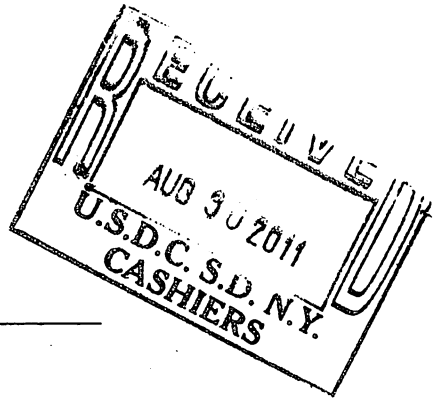
PLEADING IN INTERVENTION – EXHIBIT B

11 CIV 6078

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



MARY ELLEN IESU, MILDRED BARRETT, CHERYL G. PHILLIPS and MICHAEL P. CARY, on behalf of themselves and all those similarly situated,

Plaintiffs,

- against -

THE BANK OF NEW YORK MELLON (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures); BAC HOME LOANS SERVICING, LP; BANK OF AMERICA CORPORATION; COUNTRYWIDE FINANCIAL CORPORATION; COUNTRYWIDE HOME LOANS, INC.,

Defendants.

Civil No._____

CLASS ACTION COMPLAINT

Plaintiffs Mary Ellen Iesu, Mildred Barrett, Cheryl Phillips and Michael P. Cary (collectively "Plaintiffs") are a group of homeowners whose mortgages are contained within the 530 residential mortgage-securitization trusts ("Covered Trusts") that are part of the June 28, 2011 proposed Settlement Agreement ("Settlement Agreement") entered into by and between the Defendants Bank of New York Mellon, BAC Home Loans Servicing, LP, Bank of America Corporation, Countrywide Financial Corporation and Countrywide Home Loans, Inc. A copy of the Settlement Agreement is attached hereto as Exhibit A. A copy of the Bank of New York Mellon's Verified Petition which started the Article 77 proceeding is attached as Exhibit B.

Plaintiffs seek to enjoin the implementation of this settlement and to require Defendants to properly service the loans within the Covered Trusts.

Plaintiffs bring this Class Action Complaint for breach of contract, negligence, gross negligence and/or intentional tort, and declaratory and injunctive relief, individually, and on behalf of a Rule 23(b)(2) Class of all other similarly situated borrowers, defined below. Plaintiffs allege the following upon information and belief, except as to the allegations which pertain to them, which allegations are based upon personal knowledge:

PARTIES

1. Defendant Bank of New York Mellon ("BNY Mellon") is a New York state chartered bank with its principal place of business located at One Wall Street, New York, New York 10286. BNY Mellon is Trustee of the 530 Covered Trusts created by Defendants Countrywide Financial Corporation and Countrywide Home Loans, Inc. between 2004 and 2008. These Covered Trusts include hundreds of thousands of mortgage loans (the "Mortgage Loans") that were placed within these Covered Trusts during this time period. BNY Mellon is, as Trustee, responsible for servicing of the Mortgage Loans including hiring, monitoring and/or terminating the service providers. The 530 Covered Trusts beneficially own the Mortgage Loans and BNY Mellon, as Trustee, holds the loans as assets for the benefit of the Covered Trusts.

2. Defendant BAC Home Loans Servicing, LP (f/k/a Countrywide Home Loans Servicing, LP) is a Texas limited partnership with its principal place of business in California. BAC Home Loans Servicing, LP merged into Bank of America, N.A. on July

2, 2011. BAC Home Loans Servicing, LP conducts continuous and substantial business in New York. BAC Home Loan Servicing, LP was, until the merger, the "Master Servicer" for the Mortgage Loans contained in the Covered Trusts. As the Master Servicer, BAC Home Loans Servicing, LP was either hired by and/or controlled, and is the agent of, the Trustee for all 530 Covered Trusts, Defendant BNY Mellon. As the agent of Defendant BNY Mellon, BAC Home Loans Servicing, LP's acts or omissions are imputed to Defendant BNY Mellon.

3. Defendant Bank of America Corporation is a Delaware corporation that conducts continuous and substantial business in New York.

4. Defendant BAC Home Loans Servicing, LP and its parent, Defendant Bank of America Corporation, are collectively referred to as "Bank of America."

5. Defendant Countrywide Financial Corporation is a Delaware corporation that conducts continuous and substantial business in New York. Countrywide Financial Corporation is the parent company of Countrywide Home Loans, Inc.

6. Defendant Countrywide Home Loans, Inc. is a New York corporation with its principal place of business in California. Countrywide Home Loans, Inc. conducts continuous and substantial business in New York. Countrywide Home Loans, Inc. and its affiliates were the "Sellers" of the Mortgage Loans in each of the Covered Trusts.

7. Countrywide Financial Corporation and Countrywide Home Loans, Inc. are collectively referred to as "Countrywide." Bank of America purchased Countrywide on or before July 1, 2008.

8. Plaintiff Mary Ellen Iesu ("Iesu") is a resident of Staten Island, New York. Iesu is the mortgagor on a home mortgage loan that was taken on 47 Hemlock Street, Staten Island, New York 10309. That mortgage loan originated and began to be serviced by Countrywide on April 14, 2004. Iesu's loan, according to the BNY Mellon's website, is not beneficially owned by the investors in a loan trust listed in Exhibit A to the Settlement Agreement as CWHL 2004-15, with BNY Mellon as trustee, and serviced by Bank of America following the Bank of America purchase of Countrywide. Iesu's loan is one of the thousands of Mortgage Loans included with the five hundred and thirty (530) Covered Trusts at issue before this Court.

9. Iesu had mortgage servicing problems caused by Bank of America. In 2009, a divorce and a non-paying tenant left Iesu in difficult financial condition. In an effort to correct her problems, Iesu began working with a housing counselor in the summer of 2009 in order to apply for a loan modification. In December 2009, Bank of America told her housing counselor that she had been approved for a trial loan modification. Bank of America, for some unknown reason, never sent Iesu a written approval however. It was only after Iesu had been served with a Summons and Complaint by Bank of America, did Iesu learn that her loan modification had been purportedly denied. Iesu now faces foreclosure.

10. Plaintiff Mildred Barrett ("Barrett") is a resident of Houston, Texas. Barrett is the mortgagor on a first mortgage loan that was taken on 6007 Diamond Bay Ct., Houston, Texas 77041. Barrett is the mortgagor on a home mortgage loan that originated and began to be serviced by Countrywide on July 11, 2005. Barrett's loan,

according to a MERS and BNY Mellon website is now beneficially owned by the investors in one of the 530 Covered Trusts, with BNY Mellon as trustee, and serviced by Bank of America following the Bank of America purchase of Countrywide. Barrett's loan is one of the thousands of Mortgage Loans included with the Covered Trusts at issue before this Court. A copy of Barrett's Deed of Trust is attached hereto as Exhibit C.

11. Barrett had mortgage servicing problems caused by Bank of America. Barrett has never missed a payment on her Bank of America loan. In spite of that, however, in November 2009 Bank of America began automatically withdrawing more money from Barrett's bank account than was due from Barrett. For example, in January 2010, Bank of America withdrew three times the amount that Barrett owed on her mortgage. Barrett informed Bank of America of this problem but Bank of America did not take any corrective action. Barrett was constantly harassed for money she did not owe. Barrett grossly overpaid Bank of America because Bank of America took the money from Barrett's bank account.

12. On August 21, 2010, Barrett received a letter from BOA that she owed over $20,000.00 in mortgage payments and $4,128.68 for property taxes and insurance premiums. Bank of America made this last request even though Barrett had always paid her own taxes and insurance. BOA has never paid those bills for Barrett. That same day, Bank of America called Barrett seven times from the Bank of America collection department to tell Barrett that she was in default. On August 25, 2010, Bank of America sent a truck to Barrett's development to do a home inspection. On September 13, 2010, Barrett had an alert on her Credit Bureau Report that BOA has reported to the Bureau that

Barrett is 120 days late on her mortgage payments. In summer 2011, Bank of America started foreclosure proceedings against Barrett even though Barrett has never missed a payment since the inception of the loan and has always been current on the obligations of the loan. A few days prior to the scheduled foreclosure sale, Barrett received a letter from Bank of America stating that Bank of America would no longer speak to Barrett through her counsel. This left Barrett without representation on the eve of foreclosure.

13. Plaintiff Cheryl G. Phillips ("Phillips") is a resident of Murfreesboro, Tennessee. Phillips is the mortgagor on a first and second home mortgage loans that were taken on 440 Compton Road, Murfreesboro, Tennessee 37130. The loan numbers are 136764770 and 136764762. These mortgage loans originated and began to be serviced by Countrywide May 17, 2006. Phillips' loans, according to a BNY Mellon website, are now beneficially owned by the investors in the CWALT 2006-19CB trust, with BNY Mellon as trustee, and serviced by Bank of America following the Bank of America purchase of Countrywide. Phillips loan numbered 136764762 is one of the thousands of Mortgage Loans included with the five hundred and thirty (530) Covered Trusts at issue before this Court. A copy of Phillips' Deed of Trust is attached hereto as Exhibit D.

14. Phillips had many mortgage servicing problems caused by Bank of America. Phillips went through the loan modification process with Bank of America while at the same time Bank of America threatened Phillips with foreclosure. Phillips was dual tracked, a Bank of America servicing tactic described below. Bank of America

has now informed Phillips that she did not qualify for a loan modification and that she faces the threatened foreclosure.

15. Throughout the loan modification process, among other servicing problems, Bank of America refused to properly answer Phillips' questions, demanded that Phillips repeatedly send Bank of America the same paperwork over and over, would send Phillips multiple bills the same month demanding different amounts, charged Phillips unidentifiable fees, and would repeatedly fail to apply her payment correctly to her account.

16. Plaintiff Michael P. Cary ("Cary") is a resident of Niceville, Florida. Cary is the mortgagor on a home mortgage loan that was taken on 2428 Martin Drive, Niceville, Florida 32578. Cary's loan is now beneficially owned by the investors in the CWHL 2005-HYB10 trust, with BNY Mellon as trustee, and serviced by Bank of America following the Bank of America purchase of Countrywide. Cary's loan is one of the thousands of Mortgage Loans included with the five hundred and thirty (530) Covered Trusts at issue before this Court. A copy of Cary's Mortgage is attached hereto as Exhibit E.

17. Cary had mortgage servicing problems caused by Bank of America. Cary purchased his home in August 2005. Cary and his wife started facing financial difficulties several years ago. Due to these financial problems, Cary decided to request a loan modification. Cary was subjected to repeated servicing problems caused by Bank of America. Cary has been unable to make any progress with Bank of America regarding modification of Cary's loan. For example, Cary is never able to speak to the same Bank

of America service spokesman on the telephone and even when Cary does get a person to speak with him that person inevitably tells Cary he needs to speak with someone else at Bank of America. For Cary this frustrating process has been the normal manner in which his loan is serviced.

18. Plaintiffs do not have sufficient information available to determine the true actual or beneficial owners of the Mortgage Loans or the security interest therein. Regardless, Plaintiffs will suffer harm when the Settlement Agreement is implemented because of the servicing problems discussed herein. Plaintiffs do not have information regarding the accuracy (or reasons for inaccuracies) of their mortgage loan histories as recorded by Defendants or any sub-servicer or vendor in order to know how said entities have recorded Plaintiffs loan status for purposes of including them as High Risk mortgage loans under the terms and conditions of the Settlement Agreement. Plaintiffs have received default notices and other documents from Bank of America. Based on these notices, Plaintiffs' mortgages have been, or will soon be, categorized as "high risk" and Plaintiffs are subject to losing their homes as a result of this Settlement Agreement.

19. Plaintiffs bring this action for breach of contract, negligence, gross negligence and/or intentional tort, and declaratory and injunctive relief on behalf of themselves and a Class of mortgage loan borrowers defined as all borrowers: (i) whose mortgage loans were originated by Countrywide between 2004 and 2008; (ii) whose loans were included in within the five hundred and thirty (530) Covered Trusts; (iii) whose loans have not been repaid in full; and (iv) whose loans are now being serviced by Bank of America.

JURISDICTION AND VENUE

20. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds Five Million Dollars ($5,000,000) and there is diversity of citizenship between Plaintiffs, the Class and the Defendants.

21. Venue is proper pursuant to 28 U.S.C. § 1391 because the events that give rise to the claims occurred, in substantial part, in this District. A substantial part of the activity giving rise to Plaintiffs' claims for breach of contract, negligence, gross negligence and/or intentional tort, and declaratory and injunctive relief including the securitization of the mortgage loans at issue, occurred in this District, including the negotiating and execution of the Settlement Agreement. Each of the Defendants also maintains offices, derives substantial revenue from, and/or regularly transacts or have transacted business within this District.

SUMMARY OF CLAIMS

22. Plaintiffs bring four claims against Defendants: breach of contract, negligence, gross negligence and/or intentional tort, and declaratory and injunctive relief.

23. The first claim is breach of contract. The contracts at issue are the mortgages and/or deeds of trust where the parties are Plaintiffs and the Class, as mortgagors, and Defendants who purport to own the Plaintiffs' mortgages as well as the mortgages of all Class members. Defendants are parties to these Mortgage Loans.

24. These contracts are uniform across the Covered Trusts with regard to the terms and conditions relevant to the claims and all contain the same implied duty of good

faith and fair dealing that require Defendants to service, and to have serviced, the Mortgage Loans in a reasonable and prudent manner.

25. As part of this implied duty of good faith and fair dealing, Defendants, as mortgagees and Trustee, are obligated to service, or have serviced, the Mortgage Loans in a reasonable, prudent and lawful manner and to use a level of service that a reasonably, prudent mortgage loan servicer would use under similar circumstances. By entering into the Settlement Agreement, an agreement which will substantially reduce the already low level of servicing provided to the Mortgage Loans and will ensure that Plaintiffs and the Class will face unnecessary foreclosures, fees (described in detail below), etc. Defendants have violated this duty of good faith and fair dealing.

26. The second claim is for negligence. Defendants, as mortgagees and Trustee, have failed to abide by even the most basic and minimum standards for servicing of the Mortgage Loans. This standard is to service the Mortgage Loans in a reasonable and prudent manner and to use a level of service that a reasonably, prudent mortgage loan servicer would use under similar circumstances. These Defendants have failed in this duty to Plaintiffs and Class members.

27. The third claim is for gross negligence and/or intentional tort against all Defendants. All Defendants, including BNY Mellon, acted with gross negligence, recklessly, deliberate indifference, and/or intentionally towards Plaintiffs and Class members in that (1) Defendants utterly failed to properly service the Mortgage Loans and (2) Defendants entered into this Settlement Agreement knowing full well that the quality of servicing of the Mortgage Loans would be seriously damaged and compromised by the

new standards set forth in the Settlement Agreement. Defendants systematic failure is grossly negligent, willful, wanton, in total disregard for the rights of Plaintiffs and Class members, and/or intentional.

28. The fourth claim is for declaratory relief and an injunction against all Defendants.

BACKGROUND

A. The Settlement Agreement and its Procedural Status

29. On June 28, 2011, Defendants entered into the Settlement Agreement. The following day, June 29, 2011, BNY Mellon as Trustee, filed a Verified Petition in this New York state court in order to have the Settlement Approved under CPLR § 7701. That case was assigned to Judge Kapnick (Index No. 651786/11). That same day, a large group of twenty-two institutional investors including Metropolitan Life Insurance Company and BlackRock Financial Management, Inc. filed a petition to intervene in order to argue on the settlement's behalf.[1] It was this group of investors that helped negotiate the Settlement Agreement. Since that time various other investors have intervened in order to oppose the settlement. The Attorney Generals for New York and

[1] The "Institutional Investors" are holders of certain securities and/or investment managers for holders of certain securities issued by the Covered Trusts. The investors include Transamerica Life Insurance Company, AEGON Financial, Assurance Ireland Limited, Transamerica Life International (Bermuda) Ltd., Monumental Life Insurance Company, Transamerica Advisors Life Insurance Company, AEGON Global Institutional Markets, plc, LIICA Re II, Inc., Pine Falls Re, Inc., Transamerica Financial Life Insurance Company, Stonebridge Life Insurance Company, and Western Reserve Life Assurance Co. of Ohio, Bayerische Landesbank, BlackRock Financial Management, Inc., Federal Home Loan Bank of Atlanta Goldman Sachs Asset Management L.P., ING Investment Management L.L.C., ING Bank fsb, ING Capital LLC, Invesco Advisers, Inc., Kore Advisors, L.P., Landesbank Baden-Wuerttemberg and LBBW Asset Management (Ireland) PLC, Dublin, Maiden Lane, LLC, Maiden Lane II, LLC, Maiden Lane III, LLC, Metropolitan Life Insurance Company, Nationwide Mutual Insurance Company, New York Life Investment Management LLC, Neuberger Berman Europe Limited, Pacific Investment Management Company LLC, Prudential Investment Management, Inc., Teachers Insurance and Annuity Association of America, Thrivent Financial for Lutherans, Trust Company of the West and the affiliated companies controlled by The TCW Group, Inc., and Western Asset Management Company.

Delaware have also filed intervention motions in order object to the settlement's approval. On August 26, 2011, this case was removed to this Court from New York Supreme Court by trust investor and intervenor Walnut Place, LLC.

B. History of the Mortgage Loan Securities Market

30. In the 1990's, the mortgage loan market changed from a fairly simple market wherein a lender either retained an originated loan in its own loan portfolio to a securitization market where most loans were pooled, placed into a loan trust, and interests in a portion of the pooled loans was sold to institutional investors – primarily public pension funds, hedge funds and insurance companies selling and managing retirement investment products.

31. The documents which govern the loan trusts are referred to as Pooling and Servicing Agreements ("PSA") and Sales and Servicing Agreements ("SSA"). The PSA and SSA are the trust instruments which define the rights, duties, powers and obligations of the parties. All residential mortgage-backed securities are governed by New York common law.

32. Securitized pools of loans were divided into "tranches," as many as 20 loan pools per deal. The highest tranche paid the investor the lowest interest rate on their investment but was paid off first, lowering the risk. The Institutional Investors were the highest tranche participants. The credit rating agencies, such as Standard & Poor's, gave the highest tranche the highest credit rating of AAA. Regulators believed that the ratings would be sufficient to educate investors about the risk they were taking and ensure proper underwriting of loans because the ratings bestowed upon tranches by the credit rating

agencies were believed to be the most reliable form of "regulation" of risk and also because the lenders usually retained for themselves the tranche with the lowest interest rates but the highest rate of return.

33. Banks around the country started pooling tranches of loans across many different loan pools and selling them. Since banks were the entities that most often owned the lowest tranches, the ability to sell their lowest tranches meant the banks – just like the loan originators – had little financial incentive to regulate or monitor the quality and type of loan that were underwritten and placed into the loan trusts.

34. In the late 1990's, Wall Street began what is referred to as a "vertical integration of the industry." Vertical integration meant that large investment banks and other banks began to acquire "subprime" lenders and mortgage loan servicers which allowed these banks to fund and service the loans directly. Lehman Brothers was one of the first to make such an acquisition by acquiring BNC Mortgage and Finance America, increasing their subprime originations from approximately $3 billion in 2001 to $24 billion by 2005.

35. Other large lenders followed suit including Bank of America, Bear Stearns, Deutsche Bank, Morgan Stanley, Merrill Lynch and Barclay's. All of these banks expanded into the subprime business and began to sell dubious loan products, including interest only loans, stated income loans, and pick-a-payment loans.

36. Bank of America announced the purchase of Countrywide in July 2008, and negotiations for this purchase began years before that date, possibly as early as 2004.

37. Specialty finance companies, Countrywide for example, quickly followed into the market. At this point, the entire financial services industry had shifted to the mortgage loan industry as a core focus of their business models. There were multiple reasons for this enormous shift in the financial services industry including the ability to lower warehouse loan and capital costs and guarantee a source of production of mortgage loans to feed their highly lucrative securitization machine.

38. With vertical integration came an enormous concentration of profit and risk from the mortgage market. For example, as alleged by several investors in the Article 77 proceeding, Bank of America (and Countrywide) engaged in zip code by zip code appraisal fraud to create false equity and induce consumers, including Class members, to borrow more money against their homes.

C. The 530 Covered Trusts

39. The Covered Trusts were created by Countrywide between 2004 and 2008 through securitization. Countrywide and its affiliates, the loan sellers, sold portfolios of loans secured by mortgages on residential properties to an entity called the "Depositor." The Mortgage Loans were then conveyed to BNY Mellon, as Trustee. Ownership interests in the Trusts were then sold to investors, including the Institutional Investors.

40. Countrywide, and now Bank of America, was the Master Servicer charged with responsibility for, among other things, collecting debt service payments on the Mortgage Loans and taking any necessary enforcement action against borrowers including foreclosure. All of the Covered Trusts are controlled by Pooling and Servicing

Agreements or Sale and Servicing Agreements (the "Agreements") under which BNY Mellon is the Trustee or indenture trustee.

41. Although the Agreements for each of these Covered Trusts are separate agreements, the terms pertinent to this litigation are substantively similar. These terms are significant to both the investors as well as the homeowners. The Agreements each contain a series of representations and warranties made by Countrywide and/or its affiliates including representations that the collection practices of the Seller and Master Servicer have been legal, prudent and customary in the mortgage lending and servicing business.

42. The Agreements impose servicing obligations on the Master Servicer, requiring, among other things, that the Master Servicer service and administer the Mortgage Loans in accordance with the terms of the Governing Agreements and the customary and usual standards of practice of prudent mortgage loan servicer.

43. In October 2010, the Institutional Investors asserted a notice of non-performance to Bank of America for breaches of several provisions of the Agreements including, among other things, failing to maintain accurate and adequate loan and collateral files in a manner consistent with prudent mortgage servicing standards and failing to demand that the Sellers cure deficiencies in mortgage records.

44. Beginning in November 2010, the Institutional Investors engaged in negotiations with Countrywide and Bank of America in an attempt to reach a settlement for the benefit of the Covered Trusts. At no point were any Class members engaged in the negotiations.

SUMMARY OF THE SETTLEMENT AGREEMENT TERMS RELATED TO MORTAGE SERVICING

45. According to the Settlement Agreement, Bank of America has agreed to, within thirty days after the execution of the Settlement Agreement, devise a list of 8-10 qualified "subservicers" to service loans within the Trusts deemed "high-risk loans." These High-Risk Loans are defined as:

i. Mortgage Loans that are 45 + days past due without right party contact (*i.e.*, the Master Servicer has not succeeded in speaking with the borrower about resolution of a delinquency);

ii. Mortgage Loans that are 60 + days past due and that have been delinquent more than once in any rolling twelve (12) month period;

iii. Mortgage Loans that are 90 + days past due and have not been in the foreclosure process for more than 90 days and that are not actively performing on trial modification or in the underwriting process of modification;

iv. Mortgage Loans in the foreclosure process that do not yet have a scheduled sale date; and

v. Mortgage Loans where the borrower has declared bankruptcy regardless of days past due.

46. The agreed list shall be submitted to BNY Mellon which may within forty-five days (i) object and remove any of the selected subservicers from the list or (ii) limit the number of loans the subservicer may service at any one time.

47. The servicing component of the Settlement Agreement also applies to loans beyond those deemed "High-Risk." For all other loans in the Covered Trusts, Bank of America has agreed to (i) compare in a monthly report its servicing performance against "specific industry standards" and send to the BNY Mellon on a monthly basis

statistics comparing Bank of America's performance to these industry standards and (ii) if Bank of America fails to meet these industry standards, calculate and include in its monthly statement a master servicing fee adjustment payable by it to BNY Mellon.

48. The Settlement Agreement also contains "loss mitigation provisions" that apply to all mortgage loans in the Covered Trusts. They include, among other things, factors for Bank of America and all of the newly hired subservicers to consider in deciding whether to modify a loan or to apply any other loss mitigation strategies like foreclosures. There is a gross lack of detail, however, in the Settlement Agreement on what precisely the loss mitigation provisions mean. There is also a gross lack of detail regarding sub-servicing compensation.

49. The Settlement Agreement includes procedures which purport to cure certain document deficiencies in the loan files of the Class members including who or what entity actually own the Mortgage Loans and who has the right to receive payment. These procedures cannot and will not be able to cure these deficiencies in the Class members' loan files, however.

THE SETTLMENT AGREEMENT WILL CAUSE IMMEDIATE INJURY TO PLAINTIFFS AND THE CLASS

50. Plaintiffs and Class members, homeowners whose mortgage loans are serviced by Bank of America, will be harmed if the Settlement Agreement is approved and fully implemented. The Settlement Agreement will speed up foreclosures, perpetuate existing servicing abuses in the system, and undermine federal programs designed to stabilize the housing market. The Settlement Agreement will cause immediate and material damage to Plaintiffs and the Class for five reasons.

51. First, the touted servicing "improvements" only aim to accelerate the rate and speed of foreclosures but fail to set standards to protect homeowners from wrongful or unnecessary foreclosure or abusive servicing. The new servicing "improvements" will speed up foreclosures without protecting homeowners. At the heart of the servicing "improvements" are two proposals: (1) referral of loans in default to specialty subservicers and (2) compensatory fees, i.e., penalties, should Bank of America not ensure that loans are moved to foreclosure sale quickly enough. Neither of these proposals helps homeowners and, if left unaddressed, both proposals will exacerbate the illegal harm being done to homeowners right now.

52. Second, the referral to subservicers will not protect homeowners from Bank of America's current illegal and abusive servicing. Although the referral of loans to specialty subservicers seems designed to increase Bank of America's incentives to keep loans performing because it will reduce its ability to profit from default-related fees, nothing in the proposed Settlement Agreement actually requires the responsible servicing of loans by subservicers. Provisions for responsible servicing by subservicers are critical to protect the interests of homeowners. Transfer to subservicers will increase the risk of errors in loan accounting, abusive debt collection practices, and confusion on the part of homeowners accustomed to dealing with one entity. While subservicers, under paragraph 5(a)(iii) of the proposed Settlement Agreement, must meet certain standards, such as state licensing, these standards provide no assurance that the subservicers will perform better than Bank of America has in the past. There are no standards applicable to these subservicers that require, or even measure, success implementing loss mitigation

strategies or loan modification net present value analyses ("NPV"), or even commitment to maximizing income to the investor in the decision of whether to pursue foreclosure or permit home retention loss mitigation strategies.

53. Third, the compensatory fee structure within the Settlement Agreement speeds up foreclosures without protecting homeowners from wrongful foreclosure. This compensatory fee structure is for defaulted loans either retained by Bank of America or for loans that have not yet been assigned to subservicers. Paragraph 5(c)(iii) of the Settlement Agreement, however, provides very significant financial incentives for Bank of America to speed up the foreclosure process. Consequently, the accelerated foreclosure process is likely to impede any meaningful review of foreclosure alternatives, and therefore will result in unnecessary foreclosures and sales of homes. Homes will be sold while homeowners await the results of their loan modification application, and the accelerated process will cause homeowners to incur unnecessary foreclosure fees, which further price modifications out of reach. Referring loans to foreclosure add additional fees added to a homeowner's account. There are many documented instances where these fees have prevented a homeowner from being able to afford a loan modification.

54. The compensatory fee structure set forth in paragraph 5(c)(iii) applies to loans retained for servicing by Bank of America. Under this structure, should Bank of America fail to refer a loan to foreclosure in a timely way, or fail to liquidate the property at a foreclosure sale quickly enough, Bank of America faces the prospect of paying to the Covered Trust an amount equivalent to the monthly interest due on that loan. There are no corresponding penalties for errors in servicing that harm homeowners. This lopsided

incentive structure will foster foreclosures at the expense of homeowners. Moreover, these accelerations will not even permit the evaluation of loss mitigation strategies that would protect investors, let alone homeowners.

55. This system, as designed in the Settlement Agreement, provides no exceptions for instances when a homeowner and a servicer are in the midst of negotiating a loan modification or when the borrower is performing under any loan modification for the initial referral or performing under a proprietary loan modification or any other non-Home Affordable Modification Program ("HAMP") loan modification not mandated by law for a foreclosure sale. The result is that the dual track system, of proceeding with foreclosures while negotiating loan modifications, a system repudiated by HAMP and by the Federal Housing Finance Authority in the recent servicing alignment, is encouraged and even mandated, with the predictable result of an increase in wrongful foreclosures.

56. The cumulative impact of the Settlement Agreement's acceleration of the foreclosure process is a de-emphasis on modifications or other loss mitigation strategies, with a consequent weakening of the incentives to prevent foreclosure.

57. Fourth, the Settlement Agreement does nothing to end existing abuses. In addition to the dual track problem discussed above, where homes are foreclosed on while the homeowner is negotiating or actually making payments under a loan modification agreement, Bank of America has engaged in the placement of illegal fees, including force-placed insurance, improper accounting for payments, and failure to evaluate homeowners for loan modifications. Nothing in the Settlement Agreement addresses any of these abuses.

58. Indeed, the standards enunciated for the evaluation of loan modifications and loss mitigation generally by both servicers and subservicers in paragraph 5(e) leave the servicers with virtually unlimited discretion, far more discretion than servicers are currently permitted to exercise under most federal loss mitigation programs. While servicers are required to consider a net present value analysis of a loan modification as compared to foreclosure (s*ee* ¶ 5(e)), this required consideration is virtually meaningless for the following reasons:

- No standards for the modification are offered (e.g., interest rate reduction, extended terms, principal reductions, income ratios) nor are the terms of the NPV analysis (e.g., expected redefault rate, Real Estate Owned ("REO") discount, expected time to sale) specified. As such these standards appear to be left entirely to the discretion of the servicers (or subservicers) conducting the analysis (s*ee* ¶ 5(e)).

- Servicers are only required to "consider" the NPV analysis. They are not required to use its results.

- Among the other criteria servicers and subservicers are permitted to consider is their subjective belief that the homeowner is engaged in "strategic default."

- Servicers may refuse to perform a loan modification, even one that is projected to return a benefit to the investor for any factor the servicer deems "prudent" in its judgment.

59. Similarly, Bank of America, its affiliates, and its subservicers are permitted to continue to accrue post-default fees, directly and through third-party vendors, without limitation or oversight. (*see* ¶¶ 5(a)(iv) and (a)(xi).) These fees often provide an incentive to servicers to pursue foreclosure over modification.

60. The Settlement Agreement leaves Bank of America and its subservicers to continue business as usual with regard to excessive and illegal fees, improper accounting, and failure to evaluate homeowners for loss mitigation.

61. Fifth, the Settlement Agreement undermines existing efforts to stabilize the housing markets. The standards required by HAMP, enunciated by the government sponsored enterprises – Fannie Mae and Freddie Mac – and created by federal law in the Farmers Home Administration, Veterans Administration, and Rental Housing Support programs, all mandate that servicers follow a standard loss mitigation evaluation process and, under certain circumstances, offer a loan modification. The proposed Settlement Agreement neither mandates a standard process, nor standard modification terms, nor the offer of a loan modification where appropriate. The lack of standards guarantees that fewer modifications will be done and more homeowners will lose their homes.

