Docket #0042 Date Filed: 5/22/2013

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	
RESIDENTIAL CAPITAL, LLC et al.,	Case No. 12-12020 (MG)
Debtors.	Chapter 11
	(Joint Administration)
AMERICAN RESIDENTIAL EQUITIES, LLC, in its own individual capacity and in its capacity as Trustee under that certain American Residential Equities, LLC Master Trust Agreement dated August 8, 2005,	Adv. Pro. No. 12-01934
Plaintiff,	
v.	
GMAC MORTGAGE, LLC, as successor by merger to GMAC Mortgage Company, BALBOA INSURANCE COMPANY, and ALLY FINANCIAL, INC.,	
Defendants.	

PLAINTIFF ARE'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT GMAC'S MOTION FOR DISMISSAL

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Plaintiff American Residential Equities, LLC ("ARE") respectfully submits this Memorandum of Law in Opposition to the Motion for Dismissal of Adversary Proceeding (the "GMAC Motion") brought by defendant GMAC Mortgage, LLC ("GMAC," or the "Debtor").[1]

PRELIMINARY STATEMENT

At its core, this is an adversary proceeding concerning the Debtor's misappropriation of trust assets belonging to ARE which, pursuant to section 541(d) of the Bankruptcy Code, are not property of the Debtor's estate. Arguing that ARE seeks no more than payment on a disputed general unsecured claim, the Debtor ignores the fact that this dispute centers on the Debtor's prepetition looting of assets it held in trust for ARE, which as a matter of law are not part of the Debtor's bankruptcy estate.

As a preliminary matter, the Debtor seems rather confused by the nature and scope of a 12(b)(6) motion, attaching to its papers voluminous exhibits such as selected deposition testimony and documents from other lawsuits.[2] Even more astonishingly, it asserts without citation to any evidence whatsoever (thus without attempting to convert its motion to an improper and premature summary judgment motion before relevant discovery has occurred) its own contention on the central factual dispute between the parties – namely, whether GMAC remains in possession of any Trust Assets (as defined below). GMAC points to the terms of the

[1] ARE will shortly be filing a separate opposition to the separate motion to dismiss the Amended Complaint herein filed by defendant Balboa Insurance Co. ("Balboa"). All arguments being made in that separate brief are incorporated herein to the extent applicable. Both the Debtor and Balboa previously filed motions to dismiss directed at the original Complaint filed by predecessor counsel in this adversary proceeding, but the Amended Complaint was filed before those motions were fully briefed or argued, and the Court accordingly never had occasion to address the arguments raised in those mooted motions. Consistent with the usage of the Amended Complaint, as used herein "ARE" refers to the plaintiff in both its individual and representative capacities, together with the underlying investment vehicles (called "Beneficiaries" in the Amended Complaint) it is authorized and duty-bound to represent in this dispute.

[2] Most, if not all, of these are in any event complete irrelevancies. No argument is made or could be made, for example, that changes in ARE's business after the time period relevant to this dispute are relevant to the validity of ARE's claims against the Debtor. The Motion does not appear to assert that any relevant allegation of the Amended Complaint may be disregarded in light of the irrelevant documents they attach.

document governing its obligations with respect to the Trust Assets and, incredibly, appears to be asking the Court to simply assume that GMAC fully complied with those obligations. But the crux of this dispute turns on ARE's well-pled allegations that GMAC did *not* comply with those obligations, and wrongfully misappropriated Trust Assets that should have been paid over to ARE. Determining whether those well-pled allegations, or GMAC's self-serving and unsubstantiated denial of those allegations, will ultimately be proven true is exactly what the litigation process is for. Similarly, GMAC simply fails to acknowledge that an adversary proceeding (rather than the process for allowance of disputed unsecured claims, which will occur at some undetermined later date in the Debtor's chapter 11 case) is the appropriate procedural mechanism for resolving the dispute over the Trust Assets.

The factual core of this dispute is straightforward. As noted in the Amended Complaint ("Cplt"), ARE holds and/or manages portfolios of residential mortgage loans, many of which became distressed during the collapse of the real estate market over the last decade.[3] Cplt ¶¶ 1, 20-23. From 2004 until 2010, GMAC was retained by ARE to service those portfolios, collecting and accounting for monthly payments on performing loans, foreclosing on and disposing of property securing loans in default, and carrying out a multitude of other specified related functions (such as making sure that the value of property abandoned by borrowers was properly protected against deterioration). Cplt. ¶ 26-28. All monies collected by GMAC in

[3] GMAC claims (Motion at 1, n. 1) that because the relevant contract on its face was signed by ARE without specification that it was signing in this trustee role as well as its individual role, there is some sort of potential standing issue. However, GMAC utterly fails to explain this argument. GMAC was aware of the distinction between ARE and the separate affiliated entities (called "Beneficiaries" in the Amended Complaint) and understood the role of the Beneficiaries. Cplt. ¶ 21. Indeed, our understanding is that GMAC provided ARE with monthly statements broken down by Beneficiary. Even if GMAC were able to prove that the fact that the underlying assets were titled in the name of the Beneficiaries on whose behalf ARE was acting constituted some sort of non-waived technical breach of a representation in the governing documents, it cannot be the case that it is therefore immune from all liability for having looted value rightfully belonging to the owners of those assets. Again, as expressly alleged (Cplt. ¶ 23) ARE has the right and obligation pursuant to its agreements with the Beneficiaries to pursue these claims for the Beneficiaries' benefit.

connection with ARE's loans were required to be deposited by GMAC into segregated trust accounts (Cplt. ¶ 29 - the "Trust Accounts," with such assets as were, or should have been held therein, the "Trust Assets"), with the balance of such funds net of permissible expenses and fees remitted to ARE. Cplt. ¶ 30.

The Amended Complaint alleges that GMAC looted the Trust Accounts by improperly removing Trust Assets via improper or inflated fees and supposed expenses, failed to pay over the remaining (even post-looting) balance of the Trust Accounts to ARE upon the termination of the relationship (Cplt ¶¶ 32(o), 35), failed to perform its other mandated obligations under the governing documents (the "Servicing Agreement"), and committed various torts such as conversion and fraud in connection with its looting of the Trust Funds, thereby causing millions of dollars of economic harm to ARE. Some of these claims were previously brought in an action filed by ARE against GMAC in the U.S. District Court for the Southern District of Florida (No. 10-CV-21943, the "Florida Action"), which was subject to the automatic stay as soon as GMAC filed for bankruptcy last year. The Amended Complaint also alleges (based on information that only first began to come to light in 2011 after the original complaint in the Florida Action was filed) a fraudulent conspiracy between GMAC and Balboa, whereby GMAC directed business for "force-placed" insurance on properties in ARE's portfolio at inflated and unnecessary rates (passed through to ARE, thus further looting the Trust Assets) to Balboa (an insurer) in return for undisclosed kick-backs from Balboa to GMAC.[4]

The scheme did not involve mere inflated premiums, however. As well as actual cash payments laundered through an affiliate, part of the "kickbacks" were provided by Balboa to GMAC in the form of free services, where GMAC completely outsourced its insurance tracking

[4] These corrupt arrangements between Balboa and GMAC are the subject of a number of other pending lawsuits, one of which (S.D. Fla. docket number 11-cv-62424) is a class action which Balboa has already settled (with final judicial approval of the settlement).

functions (which it was required to perform in return for its basic servicing fees, without any right to pass through to ARE costs charged by third-party vendors) to Balboa. Cplt. ¶ 42. Balboa arranged for personnel of one of its affiliates to be embedded within GMAC, posing as GMAC employees, to perform functions that ought to have been performed by GMAC employees at no cost to GMAC. Cplt. ¶ 41. These embedded personnel were naturally able to use this position to maximize Balboa's own advantage, to ARE's detriment, by for example, obtaining Balboa insurance (at ARE's ultimate expense) on properties which did not need such insurance, obtaining Balboa insurance, at ARE's ultimate expense, in excessive amounts (compared to the actual fair market value of the property less the value of the land), thus further driving up the premiums received by Balboa, and by failing to pursue legitimate claims on ARE-owned properties insured by Balboa that had suffered insured losses. This scheme appears to have predated ARE's relationship with GMAC, and ARE would not have entered into that relationship (nor recommitted itself to that relationship via multiple amendments to the Servicing Agreement typically requested by GMAC for GMAC's own benefit) had it been aware of the kickback arrangement. Cplt. ¶ 43, 116.

The Debtor's primary argument for dismissal is that the Complaint seeks no more than payment on a disputed unsecured general claim that should more properly be dealt with in the claims allowance process at a later stage in the Debtor's case. But this ignores the fact that a crucial part of ARE's claims involve the Debtor's prepetition looting of the Trust Funds and failure to pay over the Trust Assets to ARE. ARE's equitable interest in all Trust Assets is superior to the interest of the Debtor, and, under section 541(d) of the Code, is not part of the Debtor's bankruptcy estate. It is well-established that an adversary proceeding is the appropriate

procedural vehicle when a debtor has misappropriated trust funds and those funds, even if commingled with other assets that might be property of the estate, can still be traced.

The Motion's other arguments are largely red herrings. ARE was unquestionably barred by the automatic stay from proceeding with the Florida Action (whose status is mischaracterized in the Debtor's papers), and there is no authority that ARE was required to move to lift the stay (without, to put it mildly, any assurance the Debtor would not oppose such relief) before seeking to pursue the same and related claims in this Court. Finally, the bulk of the Debtor's miscellaneous arguments for the alleged pleading inadequacies of certain of the causes of action are based either on a serious misconstruction of relevant prior proceedings (as to the accounting claim), or on the attempted application of the wrong state's substantive law.

ARGUMENT

I. THE RELIEF REQUESTED AS TO THE TRUST ASSETS IS PROPERLY SOUGHT IN AN ADVERSARY PROCEEDING BECAUSE THE CLAIMS-ALLOWANCE PROCESS DOES NOT APPLY TO PROCEEDINGS SEEKING TO DETERMINE WHAT IS AND WHAT IS NOT PROPERTY OF THE DEBTOR'S ESTATE UNDER SECTION 541(d) OF THE CODE

The Debtor seeks dismissal of the entire adversary proceeding on entirely procedural grounds, claiming that ARE is somehow forum-shopping and that the underlying claims ought to proceed instead either (a) as a mere unsecured proof of claim subject to a claims objection and allowance process that has not yet been scheduled; or (b) perhaps in the Florida Action to which the automatic stay indisputably applies (and where, as detailed below, the Debtor filed multiple notices demanding that ARE abide by the automatic stay). Neither of these contentions is meritorious.

The Debtor devotes considerable space (Motion at 8-17) to arguing the uncontroversial proposition that disputed general unsecured claims should not generally be pursued in free-

standing adversary proceedings but rather resolved through the claims allowance and objection process. It relegates to a footnote (Motion at 13 n. 14) its single reference to the crucial provision of the Code applicable here: 11 U.S.C. § 541(d). The Debtor admits in that footnote that section 541(d) provides the law relevant to "property to which the debtor holds only legal title and not an equitable interest." It nonetheless fails to acknowledge the necessary and inevitable conclusion. Because assets subject to section 541(d) – such as the Trust Assets at issue here – are expressly excluded by the Code from the otherwise very broad definition of property of the estate to the full extent of the non-debtor beneficiary's interest in them (here, ARE's claim to them), the question of whether particular assets in the Debtor's possession are in fact property of the Debtor's bankruptcy estate in the first instance is not and cannot be relegated to the claims allowance process – which necessarily presumes that all allowed claims will be satisfied (typically at a discount) only out of what has been separately determined to be property of the estate. Indeed, it should be obvious that the entire commercial purpose of requiring GMAC to hold monies it received on ARE's behalf in a segregated trust account was precisely to protect ARE from being prejudiced by the claims of rival creditors of GMAC, i.e. to avoid precisely the result that will obtain in the claims process if there are inadequate assets to pay general unsecured creditors 100 cents on the dollar.

This adversary proceeding is brought (Cplt. at ¶ 16) pursuant to the express provisions of, inter alia, Fed. R. Bankr. P. 7001(1), (2), and (9) which provides that "a proceeding to recover money or property," "a proceeding to determine the validity . . . [of an] interest in property," and "a proceeding to obtain a declaratory judgment relating to any of the foregoing" must all be brought as adversary proceedings. The plain language of this rule makes clear that section 541(d) claims ought to be raised in adversary proceedings and, indeed, the Fifth Circuit has

specifically faulted a creditor who pursued a constructive trust claim under section 541(d) in an ad hoc fashion via the claims allowance process instead, holding that pursuant to Rule 7001 it had been "incumbent on him to file an adversary proceeding in the bankruptcy court." *In re Haber Oil Co., Inc.*, 12 F.3d 426, 437 (5th Cir. 1994) (reversing favorable judgment for creditor below in part based on that procedural failure); s*ee also In re K Chemical Corp.*, 188 B.R. 89, 98 (Bankr. D. Conn. 1995) (refusing to consider 541(d) constructive trust theory in context of adjudicating claims objection but granting leave to creditor to file an adversary proceeding as the proper vehicle to pursue that issue).

Thus, in *In re Flanagan*, 503 F.3d 171 (2d Cir. 2007), a creditor brought an adversary proceeding seeking declaratory relief regarding certain assets in the debtor's possession that the creditor alleged were subject to a constructive trust and thus excluded from the estate under 541(d). The Second Circuit ultimately affirmed the lower courts' rejection of the constructive trust claim on its merits, but (unsurprisingly, in light of the authority just cited) did not suggest that an adversary proceeding was not the appropriate mechanism for raising and resolving that dispute, or that the claims allowance process could even have the capacity to deal with the section 541(d) issues.

Here, of course, we are dealing not with an attempt to impose a constructive trust after the fact, but with funds that were subject to an express trust. *See Old Republic Nat'l Bank v. Tyler*, 155 F.3d 718 (4th Cir. 1998) (affirming grant of summary judgment to plaintiffs in adversary proceeding brought under section 541(d) to recover misappropriated trust funds held by debtor even though they had been commingled with other funds in debtor's general corporate account);[5] *In re Martin Fein & Co., Inc.*, 43 B.R. 623 (Bankr. S.D.N.Y. 1984) (granting relief in

[5] Just as in *Old Republic*, the express trust here applies as a matter of black-letter law not only to such funds as may have been properly maintained and retained by the Debtor in the segregated Trust Accounts as of the petition date,

adversary proceeding commenced by creditor of debtor under section 541(d) by imposing constructive trust when misappropriated funds had been commingled with other funds in debtor's bank account but were still traceable); *In re United States Lines, Inc.*, 79 B.R. 542 (Bankr. S.D.N.Y. 1987) (plaintiffs in adversary proceeding entitled to constructive trust to extent misappropriated funds were traceable, with a general unsecured claim as to the balance).

Accordingly, the first cause of action in the Complaint (seeking declaratory relief establishing that the Trust Assets are not property of the Debtor's estate) and the fifth cause of action (seeking to have all amounts that are or should be in the Trust Accounts turned over to Plaintiff) cannot be dismissed or stayed on the grounds that they ought to be adjudicated in the claims allowance process, because they are at the heart of the section 541(d) claims.[6] Likewise, the sixth cause of action for an accounting of all monies that passed through or should have passed through the Trust Accounts is part of the core section 541(d) case. The other causes of action were set forth in the same pleading both to avoid any waiver issues and also because they are directly relevant to identifying those funds subject to recoupment under section 541(d). In other words, the actions GMAC took in connection with its improper looting of the Trust Funds (with the looted Trust Assets still subject to recovery under section 541(d) to the maximum

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but also to any funds improperly removed from the Trust Accounts and commingled with other assets, to the maximum extent such improperly commingled funds remain traceable. *See e.g.*, *In re Mahan & Rowsey, Inc.*, 817 F.2d 682, 684 (10th Cir. 1987) ("... when assets of a trust are improperly transferred by the trustee, the beneficiary may trace those assets and recover them..."); *Connecticut General Life Ins. Co. v. Universal Ins. Co.*, 838 F.2d 612, 619 (1st Cir. 1988) ("mere commingling of the trust property with other property of the bankrupt corporation-as occurred here-does not defeat" a beneficiary's claim to those funds). Thus, the cases the Debtor cites about the disruptive effect in a bankruptcy of imposing a brand-new constructive trust post-petition on "property of the estate" are simply beside the point because the Debtor is ignoring the threshold question of whether the funds in dispute here are "property of the estate" in the first place, or are excluded under section 541(d).

[6] The fifth cause of action does not seek turnover in the technical meaning of section 542 of the Code and does not claim to do so. The Debtor does not dispute that ARE would be entitled to recoup whatever Trust Assets the Debtor holds that are not property of the Debtor's estate, whether that remedy is labeled turnover or something else; they only dispute whether such Trust Assets in fact exist, which is a factual merits issue that cannot be resolved in the context of this Motion.

extent they are traceable) also constituted breach of contract, breach of fiduciary duty, conversion and fraud on the part of GMAC, as set forth in the Complaint.[7]

Debtor attempts to sidestep all of this legal authority by simply asserting that there are no Trust Assets protected by section 541(d) to be recovered. But this is a disputed factual question that cannot properly be resolved on a motion to dismiss in light of the Complaint's well-pled allegations. Incredibly, the Debtor seems to contend (without citation to any supporting authority whatsoever) that there never were any Trust Assets at all, despite the fact that the Servicing Agreement (section 2.4, emphasis added) explicitly states that:

> "[GMAC] shall segregate and hold all funds collected and received pursuant to the Mortgage Loans separate and apart from its own funds and general assets and shall establish one or more Custodial Accounts, in the form of time deposit or demand accounts, titled 'GMAC Mortgage Corporation, *in trust for [ARE]* re: Fixed And Adjustable Rate B/C Residential Mortgage Loans.'"

The contention that this language did not give rise to any trust obligations on GMAC's part is nothing short of absurd.[8] "An express trust requires four elements: (i) a designated beneficiary; (ii) a designated trustee who is not the beneficiary; (iii) a fund or other property sufficiently designated or identified to enable title thereto to pass to the trustee; and (iv) the actual delivery of the fund or other property, or the legal assignment thereof to the trustee, with the intention of passing legal title thereto to him or her as trustee." *In re Cabrini Medical*

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[7] There is no dispute that, to the extent ARE's total damages from GMAC's misconduct exceed what may ultimately be recovered in Trust Assets excluded from the Debtor's estate under section 541(d), the remaining damages will constitute a general unsecured claim which may be handled in the Debtor's claims allowance process, just as happened in *U.S. Lines*, 79 B.R. at 547. We are willing to discuss in good faith with Debtor's counsel whatever thoughts they may have for sensible and efficient case management under the circumstances, given the very substantial factual and legal overlap between those claims that may be pursued at present in this proceeding under section 541(d) and the remaining unsecured claims.

[8] The Debtor's claim that both GMAC and ARE jointly owned the Trust Assets together is equally absurd, given that not only does Section 2.04 of the Servicing Agreement specifically refer to GMAC's holding them in accounts "in trust for [ARE]" but ARE is explicitly termed the "Owner" of the Trust Assets throughout the Servicing Agreement.

Center, 2012 WL 527711 at * 4, Bankr. S.D.N.Y. (Feb. 16, 2012); *citing LFD Operating, Inc. v. Ames Dep't. Stores, Inc. (In re Ames Dep't Stores, Inc.),* 274 B.R. 600, 623(Bankr.S.D.N.Y. 2002).[9] The creation of such an express trust exempts trust assets from the estate pursuant to section 541(d). *See Cabrini Medical Center*, 2012 WL 527711 at * 5.

Here, it is indisputable that Section 2.4 of the Servicing Agreement (i) designated ARE as beneficiary of (ii) GMAC's holding (iii) a segregated and identifiable pool of funds which (iv) were actually delivered to GMAC with the intention of their holding legal title as trustee for ARE. The fact that GMAC misappropriated the Trust Assets from the Trust Accounts and commingled them with other GMAC funds, in direct disregard for the express terms of the Servicing Agreement, does not unravel the existence of the trust or GMAC's resulting duties to ARE.[10]

Nor can GMAC seriously contend that because it had certain contractual rights to make specific withdrawals for limited authorized purposes from the Trust Accounts, it had no trust obligations whatsoever regarding the balance of the funds. Again, it cites no authority for this remarkable proposition, which, if taken at face value, would mean that any trust agreement whereby a trustee was authorized to reimburse itself for appropriate fees and expenses from the corpus of the trust would be illusory and ineffective. That is not the law. *See In re IBJ Schroder Bank & Trust Co.*, 271 A.D.2d 322, 706 N.Y.S.2d 114 (N.Y.A.D. 1 Dept., 2000), *citing United*

[9] To the extent the Court applies Pennsylvania law in determining the existence of an express trust, the resulting outcome would be the same. Under Pennsylvania law, an express trust exists when there is "(1) an express intention to create a trust; (2) an ascertainable res; (3) a sufficiently certain beneficiary; and (4) a trustee who "owns" and administers the res for the benefit of the beneficiary. *In re Roemmele*, 2011 WL 4804833 at * 7, (Bankr. E.D.Pa. Oct. 11, 2011) (internal citations omitted). Here, the language of the Services Agreement expressly states the parties' intention to create a trust, identifies a segregated fund to do so, and identifies ARE and GMAC as the beneficiary and trustee, respectively.

[10] In determining the existence of a trust, courts focus on the presence of obligations to segregate the relevant property imposed on the alleged trustee, *not* whether or not those obligations were actually met. *See e.g., Ames Dep't Stores*, 274 B.R. 624, *citing Dampskibsselskabet Af 1912 Aktieselskab v. Black & Geddes, Inc. (In re Black & Geddes),* 35 B.R. 830, 836 (Bankr.S.D.N.Y. 1984).

States Trust Co. of N.Y. v. First Nat. City Bank, 57 A.D.2d 285, 295–296, 394 N.Y.S.2d 653 *affd.* 45 N.Y.2d 869, 410 N.Y.S.2d 580, 382 N.E.2d 1355 ("It is settled that the duties and powers of a trustee are defined by the terms of the trust agreement…").

Nor is it the law that a trustee's right to reimburse itself for legitimate expenses as expressly authorized by the governing documents makes any misappropriation of funds by the trustee beyond legal challenge. *See Starr Intern. Co., Inc. v. American Intern. Group, Inc.*, 623 F.Supp.2d 497, 501 (S.D.N.Y. 2009), *citing Bank of New York v. New Jersey Title Guar. & Trust Co.*, 256 A.D. 609, 611, 11 N.Y.S.2d 181 (1st Dep't. 1939) ("A trustee who misappropriates trust funds can undoubtedly be sued either at law for conversion or at equity for an accounting."); *see also* Restatement [Third] of Trusts § 76.

Indeed, section 541(d) excludes such funds from the Debtor's bankruptcy estate only "to the extent of any equitable interest in such property that the debtor does not hold." That the Servicing Agreement contemplates that the Debtor may under some circumstances have a legitimate right to some, but not all, of the funds that pass through the Trust Accounts is perfectly consistent with that statutory language, and thus requires adjudication and resolution of the factual dispute as to which dollars passing through the Trust Accounts legitimately belonged to GMAC (rendering them property of the estate) and which instead were held by GMAC as trustee for ARE (excluding them from the estate under section 541(d)).

Finally, GMAC notes (Motion at 12) provisions of the Servicing Agreement that contemplate the orderly closing of the Trust Accounts upon termination of the parties' business arrangement – but then seems to ask the Court to infer from the existence of such provisions (no other evidence is offered, not that such evidence would be appropriate in this procedural context) that GMAC in fact fully complied with them. To put it mildly, there is no principle of contract

law that defendants are entitled to a conclusive presumption that the existence of particular contractual terms gives rise to a conclusive presumption that they had been complied with. Rather, well-pled allegations (denied by the defendant) that contractual obligations have been breached must be illuminated by discovery and, if necessary, resolved by trial.

Indeed, GMAC does not purport to dispute that (as alleged in the Complaint at ¶ 32(o)-32(p)) it failed to remit the balance of funds in the Trust Accounts to ARE. Rather, it claims (Motion at 12 -- again, without evidence) that because of other amounts allegedly due at the termination of the relationship from ARE to GMAC, there was no net money due to ARE and it properly applied the balance of funds in the accounts to those other alleged obligations. It thus denies liability to ARE.[11] But GMAC's self-serving contention that the actual amount of Trust Assets is zero is simply a denial of the well-pled allegations of the Complaint, which explicitly alleges, among other things, that GMAC failed to pay ARE the sums it had collected on behalf of ARE and the April 2010 remittance. (Cplt. ¶ 32)

An adversary proceeding pursuant to section 541(d) is unquestionably the proper vehicle for the purpose of determining what amount, if any, of assets in the Debtor's possession are Trust Assets held for the benefit of ARE, and the Debtor simply cannot evade the need for that proceeding by a self-serving and unsubstantiated proclamation that it will prevail on precisely that disputed factual question.

[11] As noted above, even if it were established that no funds remained in the Trust Accounts (indeed, even if GMAC had told the relevant bank or banks to close those accounts), monies improperly removed from the Trust Accounts remain subject to the same express trust obligation, even if commingled with other funds, as long as they remain traceable. GMAC makes no contention in the Motion that assuming arguendo it improperly looted the Trust Accounts it nonetheless managed to untraceably and completely dissipate its ill-gotten gains before filing for bankruptcy, and any such contention would in any event raise factual issues that cannot be resolved without appropriate discovery and further proceedings.

II. PLAINTIFF'S COMPLIANCE WITH THE AUTOMATIC STAY AND RESPECT FOR THIS COURT'S JURISDICTION OVER THE DEBTOR IS NOT "FORUM-SHOPPING"

This Court's exclusive jurisdiction over the property of the Debtor's estate under 28 U.S.C. § 1334(e)(1) makes it uniquely well-suited to adjudicate the section 541(d) issues, which necessarily require a determination of what is and what is not property of the estate. The uncertainty as to whether the Florida court would even have jurisdiction to adjudicate those issues simply further confirms the bogusness of the Debtor's charge of forum-shopping.

Moreover, the Debtor's rhetoric suggesting that it was on the verge of victory in the Florida Action and that the Plaintiff is seeking to change forums for tactical advantage is just that – mere rhetoric. The Florida Action was subject to the automatic stay, and the Debtor rather gratuitously filed *multiple* notices to that effect (attached hereto as Exh. D and Exh. E).

Separately, however, it may be worth briefly clarifying the record on the exact state of play in the Florida Action as of the date it was frozen by the imposition of the automatic stay. Contrary to the Debtor's insinuation, GMAC was not about to prevail on its pending motion for partial summary judgment. Quite to the contrary, the magistrate had recommended that said motion be withdrawn without prejudice as premature in light of the substantial additional discovery GMAC was being ordered to provide, with the proposed deadline for the filing of a renewed dispositive motion being pushed back almost nine months into the future. *See* Motion Exh. L. In light of that recommendation, the district court then sua sponte cancelled the then-scheduled argument date for GMAC's pending summary judgment motion without even waiting for any objections to this aspect of the magistrate's recommendations to be raised and

adjudicated. (Exh. A attached hereto)[12] (The Debtor's misinterpretation of the Florida court's prior denial of ARE's 12(c) motion on a single discrete issue is discussed below in section III) [13]

That general history aside, ARE has now come to this Court, with its plenary authority over the Debtor's affairs and over all disputes related to the Debtor's pre-petition misconduct and the appropriate remedies for such misconduct, not in search of a more favorable forum but simply because the law required it to do so. As soon as the judge overseeing the Florida Action was made aware of Debtor's chapter 11 filing, he issued an order to show cause (Exh. B hereto; Fla. Action Docket No. 138) instructing the Debtor to give any reasons why the case should not be stayed and administratively closed. The Debtor did not do so, and the court accordingly stayed the case and cancelled all pending hearings and deadlines. (Exh. C hereto; Fla. Action Docket No. 140) Indeed, months later, the Debtor filed a supplemental notice in the Florida Action (Exh. D hereto; Fla. Action Docket No.141) reconfirming that the automatic stay applied and that the limited relief from the automatic stay the Debtor itself had sought and obtained from this Court (permitting certain specified categories of disputes to go forward in other forums) did not apply to the Florida Action, and that ARE was required to come to this Court if it wanted any relief. *See also* Exh. E hereto; Fla. Action Docket No. 139 (threatening ARE with contempt sanctions if it took any further steps in the Florida Action).

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[12] GMAC's then-pending *Daubert* motion with respect to ARE's expert was likewise taken off calendar, and that motion in any event was of less moment in light of the magistrate's recommendation that ARE be permitted to designate different or additional experts. *See* Exh. A attached hereto.

[13] Debtor likewise tries to make rhetorical hay by insinuating (Motion at 15) that ARE was "sanction[ed]" in the Florida Action. That issue is a red herring that has nothing to do with the substantive merits of ARE's claims in this Court, but simply for the Court's information, the situation was as follows: a) although the magistrate concluded that GMAC had failed to produce substantial discovery and accordingly granted ARE's motion to compel (Motion Exh. L at 12); b) the magistrate concluded that ARE's then-counsel had not fully complied with their meet-and-confer obligations prior to filing that motion to compel and accordingly recommended that ARE be ordered to pay certain of GMAC's fees related to that motion practice (*id.* at 13); c) ARE exercised its right to object to that aspect of the magistrate's recommendation and seek a ruling from the district judge (Exh. F hereto; Fla. Action Docket No. 130); but d) the automatic stay intervened before the district judge had an opportunity to rule on whether, in fact, the alleged failure to comply with the meet-and-confer obligations merited any fee award to GMAC.

There was and is no reason to believe that the Debtor would, if put to the test, have consented to any motion ARE might have made for relief from the automatic stay to permit the Florida Action to proceed, and their insinuation (Motion at 22) that ARE ought to have sought relief from the stay in order to seek leave of the Florida judge to amend its complaint rather than adding new claims to its filing in this Court is disingenuous, given the lack of any realistic possibility that the Debtor would have agreed to proceed to litigate the merits in that forum.[14]

III. THE FLORIDA COURT'S PRIOR RULING THAT ARE'S CONTRACTUAL AUDIT RIGHTS CANNOT BE RESOLVED ON THE FACE OF THE PLEADINGS CANNOT POSSIBLY SUPPORT DISMISSAL OF THE ACCOUNTING CLAIM

The Debtor's argument that the accounting claim is precluded by developments in the prior Florida litigation is not only inaccurate but highly disingenuous. The complaint in that action (Motion Exh. H) did not even contain a separate cause of action for an equitable accounting, seeking only specific performance of a narrower, contractually-specified right of audit. ARE made a motion under Rule 12(c) for judgment on the pleadings on that specific issue, so that (in the face of GMAC's stonewalling in discovery) it could obtain specific performance of that contractual right and conduct that audit before the litigation was resolved. The Court denied the motion precisely because of unresolved "disputes and factual uncertainty," meaning that the issue could not be determined on the face of the pleadings. (Motion Exh. G. at 11). GMAC did not bother to cross-move for judgment in its favor on that claim and it is clear from the opinion that it would have lost if it had. There is no possible basis on which a prior decision that a separate, narrow issue could not be resolved without further factual development

[14] The Debtor certainly never took the initiative to make such a proposal, which it certainly could have done, as it took the initiative to seek relief from the automatic stay on other matters where it believed it in its self-interest to do so. *See, e.g., Debtors' Motion For Interim and Final Orders Under Sections 105(a), 362, 363, 1107(a) And 1108 Of The Bankruptcy Code...(II) Granting Limited Stay Relief To Enable Borrowers To Assert Related Counter-Claims In Foreclosure And Eviction Proceedings*, Case No. 12-12020, Docket No. 46, May 14, 2012.

could possibly entitle the Debtor to a judgment in its favor on that claim on 12(b)(6) grounds without the factual development the Florida court thought necessary.

Nor can the Debtor simply claim that the issue has been mooted as a matter of law by claiming (without any record support) that ARE "has already received the documents necessary to do an accounting through discovery" in the Florida Action. Motion at 19. It cannot claim it produced everything responsive to all discovery requests (which it most assuredly did not), nor can it even claim that it produced everything it was legally required to, in light of the magistrate's report and recommendation (Motion Exh. L at 1) granting ARE's motion to compel after finding serious shortfalls in GMAC's prior document production.[15]

In any event, GMAC's bankruptcy filing itself significantly changed the relevant legal landscape, and thus shifted the focus of necessary discovery. The flow of funds into and out of the Trust Accounts was not, as such, the focus of discovery in the Florida Action, because the sharp distinction imposed by 541(d) of the Code between trust monies ARE is entitled to recover in their entirety and assets of the Debtor's estate as to which ARE may be limited to a general unsecured claim was simply not then at issue.[16] By contrast, the need to distinguish and trace Trust Funds is now crucial to this dispute, and the accounting requested will greatly clarify those issues. Furthermore, the accounting remedy, since it is non-monetary in nature, cannot meaningfully be dealt with in the claims allowance process.

[15] It is our understanding that production of the additional discovery materials at issue was not completed by GMAC before the bankruptcy filing and automatic stay intervened.

[16] For example, it is our understanding that GMAC never produced in the Florida Action the bank statements related to the Trust Accounts.

IV. THE DEBTOR'S OTHER ATTACKS ON THE SUFFICIENCY OF THE AMENDED COMPLAINT ARE MERITLESS[17]

A. *The Debtor Offers No Adequate Support For Its Choice of Law Contentions For The Tort Claims*[18]

Section 13.07 of the Servicing Agreement (attached hereto as Exh. G) contains a choice-of-law provision providing that "THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA AND THE OBLIGATIONS, RIGHTS AND REMEDIES HEREUNDER" determined under Pennsylvania law. This narrow and specific language does not purport to govern tort claims, and accordingly (since contractual choice-of-law is just that – voluntary and contractual) does not govern them. *See, e.g. Finance One Public Co. Ltd. v. Lehman Bros Special Financing, Inc.*, 414 F.3d 325, 335 (2d Cir. 2005) ("tort claims are outside the scope of contractual choice-of-law provisions that specify what law governs construction of the terms of the contract"); *Maltz v. Union Carbide Chemicals & Plastics Co.*, 992 F. Supp. 286, 296 (S.D.N.Y. 1998) (choice of law provision in contract would govern contract claims but was irrelevant to proper choice-of-law analysis for tort claims). Obviously, parties can enter into binding contractual choice-of-law provisions worded sufficiently broadly to cover related tort and/or statutory claims. *See, e.g.*, *Turtur v. Rothschild Registry Int'l, Inc.*, 26 F.3d 304, 309 (2d Cir.1994) (finding that choice-of-law language expressly applicable to claims "arising out of or relating to" the contract was

[17] Notably, the Debtor's Motion fails to offer any substantive legal basis for the Court to dismiss ARE's breach of contract claim.

[18] We would like to repeat that, as noted above, the only immediate remedy we are seeking in this Adversary Proceeding is the identification, tracing, and return of wrongfully misappropriated Trust Assets that under section 541(d) are not property of the Debtor's estate. The various tort and contract theories are simply, in this context, different labels to apply via somewhat different routes to the same ultimate misappropriation. As noted above, we do not dispute that relief against the Debtor beyond return of all traceable Trust Assets may be more appropriately handled in the claims allowance process. Because of the legal and factual overlap we have brought all factual allegations and related legal theories in the same unified Amended Complaint to avoid any risk of waiver at that later stage, but we are not certain whether it is necessary for the court to reach all of the arguments related to all of the different causes of action pled in order to determine that the case should go forward with respect to the location and return of misappropriated Trust Assets.

sufficiently broad to cover contract and tort claims); *Buddy's Plant Plus Corp. v. CentiMark Corp.*, 2013 WL 169697 at * 5 (W.D.Pa. Jan. 16, 2013) (finding same). The question is whether the parties have done so, and the language at issue here does *not* include sufficiently broad language as to be construed to govern non-contractual claims.

Further, the cases cited by the Debtor on this point refer to precisely the sort of broad language that is conspicuously absent in the governing Services Agreement. *See, e.g., Chiste v. Hotels.Com, LP*, 756 F. Supp. 2d 382, 408 (S.D.N.Y. 2010) (addressing a choice-of-law clause made applicable to "any dispute of any kind that arises between" the parties).

The Debtor does not seriously attempt to provide any other basis on which a proper choice-of-law analysis would or must yield Pennsylvania law. The Complaint, for example, does not allege that most or all of the key facts related to the Debtor's fraudulent misrepresentations and omissions to ARE or its conversion of funds occurred in Pennsylvania. To the contrary, one key factor for any choice-of-law analysis is that those representations were received, relied on, and caused injury to the Plaintiff in Florida, where plaintiff was headquartered at the time. *Devore v. Pfizer, Inc.*, 58 A.D.3d 138 (1st Dep't 2008) (applying law of jurisdiction where injury was suffered for purposes of New York choice-of-law analysis); *Heineman v. S&S Machinery Co.*, 707 F. Supp. 86, 88 (E.D.N.Y. 1989) (situs of place of injury for choice-of-law analysis in fraud claim is typically plaintiff's residence).[19] Nor is any plausible basis set forth to think that Pennsylvania law would apply to the conversion claim.[20] Moreover, the Debtor has staked its

[19] The Debtor essentially argues that since it was headquartered in Pennsylvania, its tortious conduct must have all taken place in Pennsylvania is unsupported by the current state of the record and in any event ignores the well-established principle just cited that the place of injury is often the key factor when multiple states are involved. Since the Debtor's co-conspirator, Balboa, by contrast is headquartered in California, that makes the notion that Pennsylvania was the key situs of all of the wrongdoing even less plausible.

