



### **I. REPRESENTATIONS AND WARRANTIES OF SELLER AND BUYER**

It is understood and agreed by the Seller and Buyer that as a material inducement to Buyer to enter into this Agreement, the Seller hereby represents and warrants to Buyer the following:

#### **A. Representations and Warranties of the Seller – General.**

1. Seller is an entity duly organized, validly existing and in good standing under the laws of the state of its organization, is duly qualified as a foreign entity in all jurisdictions wherein the character of the property owned or leased or mortgaged or the nature of the business transacted by the Seller makes qualification as a foreign entity necessary, and is duly licensed in all jurisdictions by all required authorities relating to the business conducted therein by the Seller. To the extent required by applicable Laws, all of the Seller’s employees, agents or other representatives are duly licensed in all jurisdictions by all required authorities relating to the business conducted therein by them.

2. The execution and delivery of the Agreement by the Seller and the performance by the Seller of the obligations to be performed by it hereunder have been duly authorized by all necessary corporate or other comparable entity action. Prior to the first Settlement Date, the Seller shall deliver to the Buyer certified copies of relevant corporate or other comparable entity resolutions and a good standing certificate or certificate of existence for the state of its organization and, as requested by the Buyer, for each state in which the Seller is qualified or registered to do business. Thereafter, the Buyer may in its discretion periodically require the Seller to provide good standing certificates or certificates of existence for any or all states in which the Seller is organized, qualified or registered to do business, as well as evidence satisfactory to the Buyer indicating that the Seller (and, if required, its employees and other representatives) are duly licensed in such states in a manner sufficient to permit the Seller to comply with this Agreement in all respects.

3. The execution and delivery of this Agreement by the Seller and the performance by the Seller of the obligations to be performed by it hereunder do not, and will not, violate any provision of the organizing or governing documents of the Seller, or any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Seller. All parties (and specifically, but not in limitation, the Seller) which have had any interest in the Notes, Mortgages, and Loans whether as mortgagees, assignees (other than the Buyer or any assignee of the Buyer) or pledgees are (or during the period in which they held and disposed of such interest, were) in compliance in all respects with all applicable qualification, licensing and doing business requirements of the federal, state and local governments



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wherein the Mortgaged Property is located, and wherein such parties are organized and conduct business.

4. The execution and delivery of this Agreement by the Seller and the performance by the Seller of the obligations to be performed by it hereunder do not and will not result in a breach of or constitute a default under any indenture or loan or credit agreement or under any other agreement or instrument to which the Seller is a party or by which it or its assets may be bound or affected. The Seller is in compliance in all respects, and as of each Settlement Date will be in compliance in all respects, with all loan agreements (including but not limited to warehouse loan agreements) and other material agreements to which the Seller is a party or by which the Seller or its assets may be bound or affected.

5. This Agreement has been duly authorized and properly executed and delivered by the Seller, and constitutes a legal, valid and binding obligation of the Seller enforceable against the Seller according to its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, or similar laws affecting creditors' rights.

6. There are no actions, suits or proceedings pending or, to the knowledge of the Seller, threatened against or affecting the Seller or the assets or operations of the Seller before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which, if determined adversely to the Seller, could have a material adverse effect on Seller's ability to perform under this Agreement, or on the financial condition, assets or operations of the Seller. Seller has not, within the five (5) years preceding this Agreement, been suspended or disqualified as a seller by Fannie Mae, Freddie Mac, HUD, the Veteran's Administration or by any other government sponsored entity or public or private lender or investor.

7. There are no Bankruptcy Proceedings or Events pending or threatened.

8. All information and documents provided to Buyer by Seller in connection with Seller's application or request for this Agreement concerning the ownership of Seller and concerning Seller's compliance with the requirements outlined within Section 1 of the Guide pertaining to Seller Eligibility were true and accurate when made or provided, and all information and documents concerning the financial status of Seller, its members, shareholders or guarantors (collectively, "Disclosing Persons"), including without limitation any financial statements, were true and accurate and fairly represented the financial condition of the Disclosing Person(s) when provided, and from and after such disclosures, there have been no material adverse changes in the financial condition of the Disclosing Person(s) and no changes in the ownership of the Seller, except as have been disclosed to the Buyer in writing. Neither this Agreement nor any information, statement, report, or other document furnished or to be furnished pursuant to this Agreement or in connection with the transactions contemplated hereby contains any untrue statement of material



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fact or omits to state a fact necessary to make the statements contained herein or therein not materially misleading.