62. Among the terms in the Settlement Agreement that may result in a direct conflict between existing federal programs and the Settlement Agreement are the following:

- The "simultaneous" evaluation of the homeowner for all modification programs. If this is interpreted to include loss mitigation activities such as a short sale, this is in direct conflict with existing federal guidance. Even if this merely allows evaluation for proprietary modifications at the same time as HAMP or other federal modifications, the simultaneous evaluation undermines the federal programs. Servicers routinely steer homeowners to proprietary modifications, and away from HAMP modifications or other government-sponsored modification programs, with disastrous results for homeowners. Proprietary modifications have failure rates significantly higher than HAMP, even when they reduce the payment to an affordable level. Since the Settlement Agreement does not require that the modifications offered be affordable or sustainable, we can expect that the

modifications offered will fail at levels perhaps twice the rate of HAMP modification.

- The limitation on principal reductions to the current market value, measured without regard to REO sales, (¶ 5(e)), is both counter to HAMP and sound economic decision making. The potential losses incurred by investors will be based on the REO sale, not on the current market value of a home freely sold. HAMP permits and underwrites principal reductions in a greater amount; capping principal reductions at this artificially inflated rate harms homeowners.

63. Conspicuously absent from the Settlement Agreement servicer guidelines is a requirement to perform loan modifications when a standard analysis predicts that the investors will benefit more from a modified loan than a foreclosure. The settlement will thus set a standard of loan servicing which is thus lower than HAMP, and other guidelines. The failure to include an explicit requirement permits the servicers to continue to profit from those activities that promote foreclosure rather than home retention, or even reduction of post home-loss debt. The failure to conform the Settlement Agreement with HAMP undermines HAMP in that HAMP allows servicers not to perform modifications to the extent HAMP is in conflict with guidance from investors. The Settlement Agreement, with its broad grant of discretion to servicers, its caps on principal reduction, and its tight foreclosure timeline could be used by Bank of America to assert that investor restrictions prohibit it from participating in HAMP.

PAST AND CURRENT MORTGAGE LOAN SERVICING ABUSES

64. Beside the servicing problems experienced by Plaintiffs, Countrywide and Bank of America have engaged in a widespread pattern of illegal and wrongful mortgage

servicing practices for many years and in many different ways. The acts described herein have caused substantial damage to borrowers that make up the Covered Trusts.

65. The abuses are well known and documented. For example, in 2010, the Office of Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Federal Reserve Board undertook a coordinated horizontal examination of foreclosure processing at the nation's 14 largest federally regulated mortgage servicers, including the Master Servicer.

66. On February 17, 2011, John Walsh, Acting Comptroller of the Currency, testified before the Senate Committee on Banking, Housing, and Urban Affairs. There he testified:

> In general, the examinations found critical deficiencies and shortcomings in foreclosure governance processes, foreclosure document preparation processes, and oversight and monitoring of third party law firms and vendors. These deficiencies have resulted in violations of state and local foreclosure laws, regulations, or rules and have had an adverse affect on the functioning of the mortgage markets and the U.S. economy as a whole. By emphasizing timeliness and cost efficiency over quality and accuracy, examined institutions fostered an operational environment that is not consistent with conducting foreclosure processes in a safe and sound manner.

67. On April 13, 2011, the Office of the Comptroller of the Currency "announced formal enforcement actions against eight national bank mortgage servicers and two third-party servicer providers for unsafe and unsound practices related to residential mortgage loan servicing and foreclosure processing." The eight servicers included the Master Servicer in this case, Bank of America.

68. Again on April 13, 2011, the OCC signed and published a consent order styled *In the Matter of Bank of America, N.A.* which found "the OCC had identified certain deficiencies and unsafe or unsound practices in residential mortgage servicing and in the Bank's initiation and handling of foreclosure proceedings." The OCC cited the following conduct as examples of unsound banking practices by Bank of America in servicing: (a) filing or causing to be filed in state and federal courts affidavits executed by its employees or employees of third-party service providers making various assertions, such as ownership of the mortgage note and mortgage, the amount of the principal and interest due, and the fees and expenses chargeable to the borrower, in which the affiant represented that the assertions in the affidavit were made based on personal knowledge or based on a review by the affiant of the relevant books and records, when, in many cases, they were not based on such personal knowledge or review of the relevant books and records; (b) filing or causing to be filed in state and federal courts, or in local land records offices, numerous affidavits or other mortgage-related documents that were not properly notarized, including those not signed or affirmed in the presence of a notary; (c) litigating foreclosure proceedings and initiating non-judicial foreclosure proceedings without always ensuring that either the promissory note or the mortgage document were properly endorsed or assigned and, if necessary, in the possession of the appropriate party at the appropriate time; (d) failing to devote sufficient financial, staffing and managerial resources to ensure proper administration of its foreclosure processes; (e) failing to devote to its foreclosure processes adequate oversight, internal controls, policies, and procedures, compliance risk management, internal audit, third party management, and

training; and (f) failing to sufficiently oversee outside counsel and other third-party providers handling foreclosure-related services.

69. The OCC stated that due to the conduct alleged above, "the Bank engaged in unsafe or unsound banking practices."

70. On June 7, 2010, the FTC filed a complaint against both Countrywide and Bank of America in the Central District of California. In that complaint, the FTC alleged, in relevant part:

> In addition, this action is brought to remedy unlawful acts and practices by Defendants in servicing loans for borrowers who are seeking to save their homes through a Chapter 13 bankruptcy. In connection with these bankruptcy cases, Defendants have made various representations to borrowers about their mortgage loans that are false or lack a reasonable basis. Defendants also have failed to disclose to borrowers during their bankruptcy case when fees and escrow shortages and deficiencies have accrued on their loan. After the bankruptcy cases have closed and borrowers no longer have the protection of the bankruptcy court, Defendants unfairly seek to collect those amounts, ***including through foreclosure actions*** (emphasis added)(*FTC v. Countrywide, et al*., Complaint, ¶ 11)
>
> When a borrower becomes delinquent on a mortgage loan, mortgage servicers order various default-related services that are intended to protect the lender's interest in the property. For example, a mortgage servicer may order a property inspection for the purpose of verifying the occupancy status of the home. In its mortgage servicing operation, Countrywide follows a so-called "vertical integration strategy to generate default-related fee income. Rather than obtain default-related services directly from third-party vendors and charge borrowers for the actual cost of these services, Countrywide formed subsidiaries to act as middle-men in the default services process ("default subsidiaries"). The default subsidiaries exist solely to generate revenues for Countrywide and do not operate at arms length with Defendants. *Id*. ¶ 14.

> The scheme works as follows. Defendants order default-related services from the default subsidiaries, which in turn obtain the services from third-party vendors. The default subsidiaries then charge Defendants a fee significantly marked up from the third-party vendors' fee for the service, and the Defendants, in turn, assess and collect these marked-up fees from borrowers… *Id.* ¶ 15.
>
> In addition, Defendants have charged borrowers for the performance of default services, such as property inspections and title reports, that in some instances were not reasonable and appropriate to protect the note holder's interest in the property and rights under the security instrument. *Id.* ¶ 17.
>
> In the course and conduct of their loan servicing and collection, Defendants in numerous instances have assessed and collected default-related fees that they were not legally authorized to assess and collect pursuant to the mortgage contract. *Id.* p. 26.

71. The OCC and FTC are obviously not alone in their complaints for mortgage servicing abuses by Bank of America and Countrywide. Class members have an untold number of examples of servicing abuses.

CLASS ACTION ALLEGATIONS

72. Plaintiffs bring this class action pursuant to the Rule 23(b)(2) of the Federal Rules of Civil Procedure on behalf of a Class defined previously as mortgage loan borrowers: (i) whose mortgage loans were originated by Countrywide between 2004 and 2008; (ii) whose loans are included within the five hundred and thirty (530) Covered Trusts; (iii) whose loans have not been repaid in full; and (iv) whose loans are now being serviced by Bank of America.

73. Excluded from the Class are all present and former agents of Bank of America, BNY Mellon as Trustee, Countrywide, the Institutional Investors, or any other investors in the Covered Trusts. Also excluded are all present and former employees of

these parties; any Class member who timely elects to be excluded from the Class; the judge to whom this case is assigned, and any member of his or her immediate family.

74. Plaintiffs are members of the Class and allege that all Class members will sustain injury in fact as a result of implementation of the Settlement Agreement.

75. Membership in the Class is so numerous as to make it impractical to bring all Class members before the Court. The exact number of Class members is unknown, but Plaintiffs reasonably estimate and believe that there are hundreds of thousands of persons in the Class. The identity of the Class members is readily ascertainable using information with Defendants' possession.

76. There are questions of law and fact common to the Class which predominate over any questions which may affect only individual members of the Class, including but not limited to whether or not Plaintiffs' claims for breach of contract, negligence, gross negligence and/or intentional tort, and declaratory and injunctive relief should be sustained against the parties to the Settlement Agreement

77. Plaintiffs are members of the Class they seek to represent. Plaintiffs' claims are typical of the Class members' claims. Plaintiffs will fairly and adequately protect the interests of the Class in that Plaintiffs' claims are typical and representative of the Class.

78. There are no unique defenses which may be asserted against Plaintiffs individually, as distinguished from the Class. The claims of Plaintiffs are the same as those of the Class.

79. There exist no conflicts of interest as between Plaintiffs and the other Class members. Plaintiffs have retained counsel that is competent and experienced in complex class action litigation. Plaintiffs and their counsel will fairly and adequately represent and protect the interests of the Class.

80. Plaintiffs and Plaintiffs' counsel have the necessary financial resources to adequately and vigorously litigate this class action. Plaintiffs are aware of the fiduciary responsibilities to the Class and agree to diligently discharge those duties.

81. The questions of law and/or fact common to the members of the Class predominate over questions that may affect only individual members. The common nucleus of operative fact herein centers on the implementation of the Settlement Agreement and the servicing problems described herein.

82. This class action is superior to any other method for the fair and efficient adjudication of this dispute. There will be no extraordinary difficulty in the management of this class action.

COUNT I

BREACH OF CONTRACT

83. Plaintiffs reallege the allegations set forth above as is fully set forth herein.

84. Each of the Covered Trusts contains thousands of Mortgage Loans as assets. Each Mortgage Loan is an enforceable contract between Plaintiffs and Class members and Defendants BNY Mellon (as Trustee), BAC Home Loans Servicing, LP; Bank of America Corporation; Countrywide Financial Corporation; Countrywide Home

Loans, Inc. The contract between a particular class member and Defendants are the mortgage and/or deed of trust. These contracts all contain the same implied duty of good faith and fair dealing on behalf of the parties.

85. Part of this duty of good faith and fair dealing is the duty of Defendants to service the mortgage loans in a reasonable, prudent, and lawful manner. This duty is uniform to all Plaintiffs and Class members in the Covered Trusts. The implied duty of good faith is necessary to effectuate the bargain of the parties so that if there was no such implied covenant, Plaintiffs and Defendants would be deprived of the fruits of their bargain.

86. Defendants have violated this duty of good faith and fair dealing by entering into, and attempting to consummate, the Settlement Agreement as described herein. The Settlement Agreement entered into by Defendants does not improve mortgage loan servicing, but instead ensures that the quality of Mortgage Loan servicing will worsen.

87. As part of the duty of good faith and fair dealing is the duty to employ prudent and reasonable loan servicing practices that are at least as good as current industry standards including the obligation to hire, and properly train, adequate staff.

88. This duty also includes refraining from conduct (i) which deprives the other party of reasonable opportunity to perform its contractual obligations, (ii) which deprives the other party the opportunity to perform under the contract, and (iii) which deprives the other party of the opportunity to enjoy benefits of contract.

89. These Defendants breached the implied duty within each contract by, among other actions, entering into the Settlement Agreement (i) which requires the use of a servicing standard which is less than the current industry standard, (ii) which requires the use of a loan servicing standard which seeks to lower the current industry standards, (iii) which is in direct conflict with standards articulated by the U.S. Treasury Department's Home Affordable Modification Program, (iv) which is in direct conflict with standards articulated by the Servicer Alignment Initiative governing the activities of the two government entities Fannie Mae and Freddie Mac, (v) which incentivizes and even mandates foreclosure; (vi) which imposes no duty on either the Master Servicer of Sub-Servicer to assure that homeowners will be protected from well-documented illegal and abusing servicing and inappropriate foreclosures, (vii) which imposes no duty on either the Master Servicer of Sub-Servicer to assure that homeowners rights under TILA/RESPA/Dodd Frank are respected including prompt and timely response to request for identification of the current owner of mortgage loan, (viii) which requires the transfer of loans to a sub-servicer prior to determining whether a deficiency exists with regard to the ownership of a loan and right to collect payments on said loan, (ix) which fails to require sub-servicer to adhere to current industry standard and standards articulated by HAMP, Fannie Mae/Freddie Mac Servicer Alignment Initiative and duties imposed under federal and state consent decrees, and (x) which does not require proper compensating sub-servicer for undertaking policies and procedures which will protect the homeowners.

90. Plaintiffs and the Class seek declaratory and injunctive relief only on this cause of action for breach of contract.

COUNT II

NEGLIGENCE

91. Plaintiffs reallege the allegations set forth above as is fully set forth herein.

92. Defendants have a duty to each Plaintiff and Class member to service the Mortgage Loans in a reasonably prudent manner and to abide by minimum servicing standards for the mortgage servicing industry. Defendants have breached this duty of care to Plaintiffs and Class members in that these Defendants have completely failed to service the Mortgage Loans at even the most basic level. This failure and breach of duty is the direct and proximate cause of injury to Plaintiffs and Class members.

93. As a result of this breach of duty, Plaintiffs and the Class have suffered damages.

94. Plaintiffs and the Class seek declaratory and injunctive relief on this cause of action for negligence.

COUNT III

GROSS NEGLIGENCE AND/OR INTENTIONAL TORT

95. Plaintiffs reallege the allegations set forth above as is fully set forth herein.

96. Defendants, including BNY Mellon, acted with gross negligence, recklessly, deliberate indifference, and/or intentionally towards Plaintiffs and Class members in that (1) Defendants utterly failed to use any reasonable standards to properly service the Mortgage Loans and (2) Defendants entered into this Settlement Agreement

knowing full well that the quality of servicing of the Mortgage Loans would be seriously damaged and compromised by the new standards set forth in the Settlement Agreement.

97. Defendants systematic failure in their servicing obligations as described herein was, and remains, grossly negligent, willful, wanton, in total disregard for the rights of Plaintiffs and Class members, and/or intentional.

98. Defendants Settlement Agreement was an intentional attempt to reduce and/or eliminate any standards by which the Mortgage Loans would be serviced. This conduct was designed to benefit all parties except Plaintiffs and the Class who will be damaged as a result of the Settlement Agreement. As a result of this gross negligence and/or intentional tort, Plaintiffs and the Class have suffered injury.

99. Plaintiffs and the Class seek declaratory and injunctive relief on this cause of action for gross negligence and/or intentional tort.

COUNT IV

DECLARATORY RELIEF AND INJUNCTION

100. Plaintiffs reallege the allegations set forth above as is fully set forth herein.

101. Plaintiffs seek declaratory relief and injunction from Defendants. Plaintiffs have no adequate remedy at law. Monetary damages will not provide the relief required by Plaintiffs.

102. Plaintiffs are likely to have ultimate success on the merits of this case. The Settlement Agreement, as written and implemented, materially impacts Plaintiffs and

the Class. If this relief is not granted, Plaintiffs and the Class face the prospect of irreparable injury.

103. A balance of equities weighs in favor of an injunction. There are no other remedies available to Plaintiffs aside from the declaratory and injunctive relief as described herein.

104. The Settlement Agreement does not "improve" servicing on the mortgage loans, but in fact, it affirmatively injures Plaintiffs and the Class and described herein. An injunction stopping Defendants from further implementation of the Settlement Agreement to prevent injury to Plaintiffs and the Class.

PRAYER FOR RELIEF

105. Based on the foregoing, Plaintiff respectfully prays that this Court grant the following relief:

A. Issue a Declaratory Judgment that Defendants have violated the duty of good faith and fair dealing in the mortgage contracts with Plaintiffs and the Class;

B. Issue an injunction stopping Defendants from continuing to implement the Settlement Agreement;

C. Issue an injunction requiring Defendants (i) to comply with current industry standards of mortgage servicing, (ii) implement mortgage servicing standards that are higher than current industry standards, and (iii) implement procedures that will require compliance with these standards;

D. Attorneys' fees and costs in bringing this action;

E. Incidental damages related to any injunctive relief granted by the Court; and

F. Any such further relief as the court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

Dated: August 30, 2011.

Respectfully submitted,

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EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and among (i) The Bank of New York Mellon (f/k/a The Bank of New York) in its capacity as trustee or indenture trustee of certain mortgage-securitization trusts identified herein ("BNY Mellon" or the "Trustee"), and (ii) Bank of America Corporation ("BAC"), and BAC Home Loans Servicing, LP ("BAC HLS") (collectively, "Bank of America") and Countrywide Financial Corporation ("CFC") and Countrywide Home Loans, Inc. ("CHL") (collectively, "Countrywide").

WHEREAS, BNY Mellon is the trustee or indenture trustee for the trusts corresponding to the five hundred and thirty (530) residential mortgage-backed securitizations listed on Exhibit A hereto (the "Covered Trusts");

WHEREAS, Countrywide sold Mortgage Loans, which served as collateral for the Covered Trusts;

WHEREAS, the Trustee, CHL, and/or BAC HLS are parties to the Pooling and Servicing Agreements and in some cases Sale and Servicing Agreements and Indentures governing the Covered Trusts (as amended, modified, and supplemented from time-to-time, the "Governing Agreements"), and CHL, Countrywide Home Loans Servicing, LP, and/or BAC HLS has acted as Master Servicer for the Covered Trusts ("Master Servicer");

WHEREAS, certain significant holders of certificates or notes representing interests in certain of the Covered Trusts and investment managers of accounts holding such certificates or notes (the "Institutional Investors," as defined in more detail in the Institutional Investor Agreement) have entered into a separate Institutional Investor Agreement with the Trustee, Bank of America and Countrywide, the due execution of which is a condition to the effectiveness of this Settlement Agreement;

WHEREAS, allegations have been made of breaches of representations and warranties contained in the Governing Agreements with respect to the Covered Trusts (including alleged failure to comply with underwriting guidelines (including limitations on underwriting exceptions), to comply with required loan-to-value and debt-to-income ratios, to ensure appropriate appraisals of mortgaged properties, and to verify appropriate owner-occupancy

status) and of the repurchase provisions contained in the Governing Agreements;

WHEREAS, the Institutional Investors have sought to provide notice pursuant to certain of the Governing Agreements claiming failure by Bank of America and Countrywide, and affiliates, divisions, and subsidiaries thereof, to perform thereunder, and have alleged Mortgage Loan-servicing breaches and documentation defects against Bank of America and Countrywide, and affiliates, divisions, and subsidiaries thereof, and Bank of America and Countrywide dispute such allegations and waive no rights, and preserve all of their defenses, with respect to such allegations and putative notices;

WHEREAS, the Institutional Investors have asserted that Bank of America is liable for the obligations of Countrywide with respect to the Covered Trusts, and Bank of America disputes that contention and waives no rights, and preserves all of its defenses, with respect to such contention;

WHEREAS, the Institutional Investors formed a steering committee (comprised of BlackRock Financial Management, Inc., Pacific Investment Management Company LLC, certain ING companies, Metropolitan Life Insurance Company, and the Federal Home Loan Mortgage Corporation ("Freddie Mac"));

WHEREAS, the Trustee, Bank of America, Countrywide, and the Institutional Investors have engaged in arm's-length settlement negotiations that included the exchange of confidential materials;

WHEREAS, in the settlement negotiations, the Trustee received and evaluated information presented by Bank of America, Countrywide, and the Institutional Investors related to potential liabilities and defenses, and alleged damages, and has determined, in the exercise of its discretion as Trustee, that entry into this Settlement Agreement and the settlement contemplated thereby (the "Settlement") is within the Trustee's powers under the Governing Agreements and applicable law and in the best interests of and advantageous to the Covered Trusts; and

WHEREAS, as set forth below, the Settlement is subject to judicial approval, and, toward that end, the Trustee will commence in the Supreme Court of the State of New York, County of

New York (the "Settlement Court"), in its capacity as trustee or indenture trustee under the Governing Agreements, a proceeding under Article 77 of the New York Civil Practice Law and Rules (the "Article 77 Proceeding") and file a verified petition that seeks a final order and judgment that conforms in all material respects to the form attached as Exhibit B hereto (the "Final Order and Judgment").

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Definitions. Any capitalized terms not defined herein shall have the definition given to them in the Governing Agreements. As used in this Settlement Agreement, in addition to the terms otherwise defined herein or in the Governing Agreements, the following terms shall have the meanings set forth below (the definitions to be applicable to both the singular and the plural forms of each term defined if both forms of such term are used in this Settlement Agreement):

(a) "Approval Date" shall mean the date upon which Final Court Approval, as defined in Paragraph 2, is obtained;

(b) "Bank of America Parties" shall mean BAC and any of its past, present, or future, direct or indirect affiliates, parents, divisions, or subsidiaries (including BAC HLS and Bank of America, N.A.), and each of their respective past, present, or future, direct or indirect affiliates, parents, divisions, subsidiaries, general partners, limited partners, shareholders, officers, directors, trustees, members, employees, agents, servants, attorneys, accountants, insurers, co-insurers, and re-insurers, and the predecessors, successors, heirs, and assigns of each of the foregoing;

(c) "BNY Mellon Parties" shall mean BNY Mellon and any of its past, present, or future, direct or indirect affiliates, parents, divisions, or subsidiaries, on behalf of themselves and each of their respective past, present, or future, direct or indirect affiliates, parents, divisions, subsidiaries, general partners, limited partners, officers, directors, trustees, co-trustees, members, employees, agents, servants, attorneys, accountants, insurers, co-insurers, and re-insurers, and the predecessors, successors, heirs, and assigns of the foregoing;

(d) "Code" means the Internal Revenue Code of 1986, as amended;

(e) "Countrywide Parties" shall mean CFC and any of its past, present, or future, direct or indirect affiliates, parents, divisions, or subsidiaries (including CHL, Countrywide Capital Markets, Countrywide Bank FSB, Countrywide Securities Corporation, Countrywide Home Loans Servicing, LP (now known as BAC Home Loans Servicing, LP), CWMBS, Inc., CWABS, Inc., CWALT, Inc., CWHEQ, Inc., Park Granada LLC, Park Monaco Inc., Countrywide LFT LLC, and Park Sienna LLC), and each of their respective past, present, or future, direct or indirect affiliates, parents, divisions, subsidiaries, general partners, limited partners, shareholders, officers, directors, trustees, members, employees, agents, servants, attorneys, accountants, insurers, co-insurers, and re-insurers, and the predecessors, successors, heirs, and assigns of the foregoing;

(f) "Governmental Authority" shall mean any United States or foreign government, any state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to the foregoing, or any other authority, agency, department, board, commission, or instrumentality of the United States, any State of the United States or any political subdivision thereof or any foreign jurisdiction, and any court, tribunal, or arbitrator(s) of competent jurisdiction, and any United States or foreign governmental or non-governmental self-regulatory organization, agency, or authority (including the New York Stock Exchange, Nasdaq, and the Financial Industry Regulatory Authority);

(g) "Investors" shall mean all certificateholders and noteholders in the Covered Trusts, and their successors in interest, assigns, and transferees;

(h) "Law" shall mean collectively (whether now or hereafter enacted, promulgated, entered into, or agreed to) all laws (including common law), statutes, ordinances, codes, rules, regulations, directives, decrees, and orders, whether by consent or otherwise, of Governmental Authorities, or publicly-disclosed agreements between any Party and any Governmental Authority;

(i) "Losses" shall mean any and all claims, suits, liabilities (including strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, assessments, demands, charges, fees, judgments, awards, disbursements and amounts paid in settlement, punitive damages, foreseeable and unforeseeable damages, incidental or

consequential damages, of whatever kind or nature (including attorneys' fees and other costs of defense and disbursements);

(j) "Party" shall refer individually to each of the Trustee, Bank of America, and Countrywide, which shall collectively be the "Parties";

(k) "Person" shall mean any individual, corporation, company, partnership, limited liability company, joint venture, association, trust, or other entity, including a Governmental Authority;

(l) "REMIC" shall mean a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code;

(m) "REMIC Provisions" shall mean the provisions of United States federal income tax law relating to real estate mortgage investment conduits, which appear at Section 860A through Section 860G of the Code, and related provisions and regulations promulgated thereunder, as the foregoing may be in effect from time to time;

(n) "Settlement Agreement" shall mean this settlement agreement, together with all of its Exhibits; and

(o) "Signing Date" shall mean the date on which this Settlement Agreement is first executed by all of the Parties. The Signing Date may also be referred to herein as the date of this Settlement Agreement.

2. Final Court Approval.

(a) Requirement of Final Court Approval. Where provided for herein, the terms of this Settlement Agreement are subject to and conditioned upon "Final Court Approval." Final Court Approval shall have occurred only after (i) the Article 77 Proceeding is commenced, (ii) notice of the Settlement and related matters is provided to the extent reasonably practicable to the Investors in a form and by a method approved by the Settlement Court, (iii) the Investors are given an opportunity to object and to make their views known to the Settlement Court in such manner as the Settlement Court may direct, (iv) the Trustee and any other supporter of the Settlement are given the opportunity to make their views known to the Settlement Court in such

manner as the Settlement Court may direct, (v) the Settlement Court enters in the Article 77 Proceeding (including in a subsequent proceeding following an appeal and remand) the Final Order and Judgment (provided that if the Settlement Court enters an order that does not conform in all material respects to the form of order attached as Exhibit B hereto, the Parties may, by the written agreement of all Parties, deem that order to be the Final Order and Judgment; and provided further that, if the Settlement Court modifies Subparagraphs 3(d)(i), (ii), or (iii) (in each case in a manner consistent with the Governing Agreements) that modification shall not be considered to be a material change to the form of order attached as Exhibit B hereto), and (vi) either the time for taking any appeal of the Final Order and Judgment has expired without such an appeal being filed or, if an appeal is taken, upon entry of an order affirming the Final Order and Judgment and when the applicable period for the appeal of such affirmance of the Final Order and Judgment has expired, or, if an appeal is taken from any decision affirming the Final Order and Judgment, upon entry of an order in such appeal finally affirming the Final Order and Judgment without right of further appeal or upon entry of any stipulation dismissing any such appeal with no right of further prosecution of the appeal (in all circumstances there being no possibility of such Final Order and Judgment being upset on appeal therefrom, or in any related appeal from an order of the Settlement Court in the Article 77 Proceeding, or in any other proceeding pending at the time when all other prerequisites for Final Court Approval are met that puts into issue the validity of the Settlement). All Parties will use their reasonable best efforts to obtain Final Court Approval.

(b) Effect of Failure to Obtain Final Court Approval. If at any time Final Court Approval of the Settlement shall become legally impossible (including by reason of the denial of Final Court Approval by a court with no possibility of further appeal or proceedings that could result in Final Court Approval), the Settlement Agreement shall be null and void and have no further effect as to the Parties except as set forth in this Subparagraph 2(b) and other provisions not specifically provided for herein as being subject to or conditioned upon Final Court Approval. In such event: (i) except as provided in Paragraph 7, the Parties hereto shall be deemed to have reverted to their respective status as to all claims, positions, defenses, and responses as of the date a day prior to the Signing Date, and (ii) the provisions of Paragraph 20 shall apply, along with such other provisions hereof not specifically provided for as being subject to or conditioned upon Final Court Approval. If Final Court Approval has not been obtained by

December 31, 2015, then Bank of America and Countrywide shall be permitted to withdraw from this Settlement Agreement and from the Settlement with like effect as if Final Court Approval had become legally impossible but only if the Trustee consents to such withdrawal in writing if in good faith it deems such withdrawal to be in the best interests of the Covered Trusts.

(c) Preliminary Order. As an initial step towards seeking Final Court Approval, as soon as is practicable after the Signing Date, the Trustee shall commence the Article 77 Proceeding and seek a preliminary order (the "Preliminary Order") to be entered by the Settlement Court providing for and/or requiring: (i) a form and method of notice of the Settlement and related matters to Investors (in a form and by a method agreed to after consultation with the other Parties), (ii) a deadline for the filing of written objections to the Settlement and responses thereto, (iii) a hearing date at which the Settlement Court would consider whether to enter the Final Order and Judgment, (iv) a direction that all actions subsequently filed that contain claims that would be within the release and waiver provided for in Paragraph 9 should be assigned or transferred to the justice of the Settlement Court before whom the Article 77 Proceeding is pending, and (v) ordering that the Trustee may seek direction from the Settlement Court before taking any action in respect of a Covered Trust that relates to the subject matter of the Article 77 Proceeding. At the same time as the Trustee seeks the Preliminary Order, it shall also file with the Settlement Court a petition stating its support for the Settlement Agreement.

(d) Cost of Notice. All costs related to the giving of notice of this Settlement and related matters as part of the Article 77 Proceeding shall be borne by Bank of America and/or Countrywide.

(e) Federal Tax Ruling. Final Court Approval shall be deemed not to have been obtained unless and until there has been received private letter ruling(s) applicable to all of the Covered Trusts from the Internal Revenue Service to the effect that: (i) the execution of, and the transactions contemplated by, this Settlement Agreement, including (A) allocation of the Settlement Payment to a Covered Trust and the methodology for determining such allocation, (B) the receipt of the Settlement Payment by a Covered Trust, (C) the distribution of the Settlement Payment by a Covered Trust to any of its Investors and the methodology for

determining such distributions, and (D) any monthly Master Servicing Fee Adjustment received by or otherwise credited to such Covered Trust will not cause any portion of a Covered Trust for which a REMIC election has been made in accordance with the applicable Governing Agreement to fail to qualify at any time as a REMIC, and (ii) the receipt of the Settlement Payment by the Covered Trusts and the receipt or other credit of any monthly Master Servicing Fee Adjustment by the Covered Trusts will not cause, or result in, the imposition of any taxes on the Covered Trusts or on any portion of a Covered Trust for which a REMIC election has been made in accordance with the terms of the applicable Governing Agreement. The Trustee shall cause a request for such letter ruling(s) to be submitted to the Internal Revenue Service within thirty (30) days of the Signing Date, or, if the Internal Revenue Service is not amenable to receipt of the Trustee's request for rulings within this thirty day period, as promptly as practicable thereafter, and shall use reasonable best efforts to pursue such request; such request may not be abandoned without the consent (which shall not unreasonably be withheld) of Bank of America, Countrywide, and the Institutional Investors. Bank of America and Countrywide shall use their reasonable best efforts to assist in the Trustee's preparation and pursuit of the request for the rulings. In the event that the provisions of Subparagraph 3(d)(i), (ii), or (iii) of this Settlement Agreement are modified by the Settlement Court, the Trustee shall update its request to the Internal Revenue Service to take account of such modifications, and the requirements of this Subparagraph 2(e) necessary for there to be Final Court Approval shall be deemed not to have been satisfied until there has been received private letter ruling(s) applicable to the Covered Trusts that takes account of such modifications and otherwise meets the requirements of (i) and (ii) of this Subparagraph 2(e).