[20] The conversion claims arise from the improper and unjustified looting by GMAC of the Trust Accounts, and there is no basis to conclude that any of the relevant events giving rise to those claims occurred in Pennsylvania. The Complaint does not specify the location of the Trust Accounts, but our understanding is that they were not located in

entire argument on its unsupported contention that Pennsylvania law governs, and has failed to argue in the alternative that any of the claims are subject to dismissal at the pleading stage under the law of any other potentially relevant state.

B. *The Debtor's Other Miscellaneous Pleading Quibbles Are Meritless*[21]

GMAC misconstrues the fraud cause of action and complains about an alleged failure of 9(b) particularity. The Amended Complaint makes it clear (¶ 115, 116) that the gravamen of the fraud cause of action is GMAC's willful non-disclosure of the improper kickback scheme with Balboa and that but for the concealment of that information ARE would never have entered into the Servicing Agreement and would not have continued to do business under the Servicing Agreement for the following six years, including not entering into the various amendments of the Servicing Agreement which were typically requested by GMAC for its own financial benefit.

Likewise, each and every monthly statement which sought payment from (or reduced net payment to) ARE by improper insurance-related expenses was fraudulent (and ARE's contemporaneous acquiescence to such monthly statements was fraudulently induced) due to the

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Pennsylvania and were likely at least primarily located in New York. The Debtor cites no non-Pennsylvania authority in support of its contention that the mere existence of a contract means that a trustee can loot a trust fund with complete impunity from tort liability. Under New York law, there are numerous cases where liability for both breach of contract and for other liability theories arising from wrongful diversion of trust funds can and does coexist. See., e.g., *Edgewater Constr. Co., Inc. v. 81 of Watertown, Inc.*, 1 A.D.3d 1054 (4th Dep't 2003); *McMaster v. Pearse*, 9 Misc.3d 964 (N.Y. Co. Civ. Ct. 2005) (breach of contract and conversion theories co-existing in case where defendant breached obligation to maintain funds in segregated trust accounts).

[21] The Debtor invokes in a footnote (Motion at 21 n. 21) the so-called "filed rate doctrine," which it erroneously calls the "flat rate doctrine." This issue is briefed at greater length by Balboa and will be responded to at greater length in ARE's opposition to Balboa's motion. Since the Debtor has offered nothing more than a string cite in a footnote, we will simply note here that there are numerous cases refusing to apply the filed rate doctrine to bar claims arising from the distortion of the insurance-placement process by the payment of kickbacks, as is alleged here. *See e.g.*, *Gallo v. PHH Mortgage Corp.*, 2012 WL 6761876 (D.N.J. Dec. 31, 2012) *Alston v. Countrywide Fin. Corp.*, 585 F.3d 753, 765 (3d Cir. 2009); *Williams v. Duke Energy Intern., Inc.*. 681 F.3d 788, 797 (6th Cir. 2012); *Cannon v. Wells Fargo Bank, N.A.*, 2013 WL 132450 at * 9 (N.D.Cal. Jan. 9, 2013); *Ellsworth v. U.S. Bank, N.A.*, 2012 WL 617905 at * 13 (N.D.Cal. Dec. 11, 2012); *Kunzelman v. Wells Fargo Bank, N.A.*, 2012 WL 2003337 at * 3 (S.D.Fla. June 4, 2012); *Abels v. JPMorgan Chase Bank, N.A.*, 678 F.Supp.2d 1273, 1277 (S.D.Fla. 2009); *Gipson v. Fleet Mortg. Grp., Inc.*, 232 F.Supp.2d 691, 707 (S.D.Miss. 2002); *Stevens v. Citigroup, Inc.*, 2000 WL 1848593 (E.D.Pa. Dec. 15, 2000).

intentional non-disclosure of the kickbacks (as well as related issues such as the clandestine embedding of Balboa-affiliated personnel within GMAC pursuing Balboa's own financial goals at ARE's expense). The so-called Pennsylvania "gist of the action" doctrine is inapplicable when the plaintiff's claim is fraud in the inducement of the contractual relationship itself, not simply wrongful failure to perform under the contract. *See TruePosition, Inc. v. Sunon, Inc.*, 2006 WL 1451496 at * 3 (E.D.Pa. May 25, 2006) (concluding that tort claims were not barred by the gist of the action doctrine because "plaintiff has alleged tort claims pertaining to the inducement to enter the contracts, which does not necessarily trigger the doctrine.")[22]

Nor would Florida law bar the fraud claim simply because of the existence of the contract. *See, e.g., McLeod v. Barber*, 764 So.2d 790, 794 (Fla. 5th Dist. Ct. App. 2000) ("claims of fraudulent inducement are not barred by Florida's economic loss rule"); *Burton v. Linotype Co.*, 556 So.2d 1126, 1128 (Fla. 3d Dist. Ct. App. 1989) ("[f]raud in the inducement and deceit are independent torts").[23]

Moreover, GMAC ignores and/or misconstrues the specific allegations as to the timing of ARE's discovery of the fraud in 2012 and cites no authority whatsoever that these detailed allegations about the uncovering of the kickback scheme are not sufficient under the discovery rule to prevent the limitations period from having begun to run earlier. GMAC certainly points to no publicly-available information that it contends should have put ARE on notice of the

[22] As to the supposed applicability of the "gist of the action" doctrine to the claim for conversion, the Debtor itself had no objection to the coexistence of claims for conversion and breach of contract when it filed its Amended Answer and Counterclaim in the Florida Action (Motion Exh. I) which asserted claims for conversion and breach of contract, among others.

[23] Obviously, not only litigants but courts can disagree as to exactly how much particularity 9(b) requires in a given context, and we believe that substantially greater (although, we would submit, unnecessary) particularity could be provided via a further amendment if the Court were to so prefer. Likewise, to the extent the Court were to agree with GMAC's contentions that there are any other technical defects in pleading we would request an opportunity to cure any such issues by a further amendment. We note that the court never ruled on the adequacy of the original Complaint (and the motions directed against it were mooted before being fully briefed) and, indeed, in the Florida Action GMAC answered rather than contest the adequacy of the pleadings, so this is the first pleading in the dispute whose legal sufficiency will actually be the subject of a judicial ruling.

kickback scheme any earlier, nor does it explain what investigation ARE ought to have conducted at what earlier stage that would have uncovered these intentionally concealed facts. Indeed, GMAC completely ignores the particularized allegation (Cplt. ¶ 58) that it was GMAC's improper stonewalling in providing discovery in the Florida Action that delayed receipt of information regarding GMAC and Balboa's improper practices relating to force-placed insurance prior to 2012.[24]

Finally, no complaint about the sufficiency of the conversion claim is made other than the bogus choice-of-law point already addressed above in Section IV(A), and the primary objection to the breach of fiduciary duty claim appears to be the claim that GMAC's express contractual undertaking to maintain monies in the Trust Accounts (again, segregated accounts required to be titled in the name of GMAC "in trust for" ARE) was insufficient as a matter of law to render GMAC a fiduciary with respect to its handling of the Trust Accounts and Trust Assets.[25] That transparently fallacious argument has already been addressed in Section I above.

[24] In any event, GMAC is not only insisting on an unduly short limitations period by its tactical invocation of Pennsylvania law (see, e.g. Fla. Stat. 95.11(3)(j), which provides a four-year limitations period for fraud claims) it is measuring from the wrong date. GMAC has gone on at great length about how this Adversary Proceeding is the de facto continuation of the Florida Action, and ARE does not dispute that (except to underscore that the now-crucial 541(d) issue was injected into the preexisting dispute by GMAC's bankruptcy filing and confirms that this Court is the right forum for the dispute to continue in). If ARE had amended the complaint in the Florida Action to add a fraudulent inducement claim, there can be no serious dispute that it would have related back to the original filing of that action in 2010 under Fed. R. Civ. P. 15(c)(1)(B), making the claim undeniably timely. The same analysis should apply here, given among other things that any attempt to amend the complaint in the Florida Action would have violated the automatic stay.

[25] The alternative claim that the breach of fiduciary duty claim is time-barred is fallacious because, even if GMAC were correct that a two-year rather than longer period is applicable, it is measuring from the wrong date for the reasons given above with respect to the fraud claim.

CONCLUSION

For all of the foregoing reasons, the Motion should be denied and Plaintiff permitted to proceed with all claims asserted against the Debtor insofar as they seek the identification and recovery of funds which are property of the Plaintiff rather than property of the Debtor's estate pursuant to 11 U.S.C. § 541(d), all of Plaintiff's other claims against the Debtor be fully preserved for adjudication at such future time and fashion as may be appropriate, and Plaintiff be awarded such other and further relief as may be appropriate.

Dated: May 22, 2013
New York, New York

STORCH AMINI & MUNVES PC

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EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 10-21943-CIV-GOLD/GOODMAN

AMERICAN RESIDENTIAL EQUITIES, LLC,

Plaintiff,

v.

GMAC MORTGAGE, LLC,

Defendant.
_____/

ORDER CANCELLING ORAL ARGUMENT

THIS CAUSE having come before the Court *sua sponte*. Oral argument on Defendant's Motion for Partial Summary Judgment [ECF No. 106] and Motion to Exclude Expert [ECF No. 101] was previously scheduled for Friday, May 18, 2012 at 2:00 p.m. Having reviewed the case file and being otherwise fully advised in the premises, it is hereby ORDERED and ADJUDGED:

Oral argument on Defendant's Motion for Partial Summary Judgment [ECF No. 106] and Motion to Exclude Expert [ECF No. 101], previously set before the Honorable Alan S. Gold, at the United States District Courthouse, Courtroom 11-1, Eleventh Floor, 400 North Miami Avenue, Miami, Florida, 33128 on Friday, May 18, 2012 at 2:00 p.m. is hereby **CANCELLED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 20 day of April, 2012.

THE HONORABLE ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record
U.S. Magistrate Judge Jonathan A. Goodman

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 10-21943-CIV-GOLD/GOODMAN

AMERICAN RESIDENTIAL EQUITIES, LLC,

Plaintiff,

v.

GMAC MORTGAGE, LLC,

Defendant.
_____/

ORDER TO SHOW CAUSE

THIS CAUSE came before the Court *sua sponte*. Oral argument on the parties' objections [ECF No. 128, 132] to Magistrate Judge Goodman's Report and Recommendation and Plaintiff's Motion to Strike [ECF No. 130] is scheduled for June 8, 2012. On May 16, 2012, Plaintiff filed a Notice Regarding Scheduling [ECF No. 137] stating Defendant GMAC filed for bankruptcy in the Southern District of New York, Case No. 12-12032-mg on May 14, 2012.[1] It is hereby ORDERED and ADJUDGED as follows:

On or before **May 24, 2012,** Defendant GMAC Mortgage, LLC shall **SHOW CAUSE** why this case should not be stayed and administratively closed, and the June 8, 2012 hearing cancelled, pending resolution of Southern District of New York Bankruptcy Case Number 12-12032-mg.

[1]The docket in S.D.N.Y. Bankruptcy Case No. 12-12032 reflects debtor GMAC Mortgage LLC aka GMAC Mortgage Corporation filed for Chapter 11 bankruptcy on May 14, 2012.

DONE AND ORDERED in Chambers at Miami, Florida, this 17TH day of May, 2012.

THE HONORABLE ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record
U.S. Magistrate Judge Jonathan A. Goodman

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 10-21943-CIV-GOLD/GOODMAN

AMERICAN RESIDENTIAL EQUITIES, LLC,

Plaintiff,

v.

GMAC MORTGAGE, LLC,

Defendant.
_____/

ORDER DISCHARGING ORDER TO SHOW CAUSE; STAYING CASE

THIS CAUSE came before the Court on Defendant GMAC's Notice of Bankruptcy and Effect of Automatic Stay [ECF No. 139]. Having reviewed the Notice and being otherwise duly advised, it is hereby ORDERED and ADJUDGED as follows:

1. The Order to Show Cause [ECF No. 138] is DISCHARGED.
2. This case is STAYED pursuant to 11 U.S.C. § 362(a) pending resolution of Southern District of New York Bankruptcy Case Number 12-12032-mg.
3. The Clerk of Court is instructed to ADMINISTRATIVELY CLOSE this case.
4. All hearings are CANCELLED.
5. All deadlines are HELD IN ABEYANCE pending further Court order.
6. Defendant GMAC shall notify the Court within five (5) days of the expiration of the stay and/or resolution of Southern District of New York Bankruptcy Case Number 12-12032-mg.
7. The case may be reopened upon motion of either party.

DONE AND ORDERED in Chambers at Miami, Florida, this18th day of May, 2012.

THE HONORABLE ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

cc:
All Counsel of Record
U.S. Magistrate Judge Jonathan A. Goodman

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

AMERICAN RESIDENTIAL EQUITIES, LLC,	)	
Plaintiff,	)	
v.	)	**Civil Action No.: 10-CV-21943/ GOLD/GOODMAN**
GMAC MORTGAGE, LLC, successor by merger to GMAC Mortgage Corporation,	)	
Defendant.	)	

AMENDED NOTICE OF BANKRUPTCY FILING AND SUPPLEMENTAL SERVICING ORDER

Defendant and debtor GMAC Mortgage, LLC, by and through its undersigned counsel, in accordance and consistent with section 362(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), respectfully submits this Am*ended Notice of Bankruptcy Filing and Supplemental Servicing Order*, and states as follows:

1. On May 14, 2012 (the "Petition Date"), Residential Capital, LLC and certain of its direct and indirect subsidiaries (collectively, the "Debtors"), including GMAC Mortgage, LLC, filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code (the "Bankruptcy Filing") in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004-1408 (the "Bankruptcy Court"). The Debtors' Chapter 11 cases are being jointly administered, indexed at case number 12-12020 (MG).

2. As a result of the Bankruptcy Filing, on the Petition Date, the protections of the automatic stay codified in section 362(a) of the Bankruptcy Code arose with regard to the Debtors. Section 362(a), among other things, operates as an automatic stay of: (i) "the

commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding" against the Chapter 11 Debtors (11 U.S.C. § 362(a)(1)); (ii) acts to "obtain possession of property" of the Debtors' Chapter 11 estate (11 U.S.C. § 362(a)(3)); and (iii) acts to "collect, assess, or recover a claim" against the Debtor arising prior to the Petition Date (11 U.S.C. § 362(a)(6)).

3. On May 17, 2012, Debtor filed a *Notice of Bankruptcy and Effect of Automatic Stay* with this Court.

4. In a May 18, 2012 Order, this Court administratively closed the case pending resolution of the Debtor's bankruptcy proceedings.

5. On July 13, 2012, the Bankruptcy Court entered a final supplemental order granting, among other things, the Debtors' motion for limited relief from the automatic stay to permit non-Debtor parties in foreclosure and eviction proceedings, borrower bankruptcy cases and title disputes to continue to assert and prosecute certain defenses, claims and counter-claims (the "Final Supplemental Order"). Paragraphs 14, 15, 16 and 17 of the Final Supplemental Order identify the categories of defenses, claims and counter-claims for which the automatic stay has been modified (the "Permitted Claims"). A copy of the Final Supplemental Order is attached hereto as **Exhibit A**.

6. With regard to this matter, Plaintiff's claims remain stayed in their entirety as they do not fall within the relief from stay granted by the Final Supplemental Order. Plaintiff requests only monetary relief against Debtor, and as such, the claims remain subject to the automatic stay.

7. Pursuant to paragraph 23 of the Final Supplemental Order, any dispute regarding the extent, application and/or effect of the automatic stay under the Final Supplemental Order, must be heard and determined in the United States Bankruptcy Court for the Southern District of

New York, jointly administered under Case No. 12-12020, in accordance with the Case Management Order entered in the Debtors' case [Docket No. 141] and such other and further orders as may be entered by the United States Bankruptcy Court for the Southern District of New York.[1]

Dated this __ day of September, 2012.

Hope T. Cannon *(pro hac vice)*
D. Brian O'Dell (Bar No. 0659665)
BRADLEY ARANT BOULT CUMMINGS LLP
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ATTORNEYS FOR DEFENDANT/COUNTERCLAIM PLAINTIFF GMAC MORTGAGE, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ___ day of September, 2012, a true and correct copy of the foregoing document was served, via the Courts CM/ECF system, upon the following:

David A. Freedman
Coffey Burlington, PL
Office in the Grove, Penthouse
2699 South Bayshore Drive
Miami, Florida 33133
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OF COUNSEL

[1] A copy of the Case Management Order may be obtained at no charge at http:/www.kccllc.net/rescap.

EXHIBIT

"A"

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, et al.,	)	Chapter 11
Debtors.	)	Jointly Administered

FINAL SUPPLEMENTAL ORDER UNDER BANKRUPTCY CODE SECTIONS 105(a), 362, 363, 502, 1107(a), AND 1108 AND BANKRUPTCY RULE 9019 (I) AUTHORIZING THE DEBTORS TO CONTINUE IMPLEMENTING LOSS MITIGATION PROGRAMS; (II) APPROVING PROCEDURES FOR COMPROMISE AND SETTLEMENT OF CERTAIN CLAIMS, LITIGATIONS AND CAUSES OF ACTION; (III) GRANTING LIMITED STAY RELIEF TO PERMIT FORECLOSURE AND EVICTION PROCEEDINGS, BORROWER BANKRUPTCY CASES, AND TITLE DISPUTES TO PROCEED; AND (IV) AUTHORIZING AND DIRECTING THE DEBTORS TO PAY SECURITIZATION TRUSTEE FEES AND EXPENSES

Upon the motion (the "Motion")[1] of Residential Capital, LLC, and certain of its affiliates, as debtors and debtors in possession (collectively, the "Debtors") for entry of a supplemental order under Bankruptcy Code sections 105(a), 362, 363, 1107(a) and 1108, and Bankruptcy Rule 9019 (i) authorizing the Debtors to continue implementing loss mitigation programs; (ii) approving procedures for the compromise and settlement of certain claims, litigations and causes of action in the ordinary course of the Debtors' business; (iii) granting limited stay relief to permit (w) borrowers or their tenants, as applicable, to prosecute direct claims and counter-claims in foreclosure and eviction proceedings (including in states in which non-judicial foreclosure is followed), (x) borrowers to prosecute certain actions in borrower bankruptcy cases, (y) the Debtors to prosecute foreclosure actions in those circumstances where

[1] Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion. Creditors and parties-in-interest with questions or concerns regarding the Debtors' Chapter 11 cases or the relief granted herein may refer to http://www.kccllc.net/rescap for additional information.

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they service senior mortgage loans and own the junior mortgage loans on the underlying property, and (z) third party lien holders to prosecute direct claims and counter-claims in actions involving the amount, validity or priority of liens on properties subject to foreclosure proceedings; and (iv) authorizing and directing the Debtors to pay certain securitization trustee fees and expenses; and the Court having considered the Whitlinger Affidavit and the Bocresion Declaration; and the Court having entered the Interim Supplemental Order on June 15, 2012 [Docket No. 391]; and the Court having entered a final order on June 15, 2012 granting the GA Servicing Motion on a final basis [Docket No. 401]; and the Court having entered a final order on June 15, 2012 granting the Non-GA Servicing Motion on a final basis [Docket No. 402]; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these Chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C §§ 1408 and 1409; and it appearing that this proceeding on the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b); and sufficient notice of the Motion having been given and it appearing that no other or further notice need be provided; and the National Association of Consumer Bankruptcy Attorneys, on its own behalf and in a representative capacity, two individuals who are debtors under Chapter 13, and Edward Boltz, counsel for those individuals, having filed jointly the Limited Omnibus Objection To The Servicing Orders And Debtors' May 31, 2012 Motion For A Supplemental Order [Docket No. 221] (the "NACBA Objection"); and the Committee having filed the Omnibus Response And Reservation Of Rights Of The Official Committee Of Unsecured Creditors To Certain Of The Debtors' First Day Motions [Docket No. 240]; and the Debtors having filed the Omnibus Reply To Objections To Entry Of Final Orders For Specific "First Day" Motions And Related Relief [Docket. No. 254]; and upon the record of the hearing; and it appearing that the relief requested

by the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and after due deliberation thereon; and any objections to the Motion, including the NACBA Objection, having been withdrawn, resolved, or overruled on the merits; and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED on a final basis, as set forth herein, and any objections to the Motion are hereby overruled;

Loss Mitigation Programs

2. The Debtors are authorized, but not directed in their sole and absolute discretion and subject to available funding, to continue developing and implementing loss mitigation programs and procedures in the ordinary course of their businesses *nunc pro tunc* to the Petition Date, including, but not limited to, making incentive payments to borrowers in connection with the closing of short sales, or vacating properties in lieu of foreclosure or eviction proceedings, or in the form of borrower rebates for loan payoffs including honoring all obligations related thereto that accrued in whole or in part prior to the Petition Date (collectively, the "Loss Mitigation Programs"); provided, however, that the aggregate cash payments made by the Debtors to individual borrowers under the Loss Mitigation Programs that are not reimbursed to the Debtors shall not exceed $550,000 per month (the "Monthly Cap"), absent consent of the Committee or further order of the Court; provided, further, however, that to the extent the Debtors do not exceed the Monthly Cap in any month they shall be entitled to utilize the difference between the actual amount and the Monthly Cap in any succeeding month. The Debtors shall provide monthly reports to the Committee and the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"), which reports shall be in a

form agreed to by the Debtors and the Committee and such additional information as shall be reasonably requested by the Committee, in each case, concerning the Loss Mitigation Programs.

3. Cash payments made by the Debtors to individual borrowers under the Loss Mitigation Programs for which the Debtors are not reimbursed shall not exceed $4.2 million in the aggregate, absent consent of the Committee or further order of the Court. For the avoidance of doubt, the limitation on the amount of cash payments provided for in this paragraph 3 is in addition to the limitation on the amount of cash payments provided for in paragraph 12 hereof.

Settlement Procedures

4. The Debtors are authorized, but not directed to compromise and settle certain claims brought by the Debtors against any non-insider third parties in connection with foreclosure, eviction, or borrower bankruptcy proceedings (each a "Settling Party") or by a Settling Party against any of the Debtors (each, a "Claim") in accordance with the following two-tiered procedures (the "Settlement Procedures"):

> Tier I: The Debtors, in their sole discretion, may enter into, execute and consummate written agreements of settlement with respect to Claims that will be binding on the Debtors and their estates without further action by this Court or notice to any party and grant such Settling Parties cash payments or allowed prepetition claims in amounts not to exceed $40,000 in full settlement of such Claim (each, a "Tier I Settlement").
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> Tier II: The Debtors may enter into, execute and consummate written agreements of settlement with respect to Claims that will be binding on the Debtors and their estates without further action by this Court or notice to any party and grant such Settling Parties cash payments or allowed prepetition claims in amounts exceeding $40,000 but less than $100,000 in full settlement of such Claims (each, a "Tier II Settlement"); provided, that in each case:
>
> (a) The Debtors must provide advance written notice (by formal or informal means, including by e-mail correspondence) of the terms of any Tier II Settlement to (x) the U.S. Trustee, 33

Whitehall Street, 21st Floor, New York, New York 10004, Attn: Brian S. Masumoto, (y) counsel for the Committee, Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas New York, NY 10036, Attn: Kenneth H. Eckstein and Douglas H. Mannal; and (z) counsel to the administrative agent for the Debtors' providers of debtor in possession financing, Skadden, Arps, Slate, Meagher & Flom LLP, 4 Times Square, New York, New York 10036, Attn: Kenneth S. Ziman and Jonathan H. Hofer (collectively the "Notice Parties")

(b) Those Notice Parties wishing to object to any proposed Tier II Settlement must serve a written objection (by formal or informal means, including by e-mail correspondence) on the Debtors, so that it is received by no later than 4:00 p.m. (prevailing Eastern Time) on the day that is seven (7) calendar days from the date the Notice Parties received written notice of such Tier II Settlement (the "Settlement Objection Deadline"). Objections should be addressed to the proposed attorneys for the Debtors, Morrison & Foerster LLP, 1290 Avenue of the Americas, New York, New York 10104, Attn: Larren M. Nashelsky (LNashelsky@mofo.com) and Norman S. Rosenbaum (NRosenbaum@mofo.com).

(c) If the Debtors receive a timely objection from a Notice Party, the parties will confer and attempt to resolve any differences. Failing that, the Debtors may petition the Court for approval of the Tier II Settlement in accordance with any case management orders entered in the Chapter 11 cases. An objection by a Notice Party with respect to a given Tier II Settlement shall not delay the finality or effectiveness of any other settlement to which an objection has not timely been delivered.

(d) If the Debtors do not receive a written objection to a Tier II Settlement from a Notice Party by the Settlement Objection Deadline, then such Tier II Settlement shall be deemed approved and the Debtors and Settling Parties may carry out the terms of such Tier II Settlement without further notice or Court approval.

5. The Debtors shall be required to seek approval from the Court in order to enter into and consummate any proposed settlement of a Claim with a settlement amount in excess of $100,000.

6. The Debtors are authorized in their sole discretion, but not directed, to settle claims where some or all of the consideration is being provided by a third party and/or

where the Debtors are releasing claims against creditors or third parties provided the Debtors otherwise comply with the Settlement Procedures.

7. The Settlement Procedures are without prejudice to the right of the Debtors to seek an order of this Court approving additional or different procedures with respect to specific claims or categories of claims. For claims relating to matters specified in paragraphs 14(a) and 15(a) of this Order that were resolved pursuant to a settlement prior to the Petition Date, but where such settlement has not been consummated, the Debtors are authorized, but not directed to, consummate said settlements in accordance with the Settlement Procedures set forth in this Order.

8. Notwithstanding anything to the contrary contained herein, this Order shall not affect, impair, impede or otherwise alter the right of the Debtors to resolve any prepetition or postpetition controversy arising in the ordinary course of the Debtors' businesses, or resolve any controversy authorized by any other order of the Court.

9. Nothing in this Order or the Motion shall constitute a determination or admission of liability or of the validity or priority of any claim against the Debtors, and the Debtors reserve their rights to dispute the validity or priority of any claim asserted.

10. The authority granted in this Order shall not replace or obviate the need to comply with the Debtors' internal procedures, legal or otherwise, for authorizing the settlements contemplated in the Motion. All settlements made pursuant to the Settlement Procedures shall, to the extent applicable, be made in accordance with the Debtors' settlement procedures in effect as of the Petition Date (the "Internal Settlement Protocol") and as may be amended from time; provided, however, that the Debtors shall provide the Committee and the U.S. Trustee with notice of any material changes to the Internal Settlement Protocol.

11. The Debtors shall provide monthly reports to the Committee and the U.S. Trustee, which reports shall be in a form agreed to by the Debtors and the Committee, and such additional information as shall be reasonably requested by the Committee, in each case, concerning settlements of any Claims pursuant to the Settlement Procedures.

12. Cash payments made by the Debtors under the Settlement Procedures shall not exceed $4 million in the aggregate, absent consent of the Committee or further order of the Court.

13. Any period prescribed or allowed by the Settlement Procedures shall be computed in accordance with Bankruptcy Rule 9006.

Limited Relief from Automatic Stay

Borrower Foreclosure And Eviction Proceedings

14. The stay imposed by section 362(a) of the Bankruptcy Code applicable to (a) pending and future foreclosure actions initiated by the Debtors or in those states providing for non-judicial foreclosures, by a borrower; and (b) pending and future eviction proceedings with respect to properties for which a foreclosure has been completed or is pending, is hereby modified pursuant to the following terms and conditions:

(a) except as set forth herein, a borrower, mortgagor, or lienholder (each, an "Interested Party") shall be entitled to assert and prosecute direct claims and counter-claims relating exclusively to the property that is the subject of the loan owned or serviced by a Debtor for the purposes of defending, unwinding, or otherwise enjoining or precluding any foreclosure, whether in a Judicial State or a Non-Judicial State, or eviction proceeding, where a final judgment (defined as any judgment where the right to appeal or seek reconsideration has expired or has been exhausted) permitting the foreclosure or

eviction has not been awarded or, with respect to completed foreclosure sales in Non-Judicial States, where any applicable challenge period has not yet expired, and to prosecute appeals with respect to any such direct claims or counter-claims;

(b) absent further order of the Court, the automatic stay shall remain in full force and effect with respect to all pending and future Interested Party direct claims and counter-claims: (i) for monetary relief of any kind and of any nature against the Debtors, except where a monetary claim must be plead in order for an Interested Party to a assert a claim to defend against or otherwise enjoin or preclude a foreclosure (each a "Mandatory Monetary Claim"); (ii) for relief that if granted, would not terminate or preclude the prosecution and completion of a foreclosure or eviction; or (iii) asserted in the form of a class action or collective action;

(c) absent further order of the Court, the stay shall remain in full force and effect with respect to any party seeking to intervene to assert related claims against the Debtors or any class action or collective action brought by any Interested Party on behalf of any other Interested Party or class of Interested Parties;

(d) under no circumstances shall an Interested Party be entitled to enforce against, recoup, setoff or collect from the Debtors any judgment or award related to any direct claim or counter-claim for which the automatic stay has been lifted by the terms of this Order, including, without limitation, a Mandatory Monetary Claim;

(e) the Debtors shall retain the right, upon appropriate motion and notice to any affected Interested Party, to seek to impose any provision of section 362(a) of the Bankruptcy Code modified by this Order and to the extent such relief is sought, the

Debtors will not object to the Interested Party's telephonic participation at any hearing on the motion; and

(f) nothing set forth herein shall preclude or limit any Interested Party from seeking relief from the automatic stay under section 362(a) of the Bankruptcy Code on appropriate motion and notice to the Debtors and parties in interest.

Borrower Bankruptcy Proceedings

15. The automatic stay imposed by section 362(a) of the Bankruptcy Code applicable against a borrower who currently has filed, or in the future files, for bankruptcy protection under any chapter of the Bankruptcy Code (a "Bankruptcy Borrower"), is hereby modified pursuant to the following terms and conditions:

(a) except as set forth herein, a Bankruptcy Borrower or a trustee duly appointed under the Bankruptcy Code in the Bankruptcy Borrower's bankruptcy case (a "Bankruptcy Trustee") shall be entitled to: (i) assert and prosecute or continue to prosecute an objection to the Debtors' proof of claim filed in the Bankruptcy Borrower's bankruptcy case; (ii) assert and prosecute or continue to prosecute an objection to the Debtors' motion for relief from the automatic stay filed in the Bankruptcy Borrower's bankruptcy case; (iii) commence or continue to prosecute against the Debtors a motion or adversary proceeding, as applicable, to determine the validity, priority or extent of a Debtor's lien against the Bankruptcy Borrower's property; (iv) commence or continue to prosecute against the Debtors a motion or adversary proceeding, as applicable, to reduce (including to reduce to $0) or fix the amount of the Debtors' claim or lien against the Bankruptcy Borrower's property; (v) prosecute appeals with respect to items (i) through (iv) above; (vi) seek an accounting from the Debtors with respect to the Bankruptcy

Borrower's loan; and (vii) enter into, execute and consummate a written agreement of settlement with the Debtors where the Debtors elect to enter into such settlement in their sole discretion (but subject to the Settlement Procedures), to resolve items (i) through (vi) above;

(b) except as set forth herein, a Bankruptcy Borrower shall be entitled to (i) engage in court-supervised or court-authorized loss-mitigation programs regarding the Bankruptcy Borrower's loan; and (ii) engage in discussions with the Debtors and execute a modification of the Bankruptcy Borrower's loan or otherwise discuss, enter into and consummate settlements of claims and liens in accordance with the ordinary course of the Debtors' business and applicable law;

(c) absent further order of the Court, the automatic stay shall remain in full force and effect with respect to all Bankruptcy Trustee's and Bankruptcy Borrower's direct claims, counter-claims, motions or adversary proceedings: (i) for monetary relief of any kind and of any nature against the Debtors; (ii) for violation of any local, state or federal statute or other law in connection with the origination of the Bankruptcy Borrower's loan; (iii) for relief that if granted, would have no effect on the amount, validity or priority of the Debtors' claim or lien against a Bankruptcy Borrower or the property of the Bankruptcy Borrower securing such claim or lien of the Debtors; or (iv) asserted in the form of a class action or collective action; provided however, a Bankruptcy Trustee or Bankruptcy Borrower, solely in connection with their objections to Debtors' proof of claim permitted by paragraph 15(a)(i) or proceedings permitted by 15(a)(iii), may assert claims of the type covered by subsection (i) or (ii) of this paragraph 15(c);

(d) absent further order of the Court, the automatic stay shall remain in full force and effect with respect to any party seeking to intervene to assert related claims against the Debtors or any class action or collective action brought by any Bankruptcy Borrower on behalf of any other class of borrowers;

(e) with the sole exception of objections to Debtors' proofs of claim permitted by paragraph 15(a)(i) above and proceedings described in 15(a)(iii) above and solely for purposes of reducing any such claim and not for the purpose of obtaining an affirmative recovery or award, under no circumstances shall a Bankruptcy Borrower or Bankruptcy Trustee be entitled to recoup, setoff or collect from the Debtors any judgment or award related to any direct claim or counter-claim for which the automatic stay has been lifted by the terms of this Order;

(f) the Debtors shall retain the right, upon appropriate motion and notice to any Bankruptcy Borrower or Bankruptcy Trustee, to seek to impose any provision of section 362(a) of the Bankruptcy Code modified by this Order and to the extent such relief is sought, the Debtors will not object to the Interested Party's telephonic participation at any hearing on the motion; and

(g) nothing set forth herein shall preclude or limit any Bankruptcy Borrower or Bankruptcy Trustee from seeking relief from the automatic stay under section 362(a) of the Bankruptcy Code on appropriate motion and notice to the Debtors and parties in interest.

Foreclosures By The Debtors On Senior Loans

16. The stay imposed by section 362(a) of the Bankruptcy Code applicable to pending and future foreclosure actions initiated by the Debtors in cases where they act as

servicer for the Senior Loan and also own (or for which the applicable public land records otherwise reflect that the Debtors hold an interest) the Junior Loan with respect to the underlying property (collectively, the "Junior Foreclosure Actions") is hereby modified pursuant to the following terms and conditions:

(a) except as otherwise set forth herein, the Debtors shall be entitled to assert and prosecute Junior Foreclosure Actions, whether in a Judicial State or a Non-Judicial State;

(b) the Debtors shall be entitled to take such actions as are necessary to extinguish the lien with respect to a Junior Loan or to otherwise ensure clear and marketable title with respect to the property underlying a Senior Loan in connection with any sale or other disposition of such property;

(c) the Debtors shall be entitled to seek all appropriate relief with respect to a Senior Loan in connection with the bankruptcy cases of a Bankruptcy Borrower without further order of the Court; and

(d) the Debtors shall provide monthly reports to the Committee and the U.S. Trustee, which reports shall be in a form agreed to by the Debtors and the Committee, and such additional information as shall be reasonably requested by the Committee, in each case, concerning Junior Foreclosure Actions.

D. Actions Involving Amount, Validity Or Priority Of Liens

17. The stay imposed by section 362(a) of the Bankruptcy Code applicable to actions involving the amount, validity, and/or priority of liens commenced by third parties purporting to have a lien interest or other claim ("Third Party Claimants") with respect to

properties that are subject to mortgages owned or serviced by the Debtors ("Title Disputes") is hereby modified pursuant to the following terms and conditions:

(a) except as otherwise set forth herein, a Third Party Claimant shall be entitled to assert and prosecute direct claims and counter-claims relating exclusively to the property that is the subject of the loan owned or serviced by a Debtor in connection with any Title Dispute, and to prosecute appeals with respect to any such direct claims or counter-claims;

(b) absent further order of the Court, the automatic stay shall remain in full force and effect with respect to all pending and future Third Party Claimant direct claims and counter-claims: (i) for monetary relief of any kind and of any nature against the Debtors; (ii) for relief that is not necessary for the resolution of the Title Dispute; or (iii) asserted in the form of a class action or collective action;

(c) absent further order of the Court, the stay shall remain in full force and effect with respect to any party seeking to intervene to assert related claims against the Debtors or any class action or collective action brought by any Third Party Claimant on behalf of any other Third Party Claimant or class of Third Party Claimants;

(d) under no circumstances shall a Third Party Claimant be entitled to enforce against, recoup, setoff or collect from the Debtors any judgment or award related to any direct claim or counter-claim for which the automatic stay has been lifted by the terms of the Order;

(e) the Debtors shall be entitled to take such actions as are necessary to clear title with respect to property that is subject to a Title Dispute or to otherwise ensure

clear and marketable title with respect to such property in connection with any sale, foreclosure or other disposition of such property;

(f) the Debtors shall retain the right, upon appropriate motion and notice to any affected Third Party Claimant, to seek to impose any provision of section 362(a) of the Bankruptcy Code modified by the Order; and

(g) nothing set forth herein shall preclude or limit any Third Party Claimant from seeking relief from the automatic stay under section 362(a) of the Bankruptcy Code on appropriate motion and notice to the Debtors and parties in interest.

