank from Seller, is a sale of an undivided interest in a promissory note to Bank, and that pursuant to Section 9.109 of the UCC of the State of Texas, Bank and Seller's characterization of each such sale and purchase of a Participation Interest as a purchase and sale of such Participation Interest shall be conclusive that (A) the transaction is a sale and is not a secured transaction and (B) legal and equitable title has passed to Bank in the Mortgage Loan and Mortgage Loan Documents in which Bank acquired such Participation Interest.

(b) Neither Party has made or hereby makes any representations or warranties to the other Party, and hereby disclaims any such representations or warranties, regarding the accounting or tax treatment to be applied to any Participation Interest (including whether any such Participation Interest qualifies for "sale" treatment under any applicable accounting rules, regulations or standards). Each Party hereby agrees that it has and will make its own independent determination regarding the accounting and tax treatment to be applied to each Participation Interest, and has not relied upon the other Party in any manner in making such determination. The accounting or tax treatment applied by any Party with respect to any Participation Interest shall not be binding upon the other Party, shall not be used by the other Party in any manner inconsistent with, and shall not affect, the Parties' intent hereunder that any and all transaction pursuant to which Bank pays a Purchase Price to Seller is for a sale by Seller to Bank, and the purchase by Bank from Seller, of a certain undivided percentage ownership interest in the related Mortgage Loan and Mortgage Loan Documents and that legal and equitable title has passed to Bank in the Mortgage Loan in which Bank acquired such Participation Interest.

(c) If any court of competent jurisdiction shall deem any transaction involving Bank, Seller or any Participation Interest governed by this Agreement to be a loan, extension of credit or a secured financing, or if any court of competent jurisdiction shall determine that any purported Participation Interest in any purported Participated Mortgage Loan (or any portion thereof) is the property of Seller or shall otherwise not have been sold by Seller to, and purchased by, Bank, as

contemplated herein, then notwithstanding anything herein or in any other Warehouse Document to the contrary: (i) as of the Effective Date, Bank shall have (and Seller shall have been deemed to have pledged, assigned and granted to Bank) a first priority security interest in and to the Collateral to secure the prompt and complete payment and performance of any and all of Seller's indebtedness and obligations to Bank under this Agreement and the other Warehouse Documents; and (ii) any and all amounts received by Bank with respect to any Participated Mortgage Loan may be applied in such order and priority as Bank may determine. For this purpose, this Agreement shall constitute a security agreement in accordance with the UCC, and Bank shall have all the rights of a secured creditor with respect to such security.

10.18 **Repurchase Agreement.** It is expressly stipulated to be the intent of Bank and Seller, and understood and agreed by Bank and Seller, that (a) this Agreement constitutes a "repurchase agreement" under Section 101(47) of the Bankruptcy Code and (b) pursuant to Sections 362(b), 555 and 559 of the Bankruptcy Code, the rights of Bank under this Agreement related to the sale and repurchase of Mortgage Loans (including, the rights of Bank hereunder, during the continuance of an Event of Default, to liquidate and/or foreclose on the Mortgage Loans in which it holds Participation Interests) shall not be stayed, avoided or otherwise limited by the operation of any provision of the Bankruptcy Code.