(f) State Tax Rulings or Opinions. Final Court Approval shall be deemed not to have been obtained unless and until there has been received at the Trustee's request an opinion of Trustee tax counsel with respect to the States of New York and California, in each case, to the same legal effect as the requested rulings described in Subparagraph 2(e)(i) and (ii). The Trustee shall use reasonable best efforts to pursue such requests for opinions; any such requests may not be abandoned without the consent (which shall not unreasonably be withheld) of Bank of America, Countrywide, and the Institutional Investors. Bank of America and Countrywide shall use their reasonable best efforts to assist in the Trustee's preparation and pursuit of the foregoing requests. In the event that the provisions of Subparagraphs 3(d)(i), (ii), or (iii) of this Settlement

Agreement are modified by the Settlement Court, the Trustee shall update its requests for such opinions to take account of such modifications, and the requirements of this Subparagraph 2(f) necessary for there to be Final Court Approval shall be deemed not to have been satisfied until each of the opinions described in this Subparagraph 2(f) is received in a form that takes account of such modifications and otherwise meets the requirements of this Subparagraph 2(f).

(g) The Parties may collectively agree, each acting in its sole discretion, to deem the requirements of Subparagraphs 2(e) ("Federal Tax Ruling") or 2(f) ("State Tax Rulings or Opinions") to have been met by the receipt of tax rulings or opinions, as the case may be, that are substantially in accord with the requirements of such Subparagraphs 2(e) or 2(f).

3. Settlement Amount.

(a) Settlement Payment. If and only if Final Court Approval is obtained, Bank of America and/or Countrywide shall pay or cause to be paid eight billion five hundred million dollars ($8,500,000,000.00) (the "Settlement Payment") within one-hundred and twenty (120) days of the Approval Date, in accordance with the following provisions.

(b) Method of Payment. Each Covered Trust's Allocable Share of the Settlement Payment shall be wired to the Certificate Account or Collection Account for such Covered Trust by Bank of America as directed by the Trustee following determination of the Allocable Share of each Covered Trust pursuant to Subparagraph 3(c); provided, that if the Allocable Share of each Covered Trust has not been determined pursuant to Subparagraph 3(c) at the time at which the Settlement Payment is due pursuant to Subparagraph 3(a), the Settlement Payment shall be wired to a non-interest-bearing escrow account at BNY Mellon (the "Escrow Account") set up for the sole purpose of holding the Settlement Payment until the relevant Allocable Shares have been determined, at which time each Allocable Share of the Settlement Payment shall be wired from the Escrow Account to the Certificate Account or Collection Account for each applicable Covered Trust. The Parties undertake to use reasonable best efforts to enter into a reasonably satisfactory escrow agreement in the event that an Escrow Account is required, which shall include instructions regarding the payment of the Allocable Shares from the Escrow Account to the Covered Trusts by the Trustee. All of the Trustee's reasonable costs and expenses associated with performing its obligations under this Subparagraph 3(b) that exceed its ordinary costs and

expenses as Trustee shall be borne by Bank of America and/or Countrywide. If, after the Approval Date, all or any portion of the Settlement Payment is voided or rescinded for any reason, including as a preferential or fraudulent transfer (an "Avoided Payment"), that Avoided Payment shall be treated for purposes of this Paragraph 3 as though it were not made at all (provided that written notice has been given by the Trustee to Bank of America and Countrywide and Bank of America or Countrywide has not cured, made, or restored such payment within sixty (60) days). In the event of an Avoided Payment, the BNY Mellon Parties shall have no liability to any Person whatsoever for any Avoided Payment or any liability or losses relating thereto.

(c) Allocation Formula. The Settlement Payment shall be allocated by the Trustee amongst the Covered Trusts. The Trustee shall retain a qualified financial advisor (the "Expert") to make any determinations and perform any calculations that are required in connection with the allocation of the Settlement Payment among the Covered Trusts. For avoidance of doubt, for purposes of this Subparagraph 3(c), the term "Covered Trust" shall include any Excluded Covered Trusts. To the extent that the collateral in any Covered Trust is divided by the Governing Agreements into groups of loans ("Loan Groups") so that ordinarily only certain classes of Investors benefit from the proceeds of particular Loan Groups, those Loan Groups shall be deemed to be separate Covered Trusts for purposes of the allocation and distribution methodologies set forth below. The Trustee shall instruct the Expert to apply the following allocation formula:

(i) *First*, the Expert shall calculate the amount of net losses for each Covered Trust that have been or are estimated to be borne by that trust from its inception date to its expected date of termination as a percentage of the sum of the net losses that are estimated to be borne by all Covered Trusts from their inception dates to their expected dates of termination (such amount, the "Net Loss Percentage");

(ii) *Second*, the Expert shall calculate the "Allocable Share" of the Settlement Payment for each Covered Trust by multiplying (A) the amount of the Settlement Payment by (B) the Net Loss Percentage for such Covered Trust, expressed as a decimal; provided that the Expert shall be entitled to make adjustments to the Allocable Share of each Covered Trust to

ensure that the effects of rounding do not cause the sum of the Allocable Shares for all Covered Trusts to exceed the applicable Settlement Payment;

(iii) *Third*, if applicable, the Expert shall calculate the portion of the Allocable Share that relates to principal-only certificates or notes and the portion of the Allocable Share that relates to all other certificates or notes; and

(iv) The Expert shall calculate the Allocable Share within ninety (90) days of the Approval Date.

(d) Distribution of the Allocable Shares; Increase of Balances.

(i) After the Allocable Share for each Covered Trust has been deposited into the Certificate Account or Collection Account for each Covered Trust, the Trustee shall distribute it to Investors in accordance with the distribution provisions of the Governing Agreements (taking into account the Expert's determination under Subparagraph 3(c)(iii)) as though it was a Subsequent Recovery available for distribution on that distribution date (provided that if the Governing Agreement for a particular Covered Trust does not include the term "Subsequent Recovery," the Allocable Share of such Covered Trust shall be distributed as though it was unscheduled principal available for distribution on that distribution date); provided, however, that the Master Servicer shall not be entitled to receive any portion of the Allocable Share distributed to any Covered Trust, it being understood that the Master Servicer's other entitlements to payments, and to reimbursement or recovery, including of Advances and Servicing Advances, under the terms of the Governing Agreements shall not be affected by this Settlement Agreement except as expressly provided in this Subparagraph 3(d)(i) and in Subparagraph 5(c)(iv). To the extent that as a result of the distribution of the Allocable Share in a particular Covered Trust a principal payment would become payable to a class of REMIC residual interests, whether on the distribution of the Allocable Share or on any subsequent distribution date that is not the final distribution date under the Governing Agreement for such Covered Trust, such payment shall be maintained in the distribution account and the Trustee shall distribute it on the next distribution date according to the provisions of this Subparagraph 3(d)(i).

(ii) In addition, after the distribution of the Allocable Share to Investors pursuant to Subparagraph 3(d)(i), the Trustee will allocate the amount of the Allocable Share for that Covered Trust in the reverse order of previously allocated Realized Losses, to increase the Class Certificate Balance, Component Balance, Component Principal Balance, or Note Principal Balance, as applicable, of each class of Certificates or Notes (or Components thereof) (other than any class of REMIC residual interests) to which Realized Losses have been previously allocated, but in each case by not more than the amount of Realized Losses previously allocated to that class of Certificates or Notes (or Components thereof) pursuant to the Governing Agreements. For the avoidance of doubt, for Covered Trusts for which the Senior Credit Support Depletion Date shall have occurred prior to the allocation of the amount of the Allocable Share in accordance with the immediately preceding sentence, in no event shall the foregoing allocation be deemed to reverse the occurrence of the Senior Credit Support Depletion Date in such Covered Trusts. Holders of such Certificates or Notes (or Components thereof) will not be entitled to any payment in respect of interest on the amount of such increases for any interest accrual period relating to the distribution date on which such increase occurs or any prior distribution date. Any such increase shall be applied pro rata to the Certificate Balance, Component Balance, Component Principal Balance, or Note Principal Balance of each Certificate or Note of each class. For the avoidance of doubt, this Subparagraph 3(d)(ii) is intended only to increase Class Certificate Balances, Component Balances, Component Principal Balances, and Note Principal Balances, as provided for herein, and shall not affect the distribution of the Settlement Payment provided for in Subparagraph 3(d)(i).

(iii) In no event shall the deposit or distribution of any amount hereunder into any Covered Trust be deemed to reduce the collateral losses experienced by such Covered Trust.

(iv) For any of the Covered Trusts in which there is a third-party guaranty or other financial guaranty provided for one or more tranches by an entity that has not previously released the right to seek repurchase of Mortgage Loans, notwithstanding anything else in this Settlement Agreement, Bank of America and Countrywide shall, up to the Approval Date, have the option to exclude such Covered Trust from the Settlement, unless and until an agreement is reached by Bank of America, Countrywide, and the third-party guarantor or financial-guaranty provider, pursuant to which the third-party guarantor or financial guaranty provider agrees not to make any

repurchase demands with relation to that Covered Trust. In the event that a Covered Trust is excluded under this Subparagraph 3(d)(iv), it shall be treated in accordance with Subparagraph 4(a).

(v) Nothing in Subparagraphs 3(d)(i), (ii), or (iii) is intended to or shall be construed to amend any Governing Agreements; a modification of Subparagraphs 3(d)(i), (ii), or (iii) (in each case in a manner consistent with the Governing Agreements) by the Settlement Court shall not constitute a material change to the terms of this Settlement Agreement.

(vi) The Trustee shall administer the distribution of the Allocable Shares pursuant to this Settlement Agreement and the Governing Agreements. Under no circumstances shall Bank of America or Countrywide have any liability to the Trustee, the Investors, the Covered Trusts, or any other Person in connection with such determination, administration, or distribution (including distribution within each Covered Trust) of the Allocable Shares, including under any indemnification obligation provided for in any Governing Agreement (including as clarified by the side-letter attached as Exhibit C to this Settlement Agreement).

(e) Determinations by the Expert. In the absence of bad faith or manifest error, the Expert's determinations and calculations in connection with the Allocable Share of each Covered Trust shall be treated as final and accepted by all Parties for purposes of Paragraph 3.

4. Effect of Exclusion of Trusts.

(a) Excluded Covered Trusts. In the event that any Covered Trust is excluded from the Settlement (an "Excluded Covered Trust"), the Allocable Share that would otherwise become payable to that Excluded Covered Trust shall be paid to Bank of America (as a matter of convenience for allocation as between Bank of America and Countrywide as appropriate), and there shall be no obligation by any of the Bank of America Parties or the Countrywide Parties to make any payments or provide any of the benefits of the Settlement to such Excluded Covered Trust or to Investors therein, or to comply with any of the provisions of Paragraphs 5 or 6 (except as specifically provided therein) with respect to such Excluded Covered Trust. The Trustee shall not be limited in the actions that it may take with respect to any Excluded Covered Trust (subject to the provisions of Paragraphs 17 and 20).

(b) Withdrawal From Settlement. In the event that one or more Covered Trusts, holding, in the aggregate, Mortgage Loans with unpaid principal balances as of the first Trustee report after the Signing Date aggregating in excess of a confidential percentage of the total unpaid principal balance of the Covered Trusts as of that date, such percentage having been provided to the Trustee by Bank of America and Countrywide prior to the execution of this Settlement Agreement, shall become Excluded Covered Trusts, Bank of America and Countrywide shall have the option, in their sole discretion, to withdraw from the Settlement with like effect as if Final Court Approval had become legally impossible. For purposes of calculating the unpaid principal balance of Excluded Covered Trusts in connection with this Subparagraph 4(b), the unpaid principal balance of Covered Trusts that become Excluded Covered Trusts at the election of Bank of America or Countrywide pursuant to Subparagraph 3(d)(iv) shall not be included.

5. Servicing. The Master Servicer shall implement the following servicing improvements (the "Servicing Improvements"). Material compliance with the provisions of this Paragraph 5 shall satisfy the Master Servicer's obligation to service the Mortgage Loans prudently in accordance with the relevant provisions of the Governing Agreements:

(a) Subservicer Selection and Assignment. In conformity with the subservicing provisions of the Governing Agreements:

(i) Within thirty (30) days of the Signing Date, the Institutional Investors and the Master Servicer shall agree on a list (the "Agreed List") of no fewer than eight and no more than ten subservicers (each a "Subservicer" and together the "Subservicers") to service High Risk Loans (as defined in Subparagraph 5(b)) and submit the Agreed List to the Trustee for review. If agreed by the Institutional Investors and the Master Servicer, the Master Servicer or an affiliate of the Master Servicer may serve as a Subservicer (in addition to the eight to ten to be otherwise agreed) and be included on the Agreed List. Within forty-five (45) days of receipt of the Agreed List, the Trustee, after consulting with an expert of its choice (whose advice shall be deemed full and complete authorization and protection in respect of the Trustee's decision), may object to any of the Subservicers on the Agreed List or reduce the maximum number of Mortgage Loans from the Covered Trusts that any such Subservicer may service at any one time to less than

30,000; provided that the Trustee may object to a Subservicer, or reduce the maximum number of Mortgage Loans from the Covered Trusts that any such Subservicer may service at any one time, only on the grounds listed in Exhibit D hereto and none other. The Trustee shall act in good faith in its approval decisions and shall include in any decision to object to a particular Subservicer the grounds for such objection. In the absence of an objection by the Trustee, all of the Subservicers on the Agreed List shall be deemed to be approved. If the Trustee objects to one or more Subservicers, all of the Subservicers on the Agreed List as to which there has been no objection shall be deemed approved. The Subservicers approved, or deemed approved, by the Trustee shall make up the "Approved List."

(ii) If the Trustee objects to a Subservicer on the Agreed List, or if a Subservicer on the Approved List at any time fails to meet, or ceases to meet, any of the qualifications described in Subparagraph 5(a)(iii), the Master Servicer shall remove such Subservicer from the Agreed List and/or the Approved List, as applicable, and may: (A) propose to replace any such Subservicer with a new subservicer by written notice to the Trustee, subject to such new subservicer meeting the qualifications described in Subparagraph 5(a)(iii) or (B) if applicable, re-submit such Subservicer to the Trustee for approval, provided that the Master Servicer has a commercially reasonable basis for believing that the grounds for the Trustee's objection to the subservicer are no longer applicable. Within fourteen (14) days of receipt of such notice or re-submission, the Trustee, after consulting with an expert of its choice (whose advice shall be deemed full and complete authorization and protection in respect of the Trustee's decision), may object to the proposed subservicer or reduce the maximum number of Mortgage Loans from the Covered Trusts that such proposed subservicer may service at any one time to less than 30,000; provided that the Trustee may object to a proposed subservicer or reduce the maximum number of Mortgage Loans from the Covered Trusts only on the grounds listed in Exhibit D hereto and none other. In the absence of an objection, the proposed subservicer shall be deemed approved and included on the Approved List. If the Trustee objects to a proposed subservicer, the Master Servicer may propose another subservicer pursuant to the process set out above, which process may be repeated multiple times. If the Trustee, pursuant to this Subparagraph 5(a)(ii), reduces the maximum number of Mortgage Loans that a Subservicer may service at any one time to less than 30,000, the Master Servicer may request from time to time that the Trustee lift or revise any such reduction of the maximum number of Mortgage Loans that that Subservicer may service

(subject to the maximum of 30,000 outstanding Mortgage Loans at any one time established by this Paragraph 5), and the Trustee, after consulting with an expert of its choice (whose advice shall be deemed full and complete authorization and protection in respect of the Trustee's decision), may agree or disagree, provided that the Trustee shall make such decision only on the grounds listed in Exhibit D hereto and none other. Nothing herein shall be construed as requiring the Master Servicer to obtain the Trustee's approval prior to terminating a Subservicer for cause.

(iii) To qualify for the transfer of loans for subservicing, a Subservicer must: (1) possess and maintain all material state and local licenses and registrations and be qualified to do business in the relevant jurisdictions, (2) agree to comply, and comply, with any laws, regulations, orders, mandates, or rulings of any Governmental Authority and/or any agreement or settlement between the Master Servicer or any of the other Bank of America Parties with any Governmental Authority applicable to subservicing, (3) maintain sufficient capable staff and facilities located in the United States, agree to meet, and meet, specified service level and performance requirements, and meet reasonable financial criteria, (4) agree to indemnify and hold harmless the Master Servicer for any servicing failures or breaches committed by it, (5) be eligible to service in accordance with the Home Affordable Modification Program ("HAMP") either pursuant to a Servicer Participation Agreement or an Assignment and Assumption Agreement with the U.S. Department of Treasury, (6) meet, and otherwise be subject to, all relevant third-party provider requirements of the Office of the Comptroller of the Currency, (7) meet, and otherwise be subject to, the Master Servicer's vendor management policies, provided that such policies are of general application and do not address the specific requirements for performance under this Settlement Agreement, any agreement for the transfer of loans to subservicing, or any agreement for the sale of servicing rights, and (8) otherwise meet the requirements of the subservicing provisions of the Governing Agreements. In determining whether a Subservicer meets the qualifications described in this Subparagraph 5(a)(iii), the Master Servicer shall act in good faith and shall use commercially reasonable standards. Notwithstanding any other provision of this Settlement Agreement, the Master Servicer shall have no obligation to, and shall not, enter into a subservicing contract with, or transfer any Mortgage Loan for subservicing to, any Subservicer that does not meet the qualifications described in this Subparagraph 5(a)(iii) at the relevant time. Any Subservicer on the Approved

List that, at any time, does not meet the qualifications described in this Subparagraph 5(a)(iii) and that subsequently has a commercially reasonable basis for believing that it can meet the qualifications described in this Subparagraph 5(a)(iii), can request that the Master Servicer re-evaluate whether it meets the qualifications described in this Subparagraph 5(a)(iii), and if the Master Servicer determines that the Subservicer meets the qualifications described in this Subparagraph 5(a)(iii), such Subservicer shall be considered eligible for the transfer of High Risk Loans (subject to, if applicable, negotiation of a subservicing contract pursuant to Subparagraph 5(a)(iv)).

(iv) Beginning on the date of the Trustee's approval (or deemed approval, as applicable) of at least four Subservicers, the Master Servicer shall negotiate a servicing contract that includes commercially reasonable terms (including without limitation the right to terminate the Subservicer for cause) and map the computer-transfer of Mortgage Loans with not less than one Subservicer per quarter until all of the Subservicers on the Approved List are operational. The terms on which the Subservicers are compensated shall be commercially reasonable pool-performance incentives and/or activity-based incentives substantially similar to, and not materially less favorable than, those set forth on Exhibit E hereto. The servicing contract with each Subservicer shall prohibit the Subservicer from subcontracting the servicing, subservicing, selling the servicing rights, or otherwise transferring the servicing rights of any of the High Risk Loans to another party, provided that nothing herein shall be construed to limit the right of the Subservicers to engage third-party vendors or subcontractors to perform tasks that prudent mortgage banking institutions commonly engage third party vendors or subcontractors to perform with respect to mortgage loans and related property, including, but not limited to, tax monitoring, insurance monitoring, property inspection, reconveyance, services provided by licensed field agents, and brokering REO property ("Routinely Outsourced Tasks").

(v) The Master Servicer will complete the contract negotiation and computer-transfer mapping for each Subservicer in a three-month time period running from the commencement of computer-transfer mapping with that Subservicer, provided, however, that the Master Servicer shall have no obligation to contract with any Subservicer that does not meet the qualifications described in Subparagraph 5(a)(iii) or on terms that are not commercially reasonable, and shall incur no liability whatsoever nor be subject to any other form of remedy if it cannot comply with

any provision of this Paragraph 5 because it is unable to contract with such a Subservicer on commercially reasonable terms (provided, however, that the other provisions of this Paragraph 5 shall remain in force).

(vi) If the Master Servicer exceeds the three month time frame to complete the required computer mapping specified in Subparagraph 5(a)(v), the Master Servicer shall retain a competent third party, at its own expense, to complete the computer mapping as soon as reasonably practical (and shall have no other liability for exceeding the time frame provided that it retains such third party and proceeds diligently to complete the computer mapping).

(vii) After at least one Subservicer is operational, the Master Servicer shall initiate the transfer of Mortgage Loans to at least one Subservicer per quarter; provided, however, that each Subservicer shall have no more than 30,000 outstanding Mortgage Loans from the Covered Trusts at any one time. If each operational Subservicer has 30,000 outstanding Mortgage Loans from the Covered Trusts (or such lesser maximum number as the Trustee directs pursuant to Subparagraphs 5(a)(i) and (ii), as applicable), the Master Servicer shall have no obligation to transfer any Mortgage Loans until such time as an operational Subservicer has enough less than 30,000 outstanding Mortgage Loans from the Covered Trusts (or such lesser maximum number as the Trustee directs pursuant to Subparagraphs 5(a)(i) and (ii), as applicable) so as to make a transfer of Mortgage Loans commercially reasonable.

(viii) Only one Subservicer shall be assigned to each Covered Trust.

(ix) Any Mortgage Loan in subservicing for which twelve (12) consecutive timely payments have been made by or on behalf of the borrower shall be transferred back to the Master Servicer. The Master Servicer shall include a provision to this effect in the subservicing contract with each Subservicer. This provision shall not apply to any Mortgage Loan for which the Master Servicer has sold the servicing rights.

(x) All costs associated with implementation of these subservicing provisions shall be borne by the Master Servicer and/or the Subservicers, as applicable; provided, however, that the costs of the Subservicer compensation described in Subparagraph 5(a)(iv) and on Exhibit E hereto shall be borne by the Master Servicer. For the avoidance of doubt, if a Mortgage Loan is

transferred to subservicing, the Master Servicer shall retain all rights to receive payment for accrued but unpaid Master Servicing Fees and to be reimbursed for outstanding Advances at the same time and in the same manner as if the Master Servicer had retained the servicing function.

(xi) Beginning on the date of the Trustee's approval or deemed approval of at least four Subservicers, the Master Servicer may, at its option, sell the servicing rights on High Risk Loans to any Subservicer on the Approved List, provided that: (1) such sale complies with the applicable provisions of the applicable Governing Agreements; (2) the Subservicer possesses all material state and local licenses and registrations and is qualified to do business in the relevant jurisdictions; (3) the Subservicer maintains sufficient capable staff and facilities located in the United States, meets specified service level and performance requirements, and meets reasonable financial criteria; (4) the Subservicer complies with applicable laws, regulations, orders, mandates, or rulings of any Governmental Authority; (5) the Master Servicer ensures that the terms of the contract of sale include terms not materially less favorable than, similar to, and designed to substantially maintain the effect of, the commercially reasonable pool performance incentives and/or activity-based incentives set forth on Exhibit E hereto; (6) the total number of outstanding Mortgage Loans from the Covered Trusts serviced by any Subservicer, whether as a result of a sale of servicing rights or of a transfer to subservicing, shall not exceed 30,000 at any one time; (7) the Master Servicer covenants to provide Advance financing on commercially reasonable terms or otherwise guarantee such payment, if necessary to ensure the creditworthiness of the Subservicer in connection with Advances; (8) the Master Servicer ensures that the terms of the contract of sale prohibit the Subservicer from subcontracting the servicing, subservicing, selling the servicing rights, or otherwise transferring the servicing rights of any of the High Risk Loans to another party, provided that the Master Servicer is not required to restrict the Subservicer's ability to engage third-party vendors or subcontractors to perform Routinely Outsourced Tasks; (9) the Master Servicer shall enforce its rights under any contract of sale in good faith; (10) the Master Servicer ensures that the terms of the contract of sale include provisions similar to, and that are designed to substantially maintain the effect of, Subparagraphs 5(d) and 5(e); and (11) the Master Servicer obtains whatever powers of attorney may be necessary from the Trustee (which power of attorney shall not be unreasonably withheld) and the Subservicer so that the Master Servicer may cure document exceptions and comply with its obligations pursuant to Paragraph 6. For the avoidance of doubt, (1) nothing in this

Settlement Agreement shall limit in any way the Master Servicer's rights, if any, under the Governing Agreements, to sell servicing rights on current Mortgage Loans; (2) the Master Servicer's sale of servicing rights in conformity with this Subparagraph 5(a)(xi) shall be the equivalent of transferring High Risk Loans to subservicing for the purposes of satisfying the obligation of the Master Servicer under this Paragraph 5 to transfer High Risk Loans; and (3) in any quarter in which the Master Servicer is obligated to transfer High Risk Loans to subservicing, the Master Servicer shall remain obligated to do so unless it sells servicing rights on High Risk Loans pursuant to this Subparagraph 5(a)(xi).

(xii) Nothing in this Settlement Agreement shall limit in any way the Master Servicer's right to sell, transfer, or assign the servicing rights for the loans in the Covered Trusts, including High Risk Loans, to a bank affiliate of the Master Servicer reasonably expected to be capable of performing the obligations of the Master Servicer under this Settlement Agreement and the Governing Agreements, and the provisions of Subparagraph 5(a)(xi) shall not apply to such a sale, transfer, or assignment. Upon the sale, transfer, or assignment of servicing rights for any loans in the Covered Trusts to such a bank affiliate of the Master Servicer, it shall be deemed to be a Master Servicer for purposes of this Settlement Agreement and all provisions of this Settlement Agreement applicable to the Master Servicer shall be fully applicable to it.

(b) Subservicing Implementation for High Risk Loans. Mortgage Loans in groups (i) through (v) below shall be termed "High Risk Loans" for the purposes of this Settlement Agreement. High Risk Loans shall be transferred to subservicing in the following priority, provided that Mortgage Loans from groups (i), (ii), and (iii) below may be grouped together for transfer and treated as a single group for priority purposes:

(i) Mortgage Loans that are 45+ days past due without right party contact (*i.e.*, the Master Servicer has not succeeded in speaking with the borrower about resolution of a delinquency);

(ii) Mortgage Loans that are 60+ days past due and that have been delinquent more than once in any rolling twelve (12) month period;

(iii) Mortgage Loans that are 90+ days past due and have not been in the foreclosure process for more than 90 days and that are not actively performing on trial modification or in the underwriting process of modification;

(iv) Mortgage Loans in the foreclosure process that do not yet have a scheduled sale date; and

(v) Mortgage Loans where the borrower has declared bankruptcy regardless of days past due.

(c) Servicing Improvements for Mortgage Loans ***Not*** in Subservicing. Beginning five (5) months after the Signing Date or on the Approval Date, whichever is later, the servicing improvements set forth below shall apply to all Mortgage Loans that are (i) ***not*** in subservicing pursuant to Subparagraphs 5(a) and 5(b) or (ii) for which the servicing rights have not been sold to a Subservicer; except that for Mortgage Loans secured by collateral in the state of Florida, the Industry Standard benchmark set forth in Subparagraph 5(c)(i)(B) and any associated Master Servicing Fee Adjustment shall not apply until the Approval Date or until twenty-four (24) months after the Signing Date, whichever is later; provided, however, that the Master Servicer shall have no liability under this Subparagraph 5(c) until such time as eight Subservicers have been approved or been deemed approved by the Trustee.

(i) The Master Servicer shall, on a monthly basis, benchmark its performance against the following industry standards (the "Industry Standards"). For the avoidance of doubt, only one Industry Standard shall apply to each Mortgage Loan:

(A) First-lien Mortgage Loans Only: Delinquency status of borrower at time of referral to the Master Servicer's foreclosure process: 150 days. This benchmark will exclude for each Mortgage Loan all time periods during which the borrower is in bankruptcy.

(B) First-lien Mortgage Loans Only: Time period between referral to the Master Servicer's foreclosure process and foreclosure sale or other liquidation event: The relevant state timeline in the most current (as of the time of each calculation) FHFA referral to foreclosure timelines. This benchmark will exclude for each Mortgage Loan all time periods during which

(a) the borrower is in bankruptcy or (b) the borrower is performing pursuant to HAMP or other loss mitigation efforts mandated by Law.

(C) Second-lien Mortgage Loans Only: Delinquency status of borrower at the time of reporting of charge-off to Trustee: Standards in relevant Governing Agreement.

(ii) The Master Servicer shall, once a month on the last business day of the month, send to the Trustee statistics for each Covered Trust comparing its performance for the prior month with respect to the Mortgage Loans in each Covered Trust to the Industry Standards (the "Monthly Statement"). The Trustee shall use reasonable commercial efforts to make such statement available on its Global Corporate Trust Investor Reporting website (https://www.gctinvestorreporting.bnymellon.com or any successor thereto) within five (5) business days of its receipt of such Monthly Statement.

(iii) Once a month, in connection with the preparation of the Monthly Statement, the Master Servicer shall calculate for the prior month: (a) a Compensatory Fee (as defined below) for each Mortgage Loan in each Covered Trust; (b) a Loan Level Amount (as defined below) for each Mortgage Loan in each Covered Trust; (c) whether there is a Master Servicing Fee Adjustment (as defined below) owed for each Covered Trust; and shall report to the Trustee as a line item on the Monthly Statement the Master Servicing Fee Adjustment, if any, for the relevant Covered Trust. The "Compensatory Fee" for a Mortgage Loan shall be calculated by multiplying the coupon applicable to that Mortgage Loan times the unpaid principal balance for that Mortgage Loan, and dividing the product of those two numbers by twelve (12). The "Loan Level Amount" for each Mortgage Loan shall be the amount equal to the applicable percentage in the applicable table below of the Compensatory Fee for such Mortgage Loan. The "Master Servicing Fee Adjustment" for each Covered Trust shall be the greater of zero and the sum of all the Loan Level Amounts for all the Mortgage Loans in such Covered Trust for that month.

Days Delinquent at Time of Referral to the Master Servicer's Foreclosure Process (First-lien Mortgage Loans only)	
Day Variance to Industry Standard (150 days)	*%*
Earlier than -60	-50%
-60 to -30	-20%
-30 to 0	0%
0 to 15	0%
15 to 30	0%
30 to 60	40%
60 to 90	60%
90 to 120	80%
Over 120	100%

Days Between Referral to Foreclosure Process and Foreclosure Sale or Other Liquidation Event (First-lien Mortgage Loans only)	
Day Variance to Relevant State's Timeline as set Forth in the FHFA Referral to Foreclosure Timelines	*%*
Earlier than -120	-50%
-120 to -90	-40%
-90 to -60	-30%
-60 to -30	-20%
-30 to 0	0%
0 to 15	0%
15 to 30	0%
30 to 60	20%
60 to 90	30%
90 to 120	40%
120 to 150	50%
150 to 180	60%
180 to 210	80%
Over 210	100%

Days Delinquent at Time of Reporting of Charge Off (Second-lien Mortgage Loans only)	
Day Variance to Standard in the Governing Agreement	*%*
0 to 30	0%
30 to 60	40%
60 to 90	60%
90 to 120	80%
Over 120	100%

(iv) For each Covered Trust other than CWHEQ 2006-A and CWHEQ 2007-G, the Master Servicer shall, on a monthly basis, deduct the Master Servicing Fee Adjustment from unreimbursed Advances due to it. For each of CWHEQ 2006-A and CWHEQ 2007-G, the Master Servicer shall, on a monthly basis, wire the Master Servicing Fee Adjustment to the Collection Account for the applicable Covered Trust and the Trustee shall distribute the Master Servicing Fee Adjustment in the same manner as is specified for an Allocable Share pursuant to Subparagraph 3(d)(i), provided, however, that the provisions of Subparagraph 3(d)(ii) shall not apply to Master Servicing Fee Adjustments.