9. Seller has now and will maintain at all times the liquidity, net worth and assets sufficient to enable the Seller to conduct its business and fulfill its obligations under this Agreement and all other agreements to which the Seller is a party from time to time. Without limiting the generality of the foregoing requirement, the Seller shall at all times meet all minimum net worth and other financial requirements applicable to the Seller under all applicable Laws, and at a minimum the Seller shall at all times maintain a tangible net worth of at least \$250,000.00. For this purpose and all other purposes, financial determinations regarding the Seller shall be made in accordance with generally accepted accounting principles consistently applied and applied on a basis consistent with the past practices of the Seller. The Seller's "tangible net worth" shall be determined as being the Seller's net worth as determined in accordance with generally accepted accounting principles but subtracting all of the Seller's intangible assets other than cash or cash equivalents.

10. In connection with its application for this Agreement, Seller has provided to Buyer Seller's most current financial statements together with monthly or other periodic statements through the date of this Agreement. Seller represents and warrants that its financials were prepared in accordance with GAAP and fairly and accurately represent the financial condition of Seller. Seller further agrees to provide updated audited statements annually, and also to provide current periodic statements upon request of Buyer at any time.

**The continuing validity of the warranties and representations delineated herein shall constitute a condition precedent to Buyer's obligations hereunder.**

**B. Representations and Warranties of the Seller as to Each Loan.** It is understood and agreed by the Seller and Buyer that as a material inducement to Buyer to enter into this Agreement the Seller hereby represents and warrants to the Buyer as of each Settlement Date with respect to each Loan Purchased:

1. The Seller is a holder-in-due-course of each Note, is the sole owner of the Loan, and has the right to assign and transfer the Loan to the Buyer. The Seller has not sold, assigned or otherwise transferred any right or interest in or to the Loan and has not pledged the Loan as collateral for any Loan or obligation of the Seller or any other purpose, except under any warehouse loan the lien of which will be released prior to or simultaneously with the Buyer's purchase of the Loan. The assignment of the Loan by the Seller to the Buyer validly transfers such Loan to the Buyer free and clear of all pledges, liens, claims, encumbrances, mortgages, charges, exceptions and security interests.



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2. Except as expressly disclosed to and agreed to by the Buyer in writing, each Loan conforms to the Guide in all respects, including without limitation the Seller Eligibility Requirements, the Compliance Requirements, the General Delivery Requirements, the Underwriting Guidelines of the Buyer, and the conditions of Purchase Advice. Except as expressly disclosed to and agreed to by the Buyer in writing, the Seller originated the Loan itself (i.e., the Seller did not acquire the Loan from a third party) through the efforts of its own employees and independent contractors without the involvement of a broker.

3. All information set forth in the applicable Purchase Advice is true and correct in all material respects, and all other information furnished to the Buyer by the Seller with respect to the Loans purchased is true and correct as of the Settlement Date.

4. Each Note and Mortgage and the Legal Package Contents are in every respect original and genuine, are each the instrument they purport on their face to be, are each the legal, valid, binding and enforceable obligation of the Borrower thereunder and are not subject to any discount, allowance, setoff, counterclaim, pending Bankruptcy Proceeding or Event or other impairments or defenses.

5. None of the Notes, Mortgages, Collateral File documents or Legal Package Contents are forged or have affixed thereto any unauthorized signature or have been entered into by any persons without the required authorized legal or mental capacity.

6. No foreclosure (including any non-judicial foreclosure) or any other legal action has been brought by the Seller or any senior lienholder against any Borrower or in connection any Mortgaged Property, and each Loan is paid current and is not in default as of the Settlement Date. Unless otherwise indicated on the Purchase Advice, all payments required to be made up to the Settlement Date for such Loan under the terms of the related Note have been made.

7. No instruments other than those delivered as to each Loan are required under applicable Law to evidence the indebtedness represented by the Loans or to perfect the lien of the Mortgages.

8. Except as has been disclosed to and agreed to by the Buyer in writing, there is no agreement with any Borrower regarding any variation of the interest rate or of any schedules of payment (except as described in the Note and Mortgage) or regarding any other terms and conditions of the Loan, no Borrower has been released from liability on the Note, and no part of the Mortgaged Property has been released. The terms of the Note and Mortgage have not been impaired, waived, altered or modified in any respect. The Loan has not been satisfied, canceled or subordinated in whole or in part. If the Loan is a variable rate Loan, the Seller represents and warrants as of each Settlement Date that all applicable notices required by Law or regulation have



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been provided to the Borrower and that the right to future changes in the interest rate and payment schedules has not been waived by the Seller or any previous holder of the Loan.