10.19 **Usury Savings Provision.** It is expressly stipulated to be the intent of Bank and Seller, and understood and agreed by Bank and Seller, that this Agreement: (a) does not represent a loan from Bank to Seller; and (b) allows Bank to purchase the Participation Interests for its own account and for a short term investment. If, notwithstanding the foregoing or the terms of this Agreement, a court of competent jurisdiction establishes a loan or extension of credit within this Agreement from Bank to Seller, then the parties to this Agreement hereby understand, acknowledge and agree that in such event: (a) Seller shall be the underlying obligor of that loan or extension of credit established by such court of competent jurisdiction; (b) Seller is utilizing the proceeds of that loan or extension of credit established by such court of competent jurisdiction for business, commercial, investment, or similar purposes; and (c) Seller has determined that it is beneficial to use any and all proceeds of that loan or extension of credit established by such court of competent jurisdiction to establish collateral for that loan or extension of credit established by such court of competent jurisdiction by: (i) making deposits at Bank; (ii) purchasing certificates of deposit from Bank; and/or (iii) establishing other accounts at Bank. Furthermore, it is Bank's and Seller's intention and agreement that if a court of competent jurisdiction establishes a loan or extension of credit from Bank to Seller under this Agreement, then any proceeds of that loan or extension of credit established by such court of competent jurisdiction deposited with Bank as additional collateral for that loan or extension of credit: (a) shall be considered a compensating balance under and pursuant to Section 276.003 of the Texas Finance Code; and (b) shall not be considered a reduction in the amount of the proceeds of that loan and/or extension of credit from Bank to Seller. Additionally, it is stipulated, understood and agreed to be the intent of Bank and Seller that this Agreement shall at all times comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Indebtedness (as hereinafter defined), if any, or applicable United States federal law to the extent that such law permits Bank to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law. For purposes of this provision, "**Indebtedness**" shall mean all indebtedness, if any, evidenced, referenced, described, or established by a court of competent jurisdiction under this Agreement, and all amounts payable in the performance of any covenant or obligation in any of the other documents or any other communication or writing by or between Bank and Seller related to the transaction or transactions that are the subject matter of this Agreement, or any part of such Indebtedness, if any. If the applicable law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received in respect of the Indebtedness, if any, including by reason of the acceleration of the maturity or the prepayment thereof, then it is Bank's and Seller's express intent that all amounts charged in excess of the Maximum Lawful Rate (as hereinafter defined), if any, shall be automatically canceled, ab initio, and all amounts in excess of the Maximum Lawful Rate theretofore collected by Bank, if any, shall be credited

on the principal balance of the Indebtedness, if any, or, if the Indebtedness, if any, has been or would thereby be paid in full, refunded to Seller, and the provisions of this Agreement and any underlying documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable laws, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Indebtedness has been paid in full before the end of the stated term hereof, then Bank and Seller agree that Bank shall, with reasonable promptness after Bank discovers or is advised by Seller that interest was received in an amount in excess of the Maximum Lawful Rate, either credit such excess interest against the Indebtedness then owing by Seller to Bank and/or refund such excess interest to Seller. If and to the extent Indebtedness is determined to exist by a court of competent jurisdiction, then Seller hereby agrees that as a condition precedent to any claim seeking usury penalties against Bank, Seller will provide written notice to Bank, advising Bank in reasonable detail of the nature and amount of the violation, and Bank shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Seller or crediting such excess interest against the Indebtedness, if any, then owing by Seller to Bank. All sums contracted for, charged, taken, reserved or received by Bank for the use, forbearance or detention of Indebtedness, if any, shall, to the extent permitted by applicable law, be amortized, prorated, allocated or spread, using the actuarial method, throughout the stated term of this Agreement (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Indebtedness, if any, does not exceed the Maximum Lawful Rate from time to time in effect and applicable to the Indebtedness, if any, for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving tri-party accounts) apply to this Agreement or any other part of the Indebtedness, if any. If and to the extent any Indebtedness is determined to exist under this Agreement by a court of competent jurisdiction, then notwithstanding anything to the contrary contained herein or in any of underlying documents referenced herein, it is not the intention of Bank to accelerate the maturity of any interest, if any, that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration. If and to the extent any Indebtedness is determined to exist under this Agreement by a court of competent jurisdiction, then the terms and provisions of this paragraph shall control and supersede every other term, covenant or provision contained herein, in any of the other underlying documents referenced within this Agreement or in any other document or instrument pertaining to the Indebtedness. As used herein, the term "Maximum Lawful Rate" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved in accordance with the applicable Laws of the State of Texas (or applicable United States federal law to the extent that such law permits Bank to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law), taking into account all fees, charges and any other value whatsoever made in connection with the transaction evidenced by this Agreement. To the extent United States federal law permits contracting for, charging, taking, receiving or reserving a greater amount of interest than under Texas law, then such United States federal law will be relied upon instead of Texas law for the purpose of determining the Maximum Lawful Rate. Additionally, if and to the extent any Indebtedness is determined to exist under this Agreement by a court of competent jurisdiction, to the extent permitted by applicable law now or hereafter in effect, Bank may, at its option and from time to time utilize any other method of establishing the Maximum Lawful Rate under Texas law or under other applicable law by giving notice, if required, to Seller as provided by such applicable law now or hereafter in effect.