(d) Loss Mitigation Requirements Applicable to All Loans. Beginning on the Signing Date, for each borrower with a Mortgage Loan in the Covered Trusts that is considered for modification programs, the Master Servicer and/or each of the Subservicers, as applicable, shall simultaneously evaluate the borrower's eligibility for all applicable modification programs in accordance with the factors set forth in Subparagraph 5(e) (including, as applicable, HAMP and proprietary modification programs, which programs may, pursuant to the Governing Agreements, include principal reductions), and shall render a decision within sixty (60) days of receiving all requested documents from the borrower; provided that nothing herein shall be deemed to create an obligation on the part of Master Servicer to offer any modification or loss mitigation strategy to any borrower.

(e) Loss Mitigation Considerations. In considering modifications and/or other loss mitigation strategies, including, without limitation, short sales and deeds in lieu of foreclosure, the Master Servicer and all Subservicers shall consider the following factors: (a) the net present value of the Mortgage Loan at the time the modification and/or other loss mitigation strategy is

considered and whether the contemplated modification and/or other loss mitigation strategy would have a positive effect on the net present value of the Mortgage Loan as compared to foreclosure; (b) where loan performance is the goal, whether the modification and/or other loss mitigation strategy is reasonably likely to return the Mortgage Loan to permanently performing status; (c) whether the borrower has the ability to pay, but has defaulted strategically or is otherwise acting strategically; (d) reasonably available avenues of recovery of the full principal balance of the Mortgage Loan other than foreclosure or liquidation of the loan; (e) the requirements of the applicable Governing Agreement; (f) such other factors as would be deemed prudent in its judgment; and (g) all requirements imposed by applicable Law. When the Master Servicer and/or Subservicer, in implementing a modification and/or other loss mitigation strategy (which may, pursuant to the Governing Agreements, include principal reductions), considers the factors set forth above, and/or acts in accordance with the policies or practices that the Master Servicer is then applying to its or any of its affiliates' "held for investment" portfolios, the Master Servicer shall be deemed to be in compliance with its obligation to service the Mortgage Loans prudently in keeping with the relevant servicing provisions of the relevant Governing Agreement and the requirements of this Subparagraph 5(e), the modification and/or other loss mitigation strategy so implemented shall be deemed to be permissible under the terms of the applicable Governing Agreement, and the judgments in applying such factors to a particular loan shall not be subject to challenge under the applicable Governing Agreement, this Settlement Agreement, or otherwise. Notwithstanding anything else in this Subparagraph 5(e), no principal modification by the Master Servicer or any Subservicer shall reduce the principal amount due on any Mortgage Loan below the current market value of the property, as determined by a third-party broker price opinion, using a fair market value method, applying normal marketing time criteria and excluding REO or short sale comparative sales in the valuation calculation.

(f) Reporting and Attestation of Compliance with Servicing Improvements. Beginning on the Approval Date, the Master Servicer shall: (i) report monthly to the Trustee, for each Covered Trust, concerning its compliance with the Servicing Improvements required by this Settlement Agreement (the "Monthly Report"); and (ii) pay for an annual attestation report for the Covered Trusts as a group (the "Attestation Report") to be completed no later than February 15 of each year that any Covered Trust holds Mortgage Loans (or owns real estate related to liquidated Mortgage Loans). The Trustee shall use reasonable commercial efforts to make such

report available on its Global Corporate Trust Investor Reporting website (https://www.gctinvestorreporting.bnymellon.com or any successor thereto) within five (5) business days of its receipt of such report.

(i) The Attestation Report shall be prepared by an audit firm selected in accordance with the following selection process: (A) the Master Servicer shall propose in writing to the Trustee an audit firm meeting the qualifications described in Subparagraph 5(f)(ii); (B) within seven (7) business days of receipt of such written notice, the Trustee may object to the Master Servicer's selection if it reasonably determines that the proposed audit firm does not meet the qualifications described in Subparagraph 5(f)(ii); (C) if the Trustee objects to a proposed audit firm in accordance with Subparagraph 5(f)(i)(B) above, a different audit firm shall be selected by repeating the process set out in Subparagraphs 5(f)(i)(A) and 5(f)(i)(B) above; and (D) in the absence of an objection by the Trustee within the time frame set out in Subparagraph 5(f)(i)(B) above, the proposed audit firm shall be deemed approved.

(ii) To qualify to prepare the Attestation Report, a firm must (A) possess sufficient relevant expertise in the mortgage loan servicing industry; (B) be duly licensed to conduct its business in all relevant jurisdictions; (C) not be indicted in any state; and (D) not be engaged by Bank of America, Countrywide, or any of their respective subsidiaries and affiliates for any major engagement.

(iii) The Attestation Report shall be distributed to all Investors as part of the Trustee's Monthly Statement for April of each year, provided that the Trustee shall not be required to execute, sign, or deliver to the audit firm any consent, acknowledgement, or other documentation whatsoever in connection with its receipt of the Attestation Report or the making of the Attestation Report available to the Investors.

(g) No Amendment. Nothing in this Paragraph 5 is, or shall be construed to be, an amendment of any Governing Agreement.

(h) Governmental Authority. The Master Servicer shall: (i) have no liability (and shall be subject to no other remedy) to the Covered Trusts, the Trustee, or the Investors under any part of this Settlement Agreement or under the provisions of the Governing Agreements that

relate to the matters and aspects of servicing addressed in whole or in part by the provisions of this Paragraph 5, including no liability for any Master Servicing Fee Adjustment, if it becomes commercially impracticable for the Master Servicer to perform its obligations under this Paragraph 5 in a manner reasonably similar to the intent thereof because any provision of this Paragraph 5 is rendered inoperative or invalid by Law and (ii) not be liable for any portion of a Master Servicing Fee Adjustment that is the result of actions mandated or required by Law.

(i) Cost of Compliance with Law. All expenses associated with compliance with Law related to the servicing of the Mortgage Loans in the Covered Trusts shall be borne by the Master Servicer and/or the Subservicers, as applicable, provided that (i) any modification or other loss mitigation strategy that may be required or permitted by Law, and/or (ii) any Advance that is required or permitted by Law, that is permissible under the terms of this Settlement Agreement and/or the Governing Agreements shall not be deemed to be an expense associated with compliance with Law related to the servicing of the Mortgage Loans in the Covered Trusts, and any Realized Loss associated with the implementation of such modification or loss mitigation strategy shall be borne by the relevant Covered Trust.

(j) Effect of Failure to Meet Timelines. The Master Servicer's failure to complete any task or obligation set forth in this Paragraph 5 in the time period required by this Paragraph 5 shall not be deemed a material breach of this Settlement Agreement, provided that the Master Servicer has used and is using reasonable best efforts to comply with the time periods set forth in this Paragraph 5 and that the Master Servicer completes the task or obligation in no more than 133% of the time period required by this Paragraph 5. For the avoidance of doubt, nothing in this Subparagraph 5(j) shall affect the amount of any Master Servicing Fee Adjustment otherwise due under Subparagraph 5(c).

(k) Effect of Legal Impossibility of Final Court Approval; Excluded Covered Trusts. If Final Court Approval becomes legally impossible, then at such time, neither the Master Servicer nor the Trustee shall have any further obligations under Subparagraph 5(a) or under Subparagraph 5(b) and Subparagraphs 5(c) and 5(f) shall be null and void. Subparagraphs 5(d) and 5(e) shall remain binding upon the Master Servicer and the Trustee. As to any trust that shall become an Excluded Covered Trust, neither the Master Servicer nor the Trustee shall have

any further obligations with respect to such Excluded Covered Trust under Subparagraph 5(a) or under Subparagraph 5(b) and Subparagraphs 5(c) and 5(f) shall be null and void with respect to such Excluded Covered Trust; Subparagraphs 5(d) and 5(e) shall remain binding upon the Master Servicer and the Trustee as to such Excluded Covered Trust.

6. Cure of Certain Document Exceptions.

(a) Initial Exceptions Report Schedule. Not later than six (6) weeks after the Signing Date, the Master Servicer shall submit to the Trustee an "Initial Exceptions Report Schedule" as provided for below. Subject to Paragraph 12, the Trustee shall use reasonable best efforts to make the Initial Exceptions Report Schedule available on the Trustee's Global Corporate Trust Investor Reporting website (https://www.gctinvestorreporting.bnymellon.com, or any successor thereto) within five (5) business days of its receipt of such report.

(i) The Initial Exceptions Report Schedule shall be prepared in good faith, after reasonable diligence, and shall include each Mortgage Loan in the Covered Trusts (including, for the avoidance of doubt, Mortgage Loans for which the servicing rights are sold following the Signing Date) that, on the Trustee's Loan-Level Exception Reports (as defined below), is subject to both (A) a document exception relating to mortgages coded "photocopy" (CO), "copy with recording information" (CR), "document missing" (DM), "county recorded copy with comments" (IN), "certified copy not recorded" (NR), "original with comments" (OO), "unrecorded original" (OX), "pool review pending" (PR), "contract" (CONT), and "certified copy-issuer" (CI) on the Trustee's Loan-Level Exception Reports, ("Mortgage Exceptions") and (B) a document exception relating to title policies or their legal equivalent coded "document missing" (DM), "title commitment" (CM), or "preliminary title report" (PL) on the Trustee's Loan-Level Exception Reports, ("Title Policy Exceptions"), provided that it shall exclude any such Mortgage Loan registered on the Mortgage Electronic Registration Systems ("MERS"). Mortgage Loans paid in full or liquidated as of the Signing Date shall not be included in the Initial Exceptions Report Schedule.

(ii) The Master Servicer may elect, in its sole discretion, to resolve any Mortgage Exception or Title Policy Exception listed on the Initial Exceptions Report Schedule, in which

case the Trustee shall cooperate in good faith with the Master Servicer to resolve any such Mortgage Exception or Title Policy Exception.

(iii) If any Mortgage Loan is Cured (as defined below), the Master Servicer shall promptly provide evidence of such cure to the Trustee.

(iv) "Trustee's Loan-Level Exception Reports" shall mean the loan level exception reports for the Covered Trusts provided by the Trustee to the Master Servicer on April 14, 2011, April 27, 2011, and April 28, 2011.

(b) Monthly Exceptions Report. Beginning the first month following the month in which the Master Servicer submits the Initial Exceptions Report Schedule, the Master Servicer shall provide to the Trustee on the last business day of each month a Monthly Exceptions Report listing all Mortgage Loans on the Initial Exceptions Report Schedule exclusive of any Mortgage Loan that has been Cured and shall separately list all Mortgage Loans that have been Cured.

(i) A Mortgage Loan listed on the Initial Exceptions Report Schedule shall be considered "Cured" for all purposes if (A) either the Mortgage Exception or Title Policy Exception associated with that Mortgage Loan has been resolved, (B) the Mortgage Loan has been paid in full or otherwise satisfied as a first lien, (C) the Mortgage Loan has been liquidated as a first lien on the Mortgaged Property, or (D) pursuant to Subparagraph (6)(c), the Master Servicer has reimbursed the Covered Trust for 100% of any related Realized Loss associated with that Mortgage Loan's liquidation.

(ii) Within fifteen (15) business days of receipt of each Monthly Exceptions Report, the Trustee shall determine whether reasonable evidence has been provided in respect of each Mortgage Loan listed as Cured in such report. In the event that the Trustee determines that a decision by the Master Servicer to list a loan as Cured is not supported by reasonable evidence, after consultation with the Master Servicer regarding the reasonableness of such evidence, the Trustee shall direct the Master Servicer to issue a revised Monthly Exceptions Report. All of the Trustee's reasonable costs and expenses associated with performing its obligations under this Subparagraph 6(b)(ii) that exceed the Trustee's ordinary costs and expenses in connection with its record-keeping duties under the Governing Agreements shall be borne by the Master Servicer.

(iii) The Master Servicer shall continue providing Monthly Exceptions Reports until such time as all Mortgage Loans listed in the Initial Exceptions Report Schedule have been Cured.

(iv) Subject to Paragraph 12, the Trustee shall use reasonable best efforts to make each Monthly Exceptions Report available on its Global Corporate Trust Investor Reporting website (https://www.gctinvestorreporting.bnymellon.com or any successor thereto) within five (5) business days of its receipt of such report.

(c) Remedy for Uncured Exceptions. If, at the time of liquidation, a Mortgage Loan (including, for the avoidance of doubt, Mortgage Loans for which the servicing rights are sold following the Signing Date) is listed on the then-current Monthly Exceptions Report as having an outstanding Mortgage Exception and an outstanding Title Policy Exception, the Master Servicer shall promptly provide notice to the Trustee and shall reimburse the trust that owns the Mortgage Loan for 100% of any Realized Loss (as defined in the applicable Governing Agreements) (i) if the Master Servicer is prevented from foreclosing as a first-lien holder by reason of an outstanding Mortgage Exception and the trust is not made whole by a title policy or equivalent by reason of an outstanding Title Policy Exception within the earlier of (A) twelve (12) months after the denial of such foreclosure or (B) thirty (30) days after the Master Servicer determines that no insurance will be payable or (ii) if a court of competent jurisdiction denies foreclosure as a first-lien holder by reason of an outstanding Mortgage Exception and the trust is not made whole by a title policy or equivalent by reason of an outstanding Title Policy Exception within the earlier of (A) twelve (12) months after the denial of such foreclosure or (B) thirty (30) days after the Master Servicer determines that no insurance will be payable. In the event that the Master Servicer makes the trust whole with respect to any Mortgage Loan pursuant to this Subparagraph 6(c), the Master Servicer shall be entitled to reimbursement for such make-whole payment from any proceeds that it or the trust subsequently receives from any title policy or equivalent with respect to such Mortgage Loan.

(d) If Final Court Approval becomes legally impossible, then at such time, neither the Master Servicer nor the Trustee shall have any further obligations or rights under this Paragraph 6 and the remedy provisions of Subparagraph 6(c) shall be null and void. Likewise, if the trust in

which the Mortgage Loan is held is designated an Excluded Covered Trust pursuant to Subparagraph 4(a), then at such time, neither the Master Servicer nor the Trustee shall have any further obligations or rights under this Paragraph 6 and the remedy provisions of Subparagraph 6(c) shall be null and void with respect to such Mortgage Loan. Notwithstanding the foregoing, the Master Servicer may elect in its sole discretion to resolve any Mortgage Exception or Title Policy Exception that is outstanding, in which case the Trustee shall cooperate in good faith with the Master Servicer to resolve any such Mortgage Exception or Title Policy Exception.

7. Extension of Forbearance; Tolling. The Parties agree (and the Institutional Investors have so agreed in the Institutional Investor Agreement) that the Agreement of Forbearance entered into by certain of the Parties on December 9, 2010 and extended on January 28, 2011, February 28, 2011, March 31, 2011, April 19, 2011, May 2, 2011, May 9, 2011, May 25, 2011, and June 13, 2011 (the "Forbearance Agreement") is hereby extended and shall remain in effect in all respects until the first to occur of: (a) the Approval Date, (b) a date ninety (90) days after Final Court Approval shall become legally impossible, (c) a date ninety (90) days after the Settlement Agreement has been terminated in accordance with its terms, or (d) a date ninety (90) days after the cure period has expired for any uncured material breach of the Settlement Agreement by Bank of America and Countrywide for which notice has been provided (the cure period being the ninety (90) days following such notice of such breach provided by a party to this Settlement Agreement or the Institutional Investor Agreement). For Covered Trusts not subject to the Forbearance Agreement, all statutes of limitation, repose, or laches related to the Trust Released Claims shall be tolled, for the benefit of the Precluded Persons, to the same extent that they are tolled under the Forbearance Agreement; provided that, except as set forth in this Settlement Agreement, all Parties expressly reserve all rights, arguments, and defenses, including all rights, arguments, and defenses with respect to Investor voting rights and interest requirements under the Governing Agreements. If the Forbearance Agreement is extended pursuant to Subparagraphs 7(b) or 7(c) herein, the Parties agree (and the Institutional Investors have so agreed in the Institutional Investor Agreement) during the first eighty (80) days of such time periods to use their reasonable best efforts to negotiate an alternate settlement of the Trust Released Claims on terms that are economically substantially equivalent to the Settlement and not inconsistent with any final ruling of the Settlement Court or on any appeal therefrom, and

(during the same time periods) not to pursue any non-consensual actions or remedies with respect to the Covered Trusts except as the Trustee may be directed by the Settlement Court.

8. Retraction of Notice. The Trustee agrees (and the Institutional Investors have so agreed in the Institutional Investor Agreement) that, as of the Approval Date, any notice that may have been contained in the letters sent by and on behalf of certain of the Institutional Investors on June 17, 2010, October 18, 2010, and November 12, 2010 and addressed to the Trustee and/or the Master Servicer, as well as any notice that may have been contained in a letter deemed to have been provided under the Forbearance Agreement and its extensions (the "Letters"), is and shall be rendered null and void. The Letters themselves shall thereafter be rendered inoperative, as if never sent, and shall be deemed for all purposes to be withdrawn with prejudice (the Institutional Investors have so agreed by the Institutional Investor Agreement).

9. Release.

(a) Effective as of the Approval Date, except as set forth in Paragraph 10, the Trustee on behalf of itself and all Investors, the Covered Trusts, and/or any Persons claiming by, through, or on behalf of any of the Trustee, the Investors, or the Covered Trusts or under the Governing Agreements (collectively, the Trustee, Investors, Covered Trusts, and such Persons being defined together as the "Precluded Persons"), irrevocably and unconditionally grants a full, final, and complete release, waiver, and discharge of all alleged or actual claims, counterclaims, defenses, rights of setoff, rights of rescission, liens, disputes, liabilities, Losses, debts, costs, expenses, obligations, demands, claims for accountings or audits, alleged Events of Default, damages, rights, and causes of action of any kind or nature whatsoever, whether asserted or unasserted, known or unknown, suspected or unsuspected, fixed or contingent, in contract, tort, or otherwise, secured or unsecured, accrued or unaccrued, whether direct, derivative, or brought in any other capacity that the Precluded Persons may now or may hereafter have against any or all of the Bank of America Parties and/or Countrywide Parties arising out of or relating to (i) the origination, sale, or delivery of Mortgage Loans to the Covered Trusts, including the representations and warranties in connection with the origination, sale, or delivery of Mortgage Loans to the Covered Trusts or any alleged obligation of any Bank of America Party and/or Countrywide Party to repurchase or otherwise compensate the Covered Trusts for any Mortgage

Loan on the basis of any representations or warranties or otherwise or failure to cure any alleged breaches of representations and warranties, including all claims arising in any way from or under Section 2.03 ("Representations, Warranties and Covenants of the Sellers and Master Servicer")[1] of the Governing Agreements, (ii) the documentation of the Mortgage Loans held by the Covered Trusts (including the documents and instruments covered in Sections 2.01 ("Conveyance of Mortgage Loans") and 2.02 ("Acceptance by the Trustee of the Mortgage Loans") of the Governing Agreements and the Mortgage Files) including with respect to alleged defective, incomplete, or non-existent documentation, as well as issues arising out of or relating to recordation, title, assignment, or any other matter relating to legal enforceability of a Mortgage or Mortgage Note, and (iii) the servicing of the Mortgage Loans held by the Covered Trusts (including any claim relating to the timing of collection efforts or foreclosure efforts, loss mitigation, transfers to subservicers, Advances, Servicing Advances, or that servicing includes an obligation to take any action or provide any notice towards, or with respect to, the possible repurchase of Mortgage Loans by the Master Servicer, Seller, or any other Person), in all cases prior to or after the Approval Date (collectively, all such claims being defined as the "Trust Released Claims").

(b) The Trust Released Claims shall also be deemed to have been released as of the Approval Date to the full and same extent by the Master Servicer of the Covered Trusts (including the current Master Servicer, BAC HLS, and any subsequent servicer who may in the future be substituted for the current Master Servicer with respect to one or more of the Covered Trusts or any loans therein) and the Master Servicer shall be deemed to be a Precluded Person.

(c) The release and waiver in Subparagraphs 9(a) and 9(b) is intended to include, and upon its effectiveness shall include, any claims or contentions that Bank of America or any non-Countrywide affiliate, division, or subsidiary of Bank of America, and any of the predecessors or assigns thereof, is liable on any theory of successor liability, vicarious liability, veil piercing, de facto merger, fraudulent conveyance, or other similar claim or theory for the obligations,

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[1] Which provision is numbered 2.04 in the Sale and Servicing Agreements relating to CWHEQ 2006-A and CWHEQ 2007-G.

exposure, or liability of Countrywide or any of its affiliates, divisions, or subsidiaries, and any of the predecessors or assigns thereof concerning any of the Covered Trusts, with respect to the Trust Released Claims.

10. Claims Not Released.

(a) Administration of the Mortgage Loans. The release and waiver in Paragraph 9 does not include claims based solely on the action, inaction, or practices of the Master Servicer in its aggregation and remittance of Mortgage Loan payments, accounting for principal and interest, and preparation of tax-related information in connection with the Mortgage Loans and the ministerial operation and administration of the Covered Trusts and of the Mortgage Loans held by the Covered Trusts for which the Master Servicer receives servicing fees unless, as of the Signing Date, the Trustee has or should have knowledge of the actions, inactions, or practices of the Master Servicer in connection with such matters.

(b) Servicing of the Mortgage Loans. Except as provided in Subparagraph 10(a), the release and waiver in Paragraph 9 includes: (i) all claims based in whole or in part on any actions, inactions, or practices of the Master Servicer prior to the Approval Date as to the servicing of the Mortgage Loans held by the Covered Trusts; and (ii) as to all actions, inactions, or practices by the Master Servicer after the Approval Date, only (A) actions, inactions, and practices that relate to the aspects of servicing addressed in whole or in part by the provisions of Paragraph 5 (material compliance with which shall satisfy the Master Servicer's obligation to service the Mortgage Loans prudently in accordance with all relevant sections of the Governing Agreements) and (B) actions, inactions, or practices that relate to the aspects of servicing not addressed by the provisions of Paragraph 5 that are consistent with (or improvements over) the Master Servicer's course of conduct prior to the Signing Date. It is further understood and agreed that Investors may pursue such remedies as are available under Section 10.08 ("Limitation on Rights of Certificateholders") of the Governing Agreements with respect to an Event of Default as to any servicing claims not released by this Settlement.

(c) Certain Individual Investor Claims. The release and waiver in Paragraph 9 does not include any direct claims held by Investors or their clients that do not seek to enforce any rights under the terms of the Governing Agreements but rather are based on disclosures made (or

failed to be made) in connection with their decision to purchase, sell, or hold securities issued by any Covered Trust, including claims under the securities or anti-fraud laws of the United States or of any state; provided, however, that the question of the extent to which any payment made or benefit conferred pursuant to this Settlement Agreement may constitute an offset or credit against, or a reduction in the gross amount of, any such claim shall be determined in the action in which such claim is raised, and the Parties reserve all rights with respect to the position they may take on that question in those actions and acknowledge that all other Persons similarly reserve such rights.

(d) Financial-Guaranty Provider Rights and Obligations. To the extent that any third-party guarantor or financial-guaranty provider with respect to any Covered Trust has rights or obligations independent of the rights or obligations of the Investors, the Trustee, or the Covered Trusts, the release and waiver in Paragraph 9 is not intended to and shall not release such rights, or impair or diminish in any respect such obligations or any insurance or indemnity obligations owed by or to such Person.

(e) Indemnification Rights. The Parties do not release any rights to indemnification under the Governing Agreements including the Trustee's right to indemnification by the Master Servicer of the Covered Trusts.

(f) Settlement Agreement Rights. The Parties do not release any rights or claims against each other to enforce the terms of this Settlement Agreement.

(g) Excluded Covered Trusts. The release and waiver in Paragraph 9 does not include claims with respect to any Excluded Covered Trust.

11. Release of Unknown Claims. Each of the Parties acknowledges that it has been advised by its attorneys concerning, and is familiar with, California Civil Code Section 1542 and expressly waives any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to the provisions of the California Civil Code Section 1542, including that provision itself, which reads as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

The Parties acknowledge that inclusion of the provisions of this Paragraph 11 to this Settlement Agreement was a material and separately bargained for element of this Settlement Agreement.

12. **Concerning the Trustee**. All of the Trustee's privileges, indemnity rights, limitations on liability and other contractual protections under the Governing Agreements shall equally apply to all of the Trustee's duties and obligations under this Settlement Agreement. Without limiting the foregoing:

(a) The duties and obligations of the Trustee under this Settlement Agreement shall be determined solely by the express provisions of this Settlement Agreement. The Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Settlement Agreement, and no implied fiduciary duties shall be read into this Settlement Agreement against the Trustee. Nor, except as expressly set forth herein, shall anything in this Settlement Agreement imply that the Trustee owes any greater duties under the Governing Agreements, fiduciary or otherwise, than it otherwise would owe under those agreements.

(b) In this Settlement Agreement, whenever the Trustee is required to make any report, schedule, or other information available to the Investors:

(i) The Trustee's responsibility for making such information available to the Investors is limited to the availability, timeliness, and accuracy of the information provided to the Trustee; and

(ii) The Trustee's obligation to post such information on the Trustee's Global Corporate Trust Investor Reporting website is subject to the timely provision of such information to the Trustee in form and format satisfactory to the Trustee and (if applicable) to the Trustee's ability to timely break-out such information by the Covered Trust.

13. Representations and Warranties by Each Party. Each Party to this Settlement Agreement represents, warrants, and agrees as to itself as follows:

(a) It is duly organized, validly existing, and (to the extent applicable) in good standing under the Law of the jurisdiction in which it is organized. It has the corporate, trust or other power and authority (including contractual and/or regulatory authority to the extent applicable) necessary to execute, deliver, and perform its obligations under this Settlement Agreement, and to complete the transactions contemplated hereby, including with respect to any other entities, account-holders, or accounts for which or on behalf of which it is signing this Settlement Agreement, and the execution, delivery, and performance of this Settlement Agreement and the completion of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate, trust, or other action. Assuming the due authorization, execution, and delivery of this Settlement Agreement by the other Parties, this Settlement Agreement constitutes the legal, valid, and binding obligations of it, enforceable against it in accordance with its terms.

(b) It has not relied upon any statement, representation, or promise of any other Party (or of any representative or attorney of or for any other Party), in executing this Settlement Agreement, or in connection with the Settlement, (i) except for the representations, warranties, covenants, and other obligations set forth in this Settlement Agreement, and (ii) except that Bank of America and Countrywide represent to the Trustee that neither Bank of America nor Countrywide had, as of the date it was provided, or has, as of the date of this Settlement Agreement, actual knowledge that any factual information provided to the Trustee, its counsel and its experts in connection with the negotiation of the Settlement concerning: (A) historical factual information concerning prior repurchase experience, (B) factual information concerning historical losses and historical delinquencies experienced by the Covered Trusts, (C) the financial statements of CFC and/or CHL, and (D) documents reflecting, or information concerning, corporate transactions involving the exchange of assets between CFC and its subsidiaries and BAC and its non-Countrywide subsidiaries that were taken subsequent to the merger of CFC and a BAC subsidiary, was materially false or materially inaccurate at the time the information or documents were provided (unless subsequently corrected), and acknowledge that the Trustee's experts are relying on such information and documents. In addition, Bank of

America and Countrywide represent to the Trustee that the information contained on the CD-ROM provided to the Trustee's counsel and experts on June 3, 2011 contains business records of BAC HLS as kept on its computer systems in the ordinary course of its business. It is further acknowledged and understood that the Trustee has made its own independent judgment concerning the reasonableness and advantageousness of the Settlement and its terms.

(c) It is not entering into this Settlement Agreement with the intent of hindering, delaying, or defrauding any of its respective current or future creditors.

(d) It has made such investigation of the facts pertaining to this Settlement and this Settlement Agreement and of all the matters pertaining thereto as it deems necessary.

(e) It has read this Settlement Agreement and understands the contents hereof, has consulted with counsel of its choice with respect to this Settlement Agreement, and has executed this Settlement Agreement voluntarily and without duress or undue influence on the part of or on behalf of any other Party.

(f) It has not heretofore assigned, transferred, or granted, or purported to assign, transfer, or grant, any of the claims, demands, or causes of action released or waived by this Settlement Agreement.

14. Nonsurvival of Representations and Warranties. None of the representations or warranties set forth in this Settlement Agreement shall survive after the Approval Date or if Final Court Approval becomes legally impossible.

15. Additional Agreements.

(a) Trustee's Agreement Regarding Post-Signing Date Actions. Absent direction from the Settlement Court in accordance with the next sentence below, between the Signing Date and the Approval Date (or such time as Final Court Approval becomes legally impossible), the Trustee covenants that it will not take any action with respect to any Covered Trust that is intended or reasonably could be expected to be adverse to or inconsistent with the intent, terms, and conditions of the Settlement and this Settlement Agreement, and will not commence or assist in the commencement of any litigation based upon any of the claims subject to the release and

waiver in Paragraph 9. The Trustee intends to seek an order from the Settlement Court providing that the Trustee may seek direction from the Settlement Court before taking any action in respect of a Covered Trust that is the subject matter of the Article 77 Proceeding, and the Trustee reserves all rights to seek such order or direction.

(b) Post-Signing Date Repurchases. If after the Signing Date and before the Settlement Payment is made, any Bank of America Party or Countrywide Party either (i) repurchases any Mortgage Loan(s) from any Covered Trust(s) or (ii) makes any make-whole payment with respect to any such Mortgage Loan(s) to any Covered Trust(s) except as provided in Paragraph 6, the Settlement Payment provided for in this Settlement Agreement shall be reduced dollar-for-dollar by the economic benefit to the Covered Trust(s) of such repurchase or make-whole payment(s) and the Allocable Share(s) for the Covered Trust(s) from which the Mortgage Loan(s) was (or were) repurchased or to which the make-whole payment(s) was (or were) made shall be reduced by that same amount, provided that no amount used to retire Advances or Servicing Advances owed to the Master Servicer shall be considered an economic benefit for purposes of this Subparagraph 15(b). The Parties agree that if the amount of economic benefit received by a Covered Trust as a result of such repurchases or make-whole payments exceeds the amount of that Covered Trust's Allocable Share, then the reduction in the Settlement Payment shall be equal to, but shall not exceed, that Covered Trust's Allocable Share. Under no circumstances shall a repurchase of a Mortgage Loan or payment of a make-whole amount cause any portion of the Settlement Payment to be required to be returned.

(c) Institutional Investor Agreement. The Parties acknowledge and agree (and the Institutional Investors have so acknowledged and agreed in the Institutional Investor Agreement) that the Institutional Investors' entry into, and performance of their obligations under, the Institutional Investor Agreement is a material part of the consideration for entry by Bank of America and Countrywide into this Settlement Agreement.

16. Indemnification. BAC HLS acknowledges that it has certain obligations under the Governing Agreements to indemnify the Trustee. As of the execution of this Settlement Agreement, BAC HLS has delivered to the Trustee the side-letter attached hereto as Exhibit C and BAC has delivered to the Trustee the guaranty attached thereto with respect to BAC HLS's

obligations to indemnify the Trustee to the extent specified in the side-letter and in the Governing Agreements.