Payment of Securitization Trustee Fees and Expenses

18. The Debtors shall continue to perform all of their respective servicing duties and servicing related duties, including, but not limited to, their duties as master servicer, under all the governing agreements (including, without limitation, pooling and servicing agreements, servicing agreements, or any other agreements concerning or relating to the Debtors' obligations to reimburse and/or indemnify for reasonable fees, costs, expenses, liabilities, and/or losses) (collectively, the "Agreements") relating to Debtor-sponsored securitization transactions and non-Debtor sponsored securitization transactions to which any of The Bank of New York Mellon Trust Company, N.A., Wells Fargo Bank, N.A., Deutsche Bank Trust Company Americas, Deutsche Bank National Trust Company, or U.S. Bank National Association, or any affiliate of such entities acts as trustee for which any Debtor performs servicing duties, in each of their respective capacities as trustee (collectively, the "Trustees") and one or more of the Debtors is a party, including but not limited to, making all principal, interest or other servicing advances (including property protection advances) and reimbursing, indemnifying, defending and holding harmless the Trustees and the securitization trusts for any liability, loss, or reasonable fees, cost

or expense (including fees and disbursements of counsel or agents) incurred by any of the Trustees in the performance of their duties or their administration of the trusts or other agencies under the Agreements to the extent required by the Agreements. For the avoidance of doubt, the Debtors shall pay the reasonable, actual out-of-pocket costs and expenses of the Trustees in connection with reviewing and analyzing the request by the Debtors to approve the MBS Settlement Agreement, and in connection with reviewing and analyzing amendments to the Agreements as necessary or appropriate in connection with any proposed Chapter 11 plan, the MBS Settlement Agreement or the Platform Sale. Notwithstanding the foregoing, nothing in this paragraph 18 shall require any Debtor (i) to repurchase any mortgage loans on the basis of alleged breaches of representations, warranties or other requirements of the Agreements, or make any make-whole payments with respect to any mortgage loans pursuant to the Agreements; or (ii) to enforce, as against any other Debtor entity or any non-Debtor affiliate, any provision of the Agreements under which such other Debtor entity or non-Debtor affiliate are required to repurchase any mortgage loans on the basis of alleged breaches of representations, warranties or other requirements of the Agreements, or make any make-whole payments with respect to any mortgage loans pursuant to the Agreements; and nothing in this paragraph 18 shall be deemed to impose liability on any Debtor with respect to such alleged breaches or make-whole payment requirements.

19. The Trustees shall submit invoices to (a) counsel to the Debtors, (b) counsel to the Committee, and (c) the U.S. Trustee, and all such invoices shall include (i) an itemization of all professional fees by task with a detailed description of the work performed in connection with such task, (ii) a description of related expenses, and (iii) a description of any indemnity claims. Thereafter, within thirty (30) days of presentment of such invoices, if no

written objections to the reasonableness of the fees and expenses charged in any such invoice (or portion thereof) is made by the Debtors, the Committee, or the U.S. Trustee, the Debtors are authorized and directed to pay all reasonable fees, costs and expenses and all indemnity claims referred to in paragraph 18 (including without limitation, attorney, financial advisor, consultant and expert fees and costs) incurred postpetition by any of the Trustees relating to the performance of each of the Trustees' duties or the administration of the trusts or other agencies under the Agreements (the "Trustee Expenses") that are not subject to an objection by the Debtors, the Committee, or the U.S. Trustee without further order from the Court. Any objection to the payment of the Trustee Expenses shall be made only on the basis of "reasonableness," and shall specify in writing the amount of the contested fees and expenses and a detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the Debtors, the Committee, or the U.S. Trustee and the issuer of the invoice, either party may submit such dispute to the Court for a determination as to the reasonableness of the disputed amounts. This Court shall resolve any dispute as to the reasonableness of any fees and expenses.

20. To the extent either the Committee, or the RMBS Trustees determine that the Trustee Expenses were improperly or mistakenly allocated to an RMBS trust or to the Debtors' estates, the Committee and the RMBS Trustees reserve the right to seek to correct the allocation of the Trustee Expenses as between the RMBS trusts or the Debtors' estates in accordance with the applicable Agreement, and such adjustment shall be the Committee's and RMBS Trustees' sole remedy arising from a misallocation. All Trustee Expenses for which (a) no objection under paragraph 19 has been interposed, or (b) where such an objection has been

interposed and the amount of Trustee Expenses determined by the Court to be reasonable, shall be entitled to administrative expense priority in the Debtors' Chapter 11 cases notwithstanding the entry of an order authorizing the assumption and assignment or rejection of any Agreement. However, the Debtors will not be responsible for any fees, costs and expenses incurred with respect to any Agreement after the entry of an order in the Debtors' Chapter 11 cases authorizing the rejection of such Agreement.

21. If any or all of the provisions of this Order are hereafter reversed, modified, limited, vacated or stayed, such reversal, stay, modification or vacatur shall not affect the validity, priority or enforceability of any Trustee Expenses incurred prior to the actual receipt of written notice by the Trustees of the effective date of such reversal, stay, modification or vacatur (the "Notice Date"). Notwithstanding any such reversal, stay, modification or vacatur, the payment of any Trustee Expenses incurred prior to the Notice Date and reimbursed prior to or after the Notice Date by the Debtors shall be governed in all respects by the original provisions of this Order, and the Trustees shall be entitled to all of the rights, remedies, privileges and benefits granted in this Order with respect to payment of Trustee Expenses.

22. Notwithstanding the Debtors' obligations set forth in paragraphs 18 and 19, nothing in this Order shall be deemed to limit, extinguish, or prejudice the Debtors' rights in any way to assume and assign or reject any Agreement in accordance with Bankruptcy Code section 365.

Other Relief

23. Any disputes regarding the extent, application and/or effect of the automatic stay under this Order shall be heard and determined in the Debtors' jointly administered bankruptcy cases pending in the United States Bankruptcy Court for the Southern

District of New York, Case No. 12-12020 in accordance with the Case Management Order entered in the Debtors' cases [Docket No. 141] and such other and further orders as may be entered by the Court.

24. The Debtors are authorized and empowered to take all actions and execute such documents as may be necessary or appropriate to carry out the relief granted herein.

25. Nothing herein shall be deemed to limit the rights of the Debtors to operate their business in the ordinary course, and no subsequent order shall be required to confirm such rights.

26. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall constitute, nor is it intended to constitute, the assumption of any contract or agreement under Bankruptcy Code section 365 or the waiver by the Debtors or their non-Debtor affiliates of any of their rights pursuant to any agreement by operation of law or otherwise.

27. Notwithstanding anything to the contrary in this Order, any action to be taken pursuant to the relief authorized in this Order is subject to the terms of any cash collateral order or debtor in possession financing order entered in these chapter 11 proceedings. All amounts authorized to be paid pursuant to this Order are subject to the limitations and restrictions imposed by the Approved DIP Budget (as defined in the DIP Credit Agreement). To the extent that there is any inconsistency between the terms of this Order and the terms of any order relating to postpetition financing or cash collateral, the terms of the orders relating to postpetition financing or cash collateral shall govern.

28. Notwithstanding anything herein to the contrary, this Order shall not modify or affect the terms and provisions of, nor the rights and obligations under, (a) the Board

of Governors of the Federal Reserve System Consent Order, dated April 13, 2011, by and among AFI, Ally Bank, ResCap, GMAC Mortgage, LLC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, (b) the consent judgment entered April 5, 2012 by the District Court for the District of Columbia, dated February 9, 2012, (c) the Order of Assessment of a Civil Money Penalty Issued Upon Consent Pursuant to the Federal Deposit Insurance Act, as amended, dated February 10, 2012, and (d) all related agreements with AFI and Ally Bank and their respective subsidiaries and affiliates.

29. Nothing in this Order shall discharge, release, or otherwise preclude any setoff or recoupment right of the United States of America, its agencies, departments, or agents.

30. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

31. Notwithstanding the possible applicability of Bankruptcy Rules 2002(a)(3), 6004(h), 7062 or 9014, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

32. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

Dated: July 13, 2012
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

AMERICAN RESIDENTIAL EQUITIES, LLC,	)	
Plaintiff,	)	
v.	)	**Civil Action No.: 10-CV-21943/ GOLD/GOODMAN**
GMAC MORTGAGE, LLC, successor by merger to GMAC Mortgage Corporation,	)	
Defendant.	)	

NOTICE OF BANKRUPTCY
AND EFFECT OF AUTOMATIC STAY

Defendant and debtor, GMAC Mortgage, LLC (the "Debtor"), by and through its undersigned counsel, in accordance and consistent with section 362(a) of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), respectfully submits this Notice of Bankruptcy and Effect of Automatic Stay, and states as follows:

1. On May 14, 2012 (the "Petition Date"), the Debtor and certain of its affiliates filed voluntary petitions (the "Petitions") under Chapter 11 of Title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004-1408 (the "Bankruptcy Code"). The bankruptcy cases of the Debtor and its affiliates are jointly administered under the Chapter 11 Case for the affiliated debtor Residential Capital, LLC, which case is indexed as case number 12-12020.

2. The "automatic stay" is codified in section 362 of the Bankruptcy Code. Section 362(a), *inter alia*, operates as an automatic stay of: (i) the commencement or continuation of a

"judicial, administrative, or other action or proceeding" against the Debtor (11 U.S.C. § 362(a)(1)); (ii) acts to "obtain possession of property" of the Debtor's estate (11 U.S.C. § 362(a)(3)); and (iii) acts to "collect, assess, or recover a claim" against the Debtor arising prior to the Petition Date (11 U.S.C. § 362(a)(6)).

3. The above-captioned action constitutes a "judicial, administrative, or other action or proceeding" against the Debtor, an act to obtain possession of the Debtor's property, and/or an act to collect or recover on a claim against the Debtor.

4. Accordingly, the above-captioned lawsuit is stayed pursuant to 11 U.S.C. § 362(a).

Any action taken by the Plaintiff or any other party against the Debtor without obtaining relief from the automatic stay from the Bankruptcy Court may be void *ab initio* and may result in finding of contempt by the Bankruptcy Court against Plaintiff or such other party. The Debtor reserves and retains all of its rights to seek relief in Bankruptcy Court from any action, judgment, order, or ruling entered in violation of the automatic stay.

Dated this 17th day of May, 2012.

/s/ Hope T. Cannon

Hope T. Cannon *(pro hac vice)*
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ATTORNEYS FOR DEFENDANT/COUNTERCLAIM PLAINTIFF GMAC MORTGAGE, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of May, 2012, a true and correct copy of the foregoing document was served, via the Courts CM/ECF system, upon the following:

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s/ Hope T. Cannon
OF COUNSEL

EXHIBIT F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-21943-Civ-Gold/Goodman

AMERICAN RESIDENTIAL EQUITIES, LLC,

Plaintiff,
vs.

GMAC MORTGAGE, LLC, successor by merger to GMAC Mortgage Company,

Defendant.
_____/

PLAINTIFF AMERICAN RESIDENTIAL EQUITIES, LLC'S
MOTION TO STRIKE DEFENDANT'S REPORT, DE 127 AND FOR SANCTIONS

Plaintiff American Residential Equities, LLC ("ARE"), by and through undersigned counsel, moves this Court for an order striking Docket Entry # 127 filed by Defendant GMAC Mortgage, LLC ("GMAC"), and imposing an appropriate sanction against GMAC. GMAC has violated not only the instructions of the Magistrate Judge but also the fundamental principle of confidentiality which protects (and promotes) efforts to compromise disputed matters.

I. HAS THE LEVEL OF PROFESSIONAL CONDUCT SUNK SO LOW THAT EFFORTS TO SETTLE ARE NOW FREELY PUBLISHED TO THE COURT?

On the afternoon of April 20, 2012, Plaintiff's counsel opened an e-filing from GMAC and was disappointed[1] to find that GMAC had chosen to publish to the Court the settlement efforts of Plaintiff's counsel on a disputed issue: the imposition of a fee-payment requirement in connection with a motion to compel discovery. As described in the Objection to the Magistrate Judge's Report and Recommendation of April 10, 2012 filed contemporaneously herewith, Plaintiff's counsel had been proven to be correct that GMAC was withholding substantial

[1] In this context, the word "disappointed" is a euphemism.

amounts of essential discovery information—but the Magistrate Judge (while granting Plaintiff's Motion to Compel) required Plaintiff's counsel to pay GMAC's fees in the discovery dispute.

Plaintiff's counsel, holding a firm belief that the fee imposition was in error (but recognizing that the process of preparing, filing and arguing an Objection would be expensive) attempted to resolve the disputed issue amicably, saving money and time for the parties and the Court.[2] On April 13, 2012, Plaintiff's counsel initiated the process of attempting to "negotiate a resolution." As aforesaid, GMAC then revealed Plaintiff's offer to the Court: the series of communications is found as Exhibits A-D to "GMAC's Report to the Court Regarding Fees", DE 127.

Disclosure of settlement efforts chills the incentive of litigants to try to resolve disputed matters without consuming the resources of the court, contravening the public policy favoring compromise and settlement. *See* Advisory Committee Notes to Fed. R. Evid. 408. GMAC has blatantly violated this principle, and has prejudiced Plaintiff (as discussed *infra*.) DE 127 should be stricken.

II. DE 127 VIOLATES THE MAGISTRATE JUDGE'S APRIL 10, 2012 RULING.

The Magistrate Judge recognized the need to "maintain the privacy" of the information relative to the fee issue, and provided that filings relative thereto would be sent to the Magistrate's efile inbox and not be spread upon the public record via the CM/ECF docket. Report and Recommendation, at 14. DE 127, including its attachments, flies in the face of the Magistrate Judge's privacy-protecting mechanism, and should be stricken.

[2] Indeed, the Magistrate Judge instructed counsel for the parties to "first attempt by themselves to resolve the issue of the amount of fee." Report and Recommendation, at 14.

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III. PLAINTIFF HAS BEEN PREJUDICED BY GMAC'S VIOLATION OF CONFIDENTIALITY; THE COURT SHOULD FASHION AN APPROPRIATE SANCTION.

GMAC's tactic of filing with the Court the settlement overture from the Plaintiff is extremely prejudicial. At the same time that Plaintiff places before the Court its sincerely-held belief that the Magistrate was in error in imposing a fee-payment obligation upon Plaintiff's counsel, GMAC waves emails in the face of the Court, effectively proclaiming "Look at this, they offered to pay over $XXXXX!"[3]

Inasmuch as the confidential information has already been disclosed, and cannot simply be retrieved from the mind of the District Judge,[4] Plaintiff respectfully requests that the Court fashion an appropriate sanction in addition to striking DE 127.

WHEREFORE, for all of the reasons detailed above, ARE and undersigned counsel respectfully request that this Court strike Docket Entry 127 from the record, and impose an appropriate sanction upon GMAC for its violation of confidentiality and of the requirements of the Magistrate Judge.

[3] In accordance with the instructions of the Magistrate Judge to maintain privacy on this issue, Plaintiff does not recite the amount of the offer in this Motion; the information appears in DE 127, Ex. A-D.

[4] "[Y]ou can throw a skunk into the jury box and instruct the jurors not to smell it, but it doesn't do any good." *O'Rear v. Fruehauf Corp.*, 554 F.2d 1304, 1309 (5th Cir. 1977).

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Respectfully submitted,

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CERTIFICATION

I hereby certify that on April 22, 2012, I served a copy of the foregoing by CM/ECF to the following:

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Ann T. Taylor
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/s/ Alice E. Meyer

EXHIBIT G

SERVICING AGREEMENT

among

AMERICAN RESIDENTIAL EQUITIES, LLC
Owner

and

GMAC MORTGAGE CORPORATION
Servicer

Dated as of July 29, 2004

FIXED AND ADJUSTABLE RATE, SUB-PRIME RESIDENTIAL MORTGAGE LOANS

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SERVICING AGREEMENT

This Servicing Agreement ("Servicing Agreement" or "Agreement") is entered into as of July 29, 2004, by and among GMAC MORTGAGE CORPORATION, a Pennsylvania corporation (the "Servicer") and AMERICAN RESIDENTIAL EQUITIES, LLC, a Delaware limited liability corporation (the "Owner").

WHEREAS, the Owner has purchased and will purchase in the future conventional, residential, fixed and adjustable rate first- and second-lien mortgage loans (the "Mortgage Loans"); and

WHEREAS, the Owner and Servicer entered into a letter agreement dated April 7, 2004 ("the Letter Agreement") wherein the Servicer agreed to subservice certain mortgage loans on behalf of Owner on an interim basis until such time that the parties enter into a definitive subservicing agreement; and

WHEREAS, the Servicer regularly services residential mortgage loans and has agreed to service the mortgage loans that become subject to this Agreement, including the mortgage loans serviced pursuant to the Letter Agreement, and the parties desire to provide the terms and conditions of such servicing by the Servicer.

NOW, THEREFORE, in consideration of the mutual premises and agreements set forth herein and for other good and valuable consideration, the receipt and the sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.01 Definitions. The following terms are defined as follows:

Accepted Servicing Practices: With respect to any Mortgage Loan or REO Property, those mortgage servicing practices of mortgage lending institutions which service mortgage loans of the same type as such Mortgage Loan in the jurisdiction where the related Mortgaged Property is located, exercising the same care in performing those practices that the Servicer customarily employs and exercises in servicing and administering mortgage loans for its own account (including, compliance with all applicable federal, state and local laws).

Adjustable Rate Mortgage Loan: An adjustable rate Mortgage Loan.

Affiliate: With respect to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

Ancillary Income: All income derived from the Mortgage Loans other than payments of principal, interest and Escrow Payments (excluding Servicing Fees and prepayment penalties attributable to the Mortgage Loans), including but not limited to interest received on funds deposited in the Custodial Account or any Escrow Account (to the extent permitted by applicable law), all late charges, assumption fees, escrow account benefits, reinstatement fees, fees received with respect to checks on bank drafts returned by the related bank for insufficient funds, assumption fees, and similar types of fees arising from or in connection with any Mortgage Loan to the extent not otherwise payable to the Mortgagor under applicable law or pursuant to the terms of the related Mortgage Note.

Appraised Value: The value of the Mortgaged Property at the time of the Mortgage Loan's origination as used by the originating lender in underwriting such Mortgage Loan.

Assignment of Mortgage: An assignment of the Mortgage, notice of transfer or equivalent instrument in recordable form, sufficient under the laws of the jurisdiction wherein the related Mortgaged Property is located to reflect the sale of the Mortgage to the Owner.

BPO: A broker price opinion.

Business Day: Any day other than (i) a Saturday or Sunday, or (ii) a day on which banking and savings and loan institutions are closed for business in the States of New York, New Jersey or Pennsylvania.

Catastrophic Advance: A Servicing Advance made in good faith by the Servicer that would not be a Nonrecoverable Advance except for the later occurrence of a catastrophic event (e.g., a natural disaster) that substantially reduces the value of the Mortgaged Property.

Code: Internal Revenue Code of 1986, as amended.

Condemnation Proceeds: All awards or settlements in respect of a Mortgaged Property, whether permanent or temporary, partial or entire, by exercise of the power of eminent domain or condemnation, to the extent not required to be released to a Mortgagor in accordance with the terms of the related Mortgage Loan Documents.

Custodial Account: The separate account or accounts created and maintained pursuant to Section 2.06.

Custodial Agreement: The agreement governing the retention of the originals of each Mortgage Note, Mortgage, Assignment of Mortgage and other Mortgage Loan Documents.

Custodian: The custodian of the Mortgage Loan Documents as specified under the related Custodial Agreement.

Deboarding Fee: With respect to each Mortgage Loan, the deboarding fee set forth in the Term Sheet.

Default: A Mortgage Loan shall be considered in default where more than one Monthly Payment is due.

Determination Date: The last Business Day of the month prior to the related Remittance Date.

Due Date: The day of the month on which the Monthly Payment is due on a Mortgage Loan, exclusive of any days of grace.

Due Period: With respect to each Remittance Date, the period commencing on the day after the Determination Date prior to the immediately prior Determination Date and ending on the immediately prior Determination Date.

Eligibility Criteria: The eligibility criteria for residential mortgage loans to be delivered by Owner after the the date of this Agreement to be serviced by Servicer under this Agreement, as specified in **Exhibit 11**, as the same may be amended from time to time with the mutual consent of both parties.

Eligible Investments: Any one or more of the obligations and securities listed below which investment provides for a date of maturity not later than one day prior to the Remittance Date in each month (or such other date as permitted under this Agreement):

(i) direct obligations of, and obligations fully guaranteed as to timely payment of principal and interest by, the United States of America or any agency or instrumentality of the United States of America the obligations of which are backed by the full faith and credit of the United States of America ("Direct Obligations");

(ii) federal funds, demand and time deposits in, certificates of deposits of, or bankers' acceptances issued by, any depository institution or trust company (including U.S. subsidiaries of foreign depositories) incorporated or organized under the laws of the United States of America or any state thereof and subject to supervision and examination by federal or state banking authorities, so long as at the time of such investment or the contractual commitment providing for such investment the commercial paper or other short-term debt obligations of such depository institution or trust company (or, in the case of a depository institution or trust company which is the principal subsidiary of a holding company, the commercial paper or other short-term debt or deposit obligations of such holding company or deposit institution, as the case may be) have been rated by each Rating Agency in its highest short-term rating category or one of its two highest long-term rating categories;

(iii) repurchase agreements collateralized by Direct Obligations or securities guaranteed by Fannie Mae or Freddie Mac with any registered broker/dealer subject to Securities Investors' Protection Corporation jurisdiction or any commercial bank insured by the FDIC, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligation rated by each Rating Agency in its highest short-term rating category;

(iv) securities bearing interest or sold at a discount issued by any corporation incorporated under the laws of the United States of America or any state thereof which have a credit rating from each Rating Agency, at the time of investment or the contractual commitment providing for such investment, at least equal to one of the two highest long-term credit rating categories of each Rating Agency; *provided, however,* that securities issued by any particular corporation will not be Eligible Investments to the extent that investment therein will cause the then outstanding principal amount of securities issued by such corporation to exceed 20% of the aggregate principal amount of all Eligible Investments in the Custodial Accounts and the Escrow Accounts; provided, further, that such securities will not be Eligible Investments if they are published as being under review with negative implications from either Rating Agency;

(v) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than 180 days after the date of issuance thereof) rated by each Rating Agency in its highest short-term rating category;

(vi) certificates or receipts representing direct ownership interests in future interest or principal payments on obligations of the United States of America or its agencies or instrumentalities (which obligations are backed by the full faith and credit of the United States of America) held by a custodian in safekeeping on behalf of the holders of such receipts; and

(vii) any other demand, money market, common trust fund or time deposit or obligation, or interest-bearing or other security or investment rated in the highest rating category by each Rating Agency;

provided, however, that (a) any such instrument shall be acceptable to the Rating Agencies, and (b) no such instrument shall be an Eligible Investment if such instrument evidences either (i) a right to receive only interest payments with respect to the obligations underlying such instrument, or (ii) both principal and interest payments derived from obligations underlying such instrument and the principal and interest payments with respect to such instrument provide a yield to maturity of greater than 120% of the yield to maturity at par of such underlying obligations.

Errors and Omissions Insurance Policy: An errors and omissions insurance policy to be maintained by the Servicer pursuant to Section 2.12.

Escrow Account: The separate account or accounts created and maintained pursuant to Section 2.06.

Escrow Payment: With respect to any Mortgage Loan, the amounts constituting ground rents, taxes, assessments, water rates, sewer rents, municipal charges, mortgage insurance premiums, fire and hazard insurance premiums, condominium charges, and any other payments required to be escrowed by the Mortgagor with the mortgagee pursuant to the Mortgage or any other document.

Event of Default: Any one of the conditions or circumstances enumerated in Section 11.01.

Fannie Mae: The Federal National Mortgage Association, or any successor thereto.

Fannie Mae Guides: The Fannie Mae Sellers' Guide and the Fannie Mae Servicers' Guide and all amendments or additions thereto.

FDIC: The Federal Deposit Insurance Corporation, or any successor thereto.

FHA: The Federal Housing Authority, or any successor thereto.

FHLMC or Freddie Mac: The Federal Home Loan Mortgage Corporation, or any successor thereto.

Fidelity Bond: A fidelity bond to be maintained by the Servicer pursuant to Section 2.12.

Fitch: Fitch, Inc., or its successor in interest.

Forbearance: Shall have the meaning set forth in Section 2.01(a).

Foreclosure Commencement: The delivery of the applicable file to the Servicer's foreclosure counsel for initiation of foreclosure proceedings.

Freddie Mac: The Federal Home Loan Mortgage Corporation, or any successor thereto.

Gross Margin: With respect to each Adjustable Rate Mortgage Loan, the fixed percentage amount set forth in the related Mortgage Note which amount is added to the Index in accordance with the terms of the related Mortgage Note to determine on each Interest Rate Adjustment Date the Mortgage Interest Rate for such Mortgage Loan.

HOEPA Loan: A Mortgage Loan subject to the Home Ownership and Equity Protection Act of 1994 ("HOEPA").

Index: With respect to each Adjustable Rate Mortgage Loan, the index set forth in the related Mortgage Note.

Insurance Proceeds: With respect to each Mortgage Loan, proceeds of insurance policies insuring the Mortgage Loan or the related Mortgaged Property.

Interest Rate Adjustment Date: With respect to each Adjustable Rate Mortgage Loan, the date, specified in the related Mortgage Note and the Mortgage Loan Schedule, on which the Mortgage Interest Rate is adjusted.

Lifetime Rate Cap: The provision of each Mortgage Note related to an Adjustable Rate Mortgage Loan which provides for an absolute maximum Mortgage Interest

Rate thereunder. The Mortgage Interest Rate during the terms of each Adjustable Rate Mortgage Loan shall not at any time exceed the Mortgage Interest Rate at the time of origination of such Adjustable Rate Mortgage Loan by more than the amount per annum set forth on the Mortgage Loan Schedule.

Liquidation Proceeds: Cash received in connection with the liquidation of a defaulted Mortgage Loan, whether through the sale or assignment of such Mortgage Loan, trustee's sale, foreclosure sale or otherwise, or the sale of the related Mortgaged Property if the Mortgaged Property is acquired in satisfaction of the Mortgage Loan.

Loan-to-Value Ratio or LTV: With respect to any Mortgage Loan, the most recent ratio (expressed as a percentage) of the outstanding principal amount of the Mortgage Loan, to the lesser of (a) the Appraised Value and (b) if the Mortgage Loan was made to finance the acquisition of the related Mortgaged Property, the purchase price of the Mortgaged Property.

MERS: Mortgage Electronic Registration Systems, Inc., a corporation organized and existing under the laws of the state of Delaware, or any successor thereto.

Monthly Payment: The scheduled monthly payment of principal and interest on a Mortgage Loan.

Monthly Remittance Advice: As described in Section 3.02.

Moody's: Moody's Investors Service, Inc., and any successor thereto.

Mortgage: The mortgage, deed of trust or other instrument securing a Mortgage Note, which creates a first or second lien, as applicable, on an unsubordinated estate in fee simple in real property securing the Mortgage Note; except that with respect to real property located in jurisdictions in which the use of leasehold estates for residential properties is a widely-accepted practice, the mortgage, deed of trust or other instrument securing the Mortgage Note may secure and create a first or second lien, as applicable, upon a leasehold estate of the Mortgagor.

Mortgage File: The items pertaining to a particular Mortgage Loan referred to as the Mortgage File in Exhibit 8 annexed hereto to the extent received by the Servicer from the prior servicer, sub-servicer or originator, and any additional documents required to be added to the Mortgage File pursuant to this Agreement.

Mortgage Interest Rate: The annual rate of interest borne on a Mortgage Note with respect to each Mortgage Loan.

Mortgage Loan: An individual mortgage loan which is the subject of this Agreement, including those mortgage loans subserviced by Servicer pursuant to the Letter Agreement, each mortgage loan originally sold and subject to this Agreement being identified on the Mortgage Loan Schedule, which mortgage moan includes without limitation the Mortgage File, the Monthly Payments, Principal Prepayments, Liquidation Proceeds, Condemnation Proceeds, Insurance Proceeds, Servicing Rights and all other rights, benefits, proceeds and

obligations arising from or in connection with such mortgage loan, excluding replaced or repurchased mortgage loans.

Mortgage Loan Documents: The documents listed on Exhibit 8 attached hereto pertaining to any Mortgage Loan.

Mortgage Loan Schedule: The schedule of Mortgage Loans, provided by the prior Servicer, setting forth, to the extent available, the following information with respect to each Mortgage Loan: (1) the loan seller's Mortgage Loan identifying number; (2) the Mortgagor's name; (3) the street address of the Mortgaged Property including the city, state and zip code; (4) a code indicating whether the Mortgaged Property is owner-occupied, a second home or investment property; (5) the number and type of residential units constituting the Mortgaged Property (i.e. a single family residence, a 2-4 family residence, a unit in a condominium project or a unit in a planned unit development, manufactured housing); (6) the original months to maturity or the remaining months to maturity from the Transfer Date, in any case based on the original amortization schedule and, if different, the maturity expressed in the same manner but based on the actual amortization schedule; (7) the Loan-to-Value Ratio at origination; (8) with respect to First Lien Loans, the LTV and with respect to second lien loans, the CLTV; (9) the Mortgage Interest Rate as of the Transfer Date; (10) the date on which the Monthly Payment was due on the Mortgage Loan and, if such date is not consistent with the Due Date currently in effect, such Due Date; (11) the stated maturity date; (12) the amount of the Monthly Payment as of the Transfer Date; (13) the last payment date on which a Monthly Payment was actually applied to pay interest and the outstanding principal balance; (14) the original principal amount of the Mortgage Loan; (15) the principal balance of the Mortgage Loan as of the close of business on the Transfer Date, after deduction of payments of principal due and collected on or before the Transfer Date; (16) with respect to Adjustable Rate Mortgage Loans, the Interest Rate Adjustment Date; (17) with respect to Adjustable Rate Mortgage Loans, the Gross Margin; (18) with respect to Adjustable Rate Mortgage Loans, the Lifetime Rate Cap under the terms of the Mortgage Note; (19) with respect to Adjustable Rate Mortgage Loans, a code indicating the type of Index; (20) with respect to Adjustable Rate Mortgage Loans, the Periodic Rate Cap under the terms of the Mortgage Note; (21) with respect to Adjustable Rate Mortgage Loans, the Periodic Rate Floor under the terms of the Mortgage Note; (22) the type of Mortgage Loan (i.e., fixed rate, adjustable rate, first lien, second lien); (23) a code indicating the purpose of the loan (i.e., purchase, rate and term refinance, equity take-out refinance); (24) a code indicating the documentation style (i.e. full, alternative or reduced); (25) the loan credit classification (as described in the underwriting guidelines); (26) whether such Mortgage Loan provides for a prepayment penalty; (27) the prepayment penalty period of such Mortgage Loan, if applicable; (28)) a description of the prepayment penalty, if applicable; (29) the Mortgage Interest Rate as of origination; (30) the credit risk score (FICO score) at origination; (31) the date of origination; (32) the Mortgage Interest Rate adjustment period; (33) the Mortgage Interest Rate adjustment percentage; (34) the Mortgage Interest Rate floor; (35) the Mortgage Interest Rate calculation method (i.e., 30/360, simple interest, other); (36) a code indicating whether the Mortgage Loan is a HOEPA Loan; (37) a code indicating whether the Mortgage Loan is assumable; (38) a code indicating whether the Mortgage Loan has been modified; (39) the one year payment history; (40) the Due Date for the first Monthly Payment; (41) the original Monthly Payment due; (42) with respect to the related Mortgagor, the debt-to-income ratio; (43) the Appraised Value of the Mortgaged Property; (44) the sales price of the Mortgaged Property if the Mortgage Loan was

originated in connection with the purchase of the Mortgaged Property; (45) with respect to second lien loans, the outstanding principal balance of the superior lien; (46) a twelve month history for the Mortgage Loan and the number of times thirty, sixty, and ninety days delinquent in the past twelve months; (47) a code indicating the payment status of the Mortgage Loan (i.e. bankruptcy, foreclosure, REO, other litigation); (48) a twelve month history for the prior Mortgage Loan and the number of times thirty, sixty, and ninety days delinquent in the past twelve months; and (49) if subject to a Forbearance, the terms of such Forbearance. With respect to the Mortgage Loans in the aggregate, the Mortgage Loan Schedule shall set forth the following information: (1) the number of Mortgage Loans; (2) the current aggregate outstanding principal balance of the Mortgage Loans; (3) the weighted average Mortgage Interest Rate of the Mortgage Loans; and (4) the weighted average maturity of the Mortgage Loans.

Mortgage Note: The note or other evidence of the indebtedness of a Mortgagor secured by a Mortgage.

Mortgaged Property: The real property (or leasehold estate, if applicable) securing repayment of the debt evidenced by a Mortgage Note.

Mortgagor: The obligor on a Mortgage Note.

New Loan Data File: With respect to each Mortgage Loan delivered, or caused to be delivered, after the date of this Agreement by Owner to be subserviced by Servicer under this Agreement, the data file produced by Owner or the prior servicer pursuant to the Transfer Instructions, which is used to enable Servicer to set up each Mortgage Loan on its loan servicing system.

Nonrecoverable Advance: Any Servicing Advance previously made or proposed to be made in respect of a Mortgage Loan which, in the good faith judgment of the Servicer, will not or, in the case of a proposed advance, would not, be ultimately recoverable from related Insurance Proceeds, Liquidation Proceeds or otherwise from such Mortgage Loan. The determination by the Servicer that it has made a Nonrecoverable Advance or that any proposed advance, if made, would constitute a Nonrecoverable Advance, shall be evidenced by an Officer's Certificate delivered to the Owner.

Officer's Certificate: A certificate signed by the Chairman of the Board or the Vice Chairman of the Board or a President or Vice President or Senior Vice President and by the Treasurer or the Secretary or one of the Assistant Treasurers or Assistant Secretaries of the Servicer, and delivered to the Owner.

Opinion of Counsel: A written opinion of counsel, who may be counsel for the Servicer, reasonably acceptable to the Owner.

Originator: With respect to a Mortgage Loan, the originator of the related Mortgage Loan.

Pass-Through Transfer: The direct or indirect sale or transfer of some or all of the Mortgage Loans by the Owner to a trust to be formed as part of a publicly offered or privately placed mortgage-backed securities transaction.

Periodic Rate Cap: With respect to each Adjustable Rate Mortgage Loan, the provision of each Mortgage Note which provides for an absolute maximum amount by which the Mortgage Interest Rate therein may increase on an Interest Rate Adjustment Date above the Mortgage Interest Rate previously in effect.

Periodic Rate Floor: With respect to each Adjustable Rate Mortgage Loan, the provision of each Mortgage Note which provides for an absolute maximum amount by which the Mortgage Interest Rate therein may decrease on an Interest Rate Adjustment Date below the Mortgage Interest Rate previously in effect.

Person: Any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof.

Prime Rate: The prime rate announced to be in effect from time to time, as published as the average rate in The Wall Street Journal (Northeast edition).

Principal Prepayment: Any payment or other recovery of principal on a Mortgage Loan which is received in advance of its scheduled Due Date, including any prepayment penalty or premium thereon and which is not accompanied by an amount of interest representing scheduled interest due on any date or dates in any month or months subsequent to the month of prepayment.

Principal Prepayment Period: The month preceding the month in which the related Remittance Date occurs.

Qualified Depository: A depository the accounts of which are insured by the FDIC.

Rating Agency: Any of Fitch, Moody's or Standard & Poor's, or their respective successors designated by the Owner.

Reconstitution: Either a Whole Loan Transfer or a Pass-Through Transfer.

Reconstitution Agreements: As defined in Section 13.13 hereof.

Reconstitution Date: As defined in Section 13.13 hereof.

Recourse Obligation: With respect to any Mortgage Loan, any obligation or liability (actual or contingent) of the Servicer or its Affiliates, as applicable (i) for loss of principal incurred in connection with the foreclosure or other disposition of, or other realization or attempt to realize upon the collateral securing such Mortgage Loan (including, but not limited to, damages relating to loss mitigation, obtaining deeds in lieu of foreclosure, VA No_Bid Instructions, or VA partial guaranties); (ii) to repurchase such Mortgage Loan in the event that the Mortgagor of such Mortgage Loan has filed for bankruptcy protection, the Mortgaged Property is the subject of foreclosure or other litigation proceedings; or (iii) to repurchase such Mortgage Loan in the event of a delinquency or other payment default thereunder by the Mortgagor.

REMIC: A "real estate mortgage investment conduit" within the meaning of Section 860D of the Code.

REMIC Provisions: Provisions of the federal income tax law relating to a REMIC, which appear at Section 860A through 860G of Subchapter M of Chapter 1, Subtitle A of the Code, and related provisions and regulations, rulings or pronouncements promulgated thereunder, as the foregoing may be in effect from time to time.

Remittance Date: The 18th day (or if such 18th day is not a Business Day, the Business Day immediately following such 18th day) of the month following the Determination Date.

REO Property: A Mortgaged Property acquired by the Servicer on behalf of the Owner through foreclosure or by deed in lieu of foreclosure, as described in Section 2.15.

RESPA: Real Estate Settlement Procedures Act, as amended from time to time.

Securitization Servicing Fee: The servicing fee payable to the Servicer in a Pass-Through Transfer as agreed by the Servicer and the Owner.

Servicer Employees: As defined in Section 2.12 hereof.

Servicing Advances: All customary, reasonable and necessary "out of pocket" costs and expenses (including reasonable attorneys' fees and disbursements) incurred in the performance by the Servicer of its servicing obligations, including, but not limited to, the cost of (a) the preservation, restoration and protection of the Mortgaged Property, (b) any fees relating to any enforcement or judicial proceedings, excluding foreclosures, (c) foreclosure actions per FHLMC attorney fees and costs guidelines, (d) the management and liquidation of the Mortgaged Property if the Mortgaged Property is acquired in satisfaction of the Mortgage, (e) taxes, assessments, water rates, sewer rents and other charges which are or may become a lien upon the Mortgaged Property and (f) compliance with the obligations pursuant to the provisions of this Agreement.