10.20 **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SELLER HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER WAREHOUSE DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY OR THE ACTIONS OF BANK IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF.

10.21 **Joint and Several Liability.** The liability of all Persons obligated to Bank in any manner under this Agreement shall be joint and several. If more than one Person shall execute this Agreement as "Seller", then the term "Seller" as used herein and in the other Warehouse Documents shall refer both to each such Person individually and to all such Persons collectively.

10.22 **Electronic Processing.**

(a) Seller acknowledges that Bank may employ one or more electronic processes and systems with respect to the transactions contemplated by this Agreement, including the purchase of Participation Interests in Mortgage Loans and the sale of such Participation Interests to Take- Out Purchasers. Seller shall cooperate with Bank with respect to the implementation of any such electronic document processes or systems.

(b) With respect to the Mortgage Loan Documents for Participated Mortgage Loans, Seller may use electronic services, process and systems for the execution thereof only with the Bank's prior written consent, which approval may be conditioned by Bank upon, among other things, the following: (i) full, unrestricted access by Bank to all electronic reports, records and data related thereto; (ii) cooperation on the part of Seller with respect to access and turnover of such reports, records and data to Bank; and (iii) recognition agreements with third party service providers and vendors, in form and content satisfactory to Bank.

10.23 **Electronic Transmission of Data.** Bank and Seller agree that certain data related to Mortgage Loans (including confidential information, documents, applications and reports) and the transactions contemplated by this Agreement may be transmitted electronically, including over the Internet and/or through the use of the Electronic Platform. This data may be transmitted to, received from or circulated among agents and representatives of Seller and/or Bank and their affiliates, and other Persons involved with the subject matter of this Agreement. Seller acknowledges and agrees that: (a) there are risks associated with the use of electronic transmission and that Bank does not control the method of transmittal or service providers; (b) Bank has no obligation or responsibility whatsoever and assumes no duty or obligation for the security, receipt, or third party interception of such transmissions, and (c) **SELLER WILL RELEASE, HOLD HARMLESS AND INDEMNIFY EACH INDEMNIFIED PARTY FROM AND AGAINST ANY AND ALL LOSSES WHICH ARE RELATED TO THE ELECTRONIC TRANSMITTAL OF DATA.**

10.24 **Force Majeure.** Bank shall not be responsible for any failure or delay of Bank in its performance hereunder by reason of fire, flood or other acts of God, lockout, acts of public enemy, riot, insurrection or any interruption, failure or defects in Internet, telephone or other interconnection service or in electronic or mechanical equipment or any other cause beyond the reasonable control Bank ("**Force Majeure Event**"). During the duration of any Force Majeure Event, Bank will use commercially reasonable efforts to avoid or remove such Force Majeure Event and will take reasonable steps to resume its performance under this Agreement with the least possible delay.

10.25 **Limitation of Liability.** Neither Bank nor any other Indemnified Party shall have any liability with respect to, and Seller hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, consequential or punitive damages suffered or incurred by Seller in connection with, arising out of, or in any way related to, this Agreement or any of the other Warehouse Document, or any of the transactions contemplated by this Agreement or any of the Warehouse Document.