9. All applicable taxes, governmental assessments, water, sewer and municipal charges, condominium fees, homeowner's association fees, leasehold payments, and ground rents, and other similar outstanding charges affecting the related Mortgaged Property that previously became due and owing have been paid or an escrow of funds has been established, to the extent permitted by law, in an amount sufficient to pay for any such item that remains unpaid and that has been assessed but is not yet due and payable.

10. The Loan is secured by a valid first priority Mortgage on the Mortgaged Property, and such Mortgage has been delivered in proper form and has been accepted by the appropriate public recording official to be filed, recorded or otherwise perfected in due course in accordance with applicable law in the appropriate jurisdiction.

11. There have not been and are no violations of any Laws in connection with the origination, underwriting or servicing of the Loans. All disclosures required by all Laws were properly made prior to the closing of the Loan, and are evidenced by the Collateral File. The Seller, all of the Seller's employees and agents, and all other parties who have been involved in the origination or servicing of the Loan have complied with the Laws in all respects. The Loan has been originated and serviced in compliance with (i) all applicable local, state and federal Laws, rules, regulations and ordinances in all respects, including without limitation all Ability to Repay requirements, and such other applicable requirements of TILA, RESPA, ECOA, FCRA and HMDA; (ii) the requirements and guidelines of any applicable government agency, board, commission, instrumentality or other governmental or quasi-governmental body or office; and (iii) all judicial and administrative judgments, orders, stipulations, and injunctions applicable to the Seller or the Mortgage Loans.

12. Any compensation paid by the Seller to any broker or other third party rendering settlement services is reasonable in amount and is paid in exchange for goods or services actually rendered in connection with the Loan. Any such compensation has been properly disclosed by the Seller under applicable Law.

13. The Loan is covered by an insured closing letter or comparable warranty or insurance in a form and from a title insurer or other insurance or insurer approved by the Buyer in writing, and the Seller holds approved Title Insurance which is in full force and effect; which has an insurance limit at least as great as the maximum outstanding principal balance of the Loan; which names the Seller, its successors and assigns as the insured party; and which is issued by a title insurer which has been approved by the Buyer in writing and which is qualified and properly licensed to do business in the jurisdiction where the Mortgaged Property is located. The Title Insurance shall be in the form of an ALTA Standard Mortgagee's Policy of Title Insurance



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showing marketable fee simple title in the Borrower free and clear of all liens and encumbrances except:

- a. the lien of current year ad valorem property taxes which are not yet due and payable;
- b. customary residential restrictions, rights-of-way and utility easements that do not materially affect the use, enjoyment, value or marketability of the Mortgaged Property;
- c. matters which would be shown by an accurate survey of the Mortgaged Property, unless a current insurable survey is required by Underwriting Guidelines, any Loan Purchase Commitment or other notice to the Seller; and
- d. the lien of the Mortgage.

If Buyer purchases a Loan having relied on a marked-up title insurance binder or title certificate rather than a title insurance policy, the Seller shall have ninety (90) days after the Settlement Date to deliver to the Buyer the title insurance policy.

14. As of the Settlement Date the Seller has transferred to the Buyer all of its right, title and interest in the Notes, Mortgages, Collateral File and Legal Package Contents for each Loan purchased free and clear of any pledges, liens, claims, encumbrances, mortgages, charges, exceptions or security interests other than as is disclosed in the Title Insurance for each Loan, together with all Loan related insurance policies described herein.

15. Each Mortgage Property shall be covered by an individual current flood insurance policy (to the extent and in an amount required by the Flood Disaster Protection Act) and an individual current hazard insurance policy (including fire and extended coverage and other matters as are customary in the area of the Mortgaged Property), or a blanket policy in lieu thereof, or a certificate if the Buyer agrees in writing to accept a certificate, insuring the Mortgaged Property, with a loss payable clause in favor of the Seller, its successors and assigns in an amount sufficient to avoid any coinsurance obligation of the Borrower and not less than the greater of: (a) the guaranteed replacement cost of all improvements upon the Mortgaged Property, or (b) the sum of the unpaid principal balances of the Loan and all other loans secured by senior mortgages, deeds of trust or other security instruments encumbering the Mortgaged Property. The Seller will provide to and for the benefit of the Buyer for each Mortgaged Property an executed original flood certificate in form and substance satisfactory to the Buyer, which flood certificate shall remain in effect and shall be transferable by the Buyer and its successors and assigns for the life of the Loan. The Seller will provide to and for the benefit of the Buyer for each Mortgaged Property an original property tax certificate of a third party provider approved in writing by the Buyer, which certificate shall be transferable by the Buyer and its successors and assigns for the life of the Loan.