Servicing Fee: With respect to each Mortgage Loan, the amount of the fee the Owner shall pay to the Servicer, as set forth in the Term Sheet.

Servicing File: With respect to each Mortgage Loan, the file retained by the Servicer consisting of originals, if provided, or copies of all documents in the Mortgage File which are not delivered to the Owner, its designee or the Custodian and copies of the Mortgage Loan Documents.

Servicing Performance Standards: The servicing standards set forth on Exhibit 16.

Servicing Rights: Any and all of the following: (a) any and all rights to service the Mortgage Loans; (b) any payments to or monies received by the Servicer for servicing the Mortgage Loans; (c) any Ancillary Income with respect to the Mortgage Loans; (d) all agreements or documents creating, defining or evidencing any such servicing rights to the extent

they relate to such servicing rights and all rights of the Servicer thereunder; (e) any and all rights to and in the Escrow Payments or other similar payments with respect to the Mortgage Loans and any amounts actually collected by the Servicer with respect thereto; (f) all accounts and other rights to payment related to any of the property described in this paragraph; and (g) any and all documents, files, records, servicing files, servicing documents, servicing records, data tapes, computer records, or other information pertaining to the Mortgage Loans or pertaining to the past, present or prospective servicing of the Mortgage Loans.

Servicing Transfer Date: The date on or dates which the physical servicing of the Mortgage Loans is transferred to the Servicer pursuant to this Agreement.

Standard & Poor's: Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies Inc., and any successor thereto.

Stated Principal Balance: As to each Mortgage Loan, (i) the principal balance of the Mortgage Loan at the Transfer Date after giving effect to payments of principal due on or before such date, whether or not received, minus (ii) all amounts previously distributed to the Owner with respect to the related Mortgage Loan representing payments or recoveries of principal or advances in lieu thereof.

Term Sheet: The Term Sheet attached hereto as Exhibit 15.

Transfer Date: With respect to each Mortgage Loan, the date Servicer physically assumes its obligations of servicing pursuant to this Agreeement.

Transfer Instructions: The transfer instructions used by the Servicer provided in connection with any given transfer of additional Mortgage Loans for servicing under this Agreement, attached as Exhibit 10.

VA: The United States Department of Veterans Affairs, or any successor thereto.

VA No-Bid Instruction: An instruction given by the VA to the effect that the VA will not accept conveyance of the REO Property related to the foreclosure of a Mortgage Loan or when the VA pays all or part of the difference between the net sale proceeds and the total indebtedness on a VA guaranteed loan following the private sale of the property where the proceeds are insufficient to fully payoff the existing Mortgage.

Whole Loan Transfer: The sale or transfer by Owner of some or all of the Mortgage Loans in a whole loan or participation format.

ARTICLE II.

SERVICING

Section 2.01 Servicer to Act as Servicer.

From and after the date of this Agreement, the Servicer, as an independent contractor, shall service and administer each Mortgage Loan, including those Mortgage Loans subserviced pursuant to the Letter Agreement, and shall have full power and authority, acting alone, to do any and all things in connection with such servicing and administration which the Servicer may deem necessary or desirable, consistent with the terms of this Agreement, Accepted Servicing Practices and the Servicing Performance Standards. Servicer shall only modify Mortgage Loans in accordance with Fannie Mae Guides.

From and after the date of this Agreement, Servicer shall assume responsibility under this Agreement to subservice and administer additional Mortgage Loans upon the delivery, in accordance with the Transfer Instructions, of the related New Loan Data File and all related Mortgage Loan documentation by or on behalf of Owner (including deliveries by the applicable prior servicer pursuant to directions by Owner) provided that any new Mortgage Loans that Owner desires to make subject to this Agreement meet the Eligibility Criteria then in effect. Owner shall provide or cause to be provided by the applicable prior servicer, the New Loan Data File for each Mortgage Loan to Servicer promptly upon purchase or origination of the Mortgage Loan by Owner, and in no event later than five (5) days before Servicer is expected to perform subservicing on that Mortgage Loan. Owner shall notify Servicer within two (2) Business Days, in writing, of any changes in the information contained in the New Loan Data File. Owner agrees to provide Servicer, within two (2) Business Days after Servicer's request, copies of the Mortgage Note, the Mortgage or any other documents Owner has with respect to a Mortgage Loan that Servicer deems reasonably necessary in connection with its performance of the Servicing of said Mortgage Loan.

In servicing and administering the Mortgage Loans, the Servicer shall employ Accepted Servicing Practices except and to the extent that such practices conflict with the requirements of this Agreement. The Servicer shall retain adequate personnel to effect such servicing and administration of the Mortgage Loans.

In the event that any Mortgage in Default or, in the judgment of the Servicer, such a Default is reasonably foreseeable, the Servicer, consistent with Accepted Servicing Practices, may also waive, modify or vary any term of such Mortgage Loan (including modifications that would change the Mortgage Interest Rate, forgive the payment of principal or interest, or waive, in whole or in part, a prepayment penalty), accept payment from the related Mortgagor of an amount less than the Stated Principal Balance in final satisfaction of such Mortgage Loan, or consent to the postponement of strict compliance with any such term or otherwise grant indulgence to any Mortgagor (any and all such waivers, modifications, payment plans, variances, forgiveness of principal or interest, postponements, or indulgences collectively referred to herein as "Forbearance"). The Servicer's analysis supporting any Forbearance and the conclusion that any Forbearance meets the standards of this section shall be reflected as appropriate in the Servicer's records.

Without limiting the generality of the foregoing, the Servicer shall continue, and is hereby authorized and empowered, to execute and deliver on behalf of itself and the Owner, all instruments and documents necessary to carry out its servicing and administrative duties under this Agreement including but not limited to instruments in connection with foreclosures; satisfaction or cancellation, or of partial or full release, discharge and all other comparable instruments, with respect to the Mortgage Loans and with respect to the Mortgaged Properties. The Owner shall furnish the Servicer with a corporate resolution in the form of Exhibit 13 appropriate to enable the Servicer to carry out its servicing and administrative duties under this Agreement. If reasonably required by the Servicer, the Owner shall furnish the Servicer with any powers of attorney and other documents necessary or appropriate to enable the Servicer to carry out its servicing and administrative duties under this Agreement.

The Servicer's computer system shall clearly reflect the ownership of each Mortgage Loan. The Servicer shall release from its custody the contents of any Servicing File retained by it only in accordance with this Agreement or at the written direction of the Owner.

With respect to the performance of any service required to be provided for Servicer hereunder, including, without limitation, the obtainment of credit report data, the provision of field or other inspections, the provision of title-related services, and the sale or management of REO properties, the Servicer may obtain such services from an Affiliate if such services are provided on a commercially reasonable basis with respect to the price and quality of such services.

Section 2.02 Liquidation of Mortgage Loans.

In the event that any payment due under any Mortgage Loan and not postponed pursuant to Section 2.01 is not paid when the same becomes due and payable, or in the event the Mortgagor fails to perform any other covenant or obligation under the Mortgage Loan and such failure continues beyond any applicable grace period, the Servicer shall take such action as is consistent with Accepted Servicing Practices. In the event that any payment due under any Mortgage Loan is not postponed pursuant to Section 2.01 and remains delinquent for a period of 90 days or any other default continues for a period of 90 days beyond the expiration of any grace or cure period (or such other period as is required by law in the jurisdiction where the related Mortgaged Property is located) or earlier as determined by the Servicer, the Servicer shall cause a Foreclosure Commencement in accordance with Accepted Servicing Practices. In such connection, the Servicer shall from its own funds make all necessary and proper Servicing Advances, provided, however, that the Servicer shall not be required to expend its own funds in connection with any foreclosure or towards the restoration or preservation of any Mortgaged Property, unless it shall determine (a) that such preservation, restoration and/or foreclosure will increase the proceeds of liquidation of the Mortgage Loan to Owner after reimbursement to itself for such expenses and (b) that such expenses will be recoverable by it either through Liquidation Proceeds (respecting which it shall have priority for purposes of withdrawals from the Custodial Account pursuant to Section 2.05) or through Insurance Proceeds (respecting which it shall have similar priority).

The Servicer shall provide the Owner with access to its online mortgage loan servicing data system (the "Data System") during business hours (generally, Monday through Friday, between 7 a.m. and 9 p.m. EST, and Saturday between 8 a.m. and 2 p.m. EST) with respect to the Mortgage Loans; provided, that Owner shall be responsible for all costs associated with such access.

The Servicer acknowledges and agrees that it shall take and initiate any legal actions with respect to any Mortgage Loans and REO Properties, including, without limitation, any foreclosure actions, acceptance of deeds-in-lieu of foreclosure, and any collection actions with respect to any Mortgage Loans or REO Properties on behalf of the Owner, but only in the name of the Servicer and without reference to the Owner. Except as otherwise required by law or with the consent of the Owner, under no circumstances shall any such action be taken in the name of, or with any reference to, the Owner. The Servicer shall provide prior written notice to the Owner if the Servicer is required by applicable law to take any legal actions with respect to the Mortgage Loan or REO Properties in the name of, or with reference to, the Owner. Owner agrees to provide all the documentation, appropriately recorded, if applicable, necessary for Servicer to initiate legal actions in its own name. Owner agrees to reimburse Servicer for any costs or expenses associated with assigning Mortgage Loans to Servicer or MERS as the case may be.

Notwithstanding anything to the contrary contained herein, (a) all actions must be approved by the Owner relating to any Mortgaged Property that is determined to be contaminated by hazardous or toxic substances or wastes and (b), in connection with a foreclosure, in the event the Servicer has reasonable cause to believe that a Mortgaged Property is contaminated by hazardous or toxic substances or wastes, or if the Owner otherwise requests an environmental inspection or review of such Mortgaged Property to be conducted by a qualified inspector the Servicer shall cause the Mortgaged Property to be so inspected at the Owner's expense. Upon completion of the inspection, the Servicer shall promptly provide the Owner with a written report of the environmental inspection.

Notwithstanding anything to the contrary contained herein, after reviewing the environmental inspection report, the Owner shall determine how the Servicer shall proceed with respect to the Mortgaged Property; provided, that Servicer may determine in its sole discretion that it will not proceed with a foreclosure or acceptance of a deed in lieu of foreclosure with respect to a Mortgaged Property that has been determined to be contaminated by hazardous or toxic substances or wastes and with respect to which Servicer would be expected to take title in its own name. In the event (a) the environmental inspection report indicates that the Mortgaged Property is contaminated by hazardous or toxic substances or wastes and (b) the Owner directs the Servicer to proceed with foreclosure or acceptance of a deed in lieu of foreclosure, the Servicer shall be reimbursed for all reasonable costs associated with such foreclosure or acceptance of a deed in lieu of foreclosure and any related environmental clean up costs, as applicable, from the related Liquidation Proceeds, or if the Liquidation Proceeds are insufficient to fully reimburse the Servicer, the Servicer shall be entitled to be reimbursed from amounts in the Custodial Account pursuant to Section 2.05 hereof. In the event the Owner directs the Servicer not to proceed with foreclosure or acceptance of a deed in lieu of foreclosure, the Servicer shall be reimbursed for all Servicing Advances made with respect to the related Mortgaged Property from the Custodial Account pursuant to Section 2.05 hereof.

With respect to any Mortgage Loan that is collateralized by a Mortgaged Property and the Servicer is not proceeding to liquidation as a result of environmental contamination, the Servicer shall be entitled to be reimbursed for its Servicing Advances from amounts in the Custodial Account pursuant to Section 2.05 hereof.

Section 2.03 Collection of Mortgage Loan Payments.

Following the date of this Agreement, the Servicer shall proceed diligently to collect all payments due under each of the related Mortgage Loans when the same shall become due and payable and shall take reasonable care in ascertaining and estimating Escrow Payments, to the extent applicable, and all other charges that will become due and payable with respect to the Mortgage Loans and each related Mortgaged Property, to the extent that the installments payable by the Mortgagors will be sufficient to pay such charges as and when they become due and payable.

Section 2.04 Establishment of and Deposits to Custodial Account.

The Servicer shall segregate and hold all funds collected and received pursuant to the Mortgage Loans separate and apart from any of its own funds and general assets and shall establish one or more Custodial Accounts, in the form of time deposit or demand accounts, titled "GMAC Mortgage Corporation, in trust for [ ] re: Fixed and Adjustable Rate B/C Residential Mortgage Loans". The Custodial Account shall be established with a Qualified Depository acceptable to the Owner, it being acknowledged that any Qualified Depository that is an Affiliate of Servicer is hereby deemed acceptable to the Owner. Any funds deposited in the Custodial Account shall at all times be fully insured to the full extent permitted under applicable law and any amounts therein may be invested in Eligible Investments. The creation of any Custodial Account shall be evidenced by a certification in the form of Exhibit 2 hereto, in the case of an account established with the Servicer, or by a letter agreement in the form of Exhibit 3 hereto, in the case of an account held by a depository other than the Servicer. A copy of such certification or letter agreement shall be furnished to the Owner and, upon request, to any subsequent Owner.

The Servicer shall deposit in the Custodial Account no more than two (2) Business Days following receipt thereof, and retain therein, the following collections received by the Servicer and payments made by the Servicer after the applicable Transfer Date, other than payments of principal and interest due on or before the related Transfer Date, or received by the Servicer prior to the related Transfer Date but allocable to a period subsequent thereto:

(i) all payments on account of principal on the Mortgage Loans, including all Principal Prepayments;

(ii) all payments on account of interest on the Mortgage;

(iii) all Liquidation Proceeds and any amount received with respect to REO Property;

(iv) all Insurance Proceeds including amounts required to be deposited pursuant to Section 2.10 (other than proceeds to be held in a suspense account and applied to the restoration

or repair of the Mortgaged Property or released to the Mortgagor in accordance with Section 2.14), and Section 2.13;

(v) all Condemnation Proceeds which are not applied to the restoration or repair of the Mortgaged Property or released to the Mortgagor in accordance with Section 2.14;

(vi) any amount required to be deposited in the Custodial Account pursuant to Section 2.09, 2.12, 2.16, 3.01, 3.04 or 4.02;

(vii) any prepayment penalties received with respect to any Mortgage Loan; and

(viii) any amounts required to be deposited by the Servicer pursuant to Section 2.11 in connection with the deductible clause in any blanket hazard insurance policy.

The foregoing requirements for deposit into the Custodial Account shall be exclusive, it being understood and agreed that, without limiting the generality of the foregoing, unless otherwise provided herein, payments in the nature of the Servicing Fee and Ancillary Income need not be deposited by the Servicer into the Custodial Account. Any interest paid on funds deposited in the Custodial Account by the depository institution or any other non-interest benefits shall accrue to the benefit of the Servicer and the Servicer shall be entitled to retain and withdraw such interest from the Custodial Account pursuant to Section 2.05 or retain such other benefits, as the case may be.

Section 2.05 Permitted Withdrawals From Custodial Account.

Subject to Section 3.01, the Servicer shall be entitled to withdraw funds from the Custodial Account for the following purposes:

(i) to make payments to the Owner in the amounts and in the manner provided Section 3.01;

(ii) [reserved];

(iii) to pay to itself the Servicing Fee (to the extent the Servicer has not retained the Servicing Fee);

(iv) to reimburse itself for unreimbursed Servicing Advances (except to the extent reimbursed pursuant to Section 2.07), any accrued but unpaid Servicing Fees and for unreimbursed advances of Servicer funds made pursuant to Section 2.15, the Servicer's right to reimburse itself pursuant to this subclause (iii) with respect to any Mortgage Loan being limited to related Liquidation Proceeds, Condemnation Proceeds, Insurance Proceeds and such other amounts as may be collected by the Servicer from the Mortgagor or otherwise relating to the Mortgage Loan, it being understood that, in the case of any such reimbursement, the Servicer's right thereto shall be prior to the rights of the Owner;

(v) following the liquidation of a Mortgage Loan, to reimburse itself from amounts unrelated to the Mortgage Loan for any unpaid Servicing Fees to the extent not

recoverable from Liquidation Proceeds, Insurance Proceeds or other amounts received with respect to the related Mortgage Loan under Section 2.05(iii);

(vi) to reimburse itself for any unreimbursed Nonrecoverable Advances made by the Servicer in accordance with this Agreement;

(vii) to invest funds in Eligible Investments in accordance with Section 2.09;

(viii) to withdraw funds deposited in error;

(ix) to pay itself any interest earned on funds deposited in the Custodial Account (all such interest to be withdrawn monthly not later than each Remittance Date); and

(x) to clear and terminate the Custodial Account upon the termination of this Agreement.

Section 2.06 Establishment of and Deposits to Escrow Account.

The Servicer shall segregate and hold all funds collected and received pursuant to a Mortgage Loan constituting Escrow Payments separate and apart from any of its own funds and general assets and shall establish and maintain one or more Escrow Accounts, in the form of time deposit or demand accounts, titled, "GMAC Mortgage Corporation, in trust for Owners of Residential Fixed and Adjustable Rate Mortgage Loans, and various Mortgagors". The Escrow Account shall be established with a Qualified Depository, in a manner which shall provide maximum available insurance thereunder. Funds deposited in the Escrow Accounts may be drawn on by the Servicer in accordance with Section 2.07. The creation of any Escrow Account shall be evidenced by a certification in the form of Exhibit 4 hereto, in the case of an account established with the Servicer, or by a letter agreement in the form of Exhibit 5 hereto, in the case of an account held by a depository other than the Servicer. A copy of such certification shall be furnished to the Owner and, upon request, to any subsequent Owner.

The Servicer shall deposit in the Escrow Account or Accounts on a daily basis, and retain therein all Escrow Payments collected on account of the Mortgage Loans, for the purpose of effecting timely payment of any such items as required under the terms of this Agreement.

The Servicer shall deposit in a suspense account on a daily basis, and retain therein all amounts representing Insurance Proceeds or Condemnation Proceeds which are to be applied to the restoration or repair of any Mortgaged Property. The suspense account shall be established with a Qualified Depository, in a manner which shall provide maximum available insurance thereunder.

The Servicer shall make withdrawals from the Escrow Account only to effect such payments as are required under this Agreement, as set forth in Section 2.07. The Servicer shall be entitled to retain any interest paid on funds deposited in the Escrow Account or a suspense account by the depository institution, other than interest on escrowed funds required by law to be paid to the Mortgagor. To the extent required by law, the Servicer shall pay from its own funds interest on escrowed funds to the Mortgagor notwithstanding that the Escrow Account may be non-interest bearing or that interest paid thereon is insufficient for such purposes.

Section 2.07 Permitted Withdrawals From Escrow Account.

Withdrawals from the Escrow Account or Accounts may be made by the Servicer only:

(i) to effect timely payments of ground rents, taxes, assessments, water rates, mortgage insurance premiums, condominium charges, fire and hazard insurance premiums or other items constituting Escrow Payments for the related Mortgage;

(ii) to reimburse the Servicer for any Servicing Advance made by the Servicer pursuant to Section 2.10 with respect to a related Mortgage Loan, but only from amounts received on the related Mortgage Loan which represent late collections of Escrow Payments thereunder;

(iii) to refund to any Mortgagor any funds found to be in excess of the amounts required under the terms of the related Mortgage Loan or applicable federal or state law or judicial or administrative ruling;

(iv) for transfer to the Custodial Account and application to reduce the principal balance of the Mortgage Loan in accordance with the terms of the related Mortgage and Mortgage Note;

(v) [Reserved];

(vi) to pay to the Servicer, or any Mortgagor to the extent required by law, any interest paid on the funds deposited in the Escrow Account; and

(vii) to clear and terminate the Escrow Account on the termination of this Agreement.

Section 2.08 Payment of Taxes, Insurance and Other Charges.

With respect to each Mortgage Loan that provides for Escrow Payments, the Servicer shall maintain accurate records reflecting the status of ground rents, taxes, assessments, water rates, sewer rents, and other charges which are or may become a lien upon the Mortgaged Property and the status fire and hazard insurance coverage and shall obtain, from time to time, all bills for the payment of such charges (including renewal premiums) and shall effect payment thereof prior to the applicable penalty or termination date, employing for such purpose deposits of the Mortgagor in the Escrow Account which shall have been estimated and accumulated by the Servicer in amounts sufficient for such purposes, as allowed under the terms of the Mortgage.

To the extent that any Mortgage Loan does not provide for Escrow Payments, the Servicer shall determine that any such payments are made by the Mortgagor. With respect to each Mortgage Loan, subject to Accepted Servicing Practices, the Servicer assumes full responsibility for the timely payment of all such bills and shall effect payments of all such bills irrespective of the Mortgagor's faithful performance in the payment of same or the making of the Escrow Payments and shall make Servicing Advances from its own funds to effect such payments within the time period required to avoid penalties and interest and no later than to avoid the loss of the related Mortgaged Property by foreclosure from a tax or other lien.

Notwithstanding the foregoing, if the Servicer determines that such Servicing Advance would be a Nonrecoverable Advance, the Servicer shall have no obligation to make such Servicing Advance. If Servicer fails to make a Servicing Advance with respect to any payment prior to the date on which any late payment penalties or costs related to protecting the lien accrue, except in the case of a Nonrecoverable Advance, the Servicer shall pay any such penalties or costs which accrued after the date which was thirty (30) Business Days after the date on which the Servicer had knowledge that such payment had not been made by the Mortgagor.

Section 2.09 Protection of Accounts.

The Servicer may transfer the Custodial Account or the Escrow Account to a different Qualified Depository from time to time. Such transfer shall be made only upon obtaining the consent of the Owner, which consent shall not be withheld unreasonably.

The Servicer shall bear any expenses, losses or damages sustained by the Owner because the Custodial Account and/or Escrow Account are not demand deposit accounts.

Amounts on deposit in the Custodial Account may at the option of the Servicer be invested in Eligible Investments. Any such Eligible Investment shall mature no later than one day prior to the Remittance Date in each month; *provided, however*, that if such Eligible Investment is an obligation of a Qualified Depository (other than the Servicer) that maintains the Custodial Account, then such Eligible Investment may mature on the related Remittance Date. Any such Eligible Investment shall be made in the name of the Servicer in trust for the benefit of the Owner. All income on or gain realized from any such Eligible Investment shall be for the benefit of the Servicer and may be withdrawn at any time by the Servicer. Any losses incurred in respect of any such investment shall be deposited in the Custodial Account, by the Servicer out of its own funds immediately as realized. If, at any time, the amount on deposit in the Custodial Account exceeds the amount of the applicable FDIC insurance, such excess above the amount of the applicable FDIC insurance shall be invested in Eligible Investments.

All suspense and clearing account in which funds relating to the Mortgage Loans are deposited shall be established with a Qualified Depository, in a manner which shall provide maximum available insurance thereunder.

Section 2.10 Maintenance of Hazard Insurance.

The Servicer shall cause to be maintained for each Mortgage Loan, hazard insurance such that all buildings upon the Mortgaged Property are insured by a generally acceptable insurer acceptable under the Fannie Mae Guides against loss by fire, hazards of extended coverage and such other hazards as are required to be insured pursuant to the Fannie Mae Guides, in an amount which is at least equal to the lesser of (i) the maximum insurable value of the improvements securing such Mortgage Loan or (ii) the outstanding principal balance of the Mortgage Loan provided that such amount represents at least 80% of the insurable value of the Mortgaged Property.

If required by the National Flood Insurance Act of 1968, as amended, each Mortgage Loan is, and shall continue to be, covered by a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration is in effect with a generally acceptable insurance carrier acceptable under the Fannie Mae Guides in an amount representing coverage not less than the lesser of (i) the aggregate unpaid principal balance of the Mortgage Loan, (ii) maximum amount of insurance which is available under the National Flood Insurance Act of 1968, as amended (regardless of whether the area in which such Mortgaged Property is located is participating in such program), and (iii) the full replacement value of the improvements which are part of such Mortgaged Property. If a Mortgaged Property is located in a special flood hazard area and is not covered by flood insurance or is covered in an amount less than the amount required by the National Flood Insurance Act of 1968, as amended, the Servicer shall notify the related Mortgagor that the Mortgagor must obtain such flood insurance coverage, and if said Mortgagor fails to obtain the required flood insurance coverage within forty five (45) days after such notification, the Servicer shall immediately force place the required flood insurance on the Mortgagor's behalf.

If a Mortgage is secured by a unit in a condominium project, the Servicer shall verify that the coverage required of the owner's association, including hazard, flood, liability, and fidelity coverage, is being maintained in accordance with then current Fannie Mae requirements, and secure from the owner's association its agreement to notify the Servicer promptly of any change in the insurance coverage or of any condemnation or casualty loss that may have a material effect on the value of the Mortgaged Property as security.

The Servicer shall cause to be maintained on each Mortgaged Property such other or additional insurance as may be required pursuant to such applicable laws and regulations as shall at any time be in force and as shall require such additional insurance, or pursuant to the requirements of any private mortgage guaranty insurer, or as may be required to conform with Accepted Servicing Practices.

In the event that the Owner or the Servicer shall determine that the Mortgaged Property should be insured against loss or damage by hazards and risks not covered by the insurance required to be maintained by the Mortgagor pursuant to the terms of the Mortgage, the Servicer shall communicate and consult with the Mortgagor with respect to the need for such insurance and bring to the Mortgagor's attention the desirability of protection of the Mortgaged Property.

All policies required hereunder shall name the Servicer and its successors and assigns as a mortgagee and loss payee and shall be endorsed with non contributory standard or New York mortgagee clauses which shall provide for at least 30 days prior written notice of any cancellation, reduction in amount or material change in coverage.

The Servicer shall not interfere with the Mortgagor's freedom of choice in selecting either his insurance carrier or agent, provided, however, that the Servicer shall not accept any such insurance policies from insurance companies unless such companies are acceptable under the Fannie Mae Guides and are licensed to do business in the jurisdiction in which the Mortgaged Property is located. The Servicer shall determine that such policies provide sufficient risk coverage and amounts as required pursuant to the Fannie Mae Guides, that

they insure the property owner, and that they properly describe the property address. The Servicer shall furnish to the Mortgagor a formal notice of expiration of any such insurance in conformance with Servicer's standard practices; provided, however, that in the event that no such notice is furnished by the Servicer, the Servicer shall ensure that replacement insurance policies (whether forced placed or other insurance policies) are in place in the required coverages and the Servicer shall be solely liable for any losses in the event coverage is not provided.

Pursuant to Section 2.06, any amounts collected by the Servicer under any such policies (other than amounts to be deposited in a suspense account and applied to the restoration or repair of the related Mortgaged Property, or property acquired in liquidation of the Mortgage Loan, or to be released to the Mortgagor, in accordance with the Servicer's normal servicing procedures as specified in Section 2.14) shall be deposited in the Custodial Account subject to withdrawal pursuant to Section 2.05.

Section 2.11 Maintenance of Blanket Hazard Insurance Coverage.

In the event that the Servicer shall obtain and maintain a blanket policy insuring against losses arising from fire and hazards covered under extended coverage on all of the Mortgage Loans, then, to the extent such policy provides coverage in an amount equal to the amount required pursuant to Section 2.10 and otherwise complies with all other requirements of Section 2.10, it shall conclusively be deemed to have satisfied its obligations as set forth in Section 2.10. Any amounts collected by the Servicer under any such policy relating to a Mortgage Loan shall be deposited in the Custodial Account subject to withdrawal pursuant to Section 2.05. Such policy may contain a deductible clause, in which case, in the event that there shall not have been maintained on the related Mortgaged Property a policy complying with Section 2.10, and there shall have been a loss which would have been covered by such policy, the Servicer shall deposit in the Custodial Account at the time of such loss the amount not otherwise payable under the blanket policy because of such deductible clause, such amount to be deposited from the Servicer's funds, without reimbursement therefor. Upon request of the Owner, the Servicer shall cause to be delivered to the Owner a certified true copy of such policy and a statement from the insurer thereunder that such policy shall in no event be terminated or materially modified without 30 days' prior written notice to the Owner.

Section 2.12 Maintenance of Fidelity Bond and Errors and Omissions Insurance.

The Servicer shall maintain with responsible companies, at its own expense, a blanket Fidelity Bond and an Errors and Omissions Insurance Policy, with broad coverage on all officers, employees or other persons acting in any capacity requiring such persons to handle funds, money, documents or papers relating to the Mortgage Loans ("Servicer Employees"). Any such Fidelity Bond and Errors and Omissions Insurance Policy shall be in the form of the Mortgage Banker's Blanket Bond and shall protect and insure the Servicer against losses, including forgery, theft, embezzlement, fraud, errors and omissions and negligent acts of such Servicer Employees. Such Fidelity Bond and Errors and Omissions Insurance Policy also shall protect and insure the Servicer against losses in connection with the release or satisfaction of a Mortgage Loan without having obtained payment in full of the indebtedness secured thereby. No provision of this Section 2.12 requiring such Fidelity Bond and Errors and Omissions Insurance Policy shall diminish or relieve the Servicer from its duties and obligations as set forth

in this Agreement. The Servicer shall maintain minimum coverage amounts under any such Fidelity Bond and Errors and Omissions Insurance Policy acceptable to Fannie Mae and Freddie Mac. Upon the request of the Owner, the Servicer shall cause to be delivered to the Owner a certified true copy of such Fidelity Bond and Errors and Omissions Insurance Policy.

Section 2.13 Inspections.

The Servicer shall inspect the Mortgaged Property as often as is deemed necessary by the Servicer to assure itself that the value of the Mortgaged Property is being preserved; provided that, if any Mortgage Loan is more than 60 days delinquent, the Servicer shall immediately inspect the Mortgaged Property and shall conduct subsequent inspections as often as is deemed necessary by the Servicer to assure itself that the value of the Mortgaged Property is being preserved in accordance with Accepted Servicing Practices; provided further that if the Servicer determines that any Mortgage Property is vacant, the Servicer shall immediately inspect the Mortgaged Property and shall conduct subsequent inspections every 25 to 35 days to assure itself that the value of the Mortgaged Property is being preserved in accordance with Accepted Servicing Practices. The Servicer shall maintain appropriate records of each such inspection.

Section 2.14 Restoration of Mortgaged Property.

The Servicer need not obtain the approval of the Owner prior to releasing any Insurance Proceeds or Condemnation Proceeds to the Mortgagor to be applied to the restoration or repair of the Mortgaged Property if such release is in accordance with Accepted Servicing Practices and the terms of this Agreement. At a minimum, the Servicer shall comply with the following conditions in connection with any such release of Insurance Proceeds or Condemnation Proceeds:

(i) the Servicer shall receive satisfactory independent verification of completion of repairs and issuance of any required approvals with respect thereto;

(ii) the Servicer shall take all steps necessary to preserve the priority of the lien of the Mortgage, including, but not limited to requiring waivers with respect to mechanics' and materialmen's liens;

(iii) the Servicer shall verify that the Mortgage Loan is not in default; and

(iv) pending repairs or restoration, the Servicer shall place the Insurance Proceeds or Condemnation Proceeds in a suspense account.

If the Owner is named as an additional loss payee, the Servicer is hereby empowered to endorse any loss draft issued in respect of such a claim in the name of the Owner.

Section 2.15 Title, Management and Disposition of REO Property.

In the event that title to any Mortgaged Property is acquired in foreclosure or by deed in lieu of foreclosure, the deed or certificate of sale shall be taken in the name of the Servicer on behalf of the Owner and without reference to the Owner except as otherwise required

by law. The Person or Persons holding such title other than the Owner shall acknowledge in writing that such title is being held as nominee for the Owner.

The Servicer shall manage, conserve, protect and operate each REO Property for the Owner solely for the purpose of its prompt disposition and sale. The Servicer, either itself or through an agent selected by the Servicer, shall manage, conserve, protect and operate the REO Property in the same manner that it manages, conserves, protects and operates other foreclosed property for its own account. The Servicer shall attempt to sell the same (and may temporarily rent the same for a period not greater than one year, except as otherwise provided below) on such terms and conditions as the Servicer deems to be in the best interest of the Owner. The Servicer shall notify the Owner from time to time as to the status of each REO Property.

The Servicer shall use its commercially reasonable efforts to dispose of the REO Property as soon as possible and shall sell such REO Property in any event within one year after title has been taken to such REO Property, unless the Servicer determines, and gives an appropriate notice to the Owner to such effect, that a longer period is necessary for the orderly liquidation of such REO Property. If a period longer than one year is permitted under the foregoing sentence and is necessary to sell any REO Property, the Servicer shall report monthly to the Owner as to the progress being made in selling such REO Property.

The Servicer shall also maintain on each REO Property fire and hazard insurance with extended coverage in an amount which is at least equal to the maximum insurable value of the improvements which are a part of such property, liability insurance and, to the extent required and available under the National Flood Insurance Act of 1968, as amended, flood insurance in the amount required in Section 2.10 hereof.

The disposition of REO Property shall be carried out by the Servicer at such price, and upon such terms and conditions, as the Servicer deems to be in the best interests of the Owner. The proceeds of sale of the REO Property shall be promptly deposited in the Custodial Account. As soon as practical thereafter, the expenses of such sale shall be paid and the Servicer shall reimburse itself for any related unreimbursed Servicing Advances and unpaid Servicing Fees made pursuant to this Section, and on the Remittance Date immediately following the Principal Prepayment Period in which such sale proceeds are received the net cash proceeds of such sale remaining in the Custodial Account shall be distributed to the Owner.

With respect to each REO Property, the Servicer shall hold all funds collected and received in connection with the operation of the REO Property in the Custodial Account. The Servicer shall cause to be deposited on a daily basis upon the receipt thereof in each Custodial Account all revenues received with respect to the conservation and disposition of the related REO Property.

Section 2.16 Permitted Withdrawals with Respect to REO Property.

The Servicer shall withdraw funds on deposit in the Custodial Account with respect to each related REO Property necessary for the proper operation, management and maintenance of the REO Property, including the cost of maintaining any hazard insurance pursuant to Section 2.10 and the fees of any managing agent acting on behalf of the Servicer.

The Servicer shall make monthly distributions on each Remittance Date to the Owner of the net cash flow from the REO Property (which shall equal the revenues from such REO Property net of the expenses described in Section 2.17 and of any reserves reasonably required from time to time to be maintained to satisfy anticipated liabilities for such expenses).

Section 2.17 Real Estate Owned Reports.

Together with the statement furnished pursuant to Section 2.19, the Servicer shall furnish to the Owner on or before the 5th Business Day of each month a statement with respect to any REO Property covering the operation of such REO Property for the previous month and the Servicer's efforts in connection with the sale of such REO Property and any rental of such REO Property incidental to the sale thereof for the previous month. That statement shall be accompanied by such other information as the Owner shall reasonably request.

Section 2.18 Liquidation Reports.

Upon the foreclosure sale of any Mortgaged Property or the acquisition thereof by the Owner pursuant to a deed in lieu of foreclosure, the Servicer shall submit to the Owner a liquidation report with respect to such Mortgaged Property.

Section 2.19 Reports of Foreclosures and Abandonments of Mortgaged Property.

Following the foreclosure sale or abandonment of any Mortgaged Property, the Servicer shall report such foreclosure or abandonment as required pursuant to Section 6050J of the Code.

Section 2.20 Notification of Adjustments.

With respect to each Adjustable Rate Mortgage Loan, the Servicer shall adjust the Mortgage Interest Rate on the related Interest Rate Adjustment Date in compliance with the requirements of applicable law and the related Mortgage and Mortgage Note. The Servicer shall execute and deliver any and all necessary notices required under applicable law and the terms of the related Mortgage Note and Mortgage regarding the Mortgage Interest Rate and the Monthly Payment adjustments. The Servicer shall promptly upon written request thereof, deliver to the Owner any applicable data regarding such adjustments and the methods used to calculate and implement such adjustments. Upon the discovery by the Servicer, or the Owner that the Servicer has failed to adjust a Mortgage Interest Rate or a Monthly Payment pursuant to the terms of the related Mortgage Note and Mortgage, the Servicer shall immediately deposit in the Custodial Account from its own funds the amount of any interest loss caused the Owner thereby.

ARTICLE III.

PAYMENTS TO OWNER

Section 3.01 Remittances.

On each Remittance Date the Servicer shall remit by wire transfer of immediately available funds to the Owner (a) all amounts deposited in the Custodial Account as of the close of business on the Determination Date (net of charges against or withdrawals from the Custodial Account pursuant to Section 2.05), plus (b) all amounts, if any, which the Servicer is obligated to distribute pursuant to Section 3.04.

With respect to any funds deposited in the Custodial Account after the Business Day following the Business Day on which such deposit was required to be made, the Servicer shall pay to the Owner interest on any such late payment at an annual rate equal to the Prime Rate, adjusted as of the date of each change, plus one percentage point, but in no event greater than the maximum amount permitted by applicable law. Such interest shall be deposited in the Custodial Account by the Servicer on the date such late payment is made and shall cover the period commencing with the Business Day following the Business Day on which such payment was due and ending with the Business Day on which such payment is made, both inclusive. Such interest shall be remitted along with the distribution payable on the next succeeding Remittance Date. The payment by the Servicer of any such interest shall not be deemed an extension of time for payment or a waiver of any Event of Default by the Servicer.

Section 3.02 Statements to Owner.

Not later than each Remittance Date, the Servicer shall furnish to the Owner a Remittance Advice, with a trial balance report attached thereto, in the form of Exhibit 1 annexed hereto in hard copy and electronic medium mutually acceptable to the parties as to the preceding remittance and the period ending on the preceding Determination Date.