10.26 **Confidentiality.**

(a) The Parties hereby acknowledge and agree that all information provided on, before, or after the Effective Date by or on behalf of one Party or its affiliates, officers, directors, employees, representatives, agents or advisors (collectively, the "Disclosing Party") to the other Party or its Permitted Recipients (collectively, the "Receiving Party") in connection with any Warehouse Document or the transactions contemplated hereby which the Receiving Party knows or reasonably should know is the confidential or proprietary information of the Disclosing Party, including (i) all information relating to the business, operations and affairs of the Disclosing Party (including internal operating procedures, methodologies, strategies, trade secrets, sales data, vendor data and customer lists, financial plans, projections and reports), (ii) all property owned, licensed and/or developed by or for the Disclosing Party or its affiliates, such as computer systems, programs, software and devices (including information about the design, methodology and documentation therefor), (iii) the terms of this Agreement and the other Warehouse Documents (including the outline of the proposed terms of the transactions contemplated hereby contained in any and all term sheets provided by Bank to Seller); and (iv) all "nonpublic personal information" of "customers" and "consumers" (as each is defined in the GLB Act) (collectively "Confidential Information"), shall be kept confidential by the Receiving Party and shall not be divulged by the Receiving Party to any Person without the prior written consent of the Disclosing Party except to the extent set forth in Section 10.26(b). Notwithstanding anything herein to the contrary, Confidential Information shall not include information of the Disclosing Party that: (i) is expressly permitted to be disclosed by the Receiving Party pursuant to and in accordance with any other provisions of this Agreement or the other Warehouse Documents; (ii) is or becomes generally available to the public (through no action or inaction in breach of this Agreement by the Receiving Party); (iii) was in the Receiving Party's possession or known by the Receiving Party without obligations of confidentiality owed to the Disclosing Party prior to receipt from the Disclosing Party; (iv) was rightfully disclosed to the Receiving Party by a third-party without obligations of confidentiality owed to the Disclosing Party, or (v) was independently developed by the Receiving Party without use or access to the Confidential Information. Each Party agrees to take reasonable precautions to protect Confidential Information from disclosure in violation of this Section.

(b) Any Receiving Party shall be permitted to disclose, on a confidential basis, Confidential Information to: (i) its officers, directors, employees, legal counsel and auditors ("Permitted Recipients"), but only to the extent necessary in connection with the transactions contemplated hereby; (ii) taxing authorities and of Governmental Authorities, but only to the extent necessary to comply with applicable Law; (iii) any bank examiner, auditor or regulatory authority or supervisory authority that has jurisdiction over such Receiving Party or otherwise in connection with any audit or examination of such Receiving Party by any such bank examiner, auditor or authority. Any Receiving Party may disclose Confidential Information in connection with any litigation or other legal proceeding if required under applicable Law, and subject to the following:

(i) to the extent permitted by applicable Law, the Receiving Party shall promptly notify the Disclosing Party in writing of the litigation or other proceeding involving the potential disclosure of Confidential Information, whereupon the Disclosing Party may seek an appropriate protective order or other relief (at the Disclosing Party's sole expense) and the Receiving Party shall cooperate with the Disclosing Party (at the Disclosing Party's sole expense) to obtain such order or relief; and

(ii) Receiving Party shall exercise reasonable efforts to limit the disclosure to only that portion of the Confidential Information which is necessary to comply with applicable Law. In addition, Bank may disclose Confidential Information: (i) to an actual Participant or to a potential Participant pursuant to the provisions of Section 10.8; (ii) if an Event of Default has occurred and Bank has determined that the disclosure of Confidential Information is necessary or desirable in connection with the marketing and sale of Participated Mortgage Loans or the enforcement or exercise of Bank's rights or remedies under the Warehouse Documents.

(c) The Parties understand that the Confidential Information may contain "nonpublic personal information", as that term is defined in Section 509(4) of the Gramm-Leach-Bliley Act (the "GLB Act"), and each Party agrees to maintain such nonpublic personal information that it receives hereunder in accordance with the GLB Act and other applicable privacy and data protection Laws binding upon such Party. Each Party shall implement such physical and other security measures as shall be necessary to: (i) ensure the security and confidentiality of the "nonpublic personal information" of "customers" and "consumers" (as those terms are defined in the GLB Act); (ii) protect against any threats or hazards to the security and integrity of such nonpublic personal information; and (iii) protect against any unauthorized access to or use of such nonpublic personal information. Each Party shall, at a minimum establish and maintain such data security program as is necessary to meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in the Code of Federal Regulations at 12 C.F.R. Parts 30, 168, 208, 211, 225, 263, 308 and 364. Upon request, each Party will provide evidence reasonably satisfactory to allow the other Party to confirm that the providing Party has satisfied its obligations as required under this Section. Each Party shall notify the other Party immediately following discovery of any breach or compromise of the security, confidentiality or integrity of nonpublic personal information of customers and consumers related to the Confidential Information.