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16. With respect to any insurance policy including, but not limited to, hazard, title, or mortgage insurance, covering a Loan and the related Mortgaged Property, no action has been taken or failed to be taken (constituting an omission or otherwise), no event has occurred and no state of facts exists that has resulted or will result in the impairment of the coverage of any such policy, the benefits of the endorsement, or the validity and binding effect of either. Seller has caused or will cause to be performed any and all acts required to preserve the rights and remedies of Buyer an any insurance policies applicable to the Loans, including, without limitation, any necessary notification of insurers, assignments of policies or interests therein, and establishments of coinsured, joint loss payee and mortgagee rights in favor of Buyer.

17. The Note and Mortgage contain comprehensive customary, valid, legal and enforceable provisions such as to fully protect the interests of the holder and to render the rights and remedies of the holder adequate for the realization against the Mortgaged Property of the benefits of the security created thereby. The Note, Mortgage and Collateral File documents are in the form prescribed by the Buyer or in a form approved in writing in advance by the Buyer.

18. The proceeds of the Loan have been fully and properly disbursed and any and all requirements as to the completion of on-site and off-site improvements and the disbursement of any escrow or other funds therefor have been satisfied.

19. There are no laborers', mechanics' or materialmen's liens or similar liens or claims which have been filed or which may be filed for work, labor or material affecting the Mortgaged Property which are or may be liens prior to or equal with the lien of the Mortgage and any senior mortgages, except as may be the subject (in a form approved by the Buyer) of affirmative coverage in the Title Insurance, insuring against any claim or loss being incurred by the Buyer, its successors and assigns.

20. The Mortgaged Property is free of material damage and waste and is in good repair; there is no proceeding pending or threatened for the total or partial condemnation of any part of the Mortgage Property; and the Mortgaged Property is free and clear of all hazardous or regulated materials.

21. All matured obligations pursuant to the Note and Mortgage have been paid or performed and neither the Seller nor any other party has waived or otherwise forgiven any default, breach, violation or event of acceleration. There is no default, breach, violation or event of acceleration, whether monetary or non-monetary, existing under the Note or the related Mortgage and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event of acceleration.

22. The Seller has no knowledge of any facts as to any Loan which it has failed to disclose to the Buyer which would materially and adversely affect the enforceability of the Note,



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Mortgage or any Collateral File document, or which would materially and adversely affect the value or marketability of such Loan, and Seller has no reason to believe any such fact exists.

23. The Seller has no knowledge of any exceptions or impairments to title that may materially and adversely affect the use, enjoyment, value or marketability of the Mortgaged Property.

24. Each Note and Mortgage provision for the acceleration of the payment of the unpaid principal balance of the Loan in the event the related Mortgaged Property or any interest therein is sold or otherwise transferred in any manner without the prior written consent of the mortgagee or holder thereunder.

25. All real estate appraisals made in connection with each Loan have been performed by appraisers acceptable to the Buyer and in accordance with appraisal industry standards in the area where the appraised Mortgaged Property is located, and in accordance with all applicable Laws, including but not limited to the standards set by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), the Appraisal Independence Requirements (AIR) promulgated pursuant to Section 123E of the Truth-in-Lending Act and the rules and regulations thereunder, all as amended from time to time.

26. To the best of the Seller's knowledge, no hazardous or regulated materials, including without limitation asbestos or asbestos products or materials, or polychlorinated biphenyls or urea formaldehyde insulation have been used or employed in the construction, use or maintenance of the Mortgaged Property, or have ever been stored, treated at, or disposed of on the Mortgaged Property.

27. To the best of the Seller's knowledge, there has not occurred nor has any person or entity alleged that there has occurred upon or proximate to the Mortgaged Property any spillage, leakage, discharge or release into the air, soil or groundwater of any hazardous or regulated materials.