In addition, not more than 90 days after the end of each calendar year, the Servicer shall furnish to each Person who was a Owner at any time during such calendar year an annual statement in accordance with the requirements of applicable federal income tax law as to the aggregate of remittances for the applicable portion of such year.

Such obligation of the Servicer shall be deemed to have been satisfied to the extent that substantially comparable information shall be provided by the Servicer pursuant to any requirements of the Internal Revenue Code as from time to time are in force.

The Servicer shall prepare and file any and all tax returns, information statements or other filings required to be delivered to any governmental taxing authority or to the Owner pursuant to any applicable law with respect to the Mortgage Loans and the transactions contemplated hereby. In addition, the Servicer shall provide the Owner with such information concerning the Mortgage Loans as is necessary for the Owner to prepare its federal income tax return as the Owner may reasonably request from time to time and which is reasonably available to the Servicer.

Section 3.03 Advances by Servicer.

Except as otherwise provided herein, the Servicer shall be entitled to first priority reimbursement pursuant to Section 2.05 hereof for Servicing Advances from recoveries from the related Mortgagor or from all Liquidation Proceeds and other payments or recoveries (including Insurance Proceeds and Condemnation Proceeds) with respect to the related Mortgage Loan.

Section 3.04 [Reserved]

Section 3.05 [Reserved]

ARTICLE IV.

GENERAL SERVICING PROCEDURES

Section 4.01 Transfers of Mortgaged Property.

The Servicer shall be required to enforce any "due-on-sale" provision contained in any Mortgage or Mortgage Note and to deny assumption by the person to whom the Mortgaged Property has been or is about to be sold whether by absolute conveyance or by contract of sale, and whether or not the Mortgagor remains liable on the Mortgage and the Mortgage Note. When the Mortgaged Property has been conveyed by the Mortgagor, the Servicer shall, to the extent it has knowledge of such conveyance, exercise its rights to accelerate the maturity of such Mortgage Loan under the "due-on-sale" clause applicable thereto, provided, however, that the Servicer shall not exercise such rights if prohibited by law from doing so.

If the Servicer reasonably believes it is unable under applicable law to enforce such "due-on-sale" clause, the Servicer, shall, to the extent permitted by applicable law, enter into (i) an assumption and modification agreement with the person to whom such property has been conveyed, pursuant to which such person becomes liable under the Mortgage Note and the original Mortgagor remains liable thereon or (ii) in the event the Servicer is unable under applicable law to require that the original Mortgagor remain liable under the Mortgage Note and the Servicer has the prior consent of the primary mortgage guarantee insurer, a substitution of liability agreement with the purchaser of the Mortgaged Property pursuant to which the original Mortgagor is released from liability and the purchaser of the Mortgaged Property is substituted as Mortgagor and becomes liable under the Mortgage Note. If an assumption fee is collected by the Servicer for entering into an assumption agreement, such fee will be retained by the Servicer as additional servicing compensation. In connection with any such assumption, neither the Mortgage Interest Rate borne by the related Mortgage Note, the term of the Mortgage Loan nor the outstanding principal amount of the Mortgage Loan shall be changed.

To the extent that any Mortgage Loan is assumable, the Servicer shall inquire diligently into the creditworthiness of the proposed transferee, and shall follow Accepted Servicing Practices including but not limited to Servicer conducting a review of the credit and financial capacity of the individual receiving the property, and may approve the assumption if it believes the recipient is capable of assuming the mortgage obligations. If the credit of the proposed transferee does not satisfy the relevant underwriting criteria and the transfer of ownership actually occurs, the Servicer diligently shall, to the extent permitted by the Mortgage or the Mortgage Note and by applicable law, accelerate the maturity of the Mortgage Loan.

Section 4.02 Satisfaction of Mortgages and Release of Mortgage Files.

Upon the payment in full of any Mortgage Loan, or the receipt by the Servicer of a notification that payment in full will be escrowed in a manner customary for such purposes, the Servicer shall notify the Owner in the Monthly Remittance Advice as provided in Section 3.02, and may request the release of any Mortgage Loan Documents from the Owner in accordance with this Section 4.02 hereof. The Servicer shall obtain discharge of the related Mortgage Loan as of record within any related time limit required by applicable law; provided that the Owner has provided, or caused to be provided, all necessary documents requested by the Servicer.

If the Servicer satisfies or releases a Mortgage without first having obtained payment in full of the indebtedness secured by the Mortgage (or such lesser amount in connection with a discounted payoff accepted by the Servicer with respect to a defaulted Mortgage Loan) or should the Servicer otherwise prejudice any rights the Owner may have under the mortgage instruments, upon written demand of the Owner, the Servicer shall deposit the amount of any shortfall thereof in the Custodial Account within 5 Business Days of receipt of such demand by the Owner or such longer period if the Servicer is able to reasonably demonstrate that it will be able to cause the amount of the unpaid indebtedness to be reinstated and secured under the related Mortgage. The Servicer shall maintain the Fidelity Bond and Errors and Omissions Insurance Policy as provided for in Section 2.14 insuring the Servicer against any loss it may sustain with respect to any Mortgage Loan not satisfied in accordance with the procedures set forth herein.

Section 4.03 Servicing Compensation.

As consideration for servicing the Mortgage Loans pursuant to this Agreement, the Servicer shall be entitled to retain the applicable Servicing Fee from payments on the Mortgage Loans or to withdraw the applicable Servicing Fee with respect to each Mortgage Loan from the Custodial Account pursuant to Section 2.05 hereof.

Additional servicing compensation in the form of Ancillary Income shall be retained by the Servicer to the extent not required to be deposited in the Custodial Account. The Servicer shall be required to pay all expenses incurred by it in connection with its servicing activities hereunder and shall not be entitled to reimbursement thereof except as specifically provided for herein.

Section 4.04 Annual Statement as to Compliance.

The Servicer shall deliver to the Owner, on or before March 31st each year beginning March 31, 2005, and on the final Transfer Date, an Officer's Certificate, stating that (i) a review of the activities of the Servicer during the preceding calendar year and of performance under this Agreement has been made under such officer's supervision, and (ii) to the best of such officer's knowledge, based on such review, the Servicer has fulfilled all its obligations under this Agreement throughout such year, or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to such officer and the nature and status thereof and the action being taken by the Servicer to cure such default.

Section 4.05 Annual Independent Public Accountants' Servicing Report.

On or before March 31st of each year beginning March 31, 2005, the Servicer, at its expense, shall cause a firm of independent public accountants which is a member of the American Institute of Certified Public Accountants to furnish a statement to the Owner to the effect that such firm has examined certain documents and records for the preceding fiscal year (or during the period from the date of commencement of such Servicer's duties hereunder until the end of such preceding fiscal year in the case of the first such certificate), and that, on the basis of such examination conducted substantially in compliance with the Uniform Single Attestation Program for Mortgage Bankers, such firm is of the opinion that the Servicer's overall servicing operations have been conducted in compliance with the Uniform Single Attestation Program for Mortgage Bankers except for such exceptions that, in the opinion of such firm, the Uniform Single Attestation Program for Mortgage Bankers requires it to report, in which case such exceptions shall be set forth in such statement.

Section 4.06 Right to Examine Servicer Records.

The Owner shall have the right to examine and audit any and all of the books, records, or other information of the Servicer, whether held by the Servicer or by another on its behalf, with respect to or concerning this Agreement or the Mortgage Loans, during normal business hours or as otherwise acceptable to the Servicer, upon reasonable advance notice; provided that the Owner shall not so audit more than once per quarter.

Section 4.07 Compliance with Gramm-Leach-Bliley Act of 1999.

With respect to each Mortgage Loan and the related Mortgagor, each party shall as required comply with Title V of the Gramm-Leach-Bliley Act of 1999 and all applicable regulations promulgated thereunder, and shall provide all notices required of the party thereunder.

Section 4.08 Losses and Expenses.

(a) Subject to Section 4.08(b) and (c) hereof (and except as may otherwise be expressly provided in this Agreement), Owner shall remain responsible, as between Owner and Servicer, for losses related to Owner's investment in the Servicing or, as applicable, the Mortgage Loans owned by Owner, as distinct from (and which shall not include) costs and expenses related to the performance of the Servicing duties delegated to Servicer hereunder, for which Servicer shall be responsible. Losses of the type referred to above for which Owner shall remain responsible include, but are not limited to: investor repurchase demands, Recourse Obligations, pool insurance premiums, special hazard insurance premiums, earthquake losses, losses resulting from the absence or inadequacy of hazard insurance or flood insurance for a Mortgaged Property in accordance with Accepted Servicing Practices, foreclosure losses, REO losses, VA No-Bid Instructions, VA partial guaranties, interest shortfalls due to timing of prepayments and liquidations required under the terms of the Fannie Mae Guides, which are in excess of the amounts specified in Section 2.3(c)(ii), Servicing Advances, Nonrecoverable Advances and Catastrophic Advances, including, without limitation, those that may be required in connection with the Soldiers and Sailors Relief Act.

(b) Owner shall reimburse Servicer for the following reimbursable expenses ("Reimbursable Expenses"): (i) any out-of-pocket expense Servicer incurs with the prior approval of Owner in connection with its servicing and administrative obligations set forth in this Agreement to the extent such expense is not ordinary to the servicing function (but not including salaries, rent and other general operating expenses of Owner normally classified as overhead); (ii) expenses that Owner has expressly agreed to pay or be liable for hereunder; and (iii) expenses incurred in connection with the performance by Servicer at the request of Owner of any activity that is not specifically required to be performed by Servicer under this Agreement and is not reasonably ancillary to any specific requirements of Owner under this Agreement. Except as otherwise expressly provided in this Agreement, each Party shall pay its own expenses incurred in connection with the preparation of and performance under this Agreement, including, without limitation, its own legal fees and expenses of preparing and delivering the notices, documents, reports, accountings and any other information required of it hereunder.

Out-of-pocket collection expenses incurred by Servicer to and billed by third parties on a monthly basis that will be reimbursed by Owner without approval of Owner include Reimbursable Expenses associated with the following: appraisals (pre- and post-foreclosure), title work, attorney fees (foreclosure, bankruptcy, and other), legal filing fees, inspection fees (interviews, drive-bys, clean out inspections after vacated, professional services such as property surveys, repair inspections, Environmental Protection Agency inspections, etc.), property maintenance (utilities, lawn care, snow removal, securing costs, repairs, winterization, removal of debris, clean-up after vacated), condominium expenses (condo fees, association fees, etc.), insurance (premiums and deductibles), taxes (property, estate, assessments), photographs, loss drafts, and travel (transportation, meals, lodging, rental cars).

(c) (i) Owner shall be solely responsible for all guaranty fees, credit enhancement fees, custodial fees (and related shipping costs), and trustee fees.

(ii) Except as otherwise expressly set forth in this Agreement, Servicer shall be solely responsible for the direct and indirect internal and administrative costs associated with its obligations as subservicer of the Mortgage Loans hereunder, said costs to include but not be limited to: personnel, facilities; supplies; mailing and electronic data processing) system expenses, regardless of whether Servicer elects to contract with third party vendors to perform all or any portion of such internal and administrative functions. Servicer shall pay interest due to Mortgagors on amounts held in tax and insurance escrow accounts in accordance with Applicable Requirements .

ARTICLE V.

SERVICER TO COOPERATE

Section 5.01 Provision of Information.

During the term of this Agreement, the Servicer shall furnish to the Owner all reports required hereunder, including those set forth on Exhibit 11 hereto, and such other periodic, special, or other reports or information, whether or not provided for herein, as shall be reasonably requested by the Owner or the purposes of this Agreement to the extent such reports

or information are readily accessible to the Servicer without undue expense. All such reports or information shall be provided by and in accordance with all reasonable instructions and directions which the Owner may give.

The Servicer shall execute and deliver all such instruments and take all such action as the Owner may reasonably request from time to time, in order to effectuate the purposes and to carry out the terms of this Agreement.

Section 5.02 Financial Statements; Servicing Facilities.

In connection with marketing the Mortgage Loans or a proposed Reconstitution, the Owner may make available to a prospective purchaser audited financial statements of the consolidated group that includes the Servicer for the most recently completed five fiscal years for which such statements are available, as well as a Consolidated Statement of Condition at the end of the last two fiscal years covered by any Consolidated Statement of Operations; provided that this requirement shall not apply for any year in which Servicer's financial statements are consolidated into those of a corporation subject to the periodic reporting requirements of the Securities Act of 1934. The Servicer also shall make available any comparable interim statements to the extent any such statements have been prepared by or on behalf of the corporate group that includes the Servicer (and are available upon request to members or stockholders of the corporate group that includes the Servicer or to the public at large). The Servicer shall furnish promptly to the Owner or a prospective purchaser copies of the statements specified above.

The Servicer shall make available to the Owner or any prospective Owner a knowledgeable financial or accounting officer for the purpose of answering questions respecting recent developments affecting the Servicer or the financial statements of the corporate group that includes the Servicer, and to permit any prospective purchaser to inspect the Servicer's servicing facilities for the purpose of satisfying such prospective purchaser that the Servicer has the ability to service the Mortgage Loans as provided in this Agreement.

ARTICLE VI.

TERMINATION

Section 6.01 Termination.

(a) This Agreement shall terminate upon either: (i) the later of the final payment or other liquidation (or any advance with respect thereto) of the last Mortgage Loan or the disposition of any REO Property with respect to the last Mortgage Loan and the remittance of all funds due hereunder; or (ii) mutual consent of the Servicer and the Owner in writing.

(b) The Owner may terminate, at its sole option, the Agreement with respect to some or all of the Mortgage Loans or REO Property, without cause. The Owner shall use its best efforts to provide written notice of such termination to the Servicer by registered mail at least 30 days prior to the effective date of termination; provided that in no event shall the Owner

provide such notice less than 20 days prior to the effective date of such termination. In the event the Owner terminates the Servicer without cause with respect to some or all of the Mortgage Loans, the Owner shall be required to pay to the Servicer the applicable Deboarding Fee, all related costs and expenses of transfer (including, but not limited to, costs and expenses associated with (i) preparing, delivering and/or recording assignments, or (ii) effecting beneficiary name changes on Mortgage Loans registered with MERS, each as applicable) and amounts due under Section 6.02(b).

(c) Servicer may terminate, at its sole option, the Agreement with respect to some or all of the Mortgage Loans or REO Property, without cause. Such termination shall not be become effective until the earlier of: (i) 90 days after the date on which notice of termination is provided by the Servicer in writing and delivered to the Owner by registered mail, or (ii) a successor shall have assumed the Servicer's responsibilities and obligations hereunder in the manner provided in Section 6.02. In the event the Servicer terminates the Agreement without cause with respect to some or all of the Mortgage Loans, the Owner shall not be required to pay to the Servicer the applicable Deboarding Fee and Servicer shall pay all its costs and expenses of transfer; provided, however, that the Servicer shall be entitled to reimbursement of amounts due under Section 6.02(b) hereof.

(d) Servicer may terminate this Agreement upon the determination that its duties hereunder are no longer permissible under applicable law and such incapacity cannot be cured by the Servicer. Any such determination permitting the resignation of the Servicer shall be evidenced by an Opinion of Counsel to such effect delivered to the Owner. No such resignation shall become effective until a successor shall have assumed the Servicer's responsibilities and obligations hereunder in the manner provided in Section 6.02.

Section 6.02 Transfer Procedures.

In the event the Servicer is replaced pursuant to the terms of this Agreement, the Servicer agrees to cooperate reasonably with the Owner and with any party designated as the successor servicer or subservicer in transferring the servicing to such successor servicer. In addition, the Servicer shall be responsible for notifying the related mortgagors of any transfer of servicing in accordance with the requirements of RESPA and the Cranston Gonzalez National Affordable Housing Act of 1990. On or before the date upon which servicing is transferred from the Servicer to any successor servicer (the "Transfer Date"), the Servicer shall prepare, execute and deliver to the successor servicer any and all documents and other instruments, place in such successor's possession all Mortgage Loan Documents in the possession of the Servicer which are necessary or appropriate to effect the purposes of such notice of termination, including but not limited to the transfer and endorsement or assignment of the related Mortgage Loans and related documents. The Servicer shall reasonably cooperate with the Owner and such successor in effecting the termination of the Servicer's responsibilities and rights hereunder.

On the related Transfer Date, the Servicer shall comply with all of the provisions of this Agreement to effect a complete transfer of the servicing with respect to the related Mortgage Loans. Except as otherwise provided in this Agreement, on the related Transfer Date for each related Mortgage Loan, this Agreement, except for Articles VI, VIII, IX and X and

Sections 13.01, 13.05, 13.11, 13.14 and 13.15 which shall survive the related Transfer Date, shall terminate with respect to such Mortgage Loan.

(a) Mortgage Loans in Foreclosure. The servicing with respect to Mortgage Loans in foreclosure on or before the related Transfer Date shall not be transferred from the Servicer to the Owner or the successor servicer, as the case may be, and such Mortgage Loans shall continue to be serviced by the Servicer pursuant to the terms of this Agreement. However, if the Owner so elects, the Owner may waive the provisions of this paragraph (a) and accept transfer of servicing of such Mortgage Loans and all amounts received by the Servicer thereunder.

(b) Servicing Advances. The Servicer shall be entitled to be reimbursed for all unreimbursed Servicing Advances and any other advances made by the Servicer pursuant to this Agreement with respect to any Mortgage Loan on the related Transfer Date, but only if the servicer after the related Transfer Date is not the Servicer or an Affiliate. In addition, the Owner shall cause the Servicer to be reimbursed for any accrued and unpaid Servicing Fees and for any trailing expenses representing Servicing Advances for which invoices are received by the Servicer after the Transfer Date; provided, that the Owner shall not be liable for any amounts pursuant to this paragraph unless the Servicer has requested reimbursement and delivered appropriate evidence of such reimbursable expense.

ARTICLE VII.

BOOKS AND RECORDS

Section 7.01 Possession of Servicing Files Prior to the related Transfer Date.

Prior to the related Transfer Date, the contents of each Servicing File are and shall be held in trust by the Servicer for the benefit of the Owner as the owner thereof. The Servicer shall maintain in the Servicing File a copy of the contents of each Mortgage File and the originals of the documents in each Mortgage File not delivered to the Owner. The possession of the Servicing File by the Servicer is at the will of the Owner for the sole purpose of servicing the related Mortgage Loan, pursuant to this Agreement, and such retention and possession by the Servicer is in its capacity as Servicer only and at the election of the Owner; provided that Servicer may keep copies of any records it deems necessary for compliance with any state or federal record retention requirements or as it deems advisable for use in defending any litigation, action or claim. The Servicer shall release its custody of the contents of any Servicing File only in accordance with written instructions from the Owner, unless such release is required as incidental to the Servicer's servicing of the Mortgage Loans pursuant to this Agreement.

The Servicer shall be responsible for maintaining, and shall maintain, a complete set of books and records for each Mortgage Loan which shall be marked clearly to reflect the ownership of each Mortgage Loan by the Owner. In particular, the Servicer shall maintain in its possession, available for inspection by the Owner or its designee, and shall deliver to the Owner or its designee upon demand, evidence of compliance with this Agreement, with all federal, state and local laws, rules and regulations, including but not limited to documentation as to the

method used in determining the applicability of the provisions of the National Flood Insurance Act of 1968, as amended, to the Mortgaged Property, documentation evidencing insurance coverage and eligibility of any condominium project for approval by Fannie Mae and periodic inspection reports as required by Section 2.13. To the extent that original documents (other than documents evidencing the Mortgage Loans) are not required for purposes of realization of Liquidation Proceeds or Insurance Proceeds, documents maintained by the Servicer may be in the form of microfilm or microfiche or such other reliable means of recreating original documents, including but not limited to, optical imagery techniques so long as the Servicer complies with the requirements of the Fannie Mae Guide.

The Servicer shall keep at its servicing office books and records in which, subject to such reasonable regulations as it may prescribe, the Servicer shall note transfers of Mortgage Loans. With respect to any assignment or transfer made by the Owner pursuant to Section 8.05 of this Agreement, upon receipt of notice of such assignment or transfer, the Servicer shall cause its books and records to reflect the ownership of the Mortgage Loans of such assignee, and shall release the previous Owner from its obligations hereunder with respect to the Mortgage Loans sold or transferred arising following the date of such sale or transfer. For the purposes of this Agreement, the Servicer shall be under no obligation to deal with any person with respect to this Agreement or the Mortgage Loans unless the books and records show such person as the owner of the Mortgage Loan.

ARTICLE VIII.

INDEMNIFICATION AND ASSIGNMENT

Section 8.01 Indemnification.

(a) The Servicer shall defend and indemnify the Owner, its employees, officers, Affiliates, agents and representatives against any and all assessments, judgments, claims (brought by any Person including, without limitation, any third parties, including any governmental authorities), liabilities, losses, costs, damages or expenses whatsoever (including, without limitation, interest penalties and reasonable attorneys' fees, expenses and disbursements in connection with any action, suit or proceeding and any such reasonable attorneys' fees, expenses and disbursements incurred in enforcing any right of indemnification against any indemnitor) (each a "Liability"), sustained by Owner or any of the Persons or entities referenced above resulting from or related to the failure of the Servicer to perform its duties under this Agreement or the Servicer's breach of the terms of this Agreement, including any of the Servicer's representations, warranties, or covenants contained in this Agreement.

(b) [Reserved.]

(c) The Owner shall defend and indemnify the Servicer, its employees, officers, affiliates, agents and representatives (the "Servicer Indemnified Parties"), against any and all Liability that the Servicer Indemnified Parties may sustain which are caused by or result from (directly or indirectly, in whole or in part):

(i) (A) the Servicer taking any action, or refraining from taking any action, with respect to any Mortgage Loan or REO Property at or in conformity with the express written direction of the Owner or this Agreement or (B) the Servicer taking and initiating any legal actions with respect to any Mortgage Loans and REO Properties or taking title to any REO Properties on behalf of the Owner, in the name of the Servicer or an Affiliate thereof (in each case, unless such action or omission is taken with a standard of care in contravention of any standard of care required under the Agreement and such contravention is the proximate cause of the claim or action);

(ii) any breach by the Owner of the terms of this Agreement, including any of the Owner's representations, warranties or covenants contained in this Agreement;

(iii) the refusal of the Owner or any trustee or custodian in possession of original Mortgage Loan Documents to provide to the Servicer the originals of any Mortgage Loan Documents within a reasonable amount of time after a request for such documents has been received in order to allow the Servicer sufficient time to process satisfactions, payoffs and releases;

(iv) any act or omission to act of any servicer, sub-servicer, owner or originator of a Mortgage Loan or Mortgaged Property (or any other Person) prior to the Servicing Transfer Date, including, without limitation, any data integrity issue (and any related costs of correcting such issues); provided, however, should the Servicer have actual knowledge of any data integrity error which is likely to materially affect any Mortgage Loan, the Servicer, in consultation with the Owner and at the Owner's expense, will take reasonable efforts to correct such error;

(v) perpetuating the acts or omissions of prior servicers, including, without limitation, any debt-collector related liability (including, without limitation, effects of abusive or deceptive collection costs, improperly initiated foreclosures and imposition of improper fees or interest charges) unless (A) the Servicer has actual knowledge that perpetuating such act or omission will result in Liability to the Servicer and in conscious disregard of such actual knowledge, nonetheless perpetuates such act or omission, (B) the Servicer knowingly performs an act or omission and such act or omission as a singular act, not in combination with any other act or omission of any prior servicer(s), results in Liability to the Servicer, or (C) the acts or omissions are based on a mistaken or false conception of the law that is obvious, gross and significant and the Servicer, over a period of time, in more than a single instance, continues in its course of servicing to perpetuate such acts or omissions;

(vi) a prior servicer's failure to comply with the Servicer's Transfer Instructions;

(vii) advances initially assumed by the Servicer that ultimately are not recoverable from the Mortgagor or other proceeds;

(viii) a Mortgage Loan being classified as "high cost" under the Home Ownership and Equity Protection Act of 1994; or "high cost", or "predatory" under any other applicable state, federal or local law.

(ix) any Environmental Liability.

The term "Environmental Liability" shall mean any and all claims, losses, damages, liabilities, judgments, penalties, fines, forfeitures, reasonable legal fees and expenses, and any and all related costs and/or expenses of litigation, administrative and/or regulatory agency proceedings, and any other costs, fees and expenses, suffered or incurred by the Servicer or Owner arising out of or resulting from the introduction of environmentally hazardous materials on any Mortgaged Property before and/or after the date of the Servicer's knowledge thereof, including, without limitation, (a) any liability under or on account of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., as the same may be amended from time to time, and/or any other federal or state environmental laws, and specifically including, without limitation, any liability relating to asbestos and asbestos containing materials, polychlorinated biphenyls, radon gas, petroleum and petroleum products, urea formaldehyde and any substances classified as being "in inventory", "usable work in process" or similar classification which would, if classified as unusable, be included in the foregoing definition, including the assertion of any lien thereunder, (b) claims brought by third parties for loss or damage incurred or sustained subsequent to the date hereof, and (c) liability with respect to any other matter affecting the Mortgaged Property within the jurisdiction of the federal Environmental Protection Agency or state environmental regulatory agencies pursuant to any state laws, and in the regulations adopted pursuant to any of said laws; provided, however, that the indemnity for Environmental Liability shall not be effective with respect to any liability caused by the Servicer that would otherwise be imposed by reason of the Servicer's willful misfeasance or bad faith in the performance of or failure to perform its duties hereunder.

The Owner shall not be required to indemnify, or otherwise be liable to, the Servicer or those referenced above, however, for any Liability which the Servicer is required to indemnify for pursuant to Section 8.01(a) above.

Section 8.02 Limitation on Liability of Servicer and Others.

(a) Notwithstanding Section 8.01, neither the Servicer nor any of the directors, officers, employees or agents of the Servicer shall be under any liability to the Owner for any action taken or for refraining from the taking of any action in good faith pursuant to this Agreement, or for errors in judgment, provided, however, that this provision shall not protect the Servicer or any such Person against any breach of warranties or representations made herein, its own negligent actions, or failure to perform its obligations in compliance with any standard of care set forth in this Agreement, or any liability which would otherwise be imposed by reason of any breach of the terms and conditions of this Agreement. The Servicer and any director, officer, employee or agent of the Servicer may rely in good faith on any document of any kind prima facie properly executed and submitted by any Person respecting any matters arising hereunder. The Servicer shall not be under any obligation to appear in, prosecute or defend any legal action which is not incidental to its duties to service the Mortgage Loans in accordance with this Agreement and which in its opinion may involve it in any expense or liability, provided, however, that the Servicer may undertake any such action which it may deem necessary or desirable in respect to this Agreement and the rights and duties of the parties hereto. In such event, the Servicer shall be entitled to reimbursement from the Owner of the reasonable legal expenses and costs of such action.

(b) Notwithstanding Section 8.01, the Servicer shall not be required to indemnify, or otherwise be liable to, the Owner or those referenced above for any Liability which the Owner is required to indemnify for pursuant to Section 8.01(c) above.

Section 8.03 Limitation on Assignment and Resignation by Servicer.

The Owner has entered into this Agreement with the Servicer and subsequent purchasers will purchase the Mortgage Loans in reliance upon the independent status of the Servicer, and the representations as to the adequacy of its servicing facilities, plant, personnel, records and procedures, its integrity, reputation and financial standing, and the continuance thereof. Therefore, the Servicer shall not (a) assign this Agreement or the servicing hereunder or delegate its rights hereunder or any portion hereof without the prior written consent of the Owner, which consent shall not be unreasonably withheld; provided that the Servicer may assign this Agreement to an Affiliate controlled by General Motors Corporation and capable of performing all of the Servicer's obligations hereunder without the consent of the Owner; or (b) sell or otherwise dispose of all or substantially all of its property or assets without providing at least 90 days written notice to the Owner.

Notwithstanding the foregoing, the Servicer may, without the consent of the Owner, retain third party contractors to perform certain servicing and loan administration functions, including without limitation, hazard insurance administration, tax payment and administration, flood certification and administration, collection services and similar functions; provided, that the retention of such contractors by Servicer shall not limit the obligation of the Servicer to service the Mortgage Loans pursuant to the terms and conditions of this Agreement.

Without in any way limiting the generality of this Section 8.03, in the event that the Servicer either shall assign this Agreement or the servicing responsibilities hereunder or delegate its duties hereunder or any portion thereof without the prior written consent of the Owner (other than to an Affiliate as permitted by Section 8.03(a)) or sell or otherwise dispose of all or substantially all of its property or assets without providing 90 days written notice to the Owner, then the Owner shall have the right to terminate this Agreement upon notice given as set forth in Section 6.01 hereof, without any payment of any penalty or damages and without any liability whatsoever to the Servicer or any third party.

Notwithstanding any provision in this Agreement to the contrary, the Servicer may at any time upon notice to the Owner, or trustee in the case of a Reconstitution, and without the consent of any party, solely in connection with a financing or other facility (any such arrangement, an "Advance Facility"), assign as collateral security or pledge to another Person all its rights, title and interest under this Agreement to the Servicing Rights and its rights to reimbursement of Servicing Advances.

Except as provided for in Section 6.01 of this Agreement, the Servicer shall not resign from the obligations and duties hereby imposed on it.

Section 8.04 Operation of Indemnities.

If any Person has made any indemnity payments to any other Person pursuant to this Article VIII and such other Person thereafter collects any of such amounts from others, such

other Person will repay such amounts collected, together with any interest collected thereon. The provisions of this Article VIII shall survive any termination of this Agreement, the liquidation of any Mortgage Loan, or the transfer or assignment by the Owner to another Person of any Mortgage Loan or REO Property or any interest in any Mortgage Loan or REO Property.

Section 8.05 Assignment by Owner.

No transfer of a Mortgage Loan may be made unless such transfer is in compliance with the terms hereof. The Owner shall have the right to assign its interest under this Agreement with respect to some or all of the Mortgage Loans, and designate any Person to exercise any rights of the Owner hereunder; provided that (a) Owner and such Person execute a mutually agreeable Assignment and Assumption Agreement substantially in the form of Exhibit 12 and such agreement is delivered to the Servicer; (b) such Person has a tangible net worth of $20 million or such Person is otherwise acceptable to the Servicer, in its sole and absolute discretion, (c) there shall not be more than three owners of the Mortgage Loans exclusive of the Mortgage Loans included in a Pass-Through Transfer, and (d) the Owner provides the Servicer with written notice of the transfer 30 days prior to the effective date of such transfer.

Upon such assignment of rights and assumption of obligations, the assignee or designee shall accede to the rights and obligations hereunder of the Owner with respect to such Mortgage Loans and the Owner as assignor shall be released from all obligations hereunder with respect to such Mortgage Loans from and after the date of such assignment and assumption (except that Articles VI, VIII, IX and X and Sections 13.01, 13.05, 13.11, 13.14 and 13.15 shall survive such transfer). All references to the Owner in this Agreement shall be deemed to include its permitted assignee or designee.

Section 8.06 Merger or Consolidation of the Servicer.

Any Person into which the Servicer may be merged or consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Servicer shall be a party, or any Person succeeding to the business of the Servicer, shall be the successor of the Servicer hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that the successor or surviving Person shall be an institution whose deposits are insured by FDIC or a company whose business includes the servicing of mortgage loans and shall have a tangible net worth not less than $25,000,000.

ARTICLE IX.

REPRESENTATIONS, WARRANTIES AND COVENANTS OF OWNER

As of the date of this Agreement, the Owner warrants and represents to, and covenants and agrees with, the Servicer as follows:

Section 9.01 Organization and Good Standing; Licensing.

The Owner is a Delaware limited liability corporation duly organized and validly existing and has the power and authority to own its assets and to transact the business in which it is currently engaged.

Section 9.02 Authorization; Binding Obligations.

The Owner has the power and authority to make, execute, deliver and perform this Agreement, and perform all of the transactions contemplated to be performed by it under this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. When executed and delivered, this Agreement will constitute the legal, valid and binding obligation of the Owner enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by the availability of equitable remedies.

Section 9.03 No Consent Required.

The Owner is not required to obtain the consent of any other party or any consent, license, approval or authorization from, or registration or declaration with, any governmental authority, bureau or agency in connection with the execution, delivery, performance, validity or enforceability of this Agreement, except such as have been obtained or made or as to which the failure to obtain or make will not materially adversely affect the ability of the Owner to perform all obligations hereunder.

Section 9.04 No Violations.

The execution, delivery and performance of this Agreement by the Owner will not violate any provision of any existing law or regulation or any order or decree of any court applicable to the Owner, except for violations that will not adversely affect the Owner's ability to perform its obligations under this Agreement or the certificate of incorporation of the Owner, or constitute a material breach of any mortgage, indenture, contract or other agreement to which the Owner is a party or by which the Owner may be bound.

Section 9.05 Litigation.

No litigation or administrative proceeding of or before any court, tribunal or governmental body is currently pending or to the knowledge of the Owner threatened, against the Owner or with respect to this Agreement, which if adversely determined would have a material adverse effect on the transactions contemplated by this Agreement.

Section 9.06 Ownership.

With respect to each Mortgage Loan, Owner is the owner of all right, title, and interest in and to the Mortgage Loan (and the servicing rights appurtenant thereto). Each Mortgage Loan is a valid and collectible obligation of the respective Mortgagor; and no Mortgage Loan is subject to the Home Ownership and Equity Protection Act of 1994.

Section 9.07 Service Contracts.

The Owner shall reimburse the Servicer for any costs or expenses incurred to transfer tax service contracts and flood service contracts or to obtain contracts that are not existing or transferable to the Servicer.

Section 9.08 Accuracy.

To the Owner's knowledge, the information provided in the Mortgage Loan Schedule is, in the aggregate, true and correct in all material respects as of the Servicing Transfer Date.

ARTICLE X.

REPRESENTATIONS AND WARRANTIES OF SERVICER

As of the date of this Agreement, the Servicer warrants and represents to, and covenants and agrees with, the Owner as follows:

Section 10.01 Due Organization and Authority.

The Servicer is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation as now being conducted and is licensed, qualified and in good standing in each state where a Mortgaged Property is located if the laws of such state require licensing or qualification in order to conduct business of the type conducted by the Servicer, and in any event the Servicer is in compliance with the laws of any such state to the extent necessary to ensure the enforceability of the related Mortgage Loan in accordance with the terms of this Agreement. The Servicer has the power and authority to make, execute, deliver and perform this Agreement, and perform all of the transactions contemplated to be performed by it under this Agreement, and has taken all necessary action to authorize the execution, delivery and performance of this Agreement. When executed and delivered, this Agreement will constitute the legal, valid and binding obligation of the Servicer enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by the availability of equitable remedies.

Section 10.02 Ordinary Course of Business.

The consummation of the transactions contemplated by this Agreement are in the ordinary course of business of the Servicer.

Section 10.03 No Violation.

The execution, delivery and performance of this Agreement by the Servicer will not violate any provision of any existing law or regulation or any order or decree of any court applicable to the Servicer, except for violations that will not adversely affect the Servicer's ability to perform its obligations under this Agreement or the certificate of incorporation of the Servicer, or constitute a material breach of any mortgage, indenture, contract or other agreement

to which the Servicer is a party or by which the Servicer may be bound.

Section 10.04 Ability to Service.

The Servicer has the facilities, procedures, and experienced personnel necessary for the sound servicing of mortgage loans of the same type as the Mortgage Loans. The Servicer is in good standing to enforce and service mortgage loans in the jurisdiction wherein the Mortgaged Properties are located.

Section 10.05 Ability to Perform.

The Servicer does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every covenant contained in this Agreement.

Section 10.06 Litigation.

No litigation or administrative proceeding of or before any court, tribunal or governmental body is currently pending or to the knowledge of the Servicer threatened, against the Servicer or with respect to this Agreement, which if adversely determined would have a material adverse effect on the transactions contemplated by this Agreement.

Section 10.07 No Consent Required.

The Servicer is not required to obtain the consent of any other party or any consent, license, approval or authorization from, or registration or declaration with, any governmental authority, bureau or agency in connection with the execution, delivery, performance, validity or enforceability of this Agreement, except such as have been obtained or made or as to which the failure to obtain or make will not materially adversely affect the ability of the Servicer to perform all obligations hereunder.

ARTICLE XI.

DEFAULT

Section 11.01 Events of Default.

The following shall constitute an Event of Default under this Agreement on the part of the Servicer:

(a) any failure by the Servicer to remit to the Owner any payment required to be made under the terms of this Agreement which continues unremedied for a period of two Business Days after the date upon which notice of such failure is given to the Servicer, requiring the same to be remedied, shall have been given to the Servicer by the Owner; or

(b) the failure by the Servicer duly to observe or perform in any material respect any other of the covenants or agreements on the part of the Servicer set forth in this Agreement or in the Custodial Agreement which continues unremedied for a period of 30 days after the date on which notice of such failure, requiring the same to be remedied, shall have been

given to the Servicer by the Owner (the date of delivery of such notice, the "Notice Date"); *provided, however*, that in the case of a failure that cannot be cured within thirty (30) days after the Notice Date, the cure period may be extended if the Servicer can demonstrate to the reasonable satisfaction of the Owner that the failure can be cured and the Servicer is diligently pursuing remedial action; or

(c) a decree or order of a court or agency or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator in any insolvency, bankruptcy, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against the Servicer and such decree or order shall have remained in force undischarged or unstayed for a period of 60 days; or

(d) the Servicer shall consent to the appointment of a conservator or receiver or liquidator in any insolvency, bankruptcy, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to the Servicer or of or relating to all or substantially all of its property; or

(e) the Servicer shall admit in writing its inability to pay its debts generally as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations; or

(f) the Servicer fails to maintain its license to do business or service residential mortgage loans in any jurisdiction where the Mortgaged Properties are located which failure continues unremedied for a period of 45 days after receiving actual notice of such failure and such failure has a material and adverse effect on the Servicer's ability to perform its obligations under the Agreement; or

(g) the Servicer attempts to assign its right to servicing compensation hereunder or the Servicer attempts, without the consent of the Owner, to assign this Agreement or the servicing responsibilities hereunder or to delegate its duties hereunder or any portion thereof in a manner not permitted under this Agreement.