10.27 Other Facilities.

(a) Any and all Liens at any time securing the Other Obligations shall also secure any and all obligations and liabilities of Seller under the Warehouse Documents. Any and all Liens at any time securing the obligations and liabilities of Seller under the Warehouse Documents shall also secure the Other Obligations.

(b) The documents evidencing, securing or otherwise governing or pertaining to the Other Obligations in effect as of the Effective Date hereof are hereby modified and amended in accordance with the provisions of this Section.

10.28 **Inconsistencies.** To the extent of any conflict between the provisions of this Agreement and the provisions of any other Warehouse Document, the provisions of this Agreement shall govern and control. To the extent of any conflict between the provisions of any Warehouse Document and the provisions of the Warehouse Program Guide, subject to Section 5.13(a), the provisions of the Warehouse Program Guide shall govern and control.

10.29 **Counterparts.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all Persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

10.30 **ENTIRE AGREEMENT.** THIS WRITTEN AGREEMENT AND THE OTHER WAREHOUSE DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Signature Pages Follow]

EXECUTED by Seller to be effective as of the Effective Date.

SELLER:

SUCCESS LENDING, LLC, A DELAWARE LIMITED LIABILITY COMPANY

By: _____
Name: GARY FABIAN
Title: VICE PRESIDENT

Execution Date: _____, 20____

Seller's Contact Information for Notices:

SUCCESS LENDING, LLC
4 HUTTON CENTRE DR., 10TH FLOOR
SANTA ANA, CA 92707
Attention: GARY FABIAN
Phone: [Redacted]
E-mail: [\[Redacted\]](#)

With a Copy To:
Email: LEGAL@SUCCESSLENDING.COM

* * *

STATE OF _____ §
 §
COUNTY OF _____ §

This document was acknowledged before me on the ____ day of _____, 20____, by GARY FABIAN, VICE PRESIDENT of SUCCESS LENDING, LLC, A DELAWARE LIMITED LIABILITY COMPANY, known to me to be the person who executed this document in the capacity and for the purposes therein stated.

Notary Public, State of _____

[NOTARY STAMP]

[Bank's Signature Page Follows]

ACCEPTED AND AGREED to by Bank at Richardson, Collin County, Texas, and executed to be effective as the Effective Date.

BANK:

TEXAS CAPITAL BANK

By: _____

Name: Heather Crawford

Title: Vice President

Execution Date: _____, 20____

EXHIBIT LIST

- Exhibit A - Power of Attorney
- Exhibit B - Pledge Agreement
- Exhibit C - Guaranty Agreement
- Exhibit D - UCC-1 Financing Statement
- Exhibit E - Financial Covenants Addendum
- Exhibit F - Supplemental Provisions Addendum
- Exhibit G - List of Current Warehouse Facilities
- Exhibit H - List of Current Affiliate Escrow Agents
- Exhibit I - Blanket Assignment

EXHIBIT A
(TO MORTGAGE WAREHOUSE AGREEMENT)

POWER OF ATTORNEY

[INTENTIONALLY OMITTED]

EXHIBIT B
(TO MORTGAGE WAREHOUSE AGREEMENT)

PLEDGE AGREEMENT

[INTENTIONALLY OMITTED]

EXHIBIT C
(TO MORTGAGE WAREHOUSE AGREEMENT)

GUARANTY AGREEMENT

[Intentionally Omitted]

EXHIBIT D
(TO MORTGAGE WAREHOUSE AGREEMENT)

UCC-1 FINANCING STATEMENT

[INTENTIONALLY OMITTED]

EXHIBIT E
(TO MORTGAGE WAREHOUSE AGREEMENT)

FINANCIAL COVENANTS ADDENDUM

[Follows This Cover Page (If Applicable¹)]

¹ If an Additional Warehouse Facility Covenants Addendum does not follow this cover page, then this addendum is not applicable unless such an addendum is subsequently executed by Bank and Seller.