28. The Seller has not, in connection with any Loan purchased by the Buyer, taken any action or committed any omission which might result in a claim against the Buyer or in an obligation by the Buyer to refund earned or unearned finance charges, credit life insurance premiums or any other fees in respect to the transactions between the Buyer and the Seller as described in this Agreement. The Seller agrees to indemnify and hold the Buyer harmless from and against any claims, liabilities, damages, costs or expenses (including reasonable attorneys' fees and expenses) relating to any Borrower, insurer or other party who claims to be due a refund of finance charges or insurance premiums or any other fees in connection with any Loan purchased pursuant to this Agreement.



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29. The Seller has not, in connection with any Loan purchased by the Buyer, incurred any obligation, made any commitment or taken any action which might result in a claim against the Buyer or an obligation by the Buyer to pay a sales brokerage commission, finder's fee or any other fee, charge or cost in respect to the transactions between the Buyer and the Seller as described in this Agreement. The Seller agrees to indemnify and hold the Buyer harmless from and against any claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees and expenses) relating to any broker, agent or finder or other person, who shall claim to have dealt on behalf of the Seller in connection with the transactions contemplated by this Agreement.

30. No fraud, misrepresentation, error, or omission or negligence has taken place on the part of the originator or any other party in connection with the origination of the Loan, the determination of the value of the Mortgaged Property or in the application of any insurance in relation to such Loan.

**The continuing validity of the warranties and representations delineated herein shall constitute a condition precedent to Buyer's obligations hereunder.**

**C. Representations and Warranties of Buyer.** Buyer hereby represents and warrants to the Seller as follows:

1. Buyer is an entity as set forth in the introductory paragraph of this Agreement and is duly organized, validity existing and in good standing under the laws of the state of its organization and is duly licensed in all jurisdictions by all required authorities relating to the business conducted therein by the Buyer. To the extent required by applicable Laws, all of the Buyer's employees, agents or other representatives are duly licensed in all jurisdictions by all required authorities relating to the business conducted therein by them.

2. The execution and delivery of this Agreement by Buyer and the performance by Buyer of the obligations to be performed by it hereunder have been duly authorized by all necessary corporate or other comparable entity action.

3. This Agreement has been duly authorized and properly executed and delivered by Buyer, and constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer according to its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or similar laws affecting creditors' rights.

## **II. REMEDIES FOR BREACH OF REPRESENTATIONS, WARRANTIES AND OTHER PROVISIONS**

A. **Remedy for Breach.** In addition to all other rights and remedies the Buyer has at law or in equity, if at any time there is a breach of any representation or warranty or any other provision of this Agreement, the Seller shall upon written demand of the Buyer either immediately



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cure such breach in all material respects if in the Buyer's discretion the breach is curable, or the Seller shall repurchase the Loan or Loans affected, for the Repurchase Price, within thirty (30) days of notice from the Buyer of its demand to repurchase. With respect to any representation or warranty that is made to the Seller's knowledge or to the best of the Seller's knowledge, if it is discovered that the substance of such representation or warranty was, as of the time made or deemed made, inaccurate and such inaccuracy materially and adversely affects the value of the related Mortgage Loan or the interest of the Buyer in such Mortgage Loan, the Buyer shall be entitled to all the remedies to which it would be entitled for a breach of representation or warranty, including without limitation, the repurchase and indemnification requirements contained herein, notwithstanding the Seller's lack of knowledge with respect to the inaccuracy at the time the representation was made.

To the extent the Seller is unable to effectuate an immediate cure of its breach for reasons or circumstances outside of its control, and if the Seller's breach does not result in the Buyer being in material breach of any other agreement to which the Buyer is a party, the Seller will have thirty (30) days from the date of mailing of the Buyer's written demand to cause the breach to be cured. By way of example, such circumstances may include the Buyer's inability to access and reform the Collateral File documents because such documents are temporarily in the possession of a local recording office outside of the Seller's immediate control.

**D. Remedy for Non-Delivery of Documents.** In the event that the Seller is required to deliver to the Buyer any documents related to a purchased Loan and the Seller fails to deliver such documents in the proper form on the date or within the time period specified by this Agreement, the Buyer shall notify the Seller of the breach, and the Seller shall have thirty (30) days from the date of notice to deliver to the Buyer the required documents and to cure the breach. If the Seller has not cured the breach within this thirty (30) day period, at the Buyer's sole option upon notice to the Seller, the Seller shall immediately repurchase the Loan upon notice from the Buyer, at the Repurchase Price.