In each and every such case, so long as an Event of Default shall not have been remedied, in addition to whatsoever rights the Owner may have at law or equity to damages, including injunctive relief and specific performance, the Owner, by notice in writing to the Servicer, may terminate without compensation all the rights and obligations of the Servicer under this Agreement and in and to the Mortgage Loans and the proceeds thereof.

Upon receipt by the Servicer of such written notice, all authority and power of the Servicer under this Agreement, whether with respect to the Mortgage Loans or otherwise, shall pass to and be vested in the successor appointed pursuant to Section 6.02. Upon written request from the Owner, the Servicer shall prepare, execute and deliver any and all documents and other instruments, place in such successor's possession all Mortgage Files, and do or accomplish all other acts or things reasonably necessary or appropriate to effect the purposes of such notice of termination, whether to complete the transfer and endorsement or assignment of the Mortgage

Loans and related documents, or otherwise, at the Servicer's sole expense. The Servicer agrees to cooperate reasonably with the Owner and such successor in effecting the termination of the Servicer's responsibilities and rights hereunder, including, without limitation, the transfer to such successor for administration by it of all cash amounts which shall at the time be credited by the Servicer to the Custodial Account or Escrow Account or thereafter received with respect to the Mortgage Loans.

Section 11.02 Waiver of Defaults.

The Owner may waive any default by the Servicer in the performance of its obligations hereunder and its consequences. Upon any such waiver of a past default, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been remedied for every purpose of this Agreement. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon except to the extent expressly so waived.

ARTICLE XII.

CLOSING

Section 12.01 Closing Documents.

The Closing Documents for the Mortgage Loans to be serviced hereunder shall consist of fully executed originals of the following documents:

1. this Agreement (to be executed and delivered only as of the date of this Agreement);

2. with respect to the date hereof a custodial account letter agreement or a custodial account certification, as applicable, as required hereunder, in the form of either Exhibit 2 or 3 hereto;

3. with respect to the date hereof an escrow account letter agreement or an escrow account certification, as applicable, as required hereunder, in the form of either Exhibit 4 or 5 hereto;

4. with respect to the date hereof an officer's certificate, in the form of Exhibit 7 hereto, with respect to the Servicer, including all attachments thereto; with respect to subsequent dates, an officer's certificate upon request of the Owner;

5. with respect to the date hereof, an opinion of counsel to the Servicer (who may be an employee of the Servicer), in the form of Exhibit 6 hereto ("Opinion of Counsel to the Servicer"); and

6. with respect to the date hereof, a corporate resolution in the form of Exhibit 13 hereto.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

Section 13.01 Notices.

All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or mailing thereof, as the case may be, sent by registered or certified mail, return receipt requested:

(a) If to Owner to:

American Residential Equities, LLC
848 Brickell Ave.
Miami, FL 33131
Attention: Russell Johnson
Telecopier No: (305) 374 6941

(b) If to Servicer:

GMAC Mortgage Corporation
100 Witmer Road
Horsham, PA 19044
Attention: Executive Vice President of National Loan Administration
Telecopier No: (215) 682 1300

With a Copy to:

GMAC Mortgage Corporation
3451 Hammond Ave.
Waterloo, IA 50702-5345
Attention: General Manager
Telecopier No: (319) 236-5175

With a Copy to:

GMAC Mortgage Corporation
100 Witmer Road
Horsham, PA 19044
Attention: General Counsel
Telecopier No: (215) 682-1467

Section 13.02 Waivers.

The Servicer or the Owner may, by written notice to the others:

(a) Waive compliance with any of the terms, conditions or covenants required to be complied with by the others hereunder; and

(b) Waive or modify performance of any of the obligations of the others hereunder.

The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other subsequent breach.

Section 13.03 Entire Agreement; Amendment.

This Agreement, including all documents and exhibits incorporated by reference herein, constitutes the entire agreement between the parties with respect to servicing of the Mortgage Loans. This Agreement may be amended and any provision hereof waived, but, only in writing signed by the party against whom such enforcement is sought.

Section 13.04 Execution; Binding Effect.

This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, together, shall constitute one and the same agreement. Subject to Sections 8.03 and 8.04, this Agreement shall inure to the benefit of and be binding upon the Servicer and the Owner and their respective permitted successors and assigns.

Section 13.05 Confidentiality of Information.

The Servicer and the Owner each agree that any information and documents that are furnished for the purposes of performing under this Agreement or that are produced or are otherwise furnished to or come to the attention of either party are proprietary and shall be used only for the purposes of this Agreement. This information includes the terms of this Agreement, technical specifications and operating manuals, services and information concerning current, future, or proposed products and services and combinations of products and services; product and services descriptions; financial information; information related to mergers or acquisitions; passwords and security procedures; computer programs, loan servicing systems, software, and software documentation; customer and/or prospective client lists , mortgage loan files, and all other information relating in any way to the customer and/or prospective client; printouts; records; policies, practices and procedures; and any or all other information, data or materials relating to the business, trade secrets and technology of either party, its customers, clients, employees, business affairs, affiliates, subsidiaries and the affiliates of its parent organization (all of the foregoing collectively referred to as "Confidential Information").

Each party shall maintain the Confidential Information of the other in confidence using the same care and discretion to avoid disclosure of Confidential Information as it uses to protect its own confidential information that it does not want disclosed, but in no event less than a reasonable standard of care. The Owner specifically agrees that it will not use non-public personal information about the Servicer's customers in any manner prohibited by the Gramm-Leach-Bliley Act. Each party further agrees to (a) restrict disclosure of Confidential Information of the disclosing party solely to persons who need to know the Confidential Information to perform under this Agreement, (b) not to disclose any Confidential Information to any third party or copy Confidential Information without written approval of the disclosing party, and (c) inform

those third parties and other persons who receive Confidential Information of its confidential nature and obtain their agreement to abide by the obligations set forth herein.

The obligations imposed under this Agreement shall not apply to Confidential Information that is (a) made public by the party whose Confidential Information is disclosed, (b) generally available to the public other than by a breach of this Agreement by the receiving party, its employees or agents, or (c) rightfully received from a third person having the legal right to disclose the Confidential Information free of any obligation of confidence, nor shall the section be deemed to prohibit any disclosure by a party that is necessary or appropriate in such party's work with legal counsel, accountants, auditor or as required by applicable law or regulation. In the event that the receiving party, or any of such party's agents or employees, becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil or criminal investigative demand or similar process) to disclose any Confidential Information of the disclosing party, such receiving party shall provide prompt prior notice to the disclosing party so that it may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, or that the disclosing party waives compliance with the provisions of this section the receiving party will furnish only that portion of the Confidential Information which in the judgment of its counsel is legally required and will exercise reasonable efforts to obtain assurances that confidential treatment will be accorded the Confidential Information.

Each party acknowledges and agrees that any breach or threatened breach of any of the provisions of this section by the other party will result in immediate and irreparable harm and that any remedies at law in such event will be inadequate. The parties agree that such breaches, whether threatened or actual, will give the disclosing party the right to obtain injunctive relief to restrain such disclosure or use. This right shall, however, be in addition to and not in lieu of any other remedies at law or in equity.

Upon termination of the Agreement, all copies of the Confidential Information will either be destroyed or returned to the disclosing party immediately upon such party's request. Each party agrees that it will not retain any copy, summary or extract of the Confidential Information or any related work papers on any storage medium whatsoever. Notwithstanding anything to the contrary contained herein, Servicer shall in no event have any obligation hereunder to destroy Mortgage Loan files or any documents related thereto.

Section 13.06 Headings.

Headings of the Articles and Sections in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.

Section 13.07 Applicable Law.

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA AND THE OBLIGATIONS, RIGHTS AND REMEDIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE COMMONWEALTH

OF PENNSYLVANIA (WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES), EXCEPT TO THE EXTENT PREEMPTED BY FEDERAL LAW.

Section 13.08 Relationship of Parties.

Nothing herein contained shall be deemed or construed to create a partnership or joint venture between the parties. The duties and responsibilities of the Servicer shall be rendered by it as an independent contractor and not as an agent of the Owner. The Servicer shall have full control of all of its acts, doings, proceedings, relating to or requisite in connection with the discharge of its duties and responsibilities under this Agreement.

Section 13.09 Severability of Provisions.

If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

Section 13.10 Recordation of Assignments of Mortgage.

To the extent permitted by applicable law, each of the Assignments of Mortgage is subject to recordation in all appropriate public offices for real property records in all the counties or other comparable jurisdictions in which any or all of the Mortgaged Properties are situated, and in any other appropriate public recording office or elsewhere, such recordation to be effected by the Owner or the Owner's designee.

Section 13.11 Exhibits.

The exhibits to this Agreement are hereby incorporated and made a part hereof and are integral parts of this Agreement.

Section 13.12 Counterparts.

This Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

Section 13.13 No Solicitation.

From and after the date hereof, neither the Servicer nor any Affiliate of the Servicer shall solicit the Mortgagors for purposes of prepayment or refinance or modification of the Mortgage Loans, except as otherwise provided herein. Nothing in this Section 13.11 shall prohibit the Servicer from generalized advertising, including on its website, monthly account statements which are not targeted exclusively at the Mortgagors, or VRU (i.e. voice response unit) recorded communications or otherwise engaging in a program directed to the general public at large to encourage or recommend mortgage loan products and other products and services provided by the Servicer or such Affiliate or from taking applications for refinance from

Mortgagors as a result therefrom. Servicer may solicit the Mortgagors for non-mortgage loan products with the consent of the Owner, which consent shall not be unreasonably withheld.

Section 13.14 Cooperation of Servicer with a Reconstitution.

The Servicer and the Owner agree that with respect to some or all of the Mortgage Loans, the Owner may effect either:

(1) one or more Whole Loan Transfers;

(2) one or more Pass-Through Transfers.

The Servicer and the Owner acknowledge and agree that the Servicer is not obligated hereunder to act as servicer in any Reconstitution and the Owner is not obligated hereunder to offer the Servicer the opportunity to act as servicer in any Reconstitution.

The Servicer shall reasonably cooperate with the Owner in connection with any Whole Loan Transfer or Pass-Through Transfer contemplated by the Owner pursuant to this Section 13.13, provided, however, that under no circumstances and in no event shall such cooperation include any act of the Servicer or any event affecting the Servicer which would materially increase the Servicer's liabilities or obligations beyond those liabilities and obligations contained in this Agreement (except as otherwise set forth in this Section 13.12).

In connection with any Reconstitution in which the Owner and the Servicer have agreed that the Servicer shall act as the servicer in the Reconstitution, the Owner shall deliver any agreement (the "Reconstitution Agreement") or other document related to the Whole Loan Transfer or Pass Through Transfer to the Servicer at least 20 Business Days prior to such transfer; the Servicer's refusal to cooperate with Owner based on late delivery of such documents shall result in no liability to the Servicer. Such Reconstitution Agreement may, in the Owner's discretion, contain contractual provisions not set forth in this Agreement, including, but not limited to, (i) customary certificate payment delays, (ii) servicer advance requirements for the advancing of delinquent scheduled payments of principal and interest through liquidation (unless deemed non-recoverable), (iii) servicer obligations to pay compensating interest for prepayment interest shortfalls (to the extent of the monthly servicing fee payable to the servicer), (iv) representations and warranties (dated as of the Reconstitution Date) of the Servicer conforming in all material respects to the representations and warranties in this Agreement, and (v) such provisions with regard to servicing responsibilities, investor reporting, segregation and deposit of principal and interest payments, custody of the Mortgage Loans, and other provisions that conform to secondary market standards for mortgage-backed securities backed by mortgage loans similar to the Mortgage Loans or as may be required by one or more Rating Agencies. The Servicer shall promptly review such Reconstitution Agreement and/or related documents, and provided that such Reconstitution Agreement contains servicing provisions substantially similar to those herein or otherwise acceptable to the Servicer in its sole discretion, shall execute such Reconstitution Agreement and/or related documents. The Servicer's refusal to execute any Reconstitution Agreement or related documents may be based on any provision which materially (a) increases the liability of the Servicer and/or (b) affects Servicer's profitability from that contemplated in this Agreement. The Owner hereby agrees to pay the Servicer for reasonable

expenses incurred by the Servicer that relate to reviewing and commenting on the Reconstitution Agreement for such Whole Loan Transfer or Pass-Through Transfer in the amount of (i) $2,500 if Servicer uses internal counsel or (ii) $10,000 if Servicer uses external counsel. Any cooperation from the Servicer in connection with any Whole Loan Transfer or Pass-Through Transfer contemplated by this Section shall include delivery of a legal opinion relating to the Servicer substantially similar to that attached hereto as Exhibit 14, the furnishing of information for use in an offering document for such Pass-Through Transfer, conforming to market standards for Pass-Through Transfers of this type, relating to the Servicer and its servicing practices and portfolio (the "Servicer Information") substantially similar to that attached hereto as Exhibit 14. The Servicer shall indemnify the Owner, each Affiliate of the Owner participating in any such Reconstitution and each Person who controls the Owner or such Affiliate, and their respective officers and directors, and hold each of them harmless from and against any losses, damages, penalties, fines, forfeitures, reasonable and necessary legal fees and related costs, judgments, and any other costs, fees and expenses that each of them may sustain in any way related to the Servicer Information. The Owner shall indemnify the Servicer and each Person who controls the Servicer or such Affiliate and hold each of them harmless from and against any losses, damages, penalties, fines, forfeitures, reasonable and necessary legal fees and related costs, judgments, and any other costs, fees and expenses that each of them may sustain in any way related to any information provided by the Owner in any offering document prepared in connection with any Reconstitution.

If requested by the Owner in connection with any Reconstitution, the Servicer and the Owner shall execute a letter agreement setting forth the indemnification obligations set forth in this Section 13.12. In the event that the Servicer is not the master servicer, servicer or sub-servicer with respect to a Reconstitution, any and all reasonable costs, fees and expenses incurred by Servicer in connection with the foregoing shall be reimbursed by Owner after receipt of an invoice therefor in accordance with Section 6.4. Any execution of a subservicing agreement or pooling and servicing agreement by the Servicer shall be conditioned on the Servicer receiving the Securitization Servicing Fee or such other servicing fee acceptable to Servicer. Notwithstanding any provision to the contrary in this Agreement, in the event that the Servicer is the master servicer, servicer or sub-servicer with respect to a Reconstitution, the Owner agrees that in such Reconstitution any servicing performance termination triggers shall be approved by the Servicer in its reasonable discretion; provided, that in the event that the Servicer does not approve any servicing performance termination triggers, the Owner shall, with respect to the Reconstitution, have the right to terminate the Servicer hereunder (a "Servicing Performance Trigger Termination") and designate a successor servicer to act as master servicer, servicer or sub-servicer. In the event of a Servicing Performance Trigger Termination, (a) if the successor servicer charges a boarding fee or other similar fee to assume the servicing of the Mortgage Loans, the Servicer shall entitled to an amount equal to one-half of the applicable Deboarding Fee with respect to such Mortgage Loans, and (b) if the successor servicer does not charge a boarding fee or other similar fee, the Servicer shall be entitled to the applicable Deboarding Fee.

All Mortgage Loans not sold or transferred pursuant to a Whole Loan Transfer or Pass-Through Transfer shall be subject to this Agreement and shall continue to be serviced in accordance with the terms of this Agreement and with respect thereto this Agreement shall remain in full force and effect.

Section 13.15 Force Majeure.

A Party will not be responsible for delays or failures in performance of its obligations under this Agreement resulting from acts of God, strikes, riots, acts of war, terrorism, earthquakes or other similar events. A Party excused from performance pursuant to this Section shall exercise reasonable efforts to continue to perform its obligations hereunder and shall thereafter continue with reasonable due diligence and good faith to remedy its inability to so perform, except that nothing herein shall obligate either Party to settle a strike or labor dispute when it does not wish to do so

Section 13.16 Waiver of Trial by Jury.

THE SERVICER AND THE OWNER EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING UNDER OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 13.17 LIMITATION OF DAMAGES.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE PARTIES AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER LEGAL OR EQUITABLE PRINCIPLE, PROVIDED, HOWEVER, THAT SUCH LIMITATION SHALL NOT BE APPLICABLE WITH RESPECT TO THIRD PARTY CLAIMS MADE AGAINST A PARTY.

Section 13.18 SUBMISSION TO JURISDICTION; WAIVERS.

The Servicer hereby irrevocably and unconditionally:

(a) SUBMITS FOR ITSELF IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, OR FOR RECOGNITION AND ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, TO THE NON-EXCLUSIVE GENERAL JURISDICTION OF THE COURTS OF THE COMMONWEALTH OF PENNSYLVANIA, THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE EASTERN DISTRICT OF PENNSYLVANIA, AND APPELLATE COURTS FROM ANY THEREOF;

(b) CONSENTS THAT ANY SUCH ACTION OR PROCEEDING MAY BE BROUGHT IN SUCH COURTS AND, TO THE EXTENT PERMITTED BY LAW, WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT SUCH ACTION OR PROCEEDING WAS BROUGHT IN AN INCONVENIENT COURT AND AGREES NOT TO PLEAD OR CLAIM THE SAME;

(c) AGREES THAT NOTHING HEREIN SHALL AFFECT THE RIGHT TO EFFECT SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR SHALL LIMIT THE RIGHT TO SUE IN ANY OTHER JURISDICTION.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the date first above written.

[American Residential Equities, LLC
(Owner)

By: _____
Name: Jeffrey Kiesel
Title: President

GMAC MORTGAGE CORPORATION
(Servicer)

By: _____
Name: Wesley B. Howland
Title: Vice President

EXHIBIT 1

TRIAL BALANCE

EXHIBIT 2

CUSTODIAL ACCOUNT CERTIFICATION

_____ __, 2004

The Servicer hereby certifies that it has established the account described below as a Custodial Account pursuant to Section 2.06 of the Servicing Agreement, dated as of July 29, 2004, Fixed and Adjustable Rate B/C Mortgage Loans.

Title of Account: [_____] in trust for "[ ], Fixed and Adjustable Rate B/C Residential Mortgage Loans."

Account Number: _____

Address of office or branch of the Servicer at which Account is maintained: _____

[_____]
Servicer

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT 3
CUSTODIAL ACCOUNT LETTER AGREEMENT

_____ __, 2004

To: _____
_____
_____
(the "Depository")

As Servicer under the Servicing Agreement, dated as of July 29, 2004, Fixed and Adjustable Rate B/C Mortgage Loans (the "Agreement"), we hereby authorize and request you to establish an account, as a Custodial Account pursuant to Section 2.06 of the Agreement, to be designated "[_____], as servicer, in trust for [ ]" All deposits in the account shall be subject to withdrawal therefrom by order signed by the Servicer. You may refuse any deposit which would result in violation of the requirement that the account be fully insured as described below. This letter is submitted to you in duplicate. Please execute and return one original to us.

[_____]
Servicer

By:_____
Name: _____
Title: _____
Date: _____

The undersigned, as Depository, hereby certifies that the above described account has been established under Account Number _____, at the office of the Depository indicated above, and agrees to honor withdrawals on such account as provided above. The full amount deposited at any time in the account will be insured by the Federal Deposit Insurance Corporation.

_____
Depository

By:_____
Name: _____
Title: _____
Date: _____

EXHIBIT 4
ESCROW ACCOUNT CERTIFICATION

_____ ___, 2004

_____ hereby certifies that it has established the account described below as an Escrow Account pursuant to Section 2.08 of the Servicing Agreement, dated as of July 29, 2004, Fixed and Adjustable Rate B/C Residential Mortgage Loans.

Title of Account: "[_____], in trust for Owners of Residential Fixed and Adjustable Rate Mortgage Loans, and various Mortgagors."

Account Number: _____

Address of office or branch of the Servicer at which Account is maintained: _____

_____

_____

_____

[_____]
Servicer

By:_____
Name: _____
Title: _____

EXHIBIT 5
ESCROW ACCOUNT LETTER AGREEMENT

_____ ___, 2004

To: _____

_____

_____

(the "Depository")

As Servicer under the Servicing Agreement, dated as of July 29, 2004, Fixed and Adjustable Rate B/C Residential Mortgage Loans (the "Agreement"), we hereby authorize and request you to establish an account, as an Escrow Account pursuant to Section 2.08 of the Agreement, to be designated as "[_____], in trust for the Owners of Residential Fixed and Adjustable Rate Mortgage Loans, and various Mortgagors." All deposits in the account shall be subject to withdrawal therefrom by order signed by the Servicer. You may refuse any deposit which would result in violation of the requirement that the account be fully insured as described below. This letter is submitted to you in duplicate. Please execute and return one original to us.

[_____]
Servicer

By: _____

Name: _____

Title: _____

Date: _____

The undersigned, as Depository, hereby certifies that the above described account has been established under Account Number _____, at the office of the Depository indicated above, and agrees to honor withdrawals on such account as provided above. The full amount deposited at any time in the account will be insured by the Federal Deposit Insurance Corporation.

_____
Depository

By:_____

Name: _____

Title: _____

Date: _____

EXHIBIT 6
FORM OF OPINION OF COUNSEL TO THE
SERVICER (DATE)

[ ]
[ ]
[ ]

Dear Sirs:

You have requested [our] [my] opinion, as [Assistant] General Counsel to [_____] (the "Company"), with respect to certain matters in connection with the Servicing Agreement, dated as of July 29, 2004, among the Company and American Residential Equities, LLC (the "Owner") (the "Servicing Agreement"). Capitalized terms not otherwise defined herein have the meanings set forth in the Servicing Agreement.

[We] [I] have examined the following documents:

7. the Servicing Agreement;

8. the Custodial Agreement; and

9. such other documents, records and papers as we have deemed necessary and relevant as a basis for this opinion.

To the extent [we] [I] have deemed necessary and proper, [we] [I] have relied upon the representations and warranties of the Company contained in the Servicing Agreement. [We] [I] have assumed the authenticity of all documents submitted to [us] [me] as originals, the genuineness of all signatures, the legal capacity of natural persons and the conformity to the originals of all documents.

Based upon the foregoing, it is [our] [my] opinion that:

10. The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation and is qualified and in good standing in each state where a Mortgaged Property is located if the laws of such state require qualification in order to conduct business of the type conducted by the Servicer.

11. The Company has the power to engage in the transactions contemplated by the Servicing Agreement to which it is a party and all requisite power, authority and legal right to execute and deliver such Servicing Agreement and to perform and observe the terms and conditions of such Servicing Agreement.

12. The Servicing Agreement has been duly authorized, executed and delivered by the Company, and is a legal, valid and binding agreement enforceable in accordance with its respective terms against the Company, subject to bankruptcy laws and other similar laws of general application affecting rights of creditors and subject to the application of the

rules of equity, including those respecting the availability of specific performance, none of which will materially interfere with the realization of the benefits provided thereunder.

13. The Company has been duly authorized to allow any of its officers to execute any and all documents by original signature in order to complete the transactions contemplated by the Servicing Agreement by original [or facsimile] signature.

14. Either (i) no consent, approval, authorization or order of any court or governmental agency or body is required for the execution, delivery and performance by the Company of or compliance by the Company with the Servicing Agreement or the consummation of the transactions contemplated by the Servicing Agreement or (ii) any required consent, approval, authorization or order has been obtained by the Company.

15. Neither the consummation of the transactions contemplated by, nor the fulfillment of the terms of, the Servicing Agreement conflicts or will conflict with or results or will result in a breach of or constitutes or will constitute a default under the charter, by-laws or other organizational documents of the Company, the terms of any indenture or other agreement or instrument to which the Company is a party or by which it is bound or to which it is subject, or violates any statute or order, rule, regulations, writ, injunction or decree of any court, governmental authority or regulatory body to which the Company is subject or by which it is bound.

16. There is no action, suit, proceeding or investigation pending or threatened against the Company which, in [our] [my] judgment, either in any one instance or in the aggregate, may result in any material adverse change in the business, operations, financial condition, properties or assets of the Company or in any material impairment of the right or ability of the Company to carry on its business substantially as now conducted or in any material liability on the part of the Company or which would draw into question the validity of the Servicing Agreement or the Mortgage Loans or of any action taken or to be taken in connection with the transactions contemplated thereby, or which would be likely to impair the ability of the Company to perform under the terms of the Servicing Agreement.

This opinion is given to you for your sole benefit, and no other person or entity is entitled to rely hereon except that the purchaser or purchasers to which you initially and directly resell the Mortgage Loans may rely on this opinion as if it were addressed to them as of its date.

Very truly yours,

_____

[Name]
[Assistant] General Counsel

EXHIBIT 7
FORM OF SERVICER'S OFFICER'S CERTIFICATE

I, _____, hereby certify that I am the duly elected [Vice] President of [_____], a _____organized under the laws of _____(the "Company") and further as follows:

1. Attached hereto as Exhibit 1 is a true, correct and complete copy of the charter of the Company which is in full force and effect on the date hereof and which has been in effect without amendment, waiver, rescission or modification.

2. Attached hereto as Exhibit 2 is a true, correct and complete copy of the bylaws of the Company which are in effect on the date hereof and which have been in effect without amendment, waiver, rescission or modification.

3. Attached hereto as Exhibit 3 is an original certificate of good standing of the Company issued within ten days of the date hereof, and no event has occurred since the date thereof which would impair such standing.

4. Attached hereto as Exhibit 4 is a true, correct and complete copy of the corporate resolutions of the Board of Directors of the Company authorizing the Company to execute and deliver the Servicing Agreement, dated as of July 29, 2004, among the Company, and _____(the "Owner"), (the "Servicing Agreement") and such resolutions are in effect on the date hereof.

5. Each person listed on Exhibit 5 attached hereto who, as an officer or representative of the Company, signed (a) the Servicing Agreement, and (b) any other document delivered or on the date hereof in connection with any purchase described in the agreements set forth above was, at the respective times of such signing and delivery, and is now, a duly elected or appointed, qualified and acting officer or representative of the Company, who holds the office set forth opposite his or her name on Exhibit 5, and the signatures of such persons appearing on such documents are their genuine signatures.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the seal of the Company.

Dated:_____ By:_____
Name:_____
[Seal] Title: [Vice] President

I, _____, an [Assistant] Secretary of [_____], hereby certify that _____ is the duly elected, qualified and acting [Vice] President of the Company and that the signature appearing above is [her] [his] genuine signature.

IN WITNESS WHEREOF, I have hereunto signed my name.

Dated:_____ By:_____
Name:_____
[Seal] Title: [Assistant] Secretary

EXHIBIT 5 to
Company's Officer's Certificate

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT 8
MORTGAGE LOAN DOCUMENTS

The following documents shall constitute the Mortgage Loan Documents with respect to each Mortgage Loan:

(a) the original Mortgage Note bearing all intervening endorsements, endorsed "Pay to the order of _____, without recourse" and signed in the name of the last endorsee (the "Last Endorsee") by an authorized officer. To the extent that there is no room on the face of the Mortgage Notes for endorsements, the endorsement may be contained on an allonge, if state law so allows and the Custodian is so advised by the loan seller that state law so allows. If the Mortgage Loan was acquired by the loan seller in a merger, the endorsement must be by "[Last Endorsee], successor by merger to [name of predecessor]". If the Mortgage Loan was acquired or originated by the Last Endorsee while doing business under another name, the endorsement must be by "[Last Endorsee], formerly known as [previous name]";

(b) the original of any guarantee executed in connection with the Mortgage Note;

(c) the original Mortgage with evidence of recording thereon. If in connection with any Mortgage Loan, the loan seller cannot deliver or cause to be delivered the original Mortgage with evidence of recording thereon on or prior to the Transfer Date because of a delay caused by the public recording office where such Mortgage has been delivered for recordation or because such Mortgage has been lost or because such public recording office retains the original recorded Mortgage, the loan seller shall deliver or cause to be delivered to the Custodian, a photocopy of such Mortgage, together with (i) in the case of a delay caused by the public recording office, an Officer's Certificate of the loan seller (or certified by the title company, escrow agent, or closing attorney) stating that such Mortgage has been dispatched to the appropriate public recording office for recordation and that the original recorded Mortgage or a copy of such Mortgage certified by such public recording office to be a true and complete copy of the original recorded Mortgage will be promptly delivered to the Custodian upon receipt thereof by the loan seller; or (ii) in the case of a Mortgage where a public recording office retains the original recorded Mortgage or in the case where a Mortgage is lost after recordation in a public recording office, a copy of such Mortgage certified by such public recording office to be a true and complete copy of the original recorded Mortgage;

(d) the originals of all assumption, modification, consolidation or extension agreements, if any, with evidence of recording thereon;

(e) the original Assignment of Mortgage for each Mortgage Loan, in form and substance acceptable for recording. The Assignment of Mortgage must be duly recorded only if recordation is either necessary under applicable law or commonly required by private institutional mortgage investors in the area where the Mortgaged Property is

located or on direction of the Owner as provided in this Agreement. If the Assignment of Mortgage is to be recorded, the Mortgage shall be assigned to the Owner. If the Assignment of Mortgage is not to be recorded, the Assignment of Mortgage shall be delivered in blank. If the Mortgage Loan was acquired by the loan seller in a merger, the Assignment of Mortgage must be made by "[Seller], successor by merger to [name of predecessor]". If the Mortgage Loan was acquired or originated by the loan seller while doing business under another name, the Assignment of Mortgage must be by "[Seller], formerly known as [previous name]";

(f) the originals of all intervening assignments of mortgage (if any) evidencing a complete chain of assignment from the Originator to the Last Endorsee with evidence of recording thereon, or if any such intervening assignment has not been returned from the applicable recording office or has been lost or if such public recording office retains the original recorded assignments of mortgage, the loan seller shall deliver or cause to be delivered to the Custodian, a photocopy of such intervening assignment, together with (i) in the case of a delay caused by the public recording office, an Officers Certificate of the loan seller (or certified by the title company, escrow agent, or closing attorney) stating that such intervening assignment of mortgage has been dispatched to the appropriate public recording office for recordation and that such original recorded intervening assignment of mortgage or a copy of such intervening assignment of mortgage certified by the appropriate public recording office to be a true and complete copy of the original recorded intervening assignment of mortgage will be promptly delivered to the Custodian upon receipt thereof by the loan seller; or (ii) in the case of an intervening assignment where a public recording office retains the original recorded intervening assignment or in the case where an intervening assignment is lost after recordation in a public recording office, a copy of such intervening assignment certified by such public recording office to be a true and complete copy of the original recorded intervening assignment;

(g) The original mortgagee policy of title insurance or, in the event such original title policy is unavailable, a certified true copy of the related policy binder or commitment for title certified to be true and complete by the title insurance company;

(h) original powers of attorney, if applicable, or, if in connection with any Mortgage Loan, the loan seller cannot deliver or cause to be delivered the original power of attorney with evidence of recording thereon, if applicable, on or prior to the Transfer Date because of a delay caused by the public recording office, the loan seller shall deliver or cause to be delivered to the Custodian, a photocopy of such power of attorney, together with an Officer's Certificate of the loan seller (or certified by the title company, escrow agent, or closing attorney) stating that such power of attorney has been dispatched to the appropriate public recording office for recordation and that the original recorded power of attorney or a copy of such power of attorney certified by such public recording office to be a true and complete copy of the original recorded power of attorney will be promptly delivered to the Custodian upon receipt thereof by the loan seller; and

(i) security agreement, chattel mortgage or equivalent document executed in connection with the Mortgage.

The following documents, together with the Mortgage Loan Documents, shall constitute the Mortgage File with respect to each Mortgage Loan:

(a) The original hazard insurance policy and, if required by law, flood insurance policy.

(b) Residential loan application.

(c) Mortgage Loan closing statement.

(d) Verification of employment and income except for Mortgage Loans originated under a Limited Documentation Program.

(e) Verification of acceptable evidence of source and amount of downpayment.

(f) Credit report on the Mortgagor.

(g) Residential appraisal report, if available.

(h) Photograph of the Mortgaged Property.

(i) Survey of the Mortgaged Property, if any.

(j) Copy of each instrument necessary to complete identification of any exception set forth in the exception schedule in the title policy, i.e., map or plat, restrictions, easements, sewer agreements, home association declarations, etc.

(k) All required disclosure statements.

(l) If available, termite report, structural engineer's report, water potability and septic certification.

(m) Sales contract, if applicable.

(n) Tax receipts, insurance premium receipts, ledger sheets, payment history from date of origination, insurance claim files, correspondence, current and historical computerized data files, and all other processing, underwriting and closing papers and records which are customarily contained in a mortgage loan file and which are required to document the Mortgage Loan or to service the Mortgage Loan.

(o) Amortization schedule, if applicable.

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I TRANSMISSION OF DATA

To meet GLBA guidelines and provide a secure method of transferring customer information, GMAC Mortgage requires one of the following forms of data transmission. This includes the transmission of test and conversion data files (WILMA), trial balances, loan histories, and any other reports which contain customer specific data (e.g., name, address, loan number, SSN, etc.).

1. FTP Transmission with encryption (approx. 3 weeks to implement) – GMAC Mortgage requires the following information to implement this process: contact name, email address, phone number and the name or IP address of the source computer.

   Delivery Notification Method: Send an email regarding the FTP transmission to: LSU_shared@gmacm.com Such notification shall include the number of loans in the transmission. Email subject line format: Transfer Date, Company Name, # of loans (e.g., 6/1/04, ABC Mortgage, 100 loans)

2. Email with encrypted attachment (less than 1 week to implement) – GMAC Mortgage recommends PGP-encryption which combines strong (128-bit) encryption and digital signatures for secure attachments. PGP Corporation offers several products for PGP encryption. 'PGP Personal Desktop' product is a low cost version that will work for data transmission to GMAC Mortgage. The following is a web site link to that product: http://www.pgp.com/products/desktop/personal/features.html

   GMAC Mortgage will assist you in any way to implement this product. If you are unable to attain a license, we will supply a temporary license for you.

   Delivery Method: Email files to: GMACM_Transfers@gmacm.com. Email subject line format: Transfer Date, Company Name, # of loans (e.g., 6/1/04, ABC Mortgage, 100 loans)

3. Password protected CD-ROM delivered to GMAC Mortgage. Password to be provided to GMACM via email or telephone.

   Delivery Method: Ship via overnight express (e.g., FedEx) the CD-ROM to:

   GMAC Mortgage
   Attn: _____ (Transfer Coordinator)
   3451 Hammond Avenue
   Waterloo, IA 50702

*if applicable

II AUTOMATED TRANSFERS – MAGNETIC CONVERSION TAPES

Conversion Test Tape(s)
Upon request, Servicer shall provide GMACM conversion tapes or cartridges in Servicer's tape format (in Servicer's loan number order to include only the transfer portfolio) to be received within 3 Business Days of request, and send to:

DLS Tape Unit
Attn: Fiserv
AIM Number 199-3070
701 Market Street
Philadelphia, PA 19106-7899

1. Conversion Test Tape(s) or Cartridge(s) should include master file, pool master, security holder name and address, security holders, ARM loan information, and automatic payment information.

2. Send completed transmittal form (see Attachment 14), trial balance and data dictionary to Fiserv within 3 Business Days of request.

3. Fax or email a copy of the transmittal to:

   Kim Jensen, Loan Set Up
   319-236-4633 (fax)
   kim_jensen@gmacm.com

4. Ship the following documentation to:

   Kim Jensen, Loan Set Up
   GMAC Mortgage
   3451 Hammond Avenue
   Waterloo, IA 50702

   - Hazard Payee Listing (one numeric and one alpha) of only the payees involved in the transfer portfolio to include hazard payee number, payee name and address.
   - Tax Payee Listing (one numeric and one alpha) of only the payees involved in the transfer portfolio to include tax payee number, payee name, address and tax installment due dates.
   - PMI Payee Listing (one numeric and one alpha) of only the payees involved in the transfer portfolio to include PMI payee number, payee name, address.
   - Data Dictionary to include information on occupancy codes, property type descriptions, bankruptcy codes, foreclosure codes, etc.

Final Conversion Tape

1. Servicer shall provide a magnetic final conversion tape or cartridge to include all mortgage loan servicing data as of the transfer Cutoff Date no later than two (2) Business Days after the Transfer Cutoff Date (Saturday Express delivery may be required). Questions concerning conversion tape requirements should be directed to: Kim Jensen, Loan Set Up at 319/236-5421.

Automated Transfers (continued)

2. The following documentation must be submitted two (2) business days after Transfer Cutoff Date via fax (319/236-4633 Attention: S&A Coordinator) or email as an encrypted attachment:

   - One copy of detailed trial balance for total portfolio providing total number of loans, total outstanding principal balance, total P&I, total T&I, total suspense, total A&H, total payment amount and total escrow balances, total accrued late charges, total corporate advance balances, total uncollected interest (daily simple interest loans), total deferred interest (e.g., capitalized interest), and total buydown balance.