FINANCIAL COVENANTS ADDENDUM

THIS FINANCIAL COVENANTS ADDENDUM (this "Addendum") is entered into as of JANUARY 18, 2022 (but effective as of the Effective Date) by the undersigned executing this Addendum as "Seller" and TEXAS CAPITAL BANK ("Bank") concurrently with, and as a condition to the effectiveness of, that certain Mortgage Warehouse Agreement (as amended and modified from time to time, the "Warehouse Agreement") dated of even date herewith, executed by Bank and Seller. Accordingly, Bank and Seller agree as follows:

1. **Financial Covenants.** Seller covenants and agrees that, until the Agreement Termination Date, Seller will, at all times, observe, perform and comply with each of the following covenant(s):

(a) **Minimum Tangible Net Worth.** Seller shall maintain Tangible Net Worth of not less than \$2,500,000.00. "Tangible Net Worth" means, at any particular time, all amounts which, in conformity with GAAP, would be properly included as owner's equity on Seller's balance sheet, but excluding (i) all assets which are properly classified as intangible assets, and (ii) loans or advances to, or receivables from, any owner, officer or employee of Seller.

(b) **Minimum Liquid Assets.** Seller shall maintain Total Eligible Liquidity of not less than \$1,000,000.00. "Total Eligible Liquidity" means, at any particular time, the sum of Seller's cash, cash equivalents (certificates of deposit and other depository accounts established at FDIC- insured banks), United States government-issued securities and other registered, unrestricted equity or debt securities which are publicly traded on a recognized United States exchange and have been approved by Bank, in its sole and absolute discretion and which, in all events, are held in Seller's name and are free and clear of all Liens (except Liens in favor of Bank), as calculated and determined as set forth in Exhibit E-1 attached hereto.

(c) **Minimum Pre-Tax Net Income.** Beginning with the March 31, 2022 financial statements, Seller shall not incur pre-tax net losses greater than \$1,500,000.00. Beginning with the June 30, 2022 financial statements, Seller shall not incur pre-tax net losses greater than \$500,000.00. Beginning with the September 30, 2022 financial statements, and building to a rolling four quarter basis, Seller shall maintain a pre-tax net income of not less than \$1.00, excluding any markup or markdown of mortgage servicing rights.

(d) **Other Financial Covenants.** A Capital Maintenance 'Keep-Whole' Agreement whereby Kind Lending, LLC and eXp World Holdings, Inc. will be required to provide any and all funds necessary to ensure that Success Lending, LLC is at all times in compliance with their Tangible Net Worth and Liquidity covenants provided (i) the amounts of funds which Kind Lending, LLC is required from time to time to provide to the Seller shall not exceed \$1,250,000.00

(ii) the amount of funds which eXp World Holdings, Inc. is required from time to time to provide to the Seller shall not exceed \$1,250,000.00 and (iii) in no event shall Kind Lending, LLC be required to contribute more than \$1,250,000.00 individually and (iv) in no event should eXp World Holdings, Inc. be required to contribute more than \$1,250,000.00 individually.

If Seller is required or permitted under the Warehouse Agreement to deliver to Bank quarterly consolidated financial statements, then the above-described financial covenants will be tested and calculated by Bank based on the consolidated financial information of Seller and each other entity whose financial information is required or permitted by Bank to be set forth on such consolidated financial statements.

After the Effective Date, Seller and Bank may, in their sole discretion, enter into certain written agreements executed by Seller and Bank evidencing or otherwise governing one or more credit facilities extended by

Bank to Seller in addition to the financial accommodations evidenced and governed by the Warehouse Agreement (collectively, "Credit Agreements"), which Credit Agreements may include (a) certain financial covenants pertaining to Seller in addition to those contained in this Addendum (each a "New Financial Covenant") and (b) one or more of the same financial covenants contained in this Addendum, but with certain modified terms pertaining to Seller with respect to each such financial covenant (each a "Modified Financial Covenant"). In such event, unless otherwise agreed to by Bank, the financial covenants contained in this Addendum shall automatically be modified and amended from time to time (a) to include each New Financial Covenant and (b) to include the most recent terms of each Modified Financial Covenant to the extent inconsistent with those contained in this Addendum. Except as modified and amended in accordance with the terms of the previous sentence, this Addendum shall continue in full force and effect as originally executed and delivered. The modifications and amendments contemplated hereby shall not be affected by the termination of any Credit Agreement, and shall survive the termination of each Credit Agreement.