**E. Remedy for Early Payment Default.** If any of the first four (4) payments due Buyer after Buyer acquires a Loan becomes ninety (90) days past due, Buyer, in its sole discretion, shall have the right upon notice to the Seller to require the Seller immediately to repurchase such Loan at the Repurchase Price. Except as may be expressly agreed otherwise in writing by the Buyer with respect to a particular Loan, the Buyer will not purchase any Loan after the date on which the first payment on that Loan is due.

**D. Remedy Upon Legal Action or Claim Involving a Loan.** In the event of any legal action or claim relating to any Loan, including any counterclaim, wherein the claim is based upon alleged facts that would involve a breach of this Agreement, including without limitation any one or more of the warranties, covenants and representations made or assumed by the Seller under



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the terms hereof, the Seller shall upon notice from the Buyer within thirty (30) days repurchase such Loan at the Repurchase Price. The Seller agrees further that the Buyer is subrogated to any and all claims of the Seller under its insured closing letter or other warranty or insurance and that the Seller will take all necessary steps to facilitate Buyer's subrogation rights thereunder, including but not limited to an express assignment of Seller's rights and remedies as permissible under applicable Law.

**E. Remedy to Insure Compliance and Sufficiency of Documents.** In the event that the Buyer shall reasonably determine that any of the Collateral File documents violate or fail to comply with applicable Laws or regulations, are unenforceable in any material respect, otherwise fail to comply with the requirements of this Agreement, or are otherwise materially insufficient for their intended purposes, the Buyer shall give written notice to the Seller of such noncompliance, unenforceability or insufficiency. If such noncompliance, unenforceability or insufficiency is curable, the Seller shall have thirty (30) days following the Buyer's notice to the Seller within which to effect a cure to the Buyer's reasonable satisfaction. Absent such cure, immediately upon demand of the Buyer and at the sole option and absolute discretion of the Buyer, the Seller shall repurchase the affected Loan or Loans for the Repurchase Price. If the Loan or Loans has or have been sold by the Buyer or the related Mortgaged Property has been liquidated or sold by the Buyer, the Seller shall immediately pay to the Buyer the amount of the Loss.

**F. Reassignments.** Upon receipt from the Seller of the Repurchase Price in full in immediately available funds, the Buyer shall reassign to the Seller without recourse the Loan or Loans affected and any rights the Buyer may have in the related Mortgaged Property or Properties free and clear only of any liens, encumbrances, claims or interests of any person or entity claiming by, through or under the Buyer; and the Buyer shall execute and deliver to the Seller in recordable form an assignment of the Buyer's beneficial interest in the affected Mortgage or Mortgages, and such other documents as may be reasonably necessary to effect the reassignment of all Title Insurance and other insurance policies.

**G. Liability for Loss or Losses.** Upon the breach of any representation, warranty or other provision of this Agreement by the Seller, the Seller shall be liable to and shall pay to the Buyer the amount of any Loss or Losses arising from such breach. If at any time the Buyer shall pay for a Loss with respect to any Loan it has sold to an investor or any other buyer, either based upon a requirement the Buyer pay for a Loss with respect to the Loan or upon the Buyer's good faith belief that the Buyer may be required to pay for a Loss with respect to the Loan, and such Loss is related to or arises out of the breach of any warranty set forth in this Agreement, then upon thirty (30) days' notice from the Buyer, the Seller shall pay to the Buyer the amount of such Loss, including as increased by the Buyer's own advances and expenses related thereto.



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H. **Premium Rebate.** Notwithstanding anything to the contrary contained herein, if any Shellpoint Loan purchased by Buyer pursuant to this Agreement is paid in full within 6 months from the date of closing, regardless of the Seller's involvement in Borrower's payoff, Seller agrees to pay Buyer a processing fee of two-hundred and fifty dollars (\$250.00) per loan, plus any premium in excess of par Seller received from Buyer as a result of the Shellpoint Loan. Buyer shall notify Seller in writing of any amount due with respect to early payoff, and Seller shall submit payment within fifteen (15) days of such notice. If payment is not received in a timely manner by Buyer, Buyer reserves the right to offset any amounts due hereunder, at any time and without prior notice, against any amounts due to Seller under this Agreement. In the event the payoff is due to a refinance by the same Seller, and the new loan is delivered back to Buyer, part of or all of the requirements above may be waived by Buyer at the sole discretion of the Buyer. In the event that a Government Loan purchased by Buyer pursuant to this Agreement is paid in full within **4 months** from the date of closing, regardless of the Seller's involvement in Borrower's payoff, Seller agrees to pay Buyer a processing fee of two-hundred and fifty dollars (\$250.00) per loan, plus any premium in excess of par Seller received from Buyer as a result of the mortgage loan. If payment is not received in a timely manner by Buyer, Buyer reserves the right to offset any amounts due hereunder, at any time and without prior notice, against any amounts due to Seller under this Agreement.