17. Confidentiality. All matters relating to the negotiation of this Settlement Agreement, including confidential information exchanged between any Parties hereto in connection with such negotiation, other than the Settlement Agreement and the Institutional Investor Agreement, shall be and remain confidential (the "Confidential Information") and shall not be disclosed to anyone other than the Parties hereto and their counsel, except that such information may be disclosed: (a) in an action by any Party to enforce this Settlement Agreement or the Institutional Investor Agreement, to the extent reasonably required for the purposes of enforcement, (b) in response to a court order, subpoena, or other demand made in accordance with applicable law, rule, or regulation, (c) (i) as required by law, rule, accounting rule, or regulation, including Federal securities law, including any change in law, rule, accounting rule, or regulation, or (ii) in response to a request to a Party made by a Governmental Authority having jurisdiction over such Party, or (iii) as any Bank of America Party may elect in its sole discretion as part of its filings with the Securities and Exchange Commission on Forms 8-K, 10-Q, or 10-K and related disclosures, including disclosures and communications to any Bank of America Party's current or potential shareholders, investors, or other Governmental Authorities, and (d) to such Party's subsidiaries, affiliates, their respective directors, officers, external or internal agents, representatives, professional advisers, attorneys, accountants, auditors, insurers and reinsurers, successors, assigns, and employees, who have a need to know and are under a duty to implement appropriate measures to maintain the confidentiality, security, and integrity of such information. Should any Party receive a request for disclosure with respect to any Confidential Information except as part of the Article 77 Proceeding or pursuant to subsection (c) or (d) of this Paragraph 17, the Party receiving such a request shall promptly, and in no case more than five (5) business days following receipt of such a request (so long as it is legally permitted to provide such notification), notify the other Parties to afford them the opportunity to object or seek a protective order prior to the disclosure of any such information.

18. Release and Covenants Valid Even if Additional or Different Facts; Effect of Breach. The Parties acknowledge that they may discover facts that are additional to, inconsistent with, or different from those which they now know or believe to be true regarding

the Covered Trusts. Nonetheless, except as expressly set forth in this Settlement Agreement, it is intended that this Settlement Agreement shall fully and finally compromise all claims that exist or may exist arising from or relating to the Covered Trusts to the extent set forth herein. Following Final Court Approval, in the event of a material breach of this Settlement Agreement by any Party, the non-breaching Party's sole remedy shall be to seek to enforce the Settlement Agreement; provided, however, that if the Settlement Payment is not made by Bank of America or Countrywide in accordance with Subparagraphs 3(a) and (b) in all material respects or if at any time after the Approval Date the Settlement Payment is voided or rescinded for any reason, including as a preferential or fraudulent transfer (in all such cases, written notice having been given by the Trustee to Bank of America and Countrywide and Bank of America or Countrywide not having cured, made, or restored such payment within sixty (60) days), then the release and waiver contained in Paragraph 9 shall have no further force or effect; provided, however, that the Trustee may instead elect to seek to enforce this Settlement Agreement in which event the release and waiver contained in Paragraph 9 shall remain in full force and effect. Under no other circumstances shall any breach of the Settlement Agreement by any Party impair or effect in any respect the release and waiver provided in Paragraph 9, or the other injunctive or other provisions to be contained in the Final Order and Judgment.

19. **Attorneys' Fees**. Within thirty (30) days of the Approval Date, Bank of America shall pay the attorneys' fees of the Institutional Investors and their attorneys' costs according to the schedule and terms set forth on Exhibit F (except that those fees and costs described in such Exhibit as being payable on a current basis shall be so paid following the Signing Date, unless and until Final Court Approval shall have become legally impossible, at which time any such payment obligations shall cease).

20. **No Admission**. In no event shall this Settlement, or this Settlement Agreement, the activities performed in contemplation of, in connection with, or in furtherance of this Settlement Agreement or the Article 77 Proceeding (including but not limited to statements in court filings, testimony, arguments, and expert opinions), public statements made by any Party or any of their representatives, concerning or relating to the Settlement, or any communications or negotiations with respect thereto be construed, deemed, used, asserted, or admitted as evidence of an admission or a concession on the part of any Party on any subject whatsoever; provided

that nothing in this Paragraph 20 shall preclude the use of the Settlement Agreement and the circumstances surrounding its execution to enforce the Settlement Agreement. The Bank of America Parties and the Countrywide Parties have denied and continue to deny any and all wrongdoing of any kind whatsoever, and retain, and do not waive, any and all positions, defenses, and responses that they may have with respect to such matters. The BNY Mellon Parties retain, and do not waive, any positions and responses they may have with respect to such matters other than as set forth explicitly in this Settlement Agreement.

21. **No Amendment of Governing Agreements**. Nothing in this Settlement Agreement is intended to, or does, amend any of the Governing Agreements.

22. **Binding Agreement on Successors and Assigns**. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties' successors and assigns. This Settlement Agreement may not be assigned by any of the Parties without the prior written consent of each of the other Parties hereto and any attempted assignment in violation of this provision shall be null and void.

23. **Governing Law; Waiver of Jury Trial**. This Settlement Agreement and any claim, controversy, or dispute arising under or related to this Settlement Agreement or the Settlement shall be governed by, and construed in accordance with, the laws of the State of New York and the laws of the United States applicable to contracts entered into and completely performed in New York. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING UNDER OR RELATING TO THIS SETTLEMENT AGREEMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

24. **Consent to Jurisdiction**. Each Party consents and irrevocably submits to the continuing exclusive jurisdiction of the Settlement Court and any appellate courts thereof, or, if Final Court Approval becomes legally impossible, to the exclusive jurisdiction of the Supreme Court of the State of New York in the County of New York or the United States District Court for the Southern District of New York, and any appellate courts thereof, in any action, suit, or proceeding arising from or related to this Settlement Agreement. The Parties agree that a final

unappealable judgment in any such action, suit, or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each Party waives and agrees not to assert by way of motion, as a defense or otherwise in any such suit, action, or proceeding, any claim that it is not personally subject to the jurisdiction of such courts, that the suit, action, or proceeding is brought in an inconvenient forum, that the venue of the suit, action, or proceeding is improper or that the related documents or the subject matter thereof may not be litigated in or by such courts. This consent to jurisdiction shall not be construed, deemed, used, asserted, or admitted as evidence of an admission or a concession of jurisdiction on the part of any Party in any action unrelated to this Settlement Agreement.

25. **Construction**. The terms, provisions, and conditions of this Settlement Agreement represent the results of negotiations among the Parties. The terms, provisions, and conditions of this Settlement Agreement shall be interpreted and construed in accordance with their usual and customary meanings. Each of the Parties expressly, knowingly, and voluntarily waives the application, in connection with the interpretation and construction of this Settlement Agreement, of any rule of law or procedure to the effect that ambiguous or conflicting terms, conditions, or provisions shall be interpreted or construed against the Party whose legal counsel prepared the executed version or any prior drafts of this Settlement Agreement. The headings contained in this Settlement Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Settlement Agreement. Whenever the words "include," "includes," or "including" are used in this Settlement Agreement, they shall be deemed to be followed by the words "without limitation." References to specific numbered sections of the Governing Agreements are intended to refer to those sections and other similar sections of like effect in other Governing Agreements if the numbering differs.

26. **Severability**. If any provision of this Settlement Agreement other than the Settlement Payment contained in Paragraph 3 or the release and waiver contained in Paragraph 9 shall, for any reason or to any extent, be invalidated or ruled to be unenforceable, the remainder of this Settlement Agreement shall be enforced to the fullest extent permitted by law.

27. **No Third-Party Rights or Obligations**. No Person not a Party to this Settlement Agreement shall have any third-party beneficiary or other rights under this Settlement

Agreement. Under no circumstances shall any Person not a Party hereto have any right to sue under or otherwise directly enforce this Settlement Agreement. For the avoidance of doubt, nothing in this Settlement Agreement confers any right or ability to sue to any present or former Mortgage Loan borrower, nor does this Settlement Agreement create any obligation on the part of any Person to any such borrower.

28. **Multiple Counterparts**. This Settlement Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement. The Parties intend that faxed signatures and electronically-imaged signatures such as PDF files shall constitute original signatures and are binding on all Parties. An executed counterpart signature page delivered by facsimile or by electronic mail shall have the same binding effect as an original signature page. This Settlement Agreement shall not be binding until all Parties have signed and delivered a counterpart of this Settlement Agreement whether by mail, facsimile, or electronic mail.

29. **Modification and Waiver**. This Settlement Agreement may not be amended, altered or modified, and no provision hereof may be waived, except by written instrument executed by the Parties. No waiver shall constitute a waiver of, or estoppel with respect to, any subsequent or other inaccuracy, breach or failure to comply strictly with the provisions of this Settlement Agreement.

30. **Further Assurances**. The Parties agree (a) to use their reasonable best efforts and cooperate in good faith to fully effectuate the intent, terms, and conditions of this Settlement Agreement and the Settlement, including by executing and delivering all additional documents and instruments, doing all acts not specifically referred to herein that are reasonably necessary to fully effectuate the intent, terms, and conditions of this Settlement Agreement, and refraining from taking any action (or assisting others to take any action) contrary to or inconsistent with the intent, terms, and conditions of this Settlement Agreement; provided, however, that, as to the Trustee, seeking to obtain direction from the Settlement Court before taking any action in respect of a Covered Trust that is the subject matter of the Article 77 Proceeding, pursuant to Subparagraph 2(c) of this Settlement Agreement, shall not be deemed to be contrary to or inconsistent with the intent, terms, and conditions of this Settlement Agreement; (b) that any

actions taken by the Master Servicer and/or any Subservicer prior to the Approval Date pursuant to or that are consistent with the provisions of Paragraph 5 herein shall be deemed to satisfy the Master Servicer's obligation to service the Mortgage Loans prudently in accordance with all relevant sections of the Governing Agreements; and (c) in the absence of an intentional violation of a representation or warranty contained herein, to perform these obligations even if they discover facts that are additional to, inconsistent with, or different from those which they now know or believe to be true regarding the Covered Trusts.

31. **Entire Agreement**. The Settlement Agreement and the Institutional Investor Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof, except as expressly provided herein, and supersedes all prior agreements and understandings, discussions, negotiations and communications, written and oral, among the Parties with respect to the subject matter hereof. Notwithstanding the preceding sentence, the Confidentiality Undertaking dated January 27, 2011, and agreed to by the Trustee, BAC HLS, and Gibbs & Bruns LLP on behalf of its clients, shall remain in full force and effect, and the Forbearance Agreement shall remain in full force and effect according to its terms and conditions and Paragraph 7 herein.

32. **Notices**. Any notice or other communication required or permitted under this Settlement Agreement shall be in writing and shall be deemed to have been duly given when (a) mailed by United States registered or certified mail, return receipt requested, (b) mailed by overnight express mail or other nationally recognized overnight or same-day delivery service, or (c) delivered in person, to the parties at the following addresses:

If the Trustee, to:

The Bank of New York Mellon
101 Barclay Street, 8 West
New York, New York 10286

Attention: Loretta A. Lundberg
Managing Director
Corporate Trust Default Services

with a copy to:

The Bank of New York Mellon
One Wall Street
New York, New York 10286

Attention: Jane Sherburne
General Counsel

If Bank of America, to:

Bank of America Corporation
100 N. Tryon Street
Charlotte, NC 28255-0001

Attention: Edward P. O'Keefe
General Counsel
NC1-007-57-25

with a copy to:

Bank of America Corporation
Consumer Real Estate Services Division, Legacy Asset Servicing Unit
Hearst Tower
214 N. Tryon St.
Charlotte, NC 28255

Attention: Jana J. Litsey
Deputy General Counsel
NC1-027-20-05

If Countrywide, to:

Countrywide Home Loans, Inc.
4500 Park Granada
Calabassas, CA 91302

Attention: Michael Schloessman
President

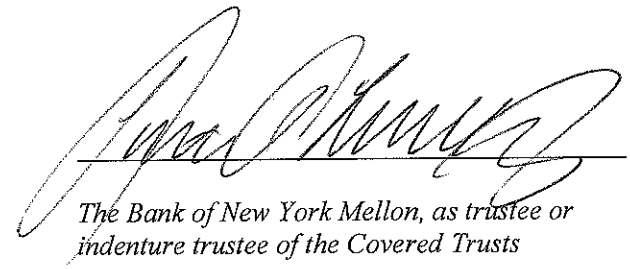
with a copy to

Bank of America Corporation
Consumer Real Estate Services Division, Legacy Asset Servicing Unit
Hearst Tower
214 N. Tryon St.
Charlotte, NC 28255

Attention: Jana J. Litsey
Deputy General Counsel
NC1-027-20-05

A Party may change the names or addresses where notice is to be given to it by providing notice to the other Parties of such change in accordance with this Paragraph 32.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the day and year so indicated.



The Bank of New York Mellon, as trustee or indenture trustee of the Covered Trusts

Name: Loretta A. Lundberg

Title: Managing Director

Dated: June 28, 2011

Countrywide Financial Corporation

Name: Michael Schloessmann

Title: President and CEO

Dated: June 28, 2011

Countrywide Home Loans, Inc.

Name: Michael Schloessmann

Title: President and CEO

Dated: June 28, 2011

Bank of America Corporation

Name: Terrence P. Laughlin

Title: Legacy Asset Servicing Division President,

Dated: June 28, 2011

BAC Home Loans Servicing, LP

Name: Terrence P. Laughlin

Title: Legacy Asset Servicing Division President, Bank of America, N.A.

By: BAC GP, LLC, its general partner

By: Bank of America, N.A., its manager

Dated: June 28, 2011

Exhibit A

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[1] Appears on Bloomberg as CWHL 2005-HY10

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CWHL 2006-J2
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CWHL 2006-J4
CWHL 2006-OA4
CWHL 2006-OA5
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CWHL 2007-1
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CWHL 2007-HY5
CWHL 2007-HY6
CWHL 2007-HY7
CWHL 2007-HYB1
CWHL 2007-HYB2
CWHL 2007-J1
CWHL 2007-J2
CWHL 2007-J3
CWHL 2008-1
CWHL 2004-10
CWHL 2004-4
CWHL 2004-8
CWHL 2004-9
CWHL 2005-15
CWHL 2005-24
CWHL 2005-5
CWHL 2005-6
CWL 2004-1
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CWL 2004-14
CWL 2004-2
CWL 2004-3
CWL 2004-4
CWL 2004-5
CWL 2004-6
CWL 2004-7
CWL 2004-AB2
CWL 2004-BC2
CWL 2004-BC3
CWL 2004-BC4
CWL 2004-BC5
CWL 2004-ECC1
CWL 2004-ECC2
CWL 2004-S1
CWL 2004-SD2
CWL 2004-SD3
CWL 2004-SD4
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CWL 2005-9
CWL 2005-AB1
CWL 2005-AB2
CWL 2005-AB3
CWL 2005-AB4
CWL 2005-AB5
CWL 2005-BC1
CWL 2005-BC2
CWL 2005-BC3
CWL 2005-BC4
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CWL 2005-HYB9[2]
CWL 2005-IM1
CWL 2005-IM2
CWL 2005-IM3
CWL 2005-SD1
CWL 2005-SD2
CWL 2005-SD3
CWL 2006-1
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CWL 2006-16
CWL 2006-17
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CWL 2006-8
CWL 2006-9
CWL 2006-ABC1
CWL 2006-BC1
CWL 2006-BC2
CWL 2006-BC3
CWL 2006-BC4
CWL 2006-BC5
CWL 2006-IM1
CWL 2006-QH1
CWL 2006-SD1
CWL 2006-SD2
CWL 2006-SD3
CWL 2006-SD4
CWL 2006-SPS1
CWL 2006-SPS2
CWL 2007-10
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CWL 2007-7
CWL 2007-8
CWL 2007-9
CWL 2007-BC1
CWL 2007-BC2
CWL 2007-BC3
CWL 2007-SD1
CWL 2007-SEA1
CWL 2007-SEA2
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CWL 2006-22
CWL 2006-23
CWL 2006-26
CWL 2007-1
CWL 2007-13
CWL 2007-2
CWL 2007-4

[2] Appears on Bloomberg as CWHL 2005-HYB9

Exhibit B

Form of Order

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of the application of THE BANK OF NEW YORK MELLON, (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), Petitioner, for an order, pursuant to CPLR § 7701, seeking judicial instructions and approval of a proposed settlement.	Index No. **[PROPOSED] FINAL ORDER AND JUDGMENT**

Petitioner, The Bank of New York Mellon, solely in its capacity as trustee or indenture trustee under 530 mortgage-securitization trusts identified in Exhibit A to the Verified Petition (the "Petitioner" or the "Trustee"), evidenced by 530 separate Pooling and Servicing Agreements ("PSAs") or Indentures and related Sales and Servicing Agreements ("SSAs," and together with the PSAs and Indentures, the "Governing Agreements"), having applied to this Court for an order pursuant to CPLR § 7701 for judicial instructions and approval of a settlement entered into by and among the Trustee, Bank of America Corporation, BAC Home Loans Servicing, LP, Countrywide Financial Corporation, and Countrywide Home Loans, Inc. (the "Settlement"), such Settlement being embodied in the settlement agreement, dated June 28, 2011 (the "Settlement Agreement") attached to the Verified Petition herein and attached hereto as Exhibit A; and

UPON reading and filing the Verified Petition and the exhibits thereto; the Affirmation of Matthew D. Ingber, counsel to the Trustee, in support of the Verified Petition, dated June 28, 2011 (the "Ingber Affirmation"); The Bank of New York Mellon's Memorandum of Law In Support of Its Verified Petition Seeking Judicial Instructions and Approval of a Proposed Settlement, dated June 28, 2011; all answers, objections, or other responses filed in response to the Verified Petition; all papers filed in response to those answers, objections, or responses; and upon all prior proceedings and pleadings heretofore had; and

UPON this Court having rendered its decision (the "Decision") on _____, 2011, which Decision is attached hereto as Exhibit B; and

UPON the Decision with notice of entry (attached hereto as Exhibit C) having been served upon all parties on _____, 2011;

NOW, it is hereby ORDERED, ADJUDGED, and DECREED that:

a) For purposes of this Final Order and Judgment, the Court adopts all defined terms set forth in the Settlement Agreement. Capitalized terms used herein, unless otherwise defined, shall have the meanings set forth in the Settlement Agreement.

b) The Court has jurisdiction over the subject matter of this Article 77 Proceeding. The Court has jurisdiction over the Petitioner, the Covered Trusts, and all certificateholders and noteholders of the Covered Trusts (the "Trust Beneficiaries") with respect to the matters determined herein. (As used herein, "Trust Beneficiaries" shall have the same meaning as "Investors" under the Settlement Agreement.)

c) The form and the method of dissemination of notice (the "Notice"), as described in and as previously approved by the Court's Order dated _____, 2011 (the "Preliminary Order"), provided the best notice practicable under the circumstances and was reasonably calculated to put interested parties on notice of this action. The Preliminary Order provided, *inter alia*, for the Notice to be provided by a combination of individual notice, notice by publication in specified publications, notice through the Depository Trust Company, advertising on the internet, and notice through a website created and maintained by the Trustee for the Article 77 Proceeding. The Petitioner has submitted evidence establishing its compliance with reasonable diligence with the Preliminary Order. The Court finds that the Notice was provided in accordance with the provisions of the Preliminary Order.

d) The Notice provided due and adequate notice of these proceedings and the matters set forth herein, including the Settlement and the Court's consideration of the actions of the Trustee in entering into the Settlement Agreement, to all persons entitled to such notice, including the Potentially Interested Persons identified in paragraph 6 of the Ingber Affirmation, including the Trust Beneficiaries, and the Notice fully satisfied the requirements of New York law, federal and state due process requirements and the requirements of other applicable law.

e) A full and fair opportunity has been offered to all Potentially Interested Persons, including the Trust Beneficiaries, to make their views known to the Court, to object to the Settlement and to the approval of the actions of the

Trustee in entering into the Settlement Agreement, and to participate in the hearing thereon. Accordingly, the Covered Trusts, all Trust Beneficiaries, and their successors-in-interest and assigns, and any Persons claiming by, through, or on behalf of any of the Trustee, the Trust Beneficiaries, or the Covered Trusts or under the Governing Agreements are bound by this Final Order and Judgment.

f) The Trustee has the authority, pursuant to the Governing Agreements and applicable law: (i) to assert, abandon, or compromise the Trust Released Claims, and (ii) to enter into the Settlement Agreement on behalf of all Trust Beneficiaries, the Covered Trusts, and any Persons claiming by, through, or on behalf of any of the Trustee, the Trust Beneficiaries, or the Covered Trusts or under the Governing Agreements.

g) Pursuant to the Governing Agreements and applicable law, the decision whether to enter into the Settlement Agreement on behalf of all Trust Beneficiaries, the Covered Trusts, and any Persons claiming by, through, or on behalf of any of the Trustee, the Trust Beneficiaries, or the Covered Trusts or under the Governing Agreements is a matter within the Trustee's discretion.

h) The Settlement Agreement is the result of factual and legal investigation by the Trustee, and is supported by the Institutional Investors.

i) The Trustee appropriately evaluated the terms, benefits, and consequences of the Settlement and the strengths and weaknesses of the claims being settled. In that regard, the Trustee appropriately considered the claims made and

positions presented by the Institutional Investors, Bank of America, and Countrywide relating to the Trust Released Claims in considering whether to enter into the Settlement Agreement.

j) The arm's-length negotiations that led to the Settlement Agreement and the Trustee's deliberations appropriately focused on the strengths and weaknesses of the Trust Released Claims, the alternatives available or potentially available to pursue remedies for the benefit of the Trust Beneficiaries, and the terms of the Settlement.

k) The Trustee acted in good faith, within its discretion, and within the bounds of reasonableness in determining that the Settlement Agreement was in the best interests of the Covered Trusts.

l) Pursuant to CPLR § 7701, the Court hereby approves the actions of the Trustee in entering into the Settlement Agreement in all respects.

m) The Parties are directed to consummate the Settlement in accordance with its terms and conditions, and the Settlement is hereby approved by the Court in all respects.

n) The Settlement Agreement is hereby approved in all respects, and is fully enforceable in all respects. The release in the Settlement Agreement provides as follows:

> **9. <u>Release</u>.**
>
> (a) Effective as of the Approval Date, except as set forth in Paragraph 10 [of the Settlement Agreement], the Trustee on behalf of itself and all Investors, the Covered Trusts, and/or any Persons claiming by, through, or on behalf of any of the Trustee, the Investors, or the Covered Trusts or under the Governing Agreements (collectively, the Trustee, Investors, Covered Trusts, and such Persons being defined together as the "Precluded Persons"),

irrevocably and unconditionally grants a full, final, and complete release, waiver, and discharge of all alleged or actual claims, counterclaims, defenses, rights of setoff, rights of rescission, liens, disputes, liabilities, Losses, debts, costs, expenses, obligations, demands, claims for accountings or audits, alleged Events of Default, damages, rights, and causes of action of any kind or nature whatsoever, whether asserted or unasserted, known or unknown, suspected or unsuspected, fixed or contingent, in contract, tort, or otherwise, secured or unsecured, accrued or unaccrued, whether direct, derivative, or brought in any other capacity that the Precluded Persons may now or may hereafter have against any or all of the Bank of America Parties and/or Countrywide Parties arising out of or relating to (i) the origination, sale, or delivery of Mortgage Loans to the Covered Trusts, including the representations and warranties in connection with the origination, sale, or delivery of Mortgage Loans to the Covered Trusts or any alleged obligation of any Bank of America Party and/or Countrywide Party to repurchase or otherwise compensate the Covered Trusts for any Mortgage Loan on the basis of any representations or warranties or otherwise or failure to cure any alleged breaches of representations and warranties, including all claims arising in any way from or under Section 2.03 ("Representations, Warranties and Covenants of the Sellers and Master Servicer")[1] of the Governing Agreements, (ii) the documentation of the Mortgage Loans held by the Covered Trusts (including the documents and instruments covered in Sections 2.01 ("Conveyance of Mortgage Loans") and 2.02 ("Acceptance by the Trustee of the Mortgage Loans") of the Governing Agreements and the Mortgage Files) including with respect to alleged defective, incomplete or non-existent documentation, as well as issues arising out of or relating to recordation, title, assignment, or any other matter relating to legal enforceability of a Mortgage or Mortgage Note, and (iii) the servicing of the Mortgage Loans held by the Covered Trusts (including any claim relating to the timing of collection efforts or foreclosure efforts, loss mitigation, transfers to subservicers, Advances, Servicing Advances, or that servicing includes an obligation to take any action or provide any notice towards, or with respect to, the possible repurchase of Mortgage Loans by the Master Servicer, Seller, or any other Person), in all cases prior to or after the Approval Date (collectively, all such claims being defined as the "Trust Released Claims").

(b) The Trust Released Claims shall also be deemed to have been released as of the Approval Date to the full and same extent by the Master Servicer of the Covered Trusts (including the current Master Servicer, BAC HLS, and any subsequent servicer who may in the future be substituted for the current Master Servicer with respect to one or more of the Covered Trusts or any loans therein) and the Master Servicer shall be deemed to be a Precluded Person.

[1] Which provision is numbered 2.04 in the Sale and Servicing Agreements relating to CWHEQ 2006-A and CWHEQ 2007-G.

(c) The release and waiver in Subparagraphs 9(a) and 9(b) [of the Settlement Agreement] is intended to include, and upon its effectiveness shall include, any claims or contentions that Bank of America or any non-Countrywide affiliate, division, or subsidiary of Bank of America, and any of the predecessors or assigns thereof, is liable on any theory of successor liability, vicarious liability, veil piercing, de facto merger, fraudulent conveyance, or other similar claim or theory for the obligations, exposure, or liability of Countrywide or any of its affiliates, divisions, or subsidiaries, and any of the predecessors or assigns thereof concerning any of the Covered Trusts, with respect to the Trust Released Claims.

10. Claims Not Released.

(a) Administration of the Mortgage Loans. The release and waiver in Paragraph 9 [of the Settlement Agreement] does not include claims based solely on the action, inaction, or practices of the Master Servicer in its aggregation and remittance of Mortgage Loan payments, accounting for principal and interest, and preparation of tax-related information in connection with the Mortgage Loans and the ministerial operation and administration of the Covered Trusts and of the Mortgage Loans held by the Covered Trusts for which the Master Servicer receives servicing fees unless, as of the Signing Date, the Trustee has or should have knowledge of the actions, inactions or practices of the Master Servicer in connection with such matters.

(b) Servicing of the Mortgage Loans. Except as provided in Subparagraph 10(a) [of the Settlement Agreement], the release and waiver in Paragraph 9 [of the Settlement Agreement] includes: (i) all claims based in whole or in part on any actions, inactions, or practices of the Master Servicer prior to the Approval Date as to the servicing of the Mortgage Loans held by the Covered Trusts; and (ii) as to all actions, inactions, or practices by the Master Servicer after the Approval Date, only (A) actions, inactions, and practices that relate to the aspects of servicing addressed in whole or in part by the provisions of Paragraph 5 [of the Settlement Agreement] (material compliance with which shall satisfy the Master Servicer's obligation to service the Mortgage Loans prudently in accordance with all relevant sections of the Governing Agreements) and (B) actions, inactions, or practices that relate to the aspects of servicing not addressed by the provisions of Paragraph 5 [of the Settlement Agreement] that are consistent with (or improvements over) the Master Servicer's course of conduct prior to the Signing Date. It is further understood and agreed that Investors may pursue such remedies as are available under Section 10.08 ("Limitation on Rights of Certificateholders") of the Governing Agreements with respect to an Event of Default as to any servicing claims not released by this Settlement.

(c) Certain Individual Investor Claims. The release and waiver in Paragraph 9 [of the Settlement Agreement] does not include any direct claims held by Investors or their clients that do not seek to enforce any rights under the terms of the Governing Agreements but rather are based on disclosures made (or failed to be made) in connection with their decision to purchase, sell, or hold securities issued by any Covered Trust, including claims under the securities or anti-fraud laws of the United States or of any state; provided, however, that the question of the extent to which any payment made or benefit conferred pursuant to this Settlement Agreement may constitute an offset or credit against, or a reduction in the gross amount of, any such claim shall be determined in the action in which such claim is raised, and the Parties reserve all rights with respect to the position they may take on that question in those actions and acknowledge that all other Persons similarly reserve such rights.

(d) Financial-Guaranty Provider Rights and Obligations. To the extent that any third-party guarantor or financial-guaranty provider with respect to any Covered Trust has rights or obligations independent of the rights or obligations of the Investors, the Trustee, or the Covered Trusts, the release and waiver in Paragraph 9 [of the Settlement Agreement] is not intended to and shall not release such rights, or impair or diminish in any respect such obligations or any insurance or indemnity obligations owed by or to such Person.

(e) Indemnification Rights. The Parties do not release any rights to indemnification under the Governing Agreements including the Trustee's right to indemnification by the Master Servicer of the Covered Trusts.

(f) Settlement Agreement Rights. The Parties do not release any rights or claims against each other to enforce the terms of this Settlement Agreement.

(g) Excluded Covered Trusts. The release and waiver in Paragraph 9 [of the Settlement Agreement] does not include claims with respect to any Excluded Covered Trust.

o) The Trustee, all Trust Beneficiaries, the Covered Trusts, and any Persons claiming by, through, or on behalf of any of the Trustee, the Trust Beneficiaries, or the Covered Trusts or under the Governing Agreements, and each of their heirs, executors, administrators, successors-in-interest, and assigns, are hereby: (i) permanently barred and enjoined from instituting, commencing, or prosecuting, either directly, derivatively, or in any other

capacity, any suit, proceeding, or other action asserting any of the Trust Released Claims, against any or all of the Bank of America Parties and/or the Countrywide Parties; (ii) conclusively determined to have fully, finally, and forever compromised, settled, released, relinquished, discharged, and dismissed with prejudice and on the merits the Trust Released Claims; and (iii) permanently barred and enjoined from knowingly assisting in any way any third party in instituting, commencing, or prosecuting any suit against any or all of the Bank of America Parties and/or the Countrywide Parties asserting any of the Trust Released Claims. These provisions shall also be deemed to apply to the full and same extent to the Master Servicer of the Covered Trusts (including the current Master Servicer, BAC HLS, and any subsequent servicer who may in the future be substituted for the current Master Servicer with respect to one or more of the Covered Trusts or any loans therein).

p) All Trust Beneficiaries and each of their heirs, executors, administrators, successors-in-interest, and assigns, and the Bank of America Parties and the Countrywide Parties and each of their respective heirs, executors, administrators, successors-in-interest, and assigns, are hereby permanently barred and enjoined from instituting, commencing, or prosecuting, either directly, derivatively, or in any other capacity, any suit, proceeding, or other action asserting against the Trustee any claims arising from or in connection with the Trustee's entry into the Settlement, including but not limited to the Trustee's participation in negotiations regarding the Settlement, the Trustee's analysis of the Settlement, the filing by the Trustee of any petition in

connection with the Settlement, the provision of notices concerning the Settlement to Potentially Interested Persons, and any further actions by the Trustee in support of the Settlement, including the response by the Trustee to any objections to the Settlement and any implementation of the Settlement by the Trustee; provided, however, that nothing herein precludes any Party from asserting any claims arising out of a breach of the Settlement Agreement.

q) With the exception of prosecuting any appeals directly from this Final Order and Judgment, all Trust Beneficiaries, the Covered Trusts, and any Persons claiming by, through, or on behalf of any of the Trustee, the Trust Beneficiaries, or the Covered Trusts or under the Governing Agreements, and each of their heirs, executors, administrators, successors-in-interest, and assigns, are hereby permanently barred and enjoined from instituting, commencing, asserting, or prosecuting, either directly, derivatively, or in any other capacity, any claim or objection challenging this Final Order and Judgment, the actions of the Trustee in entering into the Settlement Agreement or this Article 77 Proceeding.

r) The Trustee will not, by virtue of actions taken in seeking, or pursuant to, any orders in this proceeding or this Final Order and Judgment, impair the rights it has under the applicable Governing Agreements to be compensated for the fees and expenses it incurs in discharging its duties as Trustee.

s) None of the Bank of America Parties, the Countrywide Parties, the Institutional Investors, or the Trustee shall have any liability (including under any indemnification obligation provided for in any Governing Agreement,

including as clarified by the side-letter that is Exhibit C to the Settlement Agreement) to each other, the Trust Beneficiaries, the Covered Trusts, or any other Person arising out of the determination, administration, or distribution (including distribution within each Covered Trust) of the Allocable Shares pursuant to the Settlement or incurred by reason of any tax consequences of the Settlement.

t) All objections to the Settlement have been considered and are overruled and denied in all respects.

u) Without affecting the finality of this Final Order and Judgment in any respect, the Court hereby retains exclusive jurisdiction over the Petitioner, the Covered Trusts, and all Trust Beneficiaries (whether past, present, or future) for all matters relating to the Settlement and this Article 77 Proceeding, including the administration, interpretation, effectuation, or enforcement of the Settlement Agreement and this Final Order and Judgment.

v) There is no just reason for delay in the entry of this Final Order and Judgment and immediate entry by the Clerk of the Court is expressly directed.