*if applicable

III SEMI-AUTOMATED TRANSFERS – ELECTRONIC DATA FILES

For any portfolio determined to be a semi-automated conversion process, Servicer will provide the following for each loan included in the manual transfer. See Section II Transmission of Data for delivery options.

A) Electronic Data Files

1. Servicer will provide a test file of the WILMA Layout (see Attachment 9 - Electronic Data File) no later than 30 days prior to the Transfer Date. Fields should be populated with value, dollar, zero or blank. Do not use NA. Within 48 hours of receipt, GMAC Mortgage will review the file and advise Servicer of any problems. GMAC Mortgage may request the Servicer to transmit additional information.

2. Within 1 Business Day after the Transfer Date, Servicer shall provide a final conversion file (data as of Transfer Cutoff Date) of the WILMA Layout. Within 24 hours of receipt, GMAC Mortgage will review the file and advise Servicer of any problems. GMAC Mortgage may request the Servicer to transmit additional information.

   a. The conversion file shall include all loans funded by the investor. Any loans which were paid in full prior to the Transfer Date should reflect a zero principal balance and the date of payoff should be noted.

B) Trial Balance

3. The following documentation must be submitted two (2) business days after Transfer Cutoff Date via fax (319-236-4633 Attention: S&A Coordinator) or email as an encrypted attachment:

   - One copy of detailed trial balance for total portfolio providing total number of loans, total outstanding principal balance, total P&I, total T&I, total suspense, total A&H, total payment amount and total escrow balances, total accrued late charges, total corporate advance balances, total uncollected interest (daily simple interest loans), total deferred interest (e.g., capitalized interest), and total buydown balance.

Semi-Automated Transfers (continued)

C) Mortgage Loan Files

1. Servicer shall deliver to GMAC Mortgage all Mortgage Loan Files involved in the Semi-Automated Transfer. Files will contain, but not be limited to, the documents identified below (as applicable) which are critical for boarding the loans to GMAC Mortgage's system:

- **Legal Description (Exhibit A) / Tax Contract (copy)**
- **Homeowner authorization if NY or NJ**
- **Note (or copy) with riders**
- **Buydown agreement/rider**
- **Unrecorded Mortgage/Deed of Trust with riders (recorded if available)**
- **Funding Letter/First Payment Letter**
- **RESPA/Escrow Account Disclosure**
- **HUD-1 Settlement Statement – final**
- **Loan Application Form 1003 (initial and final signed application)**
- **Appraisal/PSAR (with all attachments)**
- **Certificate of Flood Zone Rating**
- **Evidence of Insurance**
- **Applicable Mortgage Insurance: PMI commitment, FHA MIC, VA LGC**
- **PMI Disclosure statement**
- **Tax Certification**
- **System master file record**
- **Payment history**

D) File Shipment Requirements - Refer to Section VII

IV GENERAL REQUIREMENTS

TRANSFER OF RECORDS

Servicer shall deliver to GMAC Mortgage all documents, files, reports, and similar items. Any documents transferred from Servicer to GMAC Mortgage at any time in connection herewith shall include the Servicer loan number and be grouped based on type of material, e.g. insurance, tax, customer service.

All files and related information as detailed within these Transfer Instructions, must be received by GMAC Mortgage within 3 Business Days after the Transfer Date unless otherwise designated. Additionally, all listings specified must be run as of the end of business on the Transfer Cutoff Date, unless otherwise designated within this document.

A) INFORMATION REQUIRED FOR EACH ACCOUNT

1. One (1) copy of mortgage histories from origination to current year-to-date on CD-ROM (If CPI - please provide the Customer Account Activity Statements - Report P45C and Loan History)
   a) Must include release transaction, with principal balance removed and interest on escrow posted
2. Provide transaction code cross-reference list to interpret payment history transactions
3. One (1) CD-ROM copy of most recent escrow analysis for each account, if applicable.
4. On-line note activity to be provided on CD-ROM for each loan.

B) ASSIGNMENT OF GMAC MORTGAGE LOAN NUMBERS

1. GMAC Mortgage will assign loan numbers and provide Seller a cross-reference list for identification of mail received after the transfer date.

C) SUSPENSE BALANCES

1. For all loans with suspense balances, Servicer shall provide a report identifying the reason funds were placed in suspense (e.g., payment plan – ½ payment, bankruptcy, etc.). If CPI, please provide CPI-5XS report with code definitions.

D) CORPORATE ADVANCE BALANCES

1. For all loans with corporate advance balances, Servicer shall provide a report identifying the reason for the advance. Documentation supporting the advance shall be included in the applicable servicing file.

E) INTEREST ON ESCROW REQUIREMENTS

1. Servicer will be responsible for posting all accrued interest due on escrow accounts prior to the Transfer Date.

F) YEAR-END REPORTING

1. Servicer will report to the IRS and provide to Mortgagors all 1098 &1099 forms required reflecting interest paid by Mortgagors and interest on escrow paid to Mortgagors for the period the Servicer physically serviced the Mortgage loans.

General Requirements (continued)

G) BUYDOWN REQUIREMENTS * if applicable

1. List of loans in the transfer with buydown subsidy to include the following:
   a) Loan number
   b) Original loan amount
   c) First payment due date
   d) Next buydown payment change due date
   e) Current monthly buydown payment amount
   f) Remaining buydown funds balance
   g) Indicate whether Lender funded, Builder funded, or Present Value

2. Servicer to provide a copy of each Buydown Schedule, Buydown Agreement and HUD1 in the servicing file.

3. All Buydown balances must be fully funded and, at the time of transfer, the balance must be equal to the calculated balance of the buydown subsidy as detailed in each buydown schedule.

H) GRADUATED PAYMENT *if applicable

1. For all active GPM loans or GPM loans which reflect a deferred interest balance, Servicer shall provide listing in loan number order, to include, but not be limited to the following for each account:

   a) Loan number
   b) Current payment amount
   c) Next effective payment change date
   d) Payment amount effective with next change date
   e) Deferred interest balance

I) INTEREST IN ADVANCE *if applicable

1. Listing in loan number order of all interest in advance loans involved in the transfer to include, but not be limited to the following for each account:
   a) Loan number
   b) Customer name

J) ACCRUED LATE CHARGE REQUIREMENTS

1. Listing in loan number order of all unpaid/accrued late charges for loans involved in the transfer to include the following for each account:
   a) Loan number
   b) Customer name
   c) Total unpaid/accrued late charges

K) RHS (f/k/a FmHA) SUBSIDY LOANS *if applicable

1. All RHS files must contain, but not be limited to, the following:
   a) All certifications from loan inception through transfer
   b) All customer income information from inception through transfer
   c) Copy of last re-certification and amount of assistance
   d) Copy of the Mortgage Note
   e) Regional contact name, address, and telephone number
   f) Current status of re-certification process at the time of transfer

General Requirements (continued)

L) ODD PAYMENT DUE DATES IN SERVICER LOAN NUMBER, if applicable, detailing the following for each account:

1. Servicer loan number
2. Borrower name
3. Monthly payment due date

M) ESCROW ANALYSIS

1. Servicer shall complete escrow analysis on all accounts being due according to Servicer's analysis schedule.

2. Servicer shall stop payment on any stale escrow refund checks, and deposit the funds to the customers' escrow accounts prior to the Transfer Date. Servicer shall provide GMAC Mortgage a list of these loans to include the loan number, amount of refund, and the date of deposit.

3. Servicer shall provide a summary of the states included in the transfer, the total number of loans in each state, and the aggregate cushion for each state.

N) SECOND MORTGAGES

1. For each second mortgage included in the transfer, Servicer is to notify the holder of the first mortgage of the servicing transfer. Copies of such notifications are to be provided to GMAC Mortgage.

2. Servicer to provide a listing of these loans to include: name, address and phone number of the mortgage company that services the first mortgage.

O) RETENTION OF SUPPORTING DOCUMENTATION

1. Subsequent to the Transfer Date, Servicer will provide GMAC Mortgage, upon request, payment histories, canceled checks, vouchers, bills and other pertinent documents within five business days of written request by GMAC Mortgage to assist GMAC Mortgage in disputes with outside agencies, other than the titleholder or attorney (e.g. taxing authorities, PMI companies, hazard insurance companies,

etc.). In those situations involving attorneys or disputes with the customer, Servicer will provide requested information within 48 hours of written request.

P) MULTIPLE CO-BORROWERS

1. For each loan with multiple co-borrowers (more than a primary and one co-borrower) Servicer shall provide a listing, in Excel format, to contain the following information:
   a) GMAC Mortgage loan number
   b) Servicer loan number
   c) Co -borrower names
   d) Social Security numbers

General Requirements (continued)

Q) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 (SSCRA)

1. Servicer shall provide a listing of all SSCRA loans in loan number order, in Excel format on diskette, to include the following:
   a) If subsidized, provide Soldier and Sailor subsidy with subsidy start date, payment subsidy amount and full P&I amount **-OR-**
   b) **If interest rate reduced to 6%**, provide start date
   b) Copy of government work order
   c) Copies of Note and Loan Application
   d) Payment schedule showing full funding to date of shortage

2. Servicer must file claims to the applicable agency for reimbursement of funds expensed during the time they serviced the loan.

R) DAILY SIMPLE INTEREST

1. Servicer shall provide a listing of all daily simple interest loans and the interest calculation method (e.g., 360, 365).

S) DEFERRED INTEREST BALANCES

1. Servicer shall provide a listing of loans with deferred interest balances to include the amount of the deferred interest. Documentation supporting the deferred interest shall be included in the applicable default/servicing file

T) UNCOLLECTED INTEREST

1. Servicer shall provide a listing of daily simple interest loans with the interest due amount.

V MISCELLANEOUS

A) Servicer shall load GMAC Mortgage's loan number to their system prior to the Transfer Date. Post transfer, all customer payments, checks, correspondence, bills, documents, etc. forwarded to GMAC Mortgage shall include GMAC Mortgage's loan number. GMAC Mortgage shall cooperate in providing a cross-reference file in a format satisfactory to Servicer.

B) Mortgagor Payments Prior to the Transfer Date, all payments received by Servicer will be properly applied by Servicer to the account of the related Mortgage. Customer Payments received by Servicer subsequent to the Transfer Date should be forwarded to GMAC Mortgage on a daily basis by overnight delivery for the 60 Days. Upon expiration of 60 Days, Servicer will return payments to the customers with an explanation and provide a copy to GMAC Mortgage. Customer payments should indicate receipt date by Servicer, as well as Servicer's and GMAC Mortgage's loan number.

C) Check deliveries to GMAC Mortgage All checks shall be clearly identified with Servicer's and GMAC Mortgage's loan number, be properly endorsed to GMAC Mortgage without Recourse, and handled as follows (please refer to the PAID-IN-FULL section for procedures for forwarding paid-in-full checks):

1. Purpose of check should be identified and grouped accordingly (e.g. tax refund, payoff, loss draft, etc.)

2. Servicer shall utilize Attachment 1 to provide detail for all payments forwarded to GMAC Mortgage subsequent to Transfer Date.

3. Checks shall be securely bundled in the same order as listed on Attachment 1.

D) Correspondence Received After Transfer

1. All correspondence, insurance renewals, cancellation notices, customer inquiries, etc. received by Servicer after transfer should be grouped accordingly and identified with the Servicer's and GMAC Mortgage's loan number and forwarded (by overnight delivery) on a daily basis for a period of thirty (30) Days after the Transfer Date.

2. On expiration of the 30 Day period following the Transfer Date all correspondence described in D) 1 above is to be sent by regular mail on the next Business Day following receipt of the correspondence by Servicer, except that any such materials received by Servicer which reasonably require expedited handling to protect the security, the Investor's interest, or the reasonable needs or the obligations of GMAC Mortgage as servicer, then all such materials will be sent by overnight delivery.

3. Servicer shall utilize Attachment 2 to submit information to GMAC Mortgage subsequent to Transfer Date.

E) Return Mail Servicer will attempt to work through all return mail and forward any corrections to GMAC Mortgage (e.g. envelope with forwarding address information received on returned "Goodbye" letter).

VI CUSTOMER NOTIFICATION

A) Servicer will notify all Mortgagors advising them of the occurrence of the transfer and when and where to make payments on and after the Transfer Date. The letter affecting such notification shall be subject to review and approval by GMAC Mortgage prior to mailing to Mortgagors. Such mailing shall occur on a mutually agreeable date no later than 15 Days prior to the Transfer.

B) To assist in an efficient conversion process, the customers, and all individuals involved should be aware of the following:

1. GMAC Mortgage will provide each Mortgagor with a new loan number and will provide a payment coupon as soon as the loans are set up on our system. Please advise customers to remit future payments to the address listed below, until they begin receiving payment coupons from GMAC Mortgage:

GMAC Mortgage Corporation
Attn: Payment Processing
PO Box 780
Waterloo, IA 50704-0780

2. GMAC Mortgage will provide the customer an annual Mortgage statement reflecting interest collected and escrow disbursements made for the period of time GMAC Mortgage services their loan. GMAC Mortgage will also be responsible for IRS reporting for the period of time that GMAC Mortgage services the loan.

3. GMAC Mortgage does not collect Condo association dues with the monthly payment. If condominiums are included in this transfer and you presently collect association fees, the Mortgagor should be advised to pay those fees directly to the association after transfer.

4. GMAC Mortgage provides the following toll-free Customer Care number for customer inquiries: 1-800-766-4622. Customer Care hours are: Monday through Friday 7 a.m. to 9 p.m. CT; and Saturday 9 a.m. to 1 p.m. CT.

5. Servicer shall issue a Short Year Annual Escrow Account Statement to a customer with an escrow account within 60 days of the Transfer Date as stated in the Federal Register Vol. 59, No. 206 Rules and Regulations 53897.

6. Servicer shall advise the customer whether or not their optional insurance coverage is transferable. For loans with which optional insurance coverage has been determined as not convertible, Servicer should advise customers their options to continue such coverage.

7. GMAC Mortgage does offer an automatic payment option and would like to continue providing this service to the customers without interruption. However, depending on the type of transfer (e.g., Semi-Automated), this may not be possible. Please contact GMAC Mortgage to ensure the good-bye letter correctly notifies the customer regarding the transferability of the automatic payment program.

Customers should be advised to forward written inquiries to the following address:

GMAC Mortgage Corporation
Attn: Customer Care
PO Box 4622
Waterloo, IA 50704-4622

Sample copy of Customer Notification Letter
[Mailing Date]

[Customer Name]
[2nd Customer Name]
[Mailing Street Address]
[Mailing City State and Zip Code]

RE: ACCOUNT NUMBER [Selling Company Account Number]
PROPERTY ADDRESS [Property Address]
[Property City State and Zip Code]

DEAR [Customer Name] AND [2nd Customer Name]:

We wish to advise you the servicing rights for your mortgage account referenced above have been transferred. Effective [Transfer Date,] GMAC Mortgage will be your new servicer. The original terms and conditions of your mortgage account will remain the same and this transfer will have no effect on them.

Effective [Transfer Date], please direct payments to GMAC Mortgage. Payments will be applied to your account by [Selling Company] if received prior to [Transfer Date], or forwarded to GMAC Mortgage if received after [Cutoff Date].

If you have an escrow account, we will send you, within 45 days, an escrow history statement reflecting escrow deposits, disbursements and balances for the period of time we serviced your account since your last escrow analysis. The transferring escrow balance with our company as of [Cutoff Date], will be reflected on this statement. We will also provide an Annual Loan Statement at year-end reflecting all transactions for the period of time we serviced your account in [2004]. GMAC Mortgage will provide their own statement for the time they serviced your account in [2004].

If you currently have automatic withdrawal from your financial institution, this service will be transferred to GMAC Mortgage. If this service is unable to be transferred, you will receive a letter under separate cover providing further direction.

If you are currently making your mortgage payment through a third party entity (e.g., government allotment, biweekly, or bill-pay service), please take the necessary steps to advise them of your new account number and change the payee to GMAC Mortgage. In the event of a payment change, it is your responsibility to notify the third party of the new payment amount.

If you have taken advantage of any of our optional insurance plans or optional products, this service will be transferred to GMAC Mortgage. If any of these plans or products are not transferable, you will receive a letter under separate cover providing further direction.

You should also be aware of the following information, which is set out in more detail in Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2605):

During the 60-day period following the effective date of the transfer of the account servicing, a loan payment received by your old servicer before its due date may not be treated by the new account servicer as late, and a late fee may not be imposed on you.

Section 6 of RESPA (12 U.S.C. 2605) gives you certain consumer rights. If you send a qualified written request to your account servicer concerning the servicing of your account, your servicer must provide you with a written acknowledgment within 20 business days of receipt of your request. A qualified written request is a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and your reasons for the request.

Not later than 60 business days after receiving your request, your servicer must make any appropriate corrections to your account, and must provide you with a written clarification regarding any dispute. During this 60-day period, your servicer may not provide information to a consumer reporting agency concerning any overdue payment related to such period or
qualified written request. However, this does not prevent the servicer from initiating foreclosure if proper grounds exist under the mortgage documents.

A business day is a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that section. You should seek legal advice if you believe your rights have been violated.

GMAC Mortgage will be contacting you to acknowledge this transfer and provide you with their payment coupons. If you have not received these coupons before your next payment is due, please write your [Selling Company] account number on your check and send your payment to the following address:

GMAC Mortgage
Attn: Payment Processing
PO Box 780
Waterloo IA 50704-0780

Future inquiries regarding the servicing of your account should be directed to GMAC Mortgage Customer Care at 1-800-766-4622, Monday-Friday, 7:00 a.m.-9:00 p.m., CT,

and Saturday, 9:00 a.m.-1:00 p.m., CT. Please utilize the following address for written inquiries: GMAC Mortgage, Attention: Customer Care, PO Box 4622, Waterloo, IA 50704-4622.

It has been our pleasure to service your mortgage account. We wish you a successful relationship with GMAC Mortgage. If you have any questions regarding the transfer, please call Customer Care at 1-800-XXX-XXXX.

Sincerely,

[Selling Company]

VII FILE SHIPMENT REQUIREMENTS

SERVICING FILE SHIPMENT

A) Servicer is responsible for shipping Servicing Files to GMAC Mortgage's office for receipt no later than 2 Business Days after Transfer Date. Servicer will arrange for inside delivery of files being transferred and shall perform the following for each applicable shipment:

1. Files should be labeled as follows:
   a) Servicer shall create bar-coded labels and affix them to the files. See Attachment 9 for instructions.
2. Servicer shall use a standard box size (15"L x 12"W x 10" H) with double wall construction and separate lids. Please ensure boxes are in good condition.
3. Arrange files in Servicer's loan number order.
4. The box number should be identified on the exterior of each box, and boxes numbered 1 of 15, 2 of 15, etc.
5. To avoid damage in transport, and to allow easy retrieval of files, boxes should be full, but not bulging. Each box should weigh between 30-35 pounds.
6. Prepare a master listing of the contents of all boxes. Include one copy of the master listing in Box 1 of the file shipment and forward one copy via email or on diskette (in Excel format) to GMAC Mortgage.
7. Notification should be provided to GMAC Mortgage of the number and arrangement of boxes being shipped, departure date, and time with a 24 hour notice prior to shipment arrival.

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B) Mortgage Loan/Legal Files should be shipped to:

GMAC Mortgage
Loan Set Up Department
Attn: Mail Desk
3451 Hammond Avenue
Waterloo, IA 50702

VIII MERS

A) Provide GMAC Mortgage with appropriate data at Transfer Date (in Electronic Data File)
   1. MERS min number
   2. Identification of a MOM (MERS as Original Mortgagee) loan
   3. MERS registered flag
   4. MERS quality review flag

B) MERS org numbers are as follows:
   1. 1000375 – GMAC Mortgage should be listed as servicer.

C) Servicer shall complete the transfer of servicing right to GMAC Mortgage.

D) Servicer is responsible for all transfer fees associated with MERS.

IX INVESTOR INFORMATION

A) A listing in loan number order on diskette, to include the following:
   1. Buydown subsidy loans
      a) Payments, balances and change dates
   2. Investor pool insured loans with carrier identified, if applicable
   3. IRS withholding of interest notifications

B) Servicer to provide remittance and cutoff information 5 days following the Transfer Date when applicable, to include the following:
   1. Remittance type per investor (A/A, S/A, S/S)
   2. Current cutoff date
   3. Current remittance date/interim date
      a) Form of remittance (check, ACH, wire)
         i) Payee
         ii) Investor bank account instructions for ACH / wire
      b) Remittance reports
   4. Current service fee rate or dollar amount
   5. Cutoff Reports
      a) Manual - copies of forms
      b) System - copies of reports

C) Servicer to forward investor information for current reporting activity within 2 business days after the Investor time frame as detailed below:

Report	Investor Time Frame	Details of Expectations
Loan Level Trial Balance – Transfer portfolio only	2 days after Sale Date and 2 days after Transfer Date (fax total page 1 day after Transfer Cutoff Date)	Principal balance, escrow balances, PI constant, TI constant, current due date, etc.
Delinquent/Prepaid reports - sent by Diskette	5 days after Transfer Date	Loan number, Principal Balance, PI constant, Loan Rate, Pass Thru Rate, Due Date per payment
Test of Expected report - S/A, S/S - sent by Diskette	5 days after Transfer Date	Cash reconciliation in correlation to funds movement, include remittance amount due investor
Security Reconciliation - sent by Diskette	5 days after Transfer Date	Security reconciliation in correlation of reports to agency including collateral adjustments
Bank Accounts - paper copy	20 days after Transfer Date (if entire portfolio is transferring)	P&I, T&I, and all other reconciliation of accounts for sale portfolio

A) Cash Movement
   1. Remittance of principal and interest collections (Prepaids less delinquents)

Schedule/Schedule and Schedule/Actual should be based on a test of expected (form will be provided if Seller requests). Test of expected figures should be wired according to the Agreement, less remittance due with 5 business days of transfer.

Actual/Actual funds will not be forwarded to GMAC Mortgage.

PI AND TI wire instructions:
GMAC MORTGAGE CORPORATION
First Union
Philadelphia, PA
ABA#: 031201467
ACCT #: 2100018728719
REF: Attn: Transfer Coordinator & Transfer Date(MM/DD/YY)

2. Remittance drafts - Data on diskette with Test of Expected Information
Investor remittance due within 4 business days of transfer will be retained by Servicer for payment to investor (net from funds due Purchaser from P&I stated above).

Investor remittance due other than in the first 4 business days of transfer will be wired to the Servicer's appropriate account 1 day prior to investor draft day provided buyer held funds since transfer.

If Servicer held P&I funds since transfer, GMAC Mortgage will wire one day prior to the investor draft day the net P&I held by Servier less total remittance due.

Detailed remittance information must be provided prior to remittance date as detailed in the applicable section of the P&S agreement.

3. Interim payment - if applicable
Interim payment must be wired as detailed in the applicable section of the Agreement, after deducting Servicer's compensation for servicing during the interim period.

Interim SERVICE FEE wire instructions:
GMAC MORTGAGE CORPORATION
First Union
Philadelphia, PA
ABA#: 031201467
ACCT #: 2100012764397
REF: Attn: Transfer Coordinator & Transfer Date (MM/DD/YY)
FAX: 319-236-4633

4. Taxes and insurance - refer to the applicable section in the Agreement
   a) Escrow balance, suspense balance, buydown balance and loss drafts as reflected on transfer cutoff trial balance and foreclosure expenses as of transfer cutoff.
   b) Seller shall provide notification to GMAC Mortgage (via email) advising of the Federal Reserve reference number and the amount of the wire.

All information in this section should be forwarded as follows:

FAX TO: GMAC MORTGAGE CORPORATION
Attn: Transfer Coordinator, Sales and Acquisitions Dept. (319/236-4633)
Note: Fax number is same for all listed below.

EXPRESS ADDRESS:	GMAC MORTGAGE CORPORATION Attn: Transfer Coordinator, Sales and Acquisitions Dept. 3451 Hammond Avenue Waterloo, IA 50702
TELEPHONE:	Transfer Coordinator (Transfer Manager) 319/236-_____
E-MAIL:	_____@GMACM.com

Upon request from Servicer, a timeline will be sent under separate cover to provide GMAC Mortgage's expected date of receipt for items detailed above.

X TAX REQUIREMENTS

A) Tax Listing, to contain, but not be limited to the following for each escrowed account, items which are due for the 30 days following the transfer date and remain unpaid (generated as of Transfer Cutoff Date and provided in Excel format):

1. Loan number
2. Tax type - e.g. county, school, city, special assessment, etc.
3. Next tax due date
4. Next tax amount due or last paid amount, whichever is applicable
5. Indicator whether or not tax type is escrowed
6. Tax identification number (parcel number) *where available
7. Payee code associated with each parcel

B) Tax listing to contain, but not be limited to, the following for each escrow and non-escrow account (sort separately) which is delinquent for payment of taxes at the time of transfer by investor (generated as of Transfer Cutoff Date):

1. Loan number
2. Tax type - e.g. county, school, city, special assessment, etc.
3. Next tax due date
4. Next tax amount due or last paid amount, whichever is applicable
5. Indicator whether or not tax type is escrowed
6. Tax identification number (parcel number) *where available
7. Payee code associated with each parcel

C) Tax listing to contain, but not be limited to, the following for each loan in a taxing authority with late release dates:

1. Servicer loan number
2. GMAC Mortgage loan number
3. Payee code associated with each parcel

D) Prior to the Transfer Cutoff Date, Servicer will perform a lien-level audit comparing the tax parcel numbers on Servicer's system to the tax parcel number shown by the Servicer's tax service company.

1. Servicer agrees to correct any incorrect tax parcel numbers on their system prior to the Transfer Cutoff Date.

2. Servicer will provide a copy of the audit report to GMAC Mortgage.

E) Servicer will handle any known tax delinquencies on non-escrowed loans prior to Transfer Date by advancing escrow funds for payment, enforcing escrow requirement (if allowable) for future taxes due and notify customer of increased payment according to applicable state guidelines. In the event Servicer is unable to complete this process by the Transfer Date, Servicer shall provide GMAC Mortgage a list of outstanding tax delinquencies to include the status for each loan and all supporting documentation received from the tax service company and all correspondence sent to the homeowner.

F) If Servicer utilizes Lereta for their tax service contracts, an AB38A3 tape shall be provided no later than 10 days prior to each Transfer Date. Tapes shall be directed to the following address: First American Real Estate Tax Service, Attn: Bill Huskey, 8435 Stemmons Freeway, 8th Floor, Dallas, TX 75247. Please notify Barb Roethler at 319-236-4663 when tapes are shipped.

If Servicer utilizes First American or Transamerica, please provide GMAC Mortgage your customer number.

G) Tax service type codes and tax escrow type codes (if Servicer uses a tax service company other than First American).

H) Copy of your open tax research items report on loans in the portfolio, including any applicable system notes pertaining to the research items (generated as of Transfer Cutoff Date).

I) Copy of the report produced by your tax service containing contracts that are suspended or cancelled due to missing or incomplete legal descriptions or due to missing homeowner authorizations (generated as of Transfer Cutoff Date). If no tax service is used, provide a report with the same information.

J) Accounts on Tax Service – Servicer will ensure tax contracts remain in effect through Transfer Cutoff Date.

K) Accounts not on Tax Service - Servicer will submit to applicable taxing authorities notification of the Servicing transfer to GMAC Mortgage and will provide GMAC Mortgage with copies of such notification.

L) Servicer agrees to assume responsibility for payment of property taxes and or assessments for loans with escrow accounts that are due or will become delinquent up to the transfer cutoff date as well as those due within 30 days after the Transfer Date where bills/tax amounts are available. If applicable, the Servicer will comply with state regulations governing the payment of taxes within a designated discount period.

N) Subsequent to the Transfer Date, Servicer will forward (via overnight delivery for the first 30 days following Transfer Date) all tax information to First American Real Estate Tax Service, Attn: Angela Coughlin, 8435 Stemmons Freeway, 9th Floor, Dallas, TX, 75247. For any and all tax bills received which are due and payable within 48 hours of receipt, Servicer shall immediately telefax the information to FARETS at 214-879-4631 Attn: Angela Coughlin.

O) Tax Receipts where available will be provided to GMAC Mortgage on an as needed basis or additional information where no receipts are held. Servicer to provide such tax receipt or additional information within 5 Business Days of GMAC Mortgage's request.

P) Servicer will provide a listing in loan number order, segregated by state, of all accounts whereby servicer is remitting:

- Ground Rent Tax
- Homeowner association fees

- Sewer liens
- Miscellaneous fees - e.g. drainage, front foot assessments, etc.

Q) Servicer shall provide a listing in loan number order, segregated by state, of loans where taxes are exempt.

R) Servicer will provide documentation to GMAC Mortgage of the pay option selected by Maryland, Michigan, New York, North Dakota, Tennessee, Texas, and Wisconsin homeowners, if applicable.

S) Servicer will complete, or direct their tax service to complete, the highlighted section of the 'ME2' New Jersey Request Form (Attachment 12). The form must be completed and forwarded to GMAC Mortgage within 5 days after each applicable Transfer Date.

U) Servicer will complete, or direct their tax service to complete, the '953' process for all loans in the state of New York within 5 days after each applicable transfer date.

V) Servicer will provide a listing, in GMAC Mortgage loan number order, of loans in Illinois that have Pledged Time Deposit Accounts.

1. Servicer will provide a copy of the Bank Confirmation Statement or Pass Book for each loan.

XI HAZARD/FLOOD INSURANCE REQUIREMENTS

A) Hazard/Flood listing to contain but not be limited to the following for each account due and payable within 60 days of Transfer Cutoff Date (generated as of Transfer Cutoff Date in expiration date order):

1. Loan number
2. Policy type
3. Policy premium due date
4. Indicator whether or not Insurance is escrowed
5. Policy number
6. Payee Code per policy
7. Last premium amount paid
8. Flood indicator required
9. Flood zone, if available

B) List of loans on lender placed hazard/binder coverage to include, but not limited to the following:

1. Loan number
2. Payee number
3. Policy number
4. Customer Name
5. Property Address
6. Status of loan (e.g.,current, bankruptcy, REO)
7. Coverage Amount
8. Effective Date of Coverage
9. Expiration Date of Coverage
10. Premium amount

C) List of loans on lender placed flood/binder coverage to include but not limited to the following:

1. Loan number
2. Payee number
3. Policy number
4. Customer Name
5. Property Address
6. Status of loan (e.g., current, bankruptcy, REO)
7. Current principal balance or the amount of prior coverage, whichever is greater
8. Expiration date of existing lender placed binders
9. Flood zone, if available

D) List of condominium loans that have an escrow account for payment of hazard and/or flood insurance coverage to include loan number, customer name, and property address. Listing to be received by GMAC Mortgage 10 days prior to Transfer Date.

E) If Servicer uses First American (FAFDS f/k/a FDSI), Transamerica or Fidelity (FNFS), Servicer shall notify First American, Transamerica and/or Fidelity to transfer all life of loan flood contracts to GMAC Mortgage and provide GMAC Mortgage copies of such notices. Notices should include GMAC Mortgage and Servicer loan number. Flood contracts with a flood service provider other than First American, Transamerica or Fidelity shall be canceled as of the Transfer Date.

F) Servicer will provide at transfer, via email, (or disk) by investor, any flood map revision information that has not been loaded prior to each Cutoff Date.

Hazard/Flood Insurance Requirements (continued)

G) Lender Placed Coverage

1. Servicer will terminate lender placed coverage as of Transfer Cutoff Date. GMAC Mortgage will place coverage with their lender placed carrier as of Transfer Date.

   a) Servicer will provide GMAC Mortgage written confirmation the lender placed carrier was notified to terminate lender placed coverage. Confirmation is to include the date the lender placed carrier was notified.

2. Servicer will submit, within 60 Days of the Transfer Date, any refund of lender placed coverage premium received resultant from termination, for GMAC Mortgage's application to customer's escrow account.

H) Insurance Premiums

1. Servicer will pay, prior to Transfer Date all insurance premiums due prior to the Transfer Date and within 30 Days subsequent to Transfer Date where bills have been received prior to Transfer Date.

2. Unpaid insurance bills as of Transfer Cutoff Date should be segregated and bound separately from hazard files and be clearly identified with Servicer's loan number.

3. Servicer shall forward to GMAC Mortgage, within twenty-four (24) hours of Servicer's receipt thereof, all insurance premium notices received by Servicer after Transfer Date. Such delivery shall be by overnight express for the thirty Days immediately following the Transfer Date; via regular mail within twenty-four (24) hours of receipt thereafter. However, any document requiring immediate attention must be forwarded to GMAC Mortgage by overnight express service.

4. For customer's protection and our mutual benefit, Servicer must submit to GMAC Mortgage daily all bills, policies, flood vendor map revision information, etc., received subsequent to the Transfer Cutoff Date.

I) Change Endorsements

1. Prior to the Transfer Date, Servicer will prepare and submit to each hazard/flood carrier an original Notice of Change of Mortgagee Clause (Loss Payable Clause) for each loan (including condos) included in the transfer. A listing by payee, with the cover letter attached, shall be provided to GMAC Mortgage of the accounts which received this notice. For all hazard insurance EDI carriers, Servicer shall provide a tape (in MBA format) to each EDI carrier to enable them to correct the mortgagee clause.

2. If Servicer will cease its' servicing operation, Servicer may wish to send a letter to certain carriers to change the client server number from Servicer to GMAC Mortgage. A sample letter (Attachment 4) and names and addresses of known carriers (Attachment 5) that will accept this method.

3. The Mortgagee clause shall read as directed by Investor Guidelines and read as follows:

GMAC Mortgage Corporation
Its successors and/or assigns
PO Box 10430
Van Nuys, CA 91410.

XII LOSS DRAFTS

A) Information Required on Loss Drafts Pending

1. Servicer shall provide GMAC Mortgage with a listing of all loans with pending loss draft claims, to include amount of money on deposit for each loss draft. This listing shall include pending claims of loans in foreclosure, bankruptcy, and REO, and shall indicate the status of each loan on the listing, e.g., current, delinquent, foreclosure, bankruptcy, or REO.

2. In addition to this listing, GMAC Mortgage should receive a loss draft file for each loan which contains the following information, properly documented:

   a) Completed cover sheet (Attachment 8) attached to outside of the loss draft file.
   b) Date of loss
   c) Cause of loss
   d) Amount of loss
   e) Amount of insurance proceeds received to date
   f) Information received from contractors or records of conversation with contractors
   g) Correspondence from and/or record of conversation with customers and insurance companies
   h) Status report on repairs
   i) Inspection reports, if any
   j) Report on receipt of future proceeds, if expected (i.e. date expected, amount, etc.)

B) Servicer shall wire with the escrow funds the balances of all monies in a restricted field for loss drafts.

C) Servicer shall pay interest on loss draft funds held for all loans in the state of NY, and all Federally Declared Disaster areas (this includes any investor, any state, and for every day the funds are held). Servicer shall pay all interest directly to the customer prior to the Transfer Date.

XIII PMI REQUIREMENTS

A) Servicer will assume responsibility for payment of all monthly premiums and annual premiums 30 days subsequent to the Transfer Date and ensure premiums are posted to the customer's payment history prior to the Transfer Cutoff Date. Servicer shall express mail premiums to PMI companies no later than 15 days prior to Transfer Date.

B) Servicer will prepare and submit to all applicable PMI companies notification of the sale and transfer of applicable accounts involved. Notification will be submitted no earlier than the Transfer Date on the applicable carrier notification forms or other forms acceptable to PMI carriers with all required information, including GMAC Mortgage's loan number. Servicer shall further advise the following PMI carriers not to prepare and send copies of their endorsements (see sample letter on Attachment 6 for suggested language): GE, UG, MGIC, PMI, Radian, and RMIC. Servicer will submit copies of such notification to GMAC Mortgage segregated from all other files/information and clearly identified.

Transfer notifications to PMI carriers should list GMAC Mortgages address as follows:

GMAC Mortgage Corporation
3451 Hammond Avenue
Waterloo, IA 50702

For each PMI carrier notified not to forward endorsements to GMAC Mortgage, Servicer shall provide GMAC Mortgage a contact name and phone number for each carrier to confirm Servicer's letter instruction.

C) PMI listing to contain, but not be limited to, the following for each account due and unpaids through 60 days subsequent to the Transfer Cutoff Date (generated at Transfer Cutoff Date by investor in due date order):

1. Loan number
2. Mortgagor's name
3. Next premium due date not paid by Servicer as of Transfer Cutoff Date
4. Next premium amount due
5. Certificate number
6. PMI company
7. Payee code per policy
8. Last premium amount paid
9. Renewal option -Level or Declining Level requires monthly amount/Declining requires renewal rate
10. Percent of coverage
11. Escrowed; yes or no
12. Premium Payment Frequency - annually or monthly

D) Servicer shall provide a listing of loans with LPMI (Lender Paid Mortgage Insurance). Listing to include Servicer's loan number, GMAC Mortgage's loan number, Mortgagor's name, PMI company, and last premium amount.

E) If applicable, for loans in the portfolio originated under a CD Pledge Program, Servicer shall provide a list of loans, including loan number, Customer's name, and date CD Collateral is scheduled for release.

PMI Requirements (continued)

F) Cancellation and Termination Dates

1. If Servicer does not carry the Cancellation Date and Termination Date on their system, as it relates to the Homeowner's Protection Act of 1998, Servicer shall provide a listing on diskette (in Excel format), to include Servicer's loan number, GMAC Mortgage's account number, Cancellation Date and Termination Date.