I. **Right of Offset.** Buyer reserves the exclusive right to offset any amounts due to the Buyer against any payments of Purchase Price or against any other payments due to the Seller from the Buyer arising from Seller's breach of the Agreement. The Buyer may exercise such right of offset in its sole discretion and any election to not exercise such right shall not be deemed to be a waiver of its right of offset.

J. **Remedies Cumulative.** All remedies afforded by this Agreement for a breach hereof shall be cumulative; that is, in addition to all other remedies provided for herein or at law or in equity.

### III. COVENANTS OF SELLER AND BUYER

A. **Furnishing Information.** From the date hereof, and until the satisfaction of all Seller's obligations hereunder, Seller shall at its expense furnish to Buyer such copies of documents and information as Buyer may reasonably request in connection with this Agreement and the transactions described herein or contemplated hereby, and shall promptly notify Buyer in writing of any matter arising or discovered at any time that would alter or amend the information set forth in any document or other information previously delivered to Buyer or that would render any representation or warranty made hereunder untrue as of the date such representation or warranty was made.



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**B. Indemnification by Seller.** The Seller agrees to protect and indemnify Buyer and its employees, officers, directors, managers, members, agents and representatives (“the Indemnified Parties”) from and to hold the Indemnified Parties harmless against, and in respect of, any and all losses (including any Loss as defined herein), liabilities, costs and expenses (including reasonable attorneys’ fees and expenses), judgments, damages, claims, counterclaims, demands, actions and proceedings (all referred to as “the Indemnified Claims”), by whomsoever asserted, and including any settlement or compromise of any of the foregoing, arising out of, in connection with or as a result of any breach of this Agreement by the Seller including without limitation breach of any of the representations, covenants or warranties made by the Seller in relation to the Loans sold to the Buyer hereunder. The foregoing obligation to indemnify and hold harmless shall apply without regard to the identity of the claimant or party asserting an Indemnified Claim, which may include but is not limited to a Borrower, any person or persons who prosecute or defend any actions or proceedings as representatives of or on behalf of a class or interested group, any governmental instrumentality, body, agency, department or commission, and any administrative body or agency having jurisdiction pursuant to any applicable statute, rule, regulation, order or decree. The foregoing obligation to indemnify and hold harmless shall apply without regard to the nature of the Indemnified Claim asserted or brought against any one or more of the Indemnified Parties, and shall also be applicable to all matters and claims arising from the servicing of any Loans by the Seller, provided only that the Indemnified Claim arises out of, in connection with, or as a result of any breach of this Agreement by the Seller.

**C. Collections.** Seller will not accept collections, institute foreclosure proceedings or modify the terms of any Loan on or after the date a Loan has been purchased, unless requested to do so by Buyer. After the purchase, Seller shall hold in trust for the benefit of Buyer and promptly deliver to Buyer in the form received, all checks, drafts, money orders, insurance proceeds and other instruments of payment relating to any Loans funded or sold hereunder that may come into the possession of Seller from time to time.

**D. Endorsements.** Seller agrees to endorse any notes, acceptances, checks, drafts, money orders or other instruments of payment that may come into the possession of Buyer as payment of Loans sold hereunder, and also to execute releases, discharges, satisfactions and any and all other documents required to be executed in connection with such Loans.

**E. Preservation of Financial Condition, Powers, and Conduct.** During the terms hereof, Seller and Buyer shall preserve their respective corporate existence and charters and all necessary licenses, permits and franchises in good standing and shall comply with all laws and regulations, act with prudence and generally in a manner consistent with the highest industry standards. It is specifically agreed that Seller shall be required to continue satisfying the qualifications and processes approved by Buyer as part of the Seller’s application to do business



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throughout the term of this Agreement and shall notify Buyer immediately if it no longer satisfies any such qualifications or modifies its previously approved processes.