Judgment entered on this _____ day of ___, 2011.

ENTER

_____
JSC

_____
CLERK OF THE COURT

Exhibit C

BAC Home Loans Servicing, LP
6400 Legacy Drive
Plano, TX 75024

June 28, 2011

The Bank of New York Mellon, as Trustee or Indenture Trustee
101 Barclay Street
New York, New York 10286
Attn: Mortgage-Backed Securities Group

Ladies and Gentlemen:

Re: Pooling and Servicing Agreements and Sale and Servicing Agreements

We refer to the Pooling and Servicing Agreements (the "PSAs") and Sale and Servicing Agreements (the "SSAs" and together with the PSAs, the "Sale Agreements"), as applicable, for the transactions identified on Exhibit 1 hereto, each, in PSAs, among the Depositor thereunder, the Sellers thereunder, BAC Home Loans Servicing, LP (f/k/a Countrywide Home Loans Servicing, LP), as Master Servicer (the "Master Servicer") and The Bank of New York Mellon (f/k/a The Bank of New York), as trustee (or, in the case of SSAs, the indenture trustee, together the "Trustee") and each, in SSAs, among the Depositor thereunder, BAC Home Loans Servicing, LP (f/k/a Countrywide Home Loans Servicing, LP), as Sponsor and Master Servicer, the Trust thereunder and the Trustee. We also refer to the Guaranty of Bank of America Corporation, dated as of June 28, 2011, attached hereto as Exhibit 2 (the "Guaranty"). Capitalized terms used but not defined in this letter have the meanings specified in the Sale Agreements.

Section 8.05 (*Trustee's Fees and Expenses*) of each PSA and Section 7.03 (*Master Servicer to pay Indenture Trustee's and Owner Trustee's Fees and Expenses*) of each SSA (together, the "Indemnity") each provide, in part, that "The Trustee and any director, officer, employee or agent of the Trustee shall be indemnified by the Master Servicer and held harmless against any loss, liability or expense (including reasonable attorneys fees) (i) incurred in connection with any claim or legal action relating to (a) [the Sale Agreement], (b) the [applicable securities] or (c) in connection with the performance of any of the Trustee's duties [under the Sale Agreement], other than any loss, liability or expense incurred by reason of willful malfeasance, bad faith or negligence in the performance of any of the Trustee's duties hereunder . . . ." Certain Sale Agreements also exclude from the scope of the Indemnity "any loss, liability or expense incurred . . . by reason of any action of the Trustee taken at the direction of the [investors]."[1]

[1] We note that the language referenced in this letter may vary in certain ways in the Sale Agreements. Notwithstanding such variances, we intend this letter to apply, with same effect, to all the Sale Agreements for the transactions identified on Exhibit 1 hereto, except if such variances are material, in which case the parties hereto will consider in good faith how to implement the intent of this letter to such variances if the need arises.

We confirm that we view any actions taken by the Trustee in connection with its entry into the settlement in respect of Mortgage Loan repurchase and other alleged claims against the Sellers and Master Servicer relating to the transactions identified on Exhibit 1 hereto (the "Settlement"), including but not limited to the Trustee's participation in settlement negotiations, the Trustee's analysis of the Settlement, the filing by the Trustee of any petition in connection with the Settlement, the provision of notices concerning the Settlement to interested parties (including investors), and any further actions by the Trustee in support of the Settlement, including the response by the Trustee to any objections to the Settlement and any implementation of the Settlement by the Trustee (such actions together being the "Trustee Settlement Activities") as being actions that, for purposes of the Indemnity, relate to the Sale Agreements, the applicable securities, or the performance of the Trustee's duties under the Sale Agreements. We also confirm that the manner of entering into the Settlement or undertaking the activities to prepare therefor or contemplated thereby will not serve to disqualify the Trustee from receiving the benefits of the Indemnity or the Guaranty.

We also confirm that we view the Institutional Investor Agreement and any letter or other correspondence from the investors or their counsel which requests that the Trustee take the Trustee Settlement Activities, or any portion thereof, as not being the equivalent of a direction from the investors for purposes of the Indemnity. We further confirm that neither the receipt by the Trustee of any such letter or other correspondence nor the entry by the Trustee into the Institutional Investor Agreement will disqualify the Trustee from receiving the benefit of either the Indemnity or the Guaranty.

Finally, we note that the Indemnity also provides, with certain exceptions expressly provided for, that "the Master Servicer covenants and agrees . . . to pay or reimburse the Trustee for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of [the Sale Agreement] with respect to (A) the reasonable compensation and the expenses and disbursements of its counsel not associated with the closing of the issuance of the [applicable securities], (B) the reasonable compensation, expenses and disbursements of any accountant, engineer or appraiser that is not regularly employed by the Trustee, to the extent that the Trustee must engage such persons to perform acts or services [under the Sale Agreement] and (C) printing and engraving expenses in connection with preparing any Definitive [securities]."[2] We confirm that we view reasonable expenses, disbursements and advances otherwise within the Indemnity, if incurred or made by the Trustee in connection with the Trustee Settlement Activities, as being reimbursable by the Master Servicer under the Indemnity.

Without limiting any of the foregoing, we confirm that following the entry by the Trustee into the Settlement, Bank of America Corporation, BAC Home Loans Servicing, LP, Countrywide Financial Corporation and/or Countrywide Home Loans, Inc. shall pay the reasonable fees and expenses of the Trustee for Trustee Settlement Activities (including its reasonable attorneys' fees and expenses) on a current and ongoing basis (including all accrued

[2] We note that the language referenced in this letter may vary in certain ways in the Sale Agreements. Notwithstanding such variances, we intend this letter to apply, with same effect, to all the Sale Agreements for the transactions identified on Exhibit 1 hereto, except if such variances are material, in which case the parties hereto will consider in good faith how to implement the intent of this letter to such variances if the need arises.

and unpaid fees and expenses as of the date hereof, which shall be paid in full no later than 15 days from the execution of the Settlement).

Except as noted above, nothing herein is intended to limit, modify, supersede, or in any way affect any exceptions to the liability of the Master Servicer under the Indemnity that are based on the conduct of the Trustee. It is understood and agreed that the Indemnity does not cover any loss or liability incurred by reason of any tax consequences of the Settlement or arising out of the determination, administration or distribution (including distribution within each Covered Trust) of the Allocable Shares pursuant to the Settlement, which the Final Order and Judgment to be entered with respect to the Settlement shall provide shall not give rise to liability on the part of the BNYM Parties, the Bank of America Parties or the Countrywide Parties (all as defined in the Settlement Agreement). Nothing herein is intended to limit, modify, or in any way affect the limitations on the liability of the Master Servicer under Section 6.03 (*Limitation on Liability of the Depositor, the Sellers, the Master Servicer and Others*) of each PSA and Section 5.03 (*Limitation on Liability of the Seller, the Master Servicer and Others*) of each SSA.

Please acknowledge your agreement by countersigning this letter in the space provided below and returning a copy to us.

Sincerely,

BAC HOME LOANS SERVICING, L.P.

By: Terrence P. Laughlin
Name: Terrence P. Laughlin
Title: Legacy Asset Servicing
Division President,
Bank of America, N.A.
By: BAC GP, LLC, its general partner
By: Bank of America, N.A., its manager

Accepted and Agreed:

BANK OF AMERICA CORPORATION

By: _____
Name: Terrence P. Laughlin
Title: Legacy Asset Servicing Division President.

THE BANK OF NEW YORK MELLON

By: _____
Name:
Title:

Accepted and Agreed:

BANK OF AMERICA CORPORATION

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON

By: _____
Name: Loretta A. Lundberg
Title: Managing Director

Exhibit 1 to Letter

Exhibit 1

CWALT 2004-10CB	CWALT 2005-17	CWALT 2005-63	CWALT 2006-18CB
CWALT 2004-12CB	CWALT 2005-18CB	CWALT 2005-64CB	CWALT 2006-19CB
CWALT 2004-13CB	CWALT 2005-1CB	CWALT 2005-65CB	CWALT 2006-20CB
CWALT 2004-14T2	CWALT 2005-2	CWALT 2005-66	CWALT 2006-21CB
CWALT 2004-15	CWALT 2005-20CB	CWALT 2005-67CB	CWALT 2006-23CB
CWALT 2004-16CB	CWALT 2005-21CB	CWALT 2005-69	CWALT 2006-24CB
CWALT 2004-17CB	CWALT 2005-23CB	CWALT 2005-6CB	CWALT 2006-25CB
CWALT 2004-18CB	CWALT 2005-24	CWALT 2005-70CB	CWALT 2006-26CB
CWALT 2004-20T1	CWALT 2005-25T1	CWALT 2005-71	CWALT 2006-27CB
CWALT 2004-22CB	CWALT 2005-26CB	CWALT 2005-72	CWALT 2006-28CB
CWALT 2004-24CB	CWALT 2005-27	CWALT 2005-73CB	CWALT 2006-29T1
CWALT 2004-25CB	CWALT 2005-28CB	CWALT 2005-74T1	CWALT 2006-2CB
CWALT 2004-26T1	CWALT 2005-29CB	CWALT 2005-75CB	CWALT 2006-30T1
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[1] Appears on Bloomberg as CWHL 2005-HY10

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CWL 2007-4

[2] Appears on Bloomberg as CWHL 2005-HYB9

Exhibit 2 to Letter

GUARANTY

This GUARANTY (as amended, supplemented, amended and restated or otherwise modified from time to time, this "Guaranty"), dated as of June 28, 2011, is made by BANK OF AMERICA CORPORATION (the "Guarantor"), in favor of THE BANK OF NEW YORK MELLON (f/k/a THE BANK OF NEW YORK) (the "Guaranteed Party").

W I T N E S S E T H:

WHEREAS, pursuant to the Pooling and Servicing Agreements and Sale and Servicing Agreements for the transactions identified on Exhibit 1 hereto (together the "Sale Agreements," and each a "Sale Agreement"), each, in Pooling and Servicing Agreements, among the Depositor thereunder, the Sellers thereunder, BAC Home Loans Servicing, L.P. (f/k/a Countrywide Home Loans Servicing, L.P.), as Master Servicer (the "Master Servicer") and the Guaranteed Party, as Trustee, and each, in Sale and Servicing Agreements, among the Depositor thereunder, BAC Home Loans Servicing, L.P. (f/k/a Countrywide Home Loans Servicing, L.P.), as Sponsor and Master Servicer, the Trust thereunder and the Guaranteed Party, as Indenture Trustee, the Master Servicer agreed to indemnify the Guaranteed Party in respect of certain losses, liabilities and expenses that might be incurred by the Guaranteed Party thereunder; and

WHEREAS, in connection with the activities of the Guaranteed Party that relate to the settlement of Mortgage Loan repurchase and other claims now or hereafter arising against the Sellers and/or the Master Servicer relating to the transactions identified on Exhibit 1 hereto (the "Settlement"), the Guarantor has agreed to execute and deliver this Guaranty.

NOW THEREFORE, for good and valuable consideration the receipt of which is hereby acknowledged, the Guarantor agrees, for the benefit of the Guaranteed Party, as follows.

ARTICLE I
DEFINITIONS

SECTION 1.1. Certain Terms. The following terms (whether or not underscored) when used in this Guaranty, including its preamble and recitals, shall have the following meanings (such definitions to be equally applicable to the singular and plural forms thereof):

"Guaranteed Party" is defined in the preamble.

"Guarantor" is defined in the preamble.

"Guaranty" is defined in the preamble.

"Master Servicer" is defined in the first recital.

"Material Adverse Effect" means a material adverse effect on (i) the business, assets, operations, prospects or condition, financial or otherwise, of the Guarantor or (ii) the ability of the Guarantor to perform any of its obligations under this Guaranty.

"Obligations" means the payment obligations of the Master Servicer, whether now or hereafter arising, direct or indirect, absolute or contingent, under any Sale Agreement, in accordance with the terms and conditions thereof, to indemnify, hold harmless or otherwise reimburse the Guaranteed Party against certain losses, liabilities or expenses that may arise in connection with the Settlement.

"Parties" means the Guarantor and the Guaranteed Party.

"Sale Agreement" is defined in the first recital.

"Settlement" is defined in the second recital.

SECTION 1.2. Sale Agreement Definitions. Unless otherwise defined herein or the context otherwise requires, terms used in this Guaranty, including its preamble and recitals, have the meanings provided in each applicable Sale Agreement solely with regard to that Sale Agreement (and not the other Sale Agreements).

ARTICLE II
GUARANTY PROVISIONS

SECTION 2.1. Guaranty. The Guarantor hereby absolutely, unconditionally and irrevocably guarantees the full and punctual payment when due of all existing and future Obligations and indemnifies and holds harmless the Guaranteed Party for any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Guaranteed Party in enforcing any rights under this Guaranty. This Guaranty constitutes a guaranty of payment when due and not of collection, and the Guarantor specifically agrees that it shall not be necessary or required that the Guaranteed Party exercise any right, assert any claim or demand or enforce any remedy whatsoever against the Master Servicer or any other Person before or as a condition to the obligations of the Guarantor hereunder.

SECTION 2.2. Reinstatement, etc. The Guarantor hereby agrees that this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations is invalidated, declared to be fraudulent or preferential, set aside, rescinded or must otherwise be restored by the Guaranteed Party as though such payment had not been made.

SECTION 2.3. Guaranty Absolute, etc. This Guaranty shall in all respects be a continuing, absolute, unconditional and irrevocable guaranty of payment, and shall remain in full force and effect until the Obligations shall have been paid in full in cash and the Master Servicer shall have no further obligation under any Sale Agreement to indemnify, hold harmless or otherwise reimburse the Guaranteed Party. The Guarantor guarantees that the Obligations of the Master Servicer will be paid strictly in accordance with the terms of each Sale Agreement under which they arise. The liability of the Guarantor under this Guaranty shall be absolute, unconditional and irrevocable irrespective of:

(a) any lack of validity, legality or enforceability of the Obligations;

(b) whether or not the Settlement is ever finally approved or consummated;

(c) the failure of the Guaranteed Party (i) to assert any claim or demand or to enforce any right or remedy against the Master Servicer or any other Person under the provisions of any Sale Agreement or otherwise, or (ii) to exercise any right or remedy against any other guarantor of, or collateral securing, any Obligations;

(d) any amendment to, rescission, waiver or other modification of, or any consent to or departure from, any of the terms of any Sale Agreement; or

(e) any other circumstance (other than payment of the Obligations in full in cash) which might otherwise constitute a legal or equitable discharge of any surety or any guarantor.

SECTION 2.4. Waiver, etc. The Guarantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Obligations and this Guaranty and any requirement that the Guaranteed Party exhaust any right or take any action against the Master Servicer or any other Person (including any other guarantor) or entity or any collateral securing the Obligations, as the case may be.

SECTION 2.5. Postponement of Subrogation, etc. The Guarantor agrees that it will not exercise any rights which it may acquire by way of rights of subrogation until all of the Obligations shall have been paid in full in cash and the Master Servicer shall have no further obligation under any Sale Agreement to indemnify, hold harmless or otherwise reimburse the Guaranteed Party in respect of the Obligations. Any amount paid to the Guarantor on account of any such subrogation right in violation of the foregoing limitation shall be held in trust for the benefit of the Guaranteed Party and shall immediately be paid and turned-over to the Guaranteed Party in the exact form received by the Guarantor (duly endorsed in favor of the Guaranteed Party, if required) to be credited and applied against the Obligations.

SECTION 2.6. Payments. The Guarantor hereby agrees with the Guaranteed Party that all payments made by the Guarantor hereunder will be made in lawful currency of the United States to the Guaranteed Party, without set-off, counterclaim or other defense (other than that payment is not due) and without withholding or deduction for or on account of any present or future taxes, duties or other charges, unless the withholding or deduction of such taxes or duties is required by law.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

SECTION 3.1. Representations. The Guarantor hereby represents and warrants to the Guaranteed Party as set forth below.

(a) The Guarantor is a corporation incorporated under the laws of the State of Delaware, duly organized or formed, validly existing and in good standing and is duly qualified to do business, and is in good standing in, every jurisdiction in which the nature

of its business requires it to be so qualified, except where the failure to be so qualified would not reasonably be expected to have a Material Adverse Effect. This Guaranty has been duly authorized, executed and delivered by the Guarantor;

(b) the execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary organizational action and do not contravene any provision of (i) the Guarantor's organizational documents, (ii) any law, rule or regulation, (iii) any contractual restriction binding on Guarantor or its property or (iv) any order, writ, judgment, award, injunction or decree binding on or affecting the Guarantor or its property, except in the case of the foregoing clauses (ii) through (iv), where such contravention would not reasonably be expected to have a Material Adverse Effect and would not reasonably be expected to impose any liability on the Guaranteed Party;

(c) all consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, except where the failure to so obtain such consents, licenses, clearances, authorizations and approvals, registration or declarations or to satisfy the conditions thereof would not reasonably be expected to have a Material Adverse Effect, and no other action by, and, except as contemplated herein, no notice to or filing with any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guaranty; and

(d) this Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject to general principles of equity and applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally.

ARTICLE IV
MISCELLANEOUS PROVISIONS

SECTION 4.1. Binding on Successors, Transferees and Assigns; Assignment. This Guaranty shall be binding upon the Guarantor and its successors, transferees and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and its successors, transferees and assigns.

SECTION 4.2. Amendments, etc. No amendment to or waiver of any provision of this Guaranty, nor consent to any departure by the Guarantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Guaranteed Party and the Guarantor and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 4.3. Notices. All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, telecopied or delivered to the Guarantor, attention Edward P. O'Keefe, General Counsel, Bank of America Corporation, at

100 N. Tryon Street, Charlotte, North Carolina 28255-0001, or, if such notice or communication is to the Guaranteed Party, attention Jane Sherburne, General Counsel, The Bank of New York Mellon, at One Wall Street, New York, New York 10286. All such notices and other communications, when mailed and properly addressed with postage prepaid or if properly addressed and sent by pre-paid courier service, shall be deemed given when received; any such notice or communication, if transmitted by facsimile, shall be deemed given when the confirmation of transmission thereof is received by the transmitter.

SECTION 4.4. No Waiver; Remedies. In addition to, and not in limitation of, Section 2.3 and Section 2.4, no failure on the part of the Guaranteed Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 4.5. Captions. Section captions used in this Guaranty are for convenience of reference only, and shall not affect the construction of this Guaranty.

SECTION 4.6. Severability. Wherever possible each provision of this Guaranty shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

SECTION 4.7. Governing Law, Entire Agreement, etc. **THIS GUARANTY SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING FOR SUCH PURPOSE SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK). THIS GUARANTY CONSTITUTES THE ENTIRE UNDERSTANDING AMONG THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDES ANY PRIOR AGREEMENTS, WRITTEN OR ORAL, WITH RESPECT THERETO.**

SECTION 4.8. Forum Selection and Consent to Jurisdiction. **ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE GUARANTEED PARTY OR THE GUARANTOR SHALL BE BROUGHT AND MAINTAINED IN THE COURTS OF THE STATE OF NEW YORK, NEW YORK COUNTY OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. EACH PARTY HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK, NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE. EACH PARTY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN**

OR WITHOUT THE STATE OF NEW YORK TO THE INDIVIDUAL DESIGNATED TO RECEIVE NOTICES UNDER SECTION 4.3. EACH PARTY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, SUCH PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY.

SECTION 4.9. Counterparts, etc. This Guaranty may be executed by the Parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement. A copy of this Guaranty executed and delivered by facsimile or in electronic form, including as a PDF file, shall be effective as delivery of an originally executed counterpart of this Guaranty.

SECTION 4.10. Counsel Representation. **EACH PARTY ACKNOWLEDGES AND AGREES THAT IT HAS BEEN REPRESENTED BY COMPETENT COUNSEL IN THE NEGOTIATION OF THIS GUARANTY, AND THAT ANY RULE OR CONSTRUCTION OF LAW ENABLING ANY PARTY TO ASSERT THAT ANY AMBIGUITIES OR INCONSISTENCIES IN THE DRAFTING OR PREPARATION OF THE TERMS OF THIS GUARANTY SHOULD DIMINISH ANY RIGHTS OR REMEDIES OF THE OTHER PARTY ARE HEREBY WAIVED.**

SECTION 4.11. Waiver of Jury Trial. **EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTY OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE OTHER PARTY. EACH PARTY ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION.**

IN WITNESS WHEREOF, this Guaranty has been duly executed and delivered by the Guarantor to the Guaranteed Party as of the date first above written.

BANK OF AMERICA CORPORATION

By: _____
Title: Legacy Asset Servicing Division President

ACCEPTED AND AGREED:

THE BANK OF NEW YORK MELLON

By: _____
Title:

IN WITNESS WHEREOF, this Guaranty has been duly executed and delivered by the Guarantor to the Guaranteed Party as of the date first above written.

BANK OF AMERICA CORPORATION

By:_____
Title:

ACCEPTED AND AGREED:

THE BANK OF NEW YORK MELLON

By:_____
Title: Loretta A Lundberg
Managing Director

Exhibit 1 to Guaranty

Exhibit 1

CWALT 2004-10CB	CWALT 2005-17	CWALT 2005-63	CWALT 2006-18CB
CWALT 2004-12CB	CWALT 2005-18CB	CWALT 2005-64CB	CWALT 2006-19CB
CWALT 2004-13CB	CWALT 2005-1CB	CWALT 2005-65CB	CWALT 2006-20CB
CWALT 2004-14T2	CWALT 2005-2	CWALT 2005-66	CWALT 2006-21CB
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CWALT 2004-16CB	CWALT 2005-21CB	CWALT 2005-69	CWALT 2006-24CB
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CWALT 2004-28CB	CWALT 2005-31	CWALT 2005-77T1	CWALT 2006-32CB
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[1] Appears on Bloomberg as CWHL 2005-HY10

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CWL 2007-4

[2] Appears on Bloomberg as CWHL 2005-HYB9

Exhibit D

Grounds for Trustee's Objection to Selected Subservicers

- Is not approved as a servicer by one or more of FNMA, FHLMC, or GNMA (for the avoidance of doubt, there can be no objection on this ground if a subservicer is approved as a servicer by any one of FNMA, FHLMC, or GNMA);
- Does not have appropriate and adequate core infrastructure (staff, facilities and technology) to accommodate incremental volume;
- Does not have a demonstrated ability to scale out effectively loan volumes in the magnitude of loans transfer being contemplated;
- Does not have a credible plan to support loan volume additions for the relevant product types;
- Is currently experiencing or has recently experienced excessive staff turnover;
- At least 90% of call center staff must be primarily resident in the United States and all call center staff must have experience relating to servicing in various geographic regions of the country;
- Inadequate levels of workload ratios per staff member;
- Excessive or unusual outstanding customer disputes and complaints;
- Internal and external audit / regulatory report ratings, underlying issues identified and corrective actions taken to correct any deficiencies noted;
- Cannot have weighted average age of REO inventory for its non-Agency RMBS portfolio greater than 270 days;
- Whether the selected subservicer is an affiliate of an operational Subservicer and whether transfer to the selected subservicer would violate the requirement that only one Bank of America entity or affiliate serve as a subservicer; and
- Valid licensing exists for all states relevant to the servicing of the particular pool for which servicing will be transferred.

Exhibit E

Representative Subservicer Compensation

Boarding Fees:
Manual Boarding: $25 per Mortgage Loan
Electronic Boarding: $15 per Mortgage Loan

De-Boarding Fee:
$15 per Mortgage Loan (fee will be increased to $50 if Mortgage Loan is transferred within 6 months of boarding)

Base Fee:
For each Mortgage Loan, a monthly fee pursuant to the chart below

End of Month Status Volume:	Less than 1,000	1,000+
0-29 Days Past Due	$30	$25
30-89 Days Past Due	$60	$55
90+ Days Past Due	$125	$100
Foreclosure	$125	$100
Bankruptcy	$100	$90
REO Property	$75	$65

Incentive Fees

Incentive Fee Type	Incentive Amount
No contact incentive[1]	$100
Paid in Full (previously 60+ days past due)	1.50% of UPB – Minimum: $500; Maximum: $5,000
Short Payoff (Refinance or Note Sale)	1.25% of UPB – Minimum: $500; Maximum: $5,000
Modifications[2]	1.50% of UPB
Payment Plan or other workouts	0.75% of UPB
Short Sale[3]	1.50% of Sales Price – Minimum: $500; Maximum: $5,000
Deed in Lieu	0.5% of UPB – Minimum: $500; Maximum: $3,000
REO Disposition[4]	1.00% of Sales Price – Minimum: $750; Maximum: $5,000

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[1] To earn the no contact incentive fee, the Subservicer must take a no contact account and establish productive contact with the borrower (even if that productive contact does not result in a workout).

[2] In order for the Subservicer to earn the modification incentive fee, the borrower must remain current for 12 months post-modification.

[3] The short sale incentive fee will be reduced if the Subservicer is able to collect a referral or transaction management fee from the listing broker.

[4] The REO incentive fee will be targeted at 1% of REO sale price, but will vary based on time to liquidation and the percent of market value received. Additionally, this fee will be reduced if the Subservicer is able to collect a referral or transaction management fee from the listing broker.

Exhibit F

Fee Schedule for Institutional Investors' Counsel

1. On a current, monthly basis following the Signing Date, Bank of America shall pay the reasonable out-of-pocket costs incurred after the Signing Date by Gibbs & Bruns LLP, as the Institutional Investors' counsel, in fulfilling the Institutional Investors' obligations in connection with the Institutional Investor Agreement, including without limitation any reasonable fees and out-of-pocket costs incurred by the Institutional Investors' local counsel retained in connection with the Intervention contemplated by the Institutional Investor Agreement.

2. Within thirty (30) days of the Approval Date, Bank of America shall pay the total sum of eighty-five million dollars ($85,000,000.00) to Gibbs & Bruns LLP as attorneys' fees (and for pre-Signing Date out-of-pocket costs) for the Institutional Investors' counsel; provided that if any Covered Trusts become Excluded Covered Trusts, such fees will be reduced by a percentage amount equal to the percentage of the unpaid principal balance (as of the last Trustee report before the Approval Date) of all 530 Covered Trusts contained in such Excluded Covered Trusts. For purposes of calculating the percentage of unpaid principal balance for any Excluded Covered Trusts in connection with this paragraph, the unpaid principal balance of any Covered Trust that became an Excluded Covered Trust at the election of Bank of America or Countrywide pursuant to Paragraph 3(d)(iv) of the Settlement Agreement shall be excluded. This payment of attorneys' fees shall not be deducted or credited in any way against, and is over and above, the Settlement Payment.

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the matter of the application of THE BANK OF NEW YORK MELLON, (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), Petitioner, for an order, pursuant to CPLR § 7701, seeking judicial instructions and approval of a proposed settlement.	:	Index No. 651786/2011 **VERIFIED PETITION**

Petitioner, The Bank of New York Mellon ("BNY Mellon" or "Trustee"), solely in its capacity as trustee of the five hundred and thirty (530) residential mortgage-securitization trusts listed on Exhibit A hereto (the "Trusts"), by its attorneys Mayer Brown LLP, for its verified petition pursuant to CPLR § 7701, alleges as follows:

INTRODUCTION

1. The Trustee has exercised its good faith judgment that a settlement of potential claims belonging to the Trusts is reasonable. This settlement requires a payment of $8.5 billion into the Trusts, and the implementation of meaningful mortgage loan servicing improvements. It takes into account, among other things, the legal and factual defenses to the Trustee's claims, the extraordinary burden and cost of a litigation that could last many years, the inability of the prospective defendant directly liable on the claims to pay a judgment in the amount of the settlement, and the strength of corporate separateness arguments that could shield that entity's parent company from having to satisfy any judgment. This proceeding is commenced by the Trustee for the purpose of seeking judicial instructions and approval of that settlement.

2. The Trusts were established during the period 2004-2008 through a process known as securitization. In the typical residential mortgage-backed securitization, a loan originator, or "Seller," sold portfolios of loans secured by mortgages on residential properties ("Mortgage Loans") to another entity, known as a "Depositor." The Depositor conveyed the Mortgage Loans to BNY Mellon, as Trustee, to hold in trust. Certificates or notes evidencing various categories of ownership interests in the Trusts were then sold through an underwriter to investors. These investors are called "Certificateholders" or "Noteholders" (referred to herein as "Certificateholders" or "Trust Beneficiaries"). A "Master Servicer" was charged with responsibility for, among other things, collecting debt service payments on the Mortgage Loans, taking any necessary enforcement action against borrowers, and distributing payments on a monthly basis to the Trustee for distribution to the Certificateholders.

3. All but seventeen of the Trusts are evidenced by separate contracts known as Pooling and Servicing Agreements (the "PSAs") under which BNY Mellon is the trustee. The remainder are evidenced by indentures and related Sale and Servicing Agreements ("SSAs") under which BNY Mellon is the indenture trustee. The PSAs, indentures, and SSAs are collectively referred to herein as the "Governing Agreements." They are governed by New York law.