2. **Intentionally Omitted.**

3. **Compliance Certificates.** Seller acknowledges Bank has requested, and Seller shall timely prepare and furnish to Bank, the financial statements and reports described in the Warehouse Agreement, plus such additional financial reports and information as Bank may from time to time request. In addition, Seller shall prepare and submit to Bank, on a quarterly basis and no later than thirty (30) days after the close of each fiscal quarter, a compliance certificate executed by Seller, demonstrating Seller's compliance with the covenants set forth in Section 1 of this Addendum and the provisions of the Warehouse Agreement, and such substantiation thereof as may be required by Bank, all in such form and content required by Bank from time to time. A copy of Bank's current required form of compliance certificate is attached hereto as Exhibit E-1. Although compliance certificates are to be delivered to Bank on a quarterly basis, Seller shall at all times comply with all covenants set forth in Section 1 of this Addendum and the provisions of the Warehouse Agreement and Bank may test Seller's compliance with such covenants and provisions at any time.

4. **Miscellaneous.** This Addendum is made a part of and is incorporated into the Warehouse Agreement. The provisions of this Addendum supersede, modify and amend any and all inconsistent or conflicting provisions in the Warehouse Agreement. Except as hereby modified and amended, the Warehouse Agreement shall remain in full force and effect. Capitalized terms not otherwise defined in this Addendum shall have the meanings set forth in the Warehouse Agreement. The liability of all Persons obligated to Bank in any manner under this Addendum shall be joint and several. If more than one Person shall execute this Addendum as "Seller", then the term "Seller" as used herein shall refer both to each such Person individually and to all such Persons collectively.

[Signature Page Follows]

EXHIBIT E-1
**(TO FINANCIAL COVENANTS ADDENDUM
TO MORTGAGE WAREHOUSE AGREEMENT)**

COMPLIANCE CERTIFICATE

[INTENTIONALLY OMITTED]

Page 4

EXHIBIT F
(TO MORTGAGE WAREHOUSE AGREEMENT)

SUPPLEMENTAL PROVISIONS ADDENDUM

[Intentionally Omitted]

EXHIBIT G
(TO MORTGAGE WAREHOUSE AGREEMENT)

LIST OF CURRENT WAREHOUSE FACILITIES

INTENTIONALLY OMITTED

EXHIBIT H
(TO MORTGAGE WAREHOUSE AGREEMENT)

LIST OF CURRENT AFFILIATE ESCROW AGENTS

INTENTIONALLY OMITTED

EXHIBIT I
(TO MORTGAGE WAREHOUSE AGREEMENT)

BLANKET ASSIGNMENT

[INTENTIONALLY OMITTED]

**Certification of the Chief Executive Officer pursuant to Rule
13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Glenn Sanford, hereby certify that:

1. I have reviewed this quarterly report on Form 10-Q of eXp World Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 4, 2022

By: */s/ Glenn Sanford*

Glenn Sanford
Chief Executive Officer (Principal Executive Officer)

**Certification of the Chief Financial Officer pursuant to Rule
13a-14(a) or 15d-14(a) under the Securities Exchange Act of 1934, as adopted pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Jeff Whiteside, hereby certify that:

1. I have reviewed this quarterly report on Form 10-Q of eXp World Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 4, 2022

By: /s/ Jeff Whiteside

Jeff Whiteside

Chief Financial Officer (Principal Financial Officer)

**Certification of Chief Executive Officer pursuant to 18 U.S.C.
1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the quarterly report of eXp World Holdings, Inc. (the “Company”) on Form 10-Q for the period ended March 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Glenn Sanford, as Chief Executive Officer of the Company, hereby certify pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2022

By: /s/ Glenn Sanford

Glenn Sanford

Chief Executive Officer (Principal Executive Officer)

**Certification of Chief Financial Officer pursuant to 18 U.S.C.
1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the quarterly report of eXp World Holdings, Inc. (the “Company”) on Form 10-Q for the period ended March 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Jeff Whiteside, as Chief Financial Officer of the Company, hereby certify pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2022

By: /s/ Jeff Whiteside

Jeff Whiteside

Chief Financial Officer

(Principal Financial Officer)