4. Although the Governing Agreements for each of these securitizations are separate agreements that were individually negotiated and, in some instances, display degrees of variation from one another, the terms that are pertinent to the subject matter of the Petition are substantively similar. The Governing Agreements each contain a series of representations and warranties made by each Seller for the benefit of the Trust. These include representations that the Mortgage Loans were underwritten in all material respects in accordance with certain

underwriting guidelines; that the origination, underwriting and collection practices of the Seller and Master Servicer have been legal, prudent and customary in the mortgage lending and servicing business; that the Mortgage Loans conform in all material respects to their descriptions in the investor disclosure documents; and that the Mortgage Loans were originated in accordance with all applicable laws.

5. The Governing Agreements also impose servicing obligations on the Master Servicer, requiring, among other things, that the Master Servicer service and administer the Mortgage Loans in accordance with the terms of the Governing Agreements and the customary and usual standards of practice of prudent mortgage loan servicers.

6. A substantial dispute has arisen concerning the Sellers' alleged breaches of representations and warranties in the Governing Agreements, and the Master Servicer's alleged violations of prudent servicing obligations.

7. These allegations were made beginning in June 2010 by a group of Certificateholders that includes some of the world's largest and most sophisticated investors. This group of investors (the "Institutional Investors") included, or has grown to include, Blackrock Financial Management, Inc. and its affiliates, Pacific Investment Management Company LLC, Federal Home Loan Mortgage Corporation ("Freddie Mac"), Goldman Sachs Asset Management L.P., Maiden Lane LLC, Maiden Lane II LLC, Maiden Lane III LLC,[1] Kore Advisors, L.P., Neuberger Berman Europe Limited, Western Asset Management Company, Metropolitan Life Insurance Company, Trust Company of the West and the affiliated companies controlled by The TCW Group, Inc., Teachers Insurance and Annuity Association of America, Invesco Advisers, Inc., Thrivent Financial for Lutherans, Landesbank Baden-Wuerttemberg and

[1] The Maiden Lane entities were formed by the Federal Reserve Bank of New York, pursuant to Section 13(3) of the Federal Reserve Act, to support lending to financial institutions severely affected by the 2007-2008 economic crisis.

LBBW Asset Management (Ireland) PLC, Dublin, ING Capital LLC, ING Bank fsb, ING Investment Management LLC, New York Life Investment Management LLC, certain Nationwide Insurance entities, certain AEGON entities, Federal Home Loan Bank of Atlanta, Bayerische Landesbank, and Prudential Investment Management, Inc.

8. Collectively, the Institutional Investors' current holdings are in the tens of billions of dollars.

9. The Sellers in each of the Trusts are any or all of Countrywide Home Loans, Inc. ("CHL"), Park Granada LLC, Park Monaco, Inc., Park Sienna LLC and Countrywide LFT LLC. The Master Servicer is BAC Home Loans Servicing, LP, formerly known as Countrywide Home Loans Servicing, LP ("BAC HLS"). For purposes of this Petition, CHL and its parent, Countrywide Financial Corporation ("CFC"), will be referred to collectively as "Countrywide." BAC HLS and its parent, Bank of America Corporation ("BAC"), will be referred to collectively as "Bank of America." The Institutional Investors have alleged that BAC is liable for the obligations of Countrywide with respect to the alleged breaches of the Governing Agreements.[2]

10. Since November 2010, the Institutional Investors, with the participation of the Trustee, have engaged in extensive, arm's-length negotiations with Countrywide and Bank of America in an attempt to reach a settlement for the benefit of the Trusts. These negotiations sought to avoid the enormous costs of preparing for and pursuing claims in litigation that would involve complex issues of law and fact and a review of files for 530 Trusts and hundreds of thousands of loans. The negotiations also sought to avoid the risks and costs of waiting for an uncertain – and perhaps unattainable and unrecoverable – judgment many years from now. The

[2] BAC acquired Countrywide in July 2008, months after the last of the mortgage-securitizations had closed and the last of the representations and warranties were made. At the present time, Countrywide is maintained as a separate subsidiary of Bank of America and appears to have limited remaining assets.

negotiations have culminated in a request from the Institutional Investors that the Trustee enter into a settlement (the "Settlement"), memorialized in a settlement agreement, dated June 28, 2011 ("Settlement Agreement"), that the Trustee, in the exercise of its judgment, views as advantageous to and in the best interests of the Trusts.

11. The Settlement Agreement is attached to the Petition as Exhibit B. It will be described more fully in paragraphs 37-47 below, but, in short, it requires Bank of America and/or Countrywide to pay $8.5 billion ("Settlement Payment") into the Trusts, allocated pursuant to an agreed-upon methodology that accounts for past and expected future losses associated with the Mortgage Loans in each Trust. It also requires BAC HLS to implement, among other things, servicing improvements that are intended to provide for servicing performance by BAC HLS that is at or above industry standards and will provide a mechanism for BAC HLS to transfer high-risk loans to subservicers for more individualized attention.[3]

12. The Settlement was negotiated by sophisticated parties and recognizes the seriousness of the allegations; the number of Trusts and loans at issue; the substantial defenses to the potential claims; the inability of the Trustee to recover from Countrywide a judgment that equals, exceeds or even approaches the Settlement Payment; and the strength of the corporate separateness arguments that could shield Bank of America from having to satisfy the obligations of Countrywide. It benefits far more Trust Beneficiaries now – given the substantial Settlement Payment and the nature of the servicing improvements – than could litigation involving separate trusts and separate groups of Certificateholders over the course of several years. It benefits all similarly situated Certificateholders equally. And it provides a benefit even to those

[3] Various Institutional Investors, Countrywide, Bank of America and the Trustee also entered into a separate Institutional Investor Agreement, dated June 28, 2011, which contains several provisions that memorialize their support of the Settlement. That Agreement is attached hereto as Exhibit C.

Certificateholders who have not presented, or would have difficulty presenting, any claim under the Governing Agreements.

13. Nonetheless, the Trustee recognizes the potential that some Certificateholders may disagree with the Trustee's judgment that the Settlement is reasonable. Recent news articles have described objections by a group of Certificateholders to rumored settlement discussions among the Institutional Investors, Countrywide, Bank of America and the Trustee. There are also reports that a group of Certificateholders has considered taking action against BNY Mellon for its participation in the Settlement process.

14. The Trustee also recognizes that different groups of Certificateholders may wish to pursue remedies for the alleged breaches in different ways, creating the potential for conflicts among Certificateholders and placing the Trustee squarely in the middle of those conflicts. By way of example, earlier this year, a group of Certificateholders sought to direct the Trustee to commence an action against Countrywide and Bank of America concerning two of the Trusts. That same group then filed an action against CHL, BAC and BNY Mellon (as nominal defendant) in this Court alleging, as to those two trusts, breaches of representations and warranties that are nearly identical to the breaches alleged by the Institutional Investors. *See Walnut Place LLC et al. v. Countrywide Home Loans, Inc. et al.*, Index No. 650497/2011 (Sup. Ct., N.Y. County). In early June 2011, a different Certificateholder commenced an action against BNY Mellon, as Trustee, for an accounting relating to two separate trusts that are part of the Settlement. *See Knights of Columbus v. The Bank of New York Mellon*, Index No. 651442/2011 (N.Y. Sup. Ct. N.Y. County). And on June 8, 2011, a group of Certificateholders sought to direct the Trustee to commence an action against, among others, Countrywide and BAC HLS for alleged loan-servicing breaches involving another overlapping trust, after having

issued a notice of an Event of Default under the Governing Agreements that is substantially similar to the notice of non performance described in paragraphs 28-34 below.

15. Absent instructions from the Court, the Trustee will continue to be subject to conflicting demands from different Certificateholders relating to the same Trusts, and to requests from different Certificateholders to pursue claims that are intended to be released by the Settlement Agreement. The Trustee also may be subject to claims by individual Certificateholders who believe that the Settlement, though benefiting thousands of Trust Beneficiaries now and in the future, may not be in their individual best interests.

16. Given these very real and substantial conflicts, the magnitude of the Settlement, the number of Trusts and loans at issue, and the number of parties whose interests may be impacted by the Settlement, the Trustee files this Petition to give Certificateholders an opportunity to be heard in opposition or in support of the Settlement, and to seek an order, among other things, (i) approving the Settlement, and (ii) declaring that the Settlement is binding on all Trust Beneficiaries and their successors and assigns.

PARTIES AND PROPOSED NOTICE PROGRAM

17. The Bank of New York Mellon is a bank organized under the laws of the State of New York having its principal place of business at One Wall Street, New York, New York 10286.

18. There currently are no adverse parties in this proceeding. To the extent that certain Certificateholders or other interested parties may wish to be heard on the subject of the Settlement or the judicial instructions sought through this Petition, those parties may become adverse.

19. In conjunction with the filing of this Verified Petition, the Trustee has sought an order from the Court ("Order to Show Cause") approving a notice program that includes notice

to all "Potentially Interested Persons," as that term is defined in paragraph 4 of the Affirmation of Matthew D. Ingber, dated June 28, 2011 ("Ingber Affirmation"), attached to the Order to Show Cause. This notice program includes:

- Mailing a copy of the notice that is attached to the Ingber Affirmation as Exhibit B ("Notice"), along with the Verified Petition, the Order to Show Cause, and the accompanying Memorandum of Law, by first class, registered mail to Potentially Interested Persons for whom the Trustee has addresses;

- Providing the Notice to the Depository Trust Company ("DTC"), which will post such Notice in accordance with DTC's established procedures;

- Publishing the Notice in *The Wall Street Journal (Global)*, *Financial Times Worldwide*, *The New York Times*, *The Times (of London)*, *USA Today*, *Investors Business Daily*, and *The Economist Worldwide Edition* for at least three (3) business days in each publication;

- Publishing translated versions of the Notice in *Les Echos* (France), *Die Welt* (Germany), *Il Sole 24 Ore* (Italy), *Tages Anzeiger* (Switzerland), *NRC Handelsblad* (Netherlands), *The Nikkei* (Japan), *Straits Times* (Singapore), *New Straits Times* (Malaysia), *China Business News* (China), and *Korea Economic Daily* (South Korea) for at least three (3) business days in each publication;

- Publishing the Notice to the following media distribution wire services: *PRNewswire*, *Business Wire*, and *GlobeNewswire*;

- Establishing a website, www.cwrmbssettlement.com, that will post a copy of the Notice, the Verified Petition, the Order to Show Cause, and the accompanying Memorandum of Law, and all papers subsequently filed in connection with this Article 77 proceeding (the "Article 77 Proceeding");

- Creating a hyperlink on BNY Mellon's investor reporting website, https://gctinvestorreporting.bnymellon.com/Home.jsp, to www.cwrmbssettlement. com, for information about the Settlement and the Article 77 Proceeding; and

- Seeking to purchase banner advertisements announcing the Settlement, with a hyperlink to www.cwrmbssettlement.com, on the following websites: wsj.com, MarketWatch.com, Barrons.com, AllthingsD.com, IHT.com, SmartMoney.com, investors.com, ft.com, reuters.com, economist.com, Globalcustody.net, Assetman.net, FundServices.net, and yahoo.com.

The notice program is more fully described in paragraphs 4-5 of the Ingber Affirmation.

JURISDICTION, VENUE AND GOVERNING LAW

20. This Court has jurisdiction pursuant to CPLR Articles 77 and 4 to entertain a special proceeding to determine matters relating to express trusts, such as the Trusts that are the subject matter of this proceeding.

21. The law of the State of New York governs the rights and obligations of the parties to the Governing Agreements, including the Trustee. The Trustee is domiciled, and has its principal place of business, in New York.

22. Venue is proper in this Court.

ALLEGED BREACHES OF THE GOVERNING AGREEMENTS

23. Each Trust is governed by an individual contract – the Governing Agreement – that sets forth the rights and obligations of the parties and contains representations and warranties of the Sellers, the Master Servicer and the Depositor.

24. The representations and warranties of the Seller – Countrywide – are at the core of this matter. Countrywide represented and warranted, among other things, that:

- "The origination, underwriting and collection practices used by Countrywide with respect to each Mortgage Loan have been in all respects legal, prudent and customary in the mortgage lending and servicing business."
- "Each Mortgage Loan was underwritten in all material respects in accordance with the underwriting guidelines described in the Prospectus Supplement."
- "The information set forth on [the Mortgage Loan Schedule] with respect to each Mortgage Loan is true and correct in all material respects as of the Closing Date."
- "No Initial Mortgage Loan had a Loan-to-Value Ratio at origination in excess of […] %."
- "A lender's policy of title insurance . . . or a commitment (binder) to issue the same was effective on the date of the origination of each Mortgage Loan, each such policy is valid and remains in full force and effect, and each such policy was issued by a title insurer qualified to do business in the jurisdiction where the Mortgaged Property is located . . . ."

- "[P]rior to the approval of the Mortgage Loan application, an appraisal of the related Mortgaged Property was obtained from a qualified appraiser . . . ."
- "The Mortgage Loans, individually and in the aggregate, conform in all material respects to the descriptions thereof in the Prospectus Supplement."
- "The Mortgage Loans were selected from among the outstanding adjustable-rate one- to four-family mortgage loans in the portfolios of the Sellers at the Closing Date as to which the representations and warranties [as to the Mortgage Loans] can be made. Such selection was not made in a manner intended to adversely affect the interests of [the Certificateholders]."

25. Countrywide's representations and warranties are, in all material respects, similar across all of the Governing Agreements.

26. The remedy for a breach of a representation or warranty is contained in Section 2.03 of the Governing Agreements. It provides that, upon discovery and notice of a breach of a representation and warranty with respect to a Mortgage Loan that materially and adversely affects the interests of the Certificateholders, the Seller shall cure the breach within ninety days or repurchase the affected Mortgage Loan at its "Purchase Price," which is equal to the unpaid principal balance of the affected Mortgage Loan:

> Upon discovery by any of the parties hereto of a breach of a representation or warranty with respect to a Mortgage Loan made pursuant to Section 2.03(a) . . . that materially and adversely affects the interests of the Certificateholders in that Mortgage Loan, the party discovering such breach shall give prompt notice thereof to the other parties. Each Seller hereby covenants that within 90 days of the earlier of its discovery or its receipt of written notice from any party of the breach of any representation and warranty with respect to a Mortgage Loan sold by it pursuant to Section 2.03(a) . . . which materially and adversely affects the interests of the Certificateholders in the Mortgage Loan, it shall cure such breach in all material respects, and if such breach is not cured shall . . . repurchase the affected Mortgage Loan or Mortgage Loans from the Trustee at the Purchase Price in the manner set forth below . . . .

27. Beginning in June 2010, the Institutional Investors asserted in a letter to the Trustee that Countrywide sold a large number of Mortgage Loans into the Trusts that failed to

comply with certain representations and warranties, in breach of the Governing Agreements. This assertion was based in part on the alleged excessive early default and foreclosure rates for the Mortgage Loans, the settlements reached by Countrywide with various state Attorneys General, and publicly disclosed emails from Countrywide officials that the Institutional Investors viewed as evidence of breaches of representations and warranties. The Institutional Investors alleged that large numbers of Mortgage Loans were therefore subject to repurchase pursuant to Section 2.03 of the Governing Agreements.

28. On October 18, 2010, the Institutional Investors asserted in a separate letter – a notice of non-performance pursuant to Section 7.01(ii) of the PSA ("Notice of Non-Performance") – that BAC HLS, as Master Servicer, also breached several provisions of the PSAs. The allegations were wide-ranging and detailed.

29. The Institutional Investors alleged, for example, that BAC HLS violated Sections 2.03(c) of the Governing Agreements by failing and refusing to notify the Trustee and others of Countrywide's breaches of representations and warranties.

30. The Institutional Investors alleged that BAC HLS failed to meet its obligations under Section 3.01 of the Governing Agreements to "represent and protect the interests of the Trust Fund in the same manner as it protects its own interests in mortgage loans in its own portfolio." According to the Notice of Non-Performance, BAC HLS breached Section 3.01 by: (i) failing to maintain accurate and adequate loan and collateral files in a manner consistent with prudent mortgage servicing standards; (ii) failing to demand that the Sellers cure deficiencies in mortgage records; (iii) incurring avoidable and unnecessary servicing fees as a result of its allegedly deficient record-keeping; and (iv) overcharging by as much as 100% the costs for maintenance, inspection and other services with regard to defaulted Mortgage Loans.

31. Citing violations of Section 3.11(a)'s requirement that the Master Servicer "use reasonable efforts to foreclose upon" certain eligible properties, the Institutional Investors asserted that BAC HLS continued to keep defaulted Mortgage Loans on its books, rather than foreclose or liquidate them, in order to wrongfully maximize its fees.

32. The Institutional Investors further alleged that BAC HLS imposed on the Trusts and the Certificateholders the costs of curing allegedly predatory loans, in violation of Section 2.03(c)'s requirement that Sellers bear the costs to "cure such breach in all material respects."

33. And citing Section 3.14 in support of the assertion that the Master Servicer is entitled to recover only "customary, reasonable and necessary 'out of pocket' costs and expenses," the Notice of Non-Performance alleged that BAC HLS improperly used affiliated vendors to maximize its servicing income.

34. Each of these alleged breaches, according to the Institutional Investors, materially affected their rights under the Trusts. They warned that a failure to cure would constitute an Event of Default under the Governing Agreements.

35. Rather than commencing litigation against Countrywide and BAC HLS, and mindful of the complexity, delay and enormous costs associated with litigation that could require a loan-by-loan analysis of hundreds of thousands of loans and present significant legal and factual hurdles, in November 2010, the Institutional Investors, with participation by the Trustee, initiated settlement discussions with Countrywide and Bank of America. Those discussions continued for seven months, involved dozens of face-to-face meetings and conference calls, and involved extensive dialogue among the parties concerning the merits of the Institutional Investors' allegations and Countrywide's defenses, and extensive analysis of the Trustee's likely recovery if it commenced – and prevailed in – litigation on behalf of the Trusts.

36. It was out of those discussions that the Institutional Investors, Countrywide, Bank of America, and the Trustee have agreed to the terms of the Settlement, and that the Institutional Investors have requested that the Trustee, on behalf of the Trusts, enter into the Settlement. *See* Exhibit D.

THE SETTLEMENT

37. There are two principal components to the Settlement – the Settlement Payment and the servicing improvements. They reflect the negotiated compromise among the Institutional Investors, Bank of America, Countrywide and the Trustee of (i) the potential claims by the Trustee against Countrywide, pursuant to Section 2.03 of the Governing Agreements, that Countrywide repurchase loans as to which Countrywide allegedly has breached its representations and warranties, and (ii) the potential claims by the Trustee against BAC HLS that BAC HLS violated prudent servicing obligations under various provisions of the Governing Agreements.

38. The Settlement Payment is $8.5 billion and will be allocated among the Trusts in accordance with an agreed-upon allocation formula. An independent financial advisor ("Expert"), retained by the Trustee, will perform any calculations required in connection with the allocation formula, and those allocation calculations will be treated as final and accepted by the parties, absent bad faith or manifest error.

39. The allocations will be driven by the amount of net losses in each of the Trusts:

- The Expert will calculate the amount of net losses for each Trust (or separate loan group within each Trust) that have been or are estimated to be borne by that Trust from its inception date to its expected date of termination. That amount will be expressed as a percentage of the sum of the net losses that are estimated to be borne by *all* Trusts from their inception dates to their expected dates of termination (the "Net Loss Percentage");

- The Expert will calculate the "Allocable Share" of the Settlement Payment for each Trust by multiplying the amount of the Settlement Payment by the Net Loss Percentage for each Trust;

- If applicable, the Expert will calculate the portion of the Allocable Share that relates to principal-only certificates or notes, and the portion of the Allocable Share that relates to all other certificates or notes; and

- The Expert will calculate the Allocable Share within ninety days of the Approval Date (as defined in the Settlement Agreement).

40. The Expert has independently developed a methodology for determining existing and estimated future net losses. A narrative of the Expert's methodology is attached hereto as Exhibit E.

41. Upon completion of the Expert's calculation of Allocable Shares, each Allocable Share will be remitted to the applicable Trust. The Trusts, in turn, will distribute the Allocable Share to Certificateholders in accordance with the provisions of the Governing Agreements, as described more fully in the Settlement Agreement.

42. As part of the servicing component of the Settlement, BAC HLS has agreed to implement various servicing improvements and remedies within specified time periods set forth in the Settlement Agreement. They include, among others, the following:

- Within thirty days after the execution of the Settlement Agreement, the selection by the Institutional Investors and BAC HLS of an agreed list of 8-10 qualified subservicers to service high-risk loans. The agreed list shall be submitted to the Trustee, and the Trustee (in reliance upon an expert) may, within forty-five days of receipt of the agreed list, (i) object and thereby remove any of the selected subservicers from the agreed list, or (ii) limit the number of loans the subservicer may service at any one time. In the absence of an objection by the Trustee, all of the subservicers on the agreed list shall be deemed to be approved; if the Trustee objects to one or more subservicers, all of the subservicers on the agreed list as to which there has been no objection shall be deemed approved. The subservicers approved, or deemed approved, by the Trustee shall make up the "approved list" of subservicers;

- Beginning on the date of the Trustee's approval (or deemed approval) of at least four (4) subservicers on the agreed list, BAC HLS's negotiation of a

subservicing contract with at least one subservicer per quarter, and the synchronization of its servicing system with that of the subservicer;

- BAC HLS's agreement to initiate, after at least one subservicer is operational, the transfer of high-risk loans, selected through a priority mechanism outlined in the Settlement Agreement, to at least one subservicer per quarter (subject to a cap of 30,000 loans at any one time with any given subservicer); and

- Beginning on the date of the Trustee's approval (or deemed approval) of at least four (4) subservicers on the agreed list, and subject to the specific conditions and limitations set forth in the Settlement Agreement, BAC HLS may, at its option, sell the servicing rights on Mortgage Loans otherwise eligible for subservicing to any subservicer on the approved list.

43. The servicing component of the Settlement Agreement also applies to loans beyond those transferred to subservicing. For all loans not in subservicing, BAC HLS has agreed to, among other things, beginning on the later of five months after the Signing Date (as defined in the Settlement Agreement) or the Approval Date:

- On a monthly basis, benchmark its servicing performance against specific industry standards ("Industry Standards") set forth in the Settlement Agreement;

- Send to the Trustee on a monthly basis statistics comparing BAC HLS's performance to the Industry Standards (the "Monthly Statement"); and

- If its performance fails to meet the Industry Standards, calculate and include in its Monthly Statement a master servicing fee adjustment payable by it to the Trust, which payment would be satisfied by deducting the master servicing fee adjustment from unreimbursed advances due to BAC HLS (except that for a limited number of Trusts, BAC HLS shall wire such adjustment to the Trust) as set forth in the Settlement Agreement; provided that BAC HLS will not be liable for its failure to meet the Industry Standards until such time as eight (8) subservicers have been approved or deemed approved by the Trustee.

44. The Settlement Agreement also contains loss mitigation provisions that apply to all loans and take effect as of the Signing Date. They include, among other things, factors for BAC HLS and all subservicers to consider in deciding whether to modify a loan or to apply any other loss mitigation strategies. When BAC HLS or the applicable subservicer, in implementing a modification or other loss mitigation strategy, considers the factors set forth in the loss

mitigation improvements portion of the Settlement Agreement, or acts in accordance with policies or practices that BAC HLS is then applying to its or any of its affiliates' "held for investment" portfolios, BAC HLS will be deemed to be in compliance with the Governing Agreements.

45. The Settlement Agreement further requires – for all loans – reporting and auditing for service compliance. It mandates that, beginning on the Approval Date, BAC HLS report monthly to the Trustee concerning its compliance with the servicing improvements required by the Settlement Agreement, and pay for an annual attestation report to be completed by a qualified audit firm (whose selection is subject to the Trustee's objection based on criteria set forth in the Settlement Agreement) no later than February 15 of each year that any Trust holds Mortgage Loans. The Settlement Agreement requires the attestation report to be distributed to all Certificateholders in the Trusts as part of the Trustee's statement for April each year.

46. Finally, the Settlement Agreement includes agreed-upon procedures to cure certain document deficiencies in the loan files. In particular, BAC HLS has agreed to prepare and submit to the Trustee, no later than six weeks after the Signing Date, a schedule of loans with specified document deficiencies, and to report to the Trustee, on a monthly basis, the status of such loans until all such deficiencies have been cured. The Trustee, in turn, has agreed to determine whether reasonable evidence exists that a particular document deficiency has, in fact, been cured by BAC HLS. Without such evidence, and after consultation with BAC HLS, the Trustee shall direct BAC HLS to issue a revised monthly report.

47. All of these servicing improvements are designed to ensure that servicing performance by BAC HLS is at or above industry standards and to provide a mechanism for

BAC HLS to identify high-risk loans, to transfer them to subservicers to provide more individualized attention, and to help avoid or manage defaults.

THE SETTLEMENT SHOULD BE APPROVED

I. The Trustee Has the Ability to Commence and Settle Lawsuits on Behalf of the Trusts

48. The Governing Agreements grant to the Trustee the right to enforce the Seller's repurchase obligations and the Master Servicer's servicing obligations, and to settle any claims against those parties to the Governing Agreements.

49. Pursuant to Section 2.01(b) of the PSAs, for example, each Depositor assigned to the Trustee the Depositor's right to require the Seller to cure any breach of the Seller's representations and warranties or require a repurchase of a Mortgage Loan: "[T]he Depositor sells, transfers, assigns, sets over and otherwise conveys to the Trustee for the benefit of the Certificateholders, without recourse, *all the right, title and interest of the Depositor* in and to the Trust Fund together with the Depositor's right to require each Seller to cure any breach of a representation or warranty . . . or to repurchase or substitute for an affected Mortgage Loan . . . ." (emphasis added).

50. In Trusts governed by indentures, the Mortgage Loans are conveyed to the applicable trust itself, which is a separate legal entity. The Trust, in turn, pledges to the Trustee "all present and future claims, demands, causes and choses in action in respect of [the Mortgage Loans]."

51. The Trustee's powers under the indentures are broad. According to Section 5.03(6) of the Indentures, "*[a]ll rights of action* and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Indenture Trustee without possession of any of the Notes or the production thereof in any trial or other Proceedings relative thereto, and any

such action or proceedings instituted by the Indenture Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Indenture Trustee . . . shall be for the ratable benefit of the Holders of the Notes . . . .” (emphasis added). Pursuant to Section 2.01(b) of the PSAs and 3.03 of the SSAs, these causes of action can include, among others, claims against the Seller for breach of representations and warranties and against the Master Servicer for violations of servicing obligations.

52. Other contractual provisions support the Trustee’s authority to pursue remedies for breaches of the Governing Agreements. Pursuant to Section 2.04 of the PSAs, each “Depositor hereby assigns, transfers and conveys to the Trustee *all of its rights* with respect to the Mortgage Loans including, without limitation, the representations and warranties of each Seller made pursuant to Section 2.03(a) hereof, together with all rights of the Depositor to require a Seller to cure any breach thereof or to repurchase or substitute for any affected Mortgage Loan . . . .” (emphasis added).

53. Section 3.12 of the indentures provides that “the Indenture Trustee, as pledgee of the Mortgage Loans, has the benefit of the representations and warranties made by the Seller in the Sale and Servicing Agreement concerning the Seller and the Mortgage Loans to the same extent as though such representations and warranties were made directly to the Indenture Trustee.”

54. Pursuant to Section 3.03 of the PSAs, “[t]he Depositor may, but is not obligated to, enforce the obligations of the Master Servicer under this Agreement . . . .”

55. And under Section 2.03(a) of the PSAs and the SSAs, each Seller makes representations and warranties to the Trustee (among others), which then has the right to be

reimbursed promptly by the applicable Seller for any expense reasonably incurred by the Trustee "in respect of enforcing the remedies for such breach" – a reference to the Trustee's right to pursue claims against the Seller for breaches of representations and warranties.

56. With the ability to commence litigation comes the ability to settle litigation, and, in part for that reason, the Depositor's assignment to the Trustee of all "right, title and interest" to the Mortgage Loans is authorization under the PSAs for the Trustee to settle claims that it has the authority to assert.

57. Similarly, the Trust's pledge in favor of BNY Mellon of all of its "right, title and interest" to the Mortgage Loans is authorization under the indentures for BNY Mellon to take similar action for the benefit of the Trusts.

II. The Settlement is Advantageous to the Trusts and, at the Very Least, Reasonable

58. Because the decision to enter into the Settlement was made in good faith and is not outside the bounds of reasonableness – the standard of review that applies in this Article 77 Proceeding – the Settlement should be approved. Indeed, by entering into the Settlement on behalf of the Trusts, the Trustee has made an independent, good faith judgment that the Settlement is advantageous to the Trusts. At the very least, in the Trustee's judgment, it is a reasonable compromise of the Trustee's claims.

59. The Settlement was negotiated at arm's-length by sophisticated parties over an extended period of time. In the Trustee's judgment, it is a more advantageous result for the Trusts and the Trust Beneficiaries than embarking on a litigation that will be complex and hard-fought, with no certainty of obtaining a judgment in the Trustee's favor – much less a judgment exceeding the Settlement Payment. It is a settlement that takes into account the seriousness of the allegations, yet acknowledges the risk that Countrywide's key defenses (see paragraphs 68-77 below) might prevail and that the Trustee, even if it could obtain a judgment exceeding the

Settlement Payment, may not be able to recover the judgment from Countrywide or Bank of America (see paragraphs 78-92 below). It is a Settlement that mandates servicing improvements that will require specialized attention to high-risk loans and will facilitate increased focus, and therefore improved servicing, of all other loans. And it is a Settlement that, in the Trustee's judgment, benefits far more Trust Beneficiaries today than would litigation over the next several years of separate claims, on behalf of separate groups of Trust Beneficiaries, concerning individual Trusts.

60. The Trustee recognizes the difficulty in determining, with precision, the amount of any potential judgment if the Trustee instead were to proceed with and prevail in litigation against Countrywide. It also recognizes the difficulty in calculating precisely what value should be ascribed, for settlement purposes, to Countrywide's various defenses, the avoidance of lengthy, costly and uncertain litigation, and the benefit to the Trusts of receiving the Settlement Payment and servicing improvements described in the Settlement Agreement instead of an uncertain amount, if any, several years from now.

61. Because there is no precise formula for determining the proper terms of a settlement in a case of this magnitude, the Trustee has exercised its judgment – in good faith and in a manner that it believes is in the best interests of the Trusts. The Trustee has, among other things, weighed the legal and factual assertions of the Institutional Investors, Countrywide and Bank of America; considered and analyzed the competing methodologies for arriving at the Settlement Payment; considered and analyzed the servicing procedures set forth in the Settlement Agreement; and evaluated the reasonableness of the Settlement by, among other things, retaining and receiving opinions from independent experts in residential mortgage-backed securities and commercial finance, mortgage servicing, accounting and valuation. In addition, it has been

guided by counsel on the legal issues – including the viability of Countrywide's defenses and Bank of America's corporate separateness arguments – and has received separate opinions from experts in corporate and contract law on these issues.

62. As a result of this process, it is the Trustee's judgment that the Settlement, consisting of a payment of $8.5 billion and improved loan servicing, is reasonable, is in the best interests of the Trusts and Trust Beneficiaries, and outweighs the alternative of protracted litigation with no guarantee of success. At the very least, by entering into the Settlement, the Trustee is not acting in bad faith or outside the bounds of reasonableness.

A. The Settlement Payment

1. The Settlement Payment Is Reasonable

63. The Settlement Payment is $8.5 billion and will be paid by Countrywide and/or Bank of America. In the Trustee's judgment, the Trustee could have accepted this Settlement Payment as reasonable based principally on the fact that Countrywide alone would be unable to pay a future judgment in an amount exceeding – or even approaching – the Settlement Payment (see paragraphs 78-81). In other words, if the Trustee commenced litigation, overcame an inevitable motion to dismiss, proceeded through discovery relating to 530 trusts and hundreds of thousands of loans, survived a motion for summary judgment, proceeded to trial, overcame Countrywide's various defenses, and obtained a judgment against Countrywide of more than $8.5 billion, the Trusts and the Certificateholders would be far *worse* off than if the Trustee settles today. In the Trustee's judgment, the analysis could end there.

64. Nonetheless, the Trustee, with the assistance of financial experts, analyzed the various ways in which a settlement payment could be calculated, and the amount of a settlement payment that the Trustee would view as reasonable. Before agreeing to the Settlement Payment, the Trustee observed and participated in extensive discussions in which the Institutional

Investors, Countrywide and Bank of America offered quantitative and qualitative analysis of a possible settlement payment, taking into account several metrics to calculate past and expected future losses for the Mortgage Loans.

65. As part of that process, the Trustee and its financial experts considered and analyzed, in depth, the competing calculation methodologies of the Institutional Investors and Countrywide/Bank of America, and the assumptions underlying those methodologies. The Trustee and its financial experts tested these assumptions, analyzed how the Institutional Investors and Bank of America/Countrywide calculated actual and projected losses in the Trusts – a starting point for deriving a proposed settlement payment – and considered how the proposed "haircuts," or discounts, were calculated by the Institutional Investors and Countrywide/Bank of America.

66. Taking into account its own calculations of actual and projected losses, and applying its own model, the Trustee's financial experts calculated a dollar range that could serve as a starting point for assessing the reasonableness of a settlement payment, to which the Trustee would be entitled to apply discounts based on the viability of Countrywide's and Bank of America's legal defenses. The Trustee's financial experts had no prior knowledge of the amount of the Settlement Payment before issuing the opinion.

67. The Trustee's financial experts have opined that a settlement payment in the range of $8.8 billion to $11 billion would be reasonable, *without discounting for the legal defenses to the Trustee's claims*. A Settlement Payment of $8.5 billion is viewed by the Trustee as falling within a small variance of that pre-discounted settlement range.

2. Countrywide and BAC HLS May Have Viable Defenses to Any Potential Claims

68. Countrywide and BAC HLS may have a number of viable legal and factual defenses to potential repurchase and servicing claims under the Governing Agreements. One in particular, highlighted below, relates to the element of causation that Countrywide contends is essential to any repurchase claim under Section 2.03 of the Governing Agreements. The existence and viability of this defense is viewed by the Trustee as a compelling reason to discount the financial experts' settlement range, and provides an additional, equally compelling reason to enter into the Settlement.

69. Section 2.03 of the Governing Agreements requires the Trustee and others, upon discovery of a breach of a representation or warranty "that materially and adversely affects the interests of the Certificateholders in that Mortgage Loan," to give prompt notice to the other parties, to allow the Seller to cure the breach, and, absent a cure, to enforce the Seller's obligation to repurchase the Mortgage Loan.

70. Based on this language, Countrywide has taken the position that if the Trustee brought an action to enforce Countrywide's repurchase obligations under Section 2.03 of the Governing Agreements, the Trustee would need to prove, on a loan-by-loan basis: (i) that Countrywide breached specific representations and warranties in the Governing Agreements, (ii) that the breach was material, and (iii) that the breach adversely affected the interests of the Certificateholders in the loan. With respect to the final requirement, Countrywide has taken the position that the Trustee would have to prove, on a loan-by-loan basis, that the breach caused Certificateholders to suffer a significant loss on the affected loan.

71. The Institutional Investors have taken a different position – namely, that a breach is "material and adverse" to the interests of Certificateholders if it would have affected their

investment decision because it adversely affects the credit quality of the Mortgage Loan. They also have taken the position that a loan-by-loan review may not be necessary, and that a properly structured sampling approach could be accepted by a court.

72. Countrywide's argument, if accepted by a court, could mean that the Trustee would have to bear the extraordinary burden of reviewing loan files for hundreds of thousands of loans in 530 trusts; determine as to each loan which of the dozens of Countrywide representations and warranties were breached; and then prove that the loss to Certificateholders was caused by the breach of a specific representation and warranty (such as the owner-occupancy representation) and not other factors that arguably bear no relation to the breach (such as macroeconomic factors affecting the housing market).

73. To be sure, a requirement that the Trustee establish, for each loan or even for a significant sample of loans, both a breach of representation and warranty and a causal link between the breach and the loss would not preclude the Trustee from enforcing repurchase remedies. But it would make enforcement more difficult, may result in fewer loans subject to repurchase, and would result in litigation that would be extraordinarily complex, costly and time-consuming, with the outcome dependent on fact-intensive issues that may not be susceptible to resolution short of trial.

74. In order to properly assess the strength of Countrywide's defense, the Trustee has, among other things, considered the arguments of the Institutional Investors, Countrywide and Bank of America, analyzed Section 2.03 of the Governing Agreements, and considered the case law interpreting contractual provisions similar to Section 2.03.

75. The Trustee has also sought and obtained an expert opinion from a leading law school professor who teaches, among other things, the law of contracts. That expert

independently considered the question of whether Countrywide presents a reasonable argument that the Trustee would have to prove a causal link between any breach of a representation and warranty, on the one hand, and a significant loss to Certificateholders, on the other. The expert has opined that Countrywide's argument is reasonable and could be adopted by a court considering the issue.

76. This conclusion is supported by precedent. For instance, in a recent case, the court denied summary judgment against a similarly situated trustee on the ground that an issue of fact existed as to whether the alleged breach of warranties made in the PSA "materially and adversely affected the value of the mortgage loan or the interest of the certificateholders." In another recent case, the court rejected plaintiff's attempt to exclude – on the basis that the "material and adverse affect" determination must be made as of the closing date – an expert witness who would testify that breaches of representations made in a PSA did not materially and adversely affect the interests of certificateholders because any losses were caused by the decline in the housing and real estate markets. And in the cases that have proceeded to trial, juries have been instructed, based on nearly identical PSA provisions, that trustees need to "prove by a preponderance of the evidence that the material breach of any of the Representations and Warranties involved in this case caused a material and adverse effect on the value of the loan, the value of the property, or the interests of the investors."

77. For all of these reasons, in the Trustee's judgment, Countrywide's position that Section 2.03 imposes an element of causation could be accepted by a court, and if this occurred it would present significant challenges to the Trustee in proving, for each Mortgage Loan or even a sample of Mortgage Loans, that the harm was caused specifically by a breach of representation and warranty rather than by the individual circumstances of the borrower or the various

macroeconomic events affecting the U.S. and global economy. The Trustee's judgment that this defense must be taken into account in assessing the reasonableness of the Settlement Payment was made in good faith and is within the bounds of reasonableness.

3. Countrywide Will Be Unable to Pay a Judgment in an Amount Exceeding (or Even Approaching) the Settlement Payment

78. The Trustee has considered the ability, or inability, of Countrywide to pay a judgment that would exceed the Settlement Payment. If the Trusts will be unable to recover an amount that exceeds the Settlement Payment after years of costly litigation, it is the Trustee's judgment that entering into the Settlement now, on behalf of the Trusts, is reasonable. In fact, a decision to not enter into the Settlement with knowledge that the Trusts may receive, at best, substantially *less* than the Settlement Payment if the Trustee were to prevail in litigation several years from now, would be unreasonable.

79. Countrywide has taken the position that it, standing alone, would be unable to pay a judgment in the amount of the Settlement Payment. In order to test that statement, the Trustee retained a leading valuation expert to conduct an independent valuation of Countrywide and prepare a report of his analysis. More specifically, the valuation expert was asked to opine on the maximum economic value that the Trustee could recover from Countrywide assuming that the Trustee obtained a judgment in its favor. The analysis was conducted as of March 31, 2011. This expert, too, had no prior knowledge of the amount of the Settlement Payment before issuing his opinion.

80. In estimating the economic value available to satisfy any judgment, the valuation expert estimated the value of Countrywide's assets in conformance with the fair market value standard. Without taking into account litigation costs or other losses accruing to Countrywide between March 31, 2011 and the date of any future hypothetical judgment – losses that may well

be substantial – the valuation expert opined that the Trustee's *maximum* recovery is significantly less than the Settlement Payment.

81. Based on this analysis, the Trustee has concluded that Countrywide will be unable to pay any future judgment that exceeds, equals or even approaches the Settlement Payment. Under these circumstances, the Trustee's decision to accept a Settlement Payment of $8.5 billion on behalf of the Trusts now, rather than proceed with litigation that may result in a recoverable judgment, if any, billions of dollars *less* than that amount, was made in good faith and is not outside the bounds of reasonableness.

4. The Trustee May Be Unlikely to Recover Any Future Judgment From Bank of America

82. Countrywide and Bank of America have taken the position that if Countrywide is unable to pay the full amount of any judgment against it, and the Trustee were to assert claims against Bank of America based on theories of successor liability, veil piercing or similar legal theories (collectively, "Successor Liability Theories"), Bank of America would prevail on those claims.

83. In order to assess the strength of its Successor Liability Theories, the Trustee has, among other things, considered the arguments of Countrywide and Bank of America and well-established case law addressing the Successor Liability Theories. The Trustee also sought and obtained an independent expert opinion from a law professor who holds an endowed chair in law and business at a major law school, and who teaches and writes on corporate law, corporate finance, corporate governance, mergers and acquisitions, and the law and economics of complex transactions.

84. In order to prevail on a traditional claim for successor liability, the Trustee would have to demonstrate, among other things, that Bank of America is a continuation of

Countrywide, that Countrywide has ceased operations and dissolved, and that the sale was designed to disadvantage shareholders or creditors of Countrywide.

85. There are several obstacles to this claim. Among them are that (i) Countrywide remains in existence and has not ceased operations, and (ii) the doctrine of *de facto* merger, which could be used in an effort to impose successor liability, has been used sparingly under Delaware law, which may govern the Trustee's claims.

86. It would be equally difficult for the Trustee to prevail on any veil-piercing claim. The Trustee would have to establish either (1) that Bank of America misused the corporate form to perpetrate a fraud on the Certificateholders, or (2) (i) that Bank of America dominated and controlled Countrywide such that Countrywide was an instrumentality of Bank of America, and (ii) that Bank of America further misused that control to cause harm to the Trustee and the Certificateholders.

87. The Trustee would likely have difficulty establishing a claim for veil-piercing based on fraud – even if it could meet the heightened pleading standards for that claim. Indeed, the Trustee is aware of no case that has made any credible allegation of a fraudulent scheme by Bank of America. The so-called "instrumentality" or "alter ego" theory probably would fare no better. The Trustee would have to prove that Bank of America totally dominated and controlled Countrywide at the time of the transactions at issue, a claim that is inconsistent with those entities' observance of corporate formalities and separate accounting. The Trustee then would have to prove that Bank of America misused its control to perpetrate a fraud or other similar injustice that actually harmed the Certificateholders, a difficult burden under any circumstances.

88. These conclusions are supported by the independent expert opinion that the Trustee obtained. The expert was asked to consider legal theories under which the Trustee could

potentially seek to recover money from Bank of America if Countrywide was unable to meet its obligations to pay a money judgment to the Trustee. In particular, the expert was asked to focus on certain business combination transactions between Countrywide, on the one hand, and Bank of America, on the other, in 2008, and whether such transactions could provide a basis for the Trustee to recover from Bank of America under the Successor Liability Theories.

89. It is the expert's opinion that the Trustee would have difficulty prevailing on such legal theories, and that the legal positions of Countrywide and Bank of America are, at the very least, reasonable.

90. This is also reinforced by precedent. In a number of recent cases against Countrywide, plaintiffs have sought to hold Bank of America liable for Countrywide's alleged misconduct on the basis that it is the parent of, and/or successor-in-interest to, certain Countrywide entities. Although one court has allowed this issue to proceed past the motion to dismiss stage, the Trustee is aware of no case to date that has imposed liability on Bank of America under any of the Successor Liability Theories. Most recently, a federal court in California, applying Delaware law, rejected all of the plaintiffs' successor liability claims against Bank of America and NB Holdings, a Bank of America subsidiary, in a putative class action asserting claims against Countrywide under Sections 11, 12 and 15 of the Securities Act of 1933. *See Maine State Ret. Sys. v. Countrywide Fin. Corp.*, Case No. 2:10–CV–0302, 2011 WL 1765509 (C.D. Ca. Apr. 20, 2011).

91. Given this holding, the existence of case law presenting significant obstacles to a party seeking to assert successor liability claims, to pierce the corporate veil or to apply similar legal theories, and the independent expert legal opinion obtained by the Trustee, in the Trustee's

judgment, the legal positions of Countrywide and Bank of America are viable and need to be considered in weighing the reasonableness of the Settlement Payment.

92. Accordingly, when combining (i) the likelihood that Countrywide would be unable to pay any future judgment approaching the amount of the Settlement Payment, with (ii) the obstacles to the Trustee of holding Bank of America liable for the alleged breaches by Countrywide, it is the Trustee's good faith judgment that entering into the Settlement is in the best interests of and advantageous to the Trusts, and certainly is within the bounds of reasonableness.

B. The Servicing Procedures and Improvements Are Reasonable

93. The purpose of the Settlement Agreement's servicing provisions is to outline servicing improvements that, when followed, would satisfy BAC HLS's obligation under Section 3.01 of the Governing Agreements to service and administer the Mortgage Loans in accordance with the terms of the Governing Agreements and customary and usual standards of practice of prudent mortgage loan servicers.

94. In considering the reasonableness of this component of the Settlement, the Trustee has taken into account, among other things, the respective positions of the Institutional Investors and Countrywide/Bank of America, the nature of the proposed servicing improvements, the means by which the Settlement Agreement ensures compliance with Industry Standards (including reporting and auditing requirements, and the payment of a servicing fee adjustment), and the independent opinion of mortgage servicing experts.

95. These mortgage servicing experts have concluded that the servicing and loan administration provisions of the Settlement Agreement – the subservicing and sale of master servicing rights provisions, the benchmarks and related master servicing fee adjustments for loans not in subservicing, the loss mitigation procedures, and the document deficiency cure

provisions – are reasonable, and are consistent with or exceed customary and usual standards of practice of prudent mortgage loan servicing and administration.

96. Based on all of these factors, it is the Trustee's good faith judgment that the servicing provisions of the Settlement Agreement are advantageous to the Trusts, and, at the very least, reasonable.

WHEREFORE, petitioner BNY Mellon requests that a judgment be entered, pursuant to CPLR § 7701, in the form attached hereto as Exhibit F.

Dated: New York, New York
June 28, 2011

MAYER BROWN LLP

By: _____
Jason H.P. Kravitt
Hector Gonzalez
Matthew D. Ingber

1675 Broadway
New York, New York 10019
(212) 506-2500

Attorneys for Petitioner The Bank of New York Mellon

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LORETTA A. LUNDBERG, being duly sworn, deposes and says:

1. I am a Managing Director within the Corporate Trust division at The Bank of New York Mellon (the "Petitioner").

2. I have read the foregoing Verified Petition and know the contents thereof. All statements of fact therein are true and correct to the best of my knowledge and belief.

Loretta A. Lundberg

Sworn to before me this
28th day of June, 2011

Notary Public

CAROLINA KOLIK
Notary Public - State of New York
NO. 01K06173055
Qualified in Kings County
My Commission Expires 08/30/2011

EXHIBIT C

042900666/TM

DT

Ub

K

610 108832618 D2 001 002

07/13/05 10082979 Y611480 $46.00

After Recording Return To:
COUNTRYWIDE HOME LOANS, INC.
POST OFFICE BOX 10423
MS SV-79 DOCUMENT PROCESSING
VAN NUYS, CALIFORNIA 91410-0423

[Space Above This Line For Recording Data]

Escrow/Closing # 04290066
Doc ID # 0001088326180700S
MIN 1000157-0005382221-5

DEED OF TRUST

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated JULY 11, 2005 together with all Riders to this document.
(B) "Borrower" is MILDRED BARRETT , AN UNMARRIED WOMAN

(2)

Borrower is the grantor under this Security Instrument.
(C) "Lender" is COUNTRYWIDE HOME LOANS, INC.

Lender is a corporation organized and existing under the laws of THE STATE OF NEW YORK

Lender's address is 4500 PARK GRANADA, CALABASAS, CALIFORNIA 91302-1613

Lender includes any holder of the Note who is entitled to receive payments under the Note.
(D) "Trustee" is G. TOMMY BASTIAN

Trustee's address is 15000 SURVEYOR BOULEVARD, ADDISON, TEXAS 75001

FILED
05 JUL 13 AM 11:48
COUNTY CLERK
DENTON COUNTY, TEXAS

RP 350-57-2215

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of Post Office Box 2026, Flint, Michigan 48501-2026, tel. (888) 679-MERS.
(F) "Note" means the promissory note signed by Borrower and dated JULY 11, 2005
The Note states that Borrower owes Lender SIX HUNDRED FIFTY-ONE THOUSAND SIX HUNDRED AND 00/100ths
Dollars (U.S. $ 651,600.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than AUGUST 1, 2035
(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
(I) "Riders" means all riders to this Security Instrument that are executed by Borrower. The following riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider ☐ Condominium Rider ☐ 1 - 4 Family Rider
☐ Biweekly Payment Rider ☒ Planned Unit Development Rider
☐ Balloon Rider ☐ Second Home Rider
☐ Other(s) [specify]

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
(M) "Escrow Items" means those items that are described in Section 3.
(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.
(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.
(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of HARRIS :

LOT FOUR (4), BLOCK ONE (1), OF LAKES ON ELDRIDGE NORTH, SECTION SEVEN (7), AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF FILED UNDER FILM CODE NUMBER 486010 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

D

Parcel ID Number: 1218980010004

which currently has the address of 6007 DIAMOND BAY CT.
[Street]

HOUSTON, Texas 77041 ("Property Address"):
[City] [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under

RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater

or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or

not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly

requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale

might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice will result in acceleration of the sums secured by this Security Instrument and sale of

the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence. For the purposes of this Section 22, the term "Lender" includes any holder of the Note who is entitled to receive payments under the Note.

If Lender invokes the power of sale, Lender or Trustee shall give notice of the time, place and terms of sale by posting and filing the notice at least 21 days prior to sale as provided by Applicable Law. Lender shall mail a copy of the notice to Borrower in the manner prescribed by Applicable Law. Sale shall be made at public vendue. The sale must begin at the time stated in the notice of sale or not later than three hours after that time and between the hours of 10 a.m. and 4 p.m. on the first Tuesday of the month. Borrower authorizes Trustee to sell the Property to the highest bidder for cash in one or more parcels and in any order Trustee determines. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying indefensible title to the Property with covenants of general warranty from Borrower. Borrower covenants and agrees to defend generally the purchaser's title to the Property against all claims and demands. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Property is sold pursuant to this Section 22, Borrower or any person holding possession of the Property through Borrower shall immediately surrender possession of the Property to the purchaser at that sale. If possession is not surrendered, Borrower or such person shall be a tenant at sufferance and may be removed by writ of possession or other court proceeding.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall provide a release of this Security Instrument to Borrower or Borrower's designated agent in accordance with Applicable Law. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee; Trustee Liability. All rights, remedies and duties of Trustee under this Security Instrument may be exercised or performed by one or more trustees acting alone or together. Lender, at its option and with or without cause, may from time to time, by power of attorney or otherwise, remove or substitute any trustee, add one or more trustees, or appoint a successor trustee to any Trustee without the necessity of any formality other than a designation by Lender in writing. Without any further act or conveyance of the Property the substitute, additional or successor trustee shall become vested with the title, rights, remedies, powers and duties conferred upon Trustee herein and by Applicable Law.

Trustee shall not be liable if acting upon any notice, request, consent, demand, statement or other document believed by Trustee to be correct. Trustee shall not be liable for any act or omission unless such act or omission is willful.

25. Subrogation. Any of the proceeds of the Note used to take up outstanding liens against all or any part of the Property have been advanced by Lender at Borrower's request and upon Borrower's representation that such amounts are due and are secured by valid liens against the Property. Lender shall be subrogated to any and all rights, superior titles, liens and equities owned or claimed by any owner or holder of any outstanding liens and debts, regardless of whether said liens or debts are acquired by Lender by assignment or are released by the holder thereof upon payment.

26. Partial Invalidity. In the event any portion of the sums intended to be secured by this Security Instrument cannot be lawfully secured hereby, payments in reduction of such sums shall be applied first to those portions not secured hereby.

27. Purchase Money; Owelty of Partition; Renewal and Extension of Liens Against Homestead Property; Acknowledgment of Cash Advanced Against Non-Homestead Property.

Check box as applicable:

[X] **Purchase Money.**

The funds advanced to Borrower under the Note were used to pay all or part of the purchase price of the Property. The Note also is primarily secured by the vendor's lien retained in the deed of even date with this Security Instrument conveying the Property to Borrower, which vendor's lien has been assigned to Lender, this Security Instrument being additional security for such vendor's lien.

☐ **Owelty of Partition.**

The Note represents funds advanced by Lender at the special instance and request of Borrower for the purpose of acquiring the entire fee simple title to the Property and the existence of an owelty of partition imposed against the entirety of the Property by a court order or by a written agreement of the parties to the partition to secure the payment of the Note is expressly acknowledged, confessed and granted.

☐ **Renewal and Extension of Liens Against Homestead Property.**

The Note is in renewal and extension, but not in extinguishment, of the indebtedness described on the attached Renewal and Extension Exhibit which is incorporated by reference. Lender is expressly subrogated to all rights, liens and remedies securing the original holder of a note evidencing Borrower's indebtedness and the original liens securing the indebtedness are renewed and extended to the date of maturity of the Note in renewal and extension of the indebtedness.

☐ **Acknowledgment of Cash Advanced Against Non-Homestead Property.**

The Note represents funds advanced to Borrower on this day at Borrower's request and Borrower acknowledges receipt of such funds. Borrower states that Borrower does not now and does not intend ever to reside on, use in any manner, or claim the Property secured by this Security Instrument as a business or residential homestead. Borrower disclaims all homestead rights, interests and exemptions related to the Property.

☐ **Other.**

28. Loan Not a Home Equity Loan. The Loan evidenced by the Note is not an extension of credit as defined by Section 50(a)(6) or Section 50(a)(7), Article XVI, of the Texas Constitution. If the Property is used as Borrower's residence, then Borrower agrees that Borrower will receive no cash from the Loan evidenced by the Note and that any advances not necessary to purchase the Property, extinguish an owelty lien, complete construction, or renew and extend a prior lien against the Property, will be used to reduce the balance evidenced by the Note or such Loan will be modified to evidence the correct Loan balance, at Lender's option. Borrower agrees to execute any documentation necessary to comply with this Section 28.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

MILDRED BARRETT (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

Witnesses:

_____

_____

[Space Below This Line For Acknowledgment]

STATE OF TEXAS, FORT BEND COUNTY ss:

This instrument was acknowledged before me this 11 day of July, 20 05, by MILDRED BARRETT.

My Commission Expires:

_____
(Signature of Officer)
(Title of Officer)

TRACY McCORMICK
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
MARCH 9, 2008

PLANNED UNIT DEVELOPMENT RIDER

Escrow/Closing # 04290066
Doc ID # 0001088326180700S
MIN 1000157-0005382221-5

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 11TH day of JULY, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to COUNTRYWIDE HOME LOANS, INC.

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

6007 DIAMOND BAY CT., HOUSTON, TEXAS 77041
[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in
THE COVENANTS, CONDITIONS, AND RESTRICTIONS FILED OF RECORD THAT AFFECT THE PROPERTY
(the "Declaration"). The Property is a part of a planned unit development known as
LAKES ON ELDRIDGE NORTH, SECTION SEVEN (7)

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

PUD COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

.....(Seal)
MILDRED BARRETT -Borrower

.....(Seal)
-Borrower

.....(Seal)
-Borrower

.....(Seal)
-Borrower

RP-2005-372282

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

JUL 13 2005

COUNTY CLERK
HARRIS COUNTY, TEXAS

BARRETT
Loan Number 108832618
MIN 1000157-0005382221-5

NOTE

JULY 11, 2005 [Date] SUGAR LAND [City], TEXAS [State]

6007 DIAMOND BAY CT., HOUSTON, TEXAS 77041 [Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. $ 651,600.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is COUNTRYWIDE HOME LOANS, INC.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.2500 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1ST day of each month beginning on SEPTEMBER 1, 2005. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on AUGUST 1, 2035, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at POST OFFICE BOX 660694, DALLAS, TEXAS 75266-0694

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. $ 4,012.01

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of **FIFTEEN** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **5.0** % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

MILDRED BARRETT (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

[Sign Original Only]

2 3 4 4 1
1 0 8 8 3 2 6 1 8 0 0 0 0 0 0 2 0 0 5 N

EXHIBIT D

After Recording Return To:
COUNTRYWIDE HOME LOANS, INC.
MS SV-79 DOCUMENT PROCESSING
P.O.Box 10423
Van Nuys, CA 91410-0423

Prepared By:
PATRICIA BOYCE
COUNTRYWIDE HOME LOANS, INC.

1520 MEMORIAL BLVD STE,104
MURFREESBORO
TN 37129

The Maximum Principal Indebtedness for Tennessee recording tax purposes is $ 124,077.00 .

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[Doc ID #]

DEED OF TRUST

MIN 1000157-0006733619-4

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated MAY 17, 2006 , together with all Riders to this document.
(B) "Borrower" is
CHERYL G PHILLIPS, AN UNMARRIED WOMAN

Borrower is the trustor under this Security Instrument.
(C) "Lender" is
COUNTRYWIDE HOME LOANS, INC.
Lender is a CORPORATION
organized and existing under the laws of NEW YORK
Lender's address is
4500 Park Granada MSN# SVB-314, Calabasas, CA 91302-1613
(D) "Trustee" is
ROBERT M. WILSON JR
a resident of MEMPHIS , Tennessee.
(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the beneficiary under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-20216, tel. (888) 679-MERS.

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DOC ID #: 00013676476205006

(F) "Note" means the promissory note signed by Borrower and dated MAY 17, 2006 . The Note states that Borrower owes Lender
ONE HUNDRED TWENTY FOUR THOUSAND SEVENTY SEVEN and 00/100

Dollars (U.S. $ 124,077.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JUNE 01, 2036 . The maximum principal indebtedness for Tennessee recording tax purposes is $ 124,077.00 .

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☐ Planned Unit Development Rider	☐ 1-4 Family Rider
☐ VA Rider	☐ Biweekly Payment Rider	☐ Other(s) [specify]

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Insturment secures to Lender: (a) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (b) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the Register's Office

COUNTY of RUTHERFORD :
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]

DOC ID #: 00013676476205006

SEE ATTACHED EXHIBIT "A"

Derivation Clause

The instrument constituting the source of the Borrower's interest in the foregoing described property was a Warranty Deed recorded in Record Book 466, page 2818 in Instrument #: in the Register's Office of RUTHERFORD County, Tennessee,

Parcel ID Number: 59P A 14.00 which currently has the address of 440 Compton Rd, Murfreesboro [Street/City]

Tennessee 37130-1302 ("Property Address"): [Zip Code]

TO HAVE AND TO HOLD, the aforedescribed property, together with all the hereditaments and appurtenances thereunto belonging to, or in anywise appertaining, unto the Trustee, its successors in trust and assigns, in fee simple forever. Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payment are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under

the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on

the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's

rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes

available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but

EXHIBIT E

FILE # 2256502 RCD: 08/30/2005 @ 02:03 PM, BK: 2647 PG: 2539 RECORDING:
$78.00 RECORDING ARTICLE V: $68.00 MTG DOCSTGAMPS: $1932.00 INTANGIBLE
TAX $1104.00 DEPUTY CLERK BHILL DON W. HOWARD, CLERK OF COURTS, OKALOOSA COUNTY FL

Return To:

COMPASS BANK

This document was prepared by:

[Space Above This Line For Recording Data]

MORTGAGE

MIN 100Z161-0000025735-8

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) **"Security Instrument"** means this document, which is dated August 26, 2005, together with all Riders to this document.
(B) **"Borrower"** is MICHAEL PATRICK CARY and KIMBERLY ANN CARY

Borrower is the mortgagor under this Security Instrument.
(C) **"MERS"** is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
(D) **"Lender"** is COMPASS BANK

EXHIBIT
B

Lender is a n ALABAMA STATE BANK
organized and existing under the laws of THE STATE OF ALABAMA
Lender's address is P.O. BOX 13345, BIRMINGHAM, AL 35202

(E) "Note" means the promissory note signed by Borrower and dated August 26, 2005
The Note states that Borrower owes Lender Five Hundred Fifty Two Thousand and 00/100 Dollars
(U.S. $ 552,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than September 1, 2035 .
(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

[X] Adjustable Rate Rider	[ ] Condominium Rider	[ ] Second Home Rider
[ ] Balloon Rider	[ ] Planned Unit Development Rider	[ ] 1-4 Family Rider
[ ] VA Rider	[ ] Biweekly Payment Rider	[ ] Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
(L) "Escrow Items" means those items that are described in Section 3.
(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the COUNTY [Type of Recording Jurisdiction] of OKALOOSA [Name of Recording Jurisdiction]:
SEE SCHEDULE A

Parcel ID Number:
2428 MARTIN DRIVE
NICEVILLE
("Property Address"):

which currently has the address of [Street]
[City], Florida 32578 [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment

can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest

shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property, if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of

any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers

unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the

purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Attorneys' Fees. As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

25. Jury Trial Waiver. The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.
Signed, sealed and delivered in the presence of:

Brett A. Moore

MICHAEL PATRICK CARY (Seal) -Borrower

1407 MARK TWAIN COURT
NICEVILLE, FL 32578 (Address)

Joan M. Mays

KIMBERLY ANN CARY (Seal) -Borrower

1407 MARK TWAIN COURT,
NICEVILLE FL 32578 (Address)

(Seal) -Borrower

(Address)

(Seal) -Borrower

(Address)

(Seal) -Borrower

(Address)

(Seal) -Borrower

(Address)

(Seal) -Borrower

(Address)

(Seal) -Borrower

(Address)

STATE OF FLORIDA, OKALOOSA County ss:
The foregoing instrument was acknowledged before me this 26 August, 2005 by
MICHAEL PATRICK CARY and KIMBERLY ANN CARY

who is personally known to me or who has produced Florida Drivers Lic as identification.

Notary Public

JOAN M. MAYS
MY COMMISSION # DD 160731
EXPIRES: October 24, 2006
Bonded Thru Notary Public Underwriters

BK: 2647 PG: 2555

Attached Legal Description

LOT 6, BLOCK H, ROCKY BAYOU ESTATES UNIT #3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 27, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

Parcel Identification No.: 10-1S-22-2832-000H-0060

M.C
KC