2. If Servicer does carry the Cancellation Date and Termination Date on their system, Servicer shall take the steps necessary to ensure all loans which require the Cancellation Date and Termination Date are accurately populated on their system prior to the Transfer Cutoff Date.

*if applicable

XIV LIFE, A&H, DISABILITY INSURANCE
(Optional Insurance)

A) Servicer will provide GMAC Mortgage, as of Transfer Cutoff Date the following optional insurance information with respect to loans with Optional insurance coverage that have been determined to be consolidated and transferred:

1. Listing to contain, but not be limited to, the following for each Optional Carrier:
   a) Servicer's loan number
   b) Insured's name
   c) Mailing address
   d) Policy/Certificate number
   e) Insurance coverage type
   f) Effective date
   g) Amount of premium
   h) Next premium due date
   i) Insurance carrier per policy
   j) Joint/single status
   k) Date of scheduled premium change, if applicable.

2. Listing in loan number order of Mortgagors receiving benefits under a policy claim.

3. Copy of Master Policy for each coverage type per company, if not previously provided.

B) Coverage Transferring: If the insurance/products will be retained through Servicer's carriers/vendors, Servicer will notify their insurance carriers/vendors that the services are being transferred to GMAC Mortgage. Effective with each Transfer Date, the insurance/product should be canceled in Servicer's name and reissued in GMACM's name. Copies of such notification to be provided to GMAC Mortgage.

Coverage Canceling: If the insurance will not be retained through Servicer's carriers/vendors, Servicer will notify their insurance carriers/vendors to cancel the coverage and remit all collected premiums to the carrier prior to each Transfer Cutoff Date. Copies of such notification to be provided to GMAC Mortgage.

In each instance, it is the Servicer's responsibility to notify the Mortgagor regarding any effect the transfer may have on the terms or continued availability of optional insurance products and any action the customer must take to maintain coverage.

XV DEFAULT REQUIREMENTS

A) Delinquency Reports

1. Provide delinquency reports on the loans transferring to us for the last two (2) months (e.g., if the transfer date is 4/15/04, month end reports as of 2/29/04 and 3/31/04 should be provided). Reports will include, but not be limited to:
   a) Loan number
   b) Delinquency ratios
   c) Delinquent dollar amounts
   d) Due date

2. Electronic Delinquency Information to be provided in Excel format – see attachment 10

3. Provide inspection results from the last known occupancy up to the transfer date. This should include the first time vacancy date and the date of loss.

B) Collection - Contact and Collection histories

1. Provide a copy of the memos for all loans for the last 90 days and collection notes for the last 12 months. Please provide in electronic format if possible.

2. Copies of all current breach letters.

C) Foreclosure

1. Please advise your foreclosure attorneys to proceed with the foreclosure process. A foreclosure should not be put on hold without the prior written approval of Truman Capital.

2. Provide a list of loans in foreclosure, copy of the demand/breach letter for all loans in foreclosure, the date referred to the attorney, attorney name and phone number, foreclosures status, and any sale dates scheduled within 60 days of transfer. **Bid instructions for any loans with a sale date occurring with 15 days after the Transfer Date must be provided upon transfer.**

3. Foreclosure files shall contain the following:
   a) Trustee/attorney names and contact information
   b) Breach letter
   c) NOD/Complaint
   d) Foreclosure title report
   e) Foreclosure bid worksheet (if available)
   f) Actual/projected foreclosure sale date
   g) Foreclosure review committee packet (not referred to attorney but recommended for foreclosure).
   h) Bankruptcy information prior to foreclosure action (if applicable)

i) Mark the outside of the file for any exception loans (e.g., SEIZED, DEMOLITION; MOBILE HOMES AND MANUFACTURED HOUSING)

4. Loan files for loans scheduled for sale within two (2) weeks after the transfer date are to be received on the transfer date. These files are to contain a payoff statement good through cutoff date (or a total amount due statement), and the recent BPO/Appraisal.

Default Requirements (continued)

D) Bankruptcy

1. Provide a listing of loans in Bankruptcy to include:
   a) Filing date
   b) Case number
   c) District
   d) Chapter
   e) Post-petition due date
   f) Attorney name and phone number
   g) Bankruptcy status

2. Provide a list of any cramdowns.

3. Bankruptcy file to contain the following:
   a) Any pending relief of stay hearings within 60 days of the transfer
   b) Servicer's attorney and contact information
   c) Debtor's attorney and contact information
   d) Bankruptcy petition
   e) Proof of claim
      - If arrearages included in proof of claim, please provide breakdown
   f) Reorganization plan
   g) Copies of stipulation/agreed orders (details of payment plan)
   h) Foreclosure information prior to bankruptcy filing (if applicable)
   i) Information of prior bankruptcy filings (multi-filers)
   j) APO or RFS order
   k) RFS motion
   l) Dismissal/discharge order and/or a list of loans that have been dismissed/discharged

E) Loss Mitigation

1. List of all loans with an active repayment plan or pending workout/loss mitigation. Please include the workout file or loss mitigation file and all pertinent details.

2. Provide a list of any loans currently in a deed-in-lieu process.

3. Loss Mitigation/Workout/Forbearance Files should contain the following:
   a) Copies of any pending or proposed loan workout plan, including, but not limited to:
      - Repay plans
      - Forbearance proposals
      - Modifications
      - Deed-in-lieu proposals
      - Assumption proposals
      - Short sale proposals
   b) Copies of all borrower correspondence
   c) If loan was a prior foreclosure loan, provide prior foreclosure information

Default Requirements (continued)

F) REO

1. REO files shall contain the following:
   a) Copy of the foreclosure deed
   b) Foreclosure bid worksheet with supporting BPOs or APOs attached
   c) Copies of any property inspection reports
   d) Copies of any listing agreements
   e) Copies of any listing activity reports
   f) Copies of any offers received
   g) Copies of any rehabilitation work orders and/or contractor invoices

XVI ASSUMPTIONS, NAME CHANGES AND PARTIAL RELEASES

A) Assumption files in process (including origination file and any applicable document/custodial files) shall be shipped to:

GMAC Mortgage Corporation
Attention: Sales & Acquisition Dept.
3451 Hammond Avenue
Waterloo, IA 50702

B) Assumptions Pending as of Transfer Cutoff Date

1. Servicer shall provide GMAC Mortgage with a listing in Servicer loan number order of all accounts pending assumption as of Transfer Cutoff Date.

2. Servicer shall provide GMAC Mortgage with a current status report on each pending assumption that indicates the stages of completion. A status can be included in each assumption file.

3. Servicer shall forward to GMAC Mortgage the applicable transfer fee, along with all required documents for each loan(s) on which the assumption processing has not been completed (i.e. name change not affected).

C) Information Required on Pending Assumption Statements

1. Servicer shall provide GMAC Mortgage with copies of all Assumption Statements issued up to Transfer Cutoff Date for which no assumption papers have been received.

2. A copy of the assumption statement should be included in the assumption file.

D) Information Required on Completed Assumptions

1. Servicer shall provide a report (Excel format) of the following information for each loan having a completed assumption:
   a) Loan Number
   b) Previous Titleholder Name(s)
   c) Released from Liability (Yes/No)
   d) Effective date of the assumption
   e) Assumption Type (purchase, release of co-borrower, etc)

E) For each private investor, Servicer shall provide a spreadsheet detailing the following information:

1. What special investor requirements exist for assumptions (e.g. fees, underwriting release of liability, etc.).

F) Information Required on Name Changes

1. Servicer shall provide a listing of all pending legal name changes along with the appropriate documentation, (Quit Claims, Death Certificates, Divorce Decrees, etc.).

G) Information Required on Pending Partial Releases (if Applicable)

1. Servicer shall provide GMAC Mortgage with a listing of all loans on which a partial release is pending, along with an explanation for each case, and all documentation received to date.

2. Servicer shall provide GMAC Mortgage with copies of all correspondence forwarded to the Investor for their approval, if applicable.

3. Servicer shall forward to GMAC Mortgage the applicable transfer fee, along with all required documents for each loan(s) on which the partial release processing has not been completed.

XVII PAID-IN-FULLS

PAID-IN-FULLS

A) Information required on pending payoff requests

1. Servicer shall provide a report, in Excel format, listing all loans for which payoff statements have been issued within 30 days prior to Transfer Date and the loans have not paid off. This report shall include the Servicer's loan number, property state and date of issue of payoff statement. Such report to be provided on diskette within three (3) business days after Transfer Date.

2. On a case-by-case basis, Servicer will provide GMAC Mortgage with copies of payoff statements issued prior to the Transfer Date.

B) Information required on pending Paid In Fulls

1. Paid in full checks received, but not applied as of Transfer Cutoff Date, shall be identified with the Servicer's loan number, be properly endorsed and forwarded to GMAC Mortgage. Servicer shall utilize **Attachment 3** (Servicing Transfer Information Enclosure Sheet) when forwarding payoff checks. Please forward these via overnight delivery to:

GMAC Mortgage Corporation
3451 Hammond Avenue
Waterloo, IA 50702
Attn: Darcia Meier/Payoff Processing

2. Servicer shall forward payoff checks received within 48 hours of receipt.

3. Servicer shall be held financially responsible for any interest accrual incurred as a result of not following instructions contained within this section relative to the forwarding of payoff checks and associated information. Servicer will forward a check in the appropriate amount upon receipt of a properly documented request.

XVIII DISHONORED AND MISAPPLIED PAYMENTS

A) Dishonored: Servicer will ensure the returned check has been presented twice to the bank for good funds prior to requesting reimbursement from GMAC Mortgage. Servicer will submit the following applicable documentation related to dishonored payment which was not reversed by Servicer prior to Transfer Cutoff Date:

1. Original returned or dishonored payment should be provided and clearly reflect the reason the payment was dishonored (e.g. NSF, stop payment, etc.). In the case of a dishonored draft, adequate proof should be provided indicating the bank rejected the draft.
2. Payment history from point of the dishonored payment to the Transfer Cutoff Date
3. GMAC Mortgage shall reimburse Servicer the dishonored payment funds within twenty (20) days of receipt of applicable documentation.

B) Misapplied Payments: "Misapplied payment" shall mean a Mortgagor payment for which funds have been deposited in an incorrect Escrow Account or applied to an incorrect Mortgagor's account. The existence of a canceled Mortgagor payment bearing the endorsement of Servicer, for which funds have not been allocated to the proper Escrow Accounts, shall be considered conclusive evidence of a misapplied payment. Misapplied payments shall be processed as follows:

1. Both parties shall cooperate in correcting misapplication errors by providing the payment history from point of error to the Transfer Cutoff Date and a copy of the canceled check bearing the endorsement of the servicer responsible for the posting of the missing funds.
2. The party receiving notice of a misapplied payment occurring prior to the Transfer Date and discovered after the Transfer Date shall immediately notify the other party.
3. If a misapplied payment cannot be identified by either party and said misapplied payment has resulted in a shortage in a Mortgage account, Servicer shall be liable for the amount of such shortage. Servicer shall reimburse GMACM for the amount of such shortage within twenty (20) days after receipt of written demand from GMACM.
4. Any check issued under the provisions of this paragraph shall be accompanied by a statement indicating the purpose of the check, the mortgagor and property address involved, and the corresponding Servicer and/or GMACM account number.

XIV ARM REQUIREMENTS

A) ARM/Special Loan Information

1. All applicable ARM Specifications and Rate and Payment Change Histories should be provided electronically.

2. A listing of your ARM 'Plan' Codes and ARM Index Code Definitions and Descriptions is also requested.

3. If you keep separate ARM files, please include these files when shipping the servicing files.

If you have any special products, such as loans with conversion options, Balloon loans, Balloon/Reset loans, GPM loans, HUD235 loans, etc. please immediately notify us. A list of these loans and ALL available information/fields will be required on these loans.

*if applicable

XX BIWEEKLY CUSTOMERS

A. Servicer shall provide a listing in Excel spreadsheet format of all biweekly loans 30 days prior to Transfer Date and 2 business days after the Transfer Date to include but not be limited to the following:

1. Servicer loan number
2. Customer name
3. Payment due date
4. First payment date (MM/DD/YYYY)
5. Maturity date (MM/DD/YYYY)
6. Payment amount
7. Investor type

ATTACHMENT 1

**For use in forwarding payments, loss drafts, refunds.

SERVICING TRANSFER
INFORMATION ENCLOSURE SHEET

DATE: _____ **TRANSFER DATE:** _____

TO: GMAC Mortgage
Sales & Acquisitions
Attention: Transfer Coordinator
3451 Hammond Avenue
Waterloo, IA 50702

SERVICER: _____

Loan Number	Last Name	Check Amount	Check Number	Purpose of check (e.g., payment, additional principal, refund, loss draft)

ATTACHMENT 2

**For use in forwarding correspondence, bills, renewals, etc.

SERVICING TRANSFER
INFORMATION ENCLOSURE SHEET

DATE: _____ **TRANSFER DATE:** _____

TO: GMAC Mortgage
Sales & Acquisitions
Attention: Transfer Coordinator
3451 Hammond Avenue
Waterloo, IA 50702

SERVICER: _____

Loan Number	Last Name	Tax Info	Ins. Info	Other (please detail)

ATTACHMENT 3

**For use in forwarding payoff checks only.

SERVICING TRANSFER
INFORMATION ENCLOSURE SHEET

DATE: _____ **TRANSFER DATE:** _____

TO: GMAC Mortgage
Payoff Processing
Attention: Darcia Meier
3451 Hammond Avenue
Waterloo, IA 50702

SERVICER: _____

Loan Number	Last Name	Check Number	Check Amount	Date of Receipt

ATTACHMENT 4
(Sample Hazard Client Number Change Letter)

DATE

Allstate Insurance Company
ATTN: Ms. Kim Migliaccio
8711 North Freeport Parkway
Irving, TX 75063

RE: Change in Servicing

Dear Ms. Migliaccio:

Effective _____, all loans serviced by Servicer company name with complete address will be serviced by GMAC Mortgage Corporation, PO Box 10430, Van Nuys, CA 91410.

Please change all of your client numbers for Servicer company name to the client number for GMAC Mortgage Corporation with the following mortgagee clause:

GMAC Mortgage Corporation
Its Successors and/or Assigns
PO Box 10430
Van Nuys, CA 91410

The correct mortgagee clause should be reflected on the next renewal. **It is not necessary to issue an endorsement at this time.** Please sign and return this letter indicating your records have been changed. An envelope is enclosed for your convenience. Thank you.

Sincerely,

Signature
Title

Enclosure (returned postage paid envelope, to entice carrier to return signed copy of letter)

_____

Signature Date

ATTACHMENT 5

INSURANCE CARRIERS ACCEPTING CLIENT NUMBER CHANGE ON SALE OF SERVICING

Republic Insurance Group
ATTN: Mr. Billy Scott
PO Box 660560
Dallas, TX 75266-0560

USAA Insurance Group
ATTN: Ms. Martha Estrada, Mortgagee Services
USAA Building
San Antonio, TX 78288

GEICO
ATTN: Mr. Bill Ross, PC
1 Geico Boulevard
Fredericksburg, VA 22412

MIC General
ATTN: Ms. Joyce Moore
3031 West Grand Blvd.
New Center One Building, Suite 645
Detroit, MI 48202

National General Insurance Company
ATTN: Mr. Gerry Seth, Operation Supervisor
One National General Plaza
PO Box 66937
St. Louis, MO 63166-6937

American Family Insurance Company
ATTN: Ms. Mary Dwars, Work Processing
6000 American Parkway
Madison, WI 53783

CIGNA
ATTN: Personal Lines Center
PO Box 9040
Macon, GA 31213

Allstate Insurance Company
ATTN: Ms. Kim Migliaccio
8711 North Freeport Parkway
Irving, Texas 75063

American Bankers Insurance Group
ATTN: Ms. Kim Mitchell
11222 Quail Roost Drive
Miami, FL 33157-6596

ATTACHMENT 6

Current Date

PMI Company Name
ATTN: Contact Name
Street Address
City, State Postal Code

RE: LOAN TRANSFERS

Enclosed is a loan sale notice of recently transferred mortgage(s) from CURRENT LENDER, to GMAC Mortgage Corporation. GMACMC no longer requires paper endorsements for verification of 'Change of Servicer'.

Please update your records to reflect all future billings and correspondence be sent to the following address:

GMAC Mortgage Corporation

(d) 3451 Hammond Avenue
Waterloo, IA 50702

If you have any questions regarding this matter, please call me at PHONE NUMBER.

Sincerely,

Contact Person, Department
Company

ATTACHMENT 7 New Loan Data File for Manual Transfers

See separate attachment

ATTACHMENT 8

HAZARD CLAIM INFORMATION

DATE _____ LOAN NUMBER _____ DOL _____ DMG TYPE _____

INVESTOR _____ INVESTOR# _____ NEAR/TOTAL ___ REPORTED TO INVESTOR ____

MORTGAGOR _____

LAST NAME FIRST NAME

CO-MORTGAGOR _____

LAST NAME FIRST NAME

PROPERTY ADDRESS _____

_____

_____

CITY STATE ZIPCODE

TELEPHONE #'S HOME _____ MR WORK _____

OTHER _____ MRS WORK _____

****

SELLING COMPANY CONTACT NAME AND TELEPHONE # _____

CONTRACTOR _____

ADDRESS _____

TELEPHONE # _____

PUBLIC ADJUSTER _____

ADDRESS _____

TELEPHONE # _____

****

CHECK AMOUNT _____ INS CO _____ DEPOSITED _____

DISBURSEMENTS:

- DATE _____ CK AMT _____ CK# _____ BALANCE _____

PAYABLE TO _____ SENT TO ___ CONTR ___ TH ___ OTHER ___ REG ___ FED EX

- DATE _____ CK AMT _____ CK# _____ BALANCE _____

PAYABLE TO _____ SENT TO ___ CONTR ___ TH ___ OTHER ___ REG ___ FED EX

- DATE _____ CK AMT _____ CK# _____ BALANCE _____

PAYABLE TO _____ SENT TO ___ CONTR ___ TH ___ OTHER ___ REG ___ FED EX

- DATE _____ CK AMT _____ CK# _____ BALANCE _____

PAYABLE TO _____ SENT TO ___ CONTR ___ TH ___ OTHER ___ REG ___ FED EX

INSPECTIONS: _____% COMPLETE AS OF _____ _____% COMPLETE AS OF _____

_____% COMPLETE AS OF _____ _____% COMPLETE AS OF _____

****

COMMENTS

_____

ATTACHMENT 9 - FILE LABELS

This following Word document contains instructions for creating file labels.


creatinglab.doc

Label data should be inserted into the following Excel file. Save the spreadsheet as a DBF spreadsheet in order to import this into the access database. (As defined in the Word document)


Pamfcb1.xls

The following Access database is used to create the labels.


Nwlns2.mdb

The following font will need to be applied so the bar codes print on each label.


3of9.ttf

ATTACHMENT 10 - Delinquency Information – Electronic Format



specwishlist.xls

ATTACHMENT 11

ME-2 NEW JERSEY REQUEST FORM

Requestor: **Barb Roethler** *ASC #***19** *Date:* _____
Requestor Phone Number: **319-236-4663**

Type of Transaction(select one) *Acquisition:* **XXX** *Change:* _____

Parameter (select one)

Contract # Range From: _____ To: _____
Issue Date: _____
Cancellation Date: _____
Change Date: _____
Loan Number Range: _____

The Following Fields Must Be Filled In Completely:

Current Mortgagee: _____ **Contact:** _____
(Name and Address) **Phone #** _____

NJ*Bank Code:* _____

Current Mortgagee _____ ***Contact:*** _____
Tax Processor: _____ **Phone #** _____
Tax Processor NJ _____
Bank Code: _____

New Mortgagee: **GMAC Mortgage Corp.** ***Contact:*** **Barb Roethler**
(Name & Address) **P O BOX 780** ***Phone #*** **319-236-4663**
Waterloo, IA 50704 **Customer #: 5319**
_____ **NJ Bank Code: 06763**

New Mortgagee ***First American Tax*** ***Contact:*** ***Amy Kotsch***
Tax Processor: ***3445 Winston Pl*** ***Phone #: 716-427-7540 ext 224***
(Name & Address) ***Suite 219***
Rochester, NY 14623

Tax Processor NJ
Bank Code **0660**

Signature Stamp Provided? **YES(Stamp for Susan Meier Provided)**
Send Completed Forms to **GMACM** **NAR** **BRANCH** **Taxing Authorities**

Send ME2 Request Forms to: **(Rochester ASC 031- Attn; NJ Team)**

EXHIBIT 11
ELIGIBILITY CRITERIA

Servicer agrees to subservice Mortgage Loans possessing the following characteristics:

Loan Type: First lien conventional and government, fixed and adjustable rate mortgage loans

Collateral: 1-4 family, residential properties

Credit Type: Sub-Prime, Distressed assets

EXHIBIT 12
FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

EXHIBIT 13

FORM OF LIMITED CORPORATE RESOLUTION

APPOINTMENT OF CERTAIN OFFICERS

FOR PURPOSES OF EXECUTING CERTAIN DOCUMENTS

WHEREAS,[ ] (the "Company") desires to execute documents necessary to perfect the release of mortgage loans and the initiation of foreclosure actions (the "Releases" and "Foreclosures") regarding certain Mortgage Loans serviced by GMAC Mortgage Corporation on behalf of the Company and that these Releases and Foreclosures may be best and most efficiently accomplished by the appointment of certain officers of the Company with special power to execute the individual documents to be recorded on behalf of the Company.

NOW, THEREFORE, BE IT RESOLVED, that the persons named on Exhibit A attached hereto be, and each of them hereby are appointed as officers of the Company to be effective as of the first day of _____, 2004 and terminating upon GMAC Mortgage Corporation's receipt of the last recorded assignment, as indicated below with full power to execute on behalf of the Company, by actual or facsimile signature, all documents in connection with the Releases and Foreclosures; and

FURTHER RESOLVED, that the Board is informed and aware that the persons named on Exhibit A attached hereto are employees of GMAC Mortgage Corporation, and that they may from time to time be named as officers by other corporations for purposes similar to that set forth in these resolutions; and

FUTHER RESOLVED, that the foregoing appointments and grants of power and authority are revocable upon completion of the project related to the Releases and Foreclosures; and the authority of the persons so appointed is specifically and strictly limited to the execution of the specific documents referred to above for the purposes herein authorized; and

FUTHER RESOLVED, that the foregoing appointments and grants of power and authority shall not be deemed to (i) entitle any of the persons so appointed to receive any compensation or other benefits from the Company or any of its affiliates or (ii) create any employer-employee relationship between the Company or any of its affiliates any such persons; and

FURTHER RESOLVED, that the Secretary and each Assistant Secretary (other than any Assistant Secretary appointed by these resolutions) of the Company are hereby authorized and directed from time to time to certify copies of these resolutions, the incumbency of the officers appointed pursuant to these resolutions, and the actual facsimile signatures of said officers.

CERTIFICATE OF RESOLUTION

I, THE UNDERSIGNED, Secretary of [ ], a _____, having its principal place of business at [ ] hereby certify that the attached is a true copy of a certain resolution duly adopted by the Board of Directors of [ ] in accordance with its Bylaws at, and recorded in the minutes of, a meeting of the Board duly held on _____, 2004 as taken from the minutes of the meeting and compared by me with the original of the resolution recorded in the minutes. I further certify that the resolution is in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I set my hand and caused the seal of _____ to be affixed hereto on this _____ day of _____, 2004.

_____
Name, title

Subscribed and sworn to before me this ____ day of _____, 2004

_____
Notary Public

My commission expires:

Exhibit A

Name	Title to Which Appointed
Kenneth R. Perkins	Vice President
Wesley B. Howland	Vice President
Susan Meier	Vice President
Lionel Antunes	Vice President
Daniel Katella	Vice President
Kathy Fitzgerald	Vice President
Liz Yeranosian	Vice President
Dianna Sandoval	Vice President
Joyce Petty	Vice President
Rosalie Solano	Vice President
Laura Siess	Vice President
Debi Pond	Assistant Vice President
Margie Kwaitanowski	Assistant Vice President
David Cunningham	Assistant Vice President
Sheryl McNally	Assistant Vice President
Jody Delfs	Assistant Vice President
Ryan Carnes	Assistant Vice President
Roberta Pettengill	Assistant Vice President
Vickie Ingamells	Assistant Vice President
Jenny Brouwer	Assistant Secretary

EXHIBIT 14
FORM OF OPINION OF COUNSEL TO THE SERVICER FOR RECONSTITUTION

EXHIBIT 15

TERM SHEET

Monthly Servicing Fee Per Loan	
Performing Mortgage Loans (0-30 days past due)	$10.00
Sub-performing Mortgage Loans	$30.00
Non-performing Mortgage Loans	$45.00
ARM Per Loan Up Charge (monthly)	$ 0.25
Loan Set Up Fee:	
Performing Mortgage Loans (non-Bankruptcy)	$10.00
Sub-performing, Non-performing, or Bankruptcy	$50.00
Default Fees:	
Resolution Fees (Re-performance Measurements)	
Reinstatements (>= 91 days past due)	1.75% of Principal Balance, minimum of $1,000
Repayment Plan (>= 91 days past due)	1.75% of Principal Balance, minimum of $1,000
Modification	1.75% of Principal Balance, minimum of $1,000 (with Owner approval)
Disposition Fees (Property Liquidations)	
Payoffs / Redemptions / 3rd Party Sales / Short Payoffs / Short Sales, Deed in Lieu	
Property market value >= $50,000	1.50% of principal balance, Minimum of $1,000
Property market value < $50,000	$750
Note Sales	1.50% of principal balance, Minimum of $1,000
REO Disposition Fee	
Property market value >= $50,000	1.00% of sales price, minimum of $1,500
Property market value < $50,000	$750
FHH / VA Claims processing	$500
Recovery Collection	40% of recovered amount
Title Remediation Fee	$500 (with Owner's consent and if unable to correct)
Tax Certification Fee	$30
Document Deficiency Fee	$35 per hour, maximum of $5,000
Minimum Charge (monthly)	$7,500

De-Boarding Fee Per Loan		$10.00, exclusive of out-of-pocket transfer-related expenses which are to be paid by Owner. No fee is paid if contract is terminated with cause or by the Servicer or at the termination of the contract term.
Tax Contract Fees		
No existing contract	$85	
Contract transfer		
First American / Fidelity contract	$2	
No transferable contract	$3	
Flood Contract Fees		
No existing contract	$19	
Contract transfer		
First American / Fidelity contract	$2	
No transferable contract	$3	

Contract Termination Fee Per Loan: The per loan fee is based on the year in which the servicing is terminated. This charge is in addition to the De-Boarding Fee and all out-of-pocket expenses as expressed in the Agreement. This fee is not applicable if the contract is terminated for cause or by the Servicer or at the termination of the contract term:

Contract Period	Fee
Year 1	$30
Year 2	$20
Year 3	$10

EXHIBIT 16

SERVICING PERFORMANCE STANDARDS

The following sets forth the Special Servicing Guidelines required for servicing the Mortgage Loans and REO Properties. From time to time, these guidelines may be changed or modified by the parties in writing based on business needs and/or Accepted Servicing Practices that will be mutually agreed upon by the parties. These guidelines are meant to be part of and a supplement to the Servicing Agreement.

---

1. Asset Set Up Responsibilities.

A. Missing files for Asset Set Up - Servicer shall provide Owner with a written report no later than 90 days from the applicable Effective Date of any material information necessary to set up each Mortgage Loan and REO Property which it has not received.

B. Post Transfer Servicing – Mortgage Loans and REO Properties shall be set up on Servicer's servicing system within 10 Business Days from delivery of the final transfer tape from the prior servicer.

C. Assignments – Owner shall ensure all assignments are properly prepared and recorded in the name of "MERS' or American Residential Equities. When requested by Servicer, Owner shall provide Servicer with an assignment from the seller to Owner (or to "blank") relating to Mortgage Loans where the same has not previously been recorded.

D. RESPA Letters – Servicer shall mail RESPA "Hello" letters within five (5) Business Days of the Mortgage Loan being boarded onto Servicer's system.

2. Possible/Actual Environmental, Litigation and Other Issues.

A. Environmental Issues - Servicer shall notify Owner of any possible or actual environmental issues with any of Owner's assets of which Servicer has actual knowledge and provide Owner with a recommendation on how to handle the situation. Such notice and recommendation shall be provided in writing or electronically. Subject to the Agreement, Servicer shall follow Owner's instructions if Owner responds to Servicer within five (5) Business Days of receiving such notice. If there is no such response, Servicer may follow its recommendation.

B. Special Litigation - Copies of complaints relating to pending or threatened litigation regarding any of Owner's assets will be provided to Owner monthly. This includes, but is not limited to, any alleged or actual issues relating to lien position, property condition, origination or servicer issues or other matters. Servicer shall remain responsible for handling the matter per Accepted Servicing Practices and the Agreement. Any settlement offers and acceptance of settlement

terms shall require Owner prior approval and Servicer shall notify Owner that copies of any settlement offers are forthcoming. Servicer shall follow Owner's instructions if Owner responds to Servicer within two (2) Business Days, or such short period as may be required by the circumstances, after being provided with the terms of the settlement. If there is no such response, Servicer may proceed as it deems best.

C. **Other Notices –** Any other notices Servicer receives relating to one of Owner's assets that may materially affect the value, lien priority, validity of the lien or Owner's interest in the same (including, but not limited to, notices from a governmental entity, a neighbor, the Obligor, an attorney or other third party) shall be forwarded to Owner within 5 days of receipt. Servicer shall remain responsible for the handling of the matter per Accepted Servicing Practices and the Agreement, even if Owner does not respond to any notice sent to it.

3. **Payments (and Non-Payments), Pay-offs (Full and Short), Charge-offs, Assumption Agreements, Modification Agreements**

A. **Collections –** Servicer shall promptly advise Owner if it appears that any trailing payments have not been received and the prior servicer is being uncooperative in forwarding such payment. Servicer shall properly apply trailing payments immediately upon identification of the same and may apply them to Obligor's Account, whether or not received by Servicer, after adequate proof of payment has been provided. Owner shall have the responsibility of recovering the payment from the prior servicer with the assistance of Servicer. In addition to the above, Servicer will adhere to the following default practices:

Process	*Service Level*
Call Activity • First Call • Subsequent Calls	• First call Day-5 delinquent • Contact attempted every 3 days until PTP is secured or payment is received. Please Note: All loans except the following will fall into a daily collection queue upon the 5th day of delinquency. Exclusions: Foreclosure, bankruptcy, REO/Post Sale Charge-Off loans, Loans with a Do Not Call Delinquent Counselor Code (CYA or DNR), Pre-Paid, Loan w/ an Active PTP or Repay with the payment due date >= Current day. Based upon the results of the initial

Process	*Service Level*
	calling campaign, GMACM will achieve the following: GMACM will follow all federal and state statutes, moratoriums, and practices. Any individual deviation to these standards will be fully documented. Accounts where no contact has been made, attempts will continue until contact is made, a promise to pay is secured or payment is received or active loss mitigation is documented, unless prohibited by state or federal statute (including left messages). All available phone numbers will be called. GMAC will attempt to contact the mortgagor within 1 business day of the forebearance/repayment plan due date. If contact is made, a determination will be made as to whether the plan should be terminated or re-established. Attempts will continue for an additional 10 days. If GMAC is not able to contact the mortgagor, the plan will be terminated and normal collection efforts will continue
• Breach Letter	32 Days Delinquent
• Property Inspections	45 Days Delinquent
• Welcome to foreclosure Letter (Breach Expiration Notice)	Day 62-65 Delinquent
• Foreclosure Timelines	GMAC will follow Freddie Mac published timelines for all loans in foreclosure. On a loan level basis GMAC will meet 90% (by count) of the timelines after all acceptable servicing

Process	*Service Level*
	delays have been applied. GMAC will provide written explanations for loans that exceed the state timelines. GMAC will be held accountable for all unjustified delays in excess of 60 days. This written report will be provided to Goldman Sachs & Co by the 5th business day of each month. Delays include the following: 1. Bankruptcy Delays 2. Litigation delays during the foreclosure process will be allowed and removed from the timeline. There must be documentation present on the system that shows regular follow up by GMAC. 3. Title delays will be allowed and removed from the timeline. Title delays should be resolved within 60 days. Delays over 60 days must have written documentation supporting the delays. 4. Assignment delays be removed from the timelines. Assignment delays should be resolved in 30 days. Delays over 30 days must have written documentation supporting the delays. Referral to attorney after a bankruptcy release will be allowed and removed from the timelines. The referral back to the attorney should not exceed 30 days. Delays over 30 days must have written documentation supporting the delays.
• Bankruptcy	Bankruptcy Procedures: GMAC agrees to follow the procedures outlined below: 1. Updates will be obtained through BANKO, or a similar database, daily. New bankruptcies will be loaded to the GMAC servicing system within 1 business day of being detected.

Process	*Service Level*
	2. Refer proof of claim to attorney within 15 days of the bankruptcy notification. GMAC will review all proof of claims received back from the court to ensure all arrearages were included. 3. Chapter 7 loans will be referred to the attorney for a MFR within 15 days of being assigned to a bankruptcy processor if the loan is delinquent. 4. Chapter 13 loans must be referred to the attorney for a MFR at the earliest date allowed by the jurisdiction, but in no case should exceed 90 days past the post petition due date. 5. Within 3 days of BK release the bankruptcy processor will refer the loan to the appropriate department for next action 6. Chapter 13 proposed plans received (filed by mortgager) will be reviewed, and objected to if necessary, prior to the confirmation date.

B. **Notices –** For Loans that are current, Servicer shall send to each Obligor who then becomes delinquent thereon, the following notices:

(i) a notice of expiration of grace period,

(ii) a Notice of Intent ("NOI")/Acceleration Letter shall be sent by Servicer by the 45th day of delinquency (or as otherwise provided by applicable law) or at breach of a repayment plan or promise to pay. Consideration must be given to the days past due at the time of the Effective Date. For loans boarded after the date the NOI/ Acceleration Letter should be sent as set forth hereinabove, there will be a delay in the generation of the letter. In the event that occurs, the letter shall be sent no than later 30 days from the Effective Date. Servicer shall comply with applicable state foreclosure laws that may delay the referral to a foreclosure attorney/agent.

(iii) A hardship package 45 days after the delinquency

If in its ordinary course of business Servicer changes the above dates for a substantial number of other similar loans for other clients, Servicer may similarly change such dates for these Mortgage Loans provided Servicer obtains consent of Owner or such changes are required by regulatory requirements.

C. **Referral to Foreclosure Attorney/Agent –** Servicer shall follow Accepted Servicing Practices in referring a file to a foreclosure attorney/agent (which currently is to attempt to refer such file ninety (90) days after the Mortgage Loan is delinquent) but in no event shall Servicer refer such file later than the date when the Obligor is more than 120 days delinquent or is in breach of a repayment plan or promise to pay and Servicer will use reasonable efforts to commence a foreclosure proceeding at or prior to the time a foreclosure would be required to be commenced under FNMA guidelines for the related jurisdiction. Servicer will continue to pursue loss mitigation efforts prior to the completion of loan foreclosure. Consideration must be given to the days past due at the time of the Effective Date. For loans boarded after the date a NOI/Acceleration Letter has been sent, there may be a delay in the referral date, but in no event shall the referral take place more than 30 days after the NOI has expired. Servicer shall comply with state foreclosure laws that may delay the referral to an attorney/agent.

D. **BPO** – Servicer shall order a BPO as a reimbursable Servicing Advance no later than one hundred twenty (120) days past the delinquency date for a Loan.

E. **Notice of bankruptcy –** A bankruptcy shall be set up in Servicer's system within ten (10) Business Days of receipt of notice or confirmation of the filing.

F. **Pay-off Quotes** – Pay-off quotes shall be processed by Servicer no later than 3 Business Days from the date the request is received.

G. **Short Pay-offs-** If in Servicer's best business judgment it believes a short pay-off appears to be the appropriate resolution to take, Servicer shall have the authority to negotiate a short pay-off of not less than 90% of the most recent BPO or if existing, the Current Market Value, minus senior liens (including property taxes). Any acceptance contemplating less than 90% must be notified to the Owner. Upon receipt of a written request to approve a short pay-off, which can be provided electronically, Owner shall have two (2) Business Days to respond to Servicer with its approval or disapproval. If the designated Owner representative does not respond to Servicer's authorization request within two (2) Business Days of the request being sent, Servicer may move forward with a short pay off if Servicer believes taking such action is in the best interest of Owner.

H. **Charge-off's and Non-cash Transactions -** Servicer shall provide a recommendation in writing for charge-off when it believes it is prudent under the circumstances and shall also provide a recommendation when it believes a release of lien is appropriate. Owner shall have three (3) Business Days to respond in

writing to Servicer's recommendation relating to a charge-off. If the designated Owner representative does not respond within the three (3) Business Days, Servicer may take such action thereon as Servicer believes is in the best interest of Owner.

I. **Modification Agreements** – The Servicer may waive, modify or vary any term of any Mortgage Loan to consent to the postponement of strict compliance with any such term or in any manner grant indulgence to any Obligor if in the Servicer's reasonable determination in accordance with Accepted Servicing Practices such action is not materially adverse to the Owner; provided, however, that the Servicer shall not (a) make any future advances and (b) unless the Obligor is in default with respect to any Mortgage Loan or such default is, in the judgment of the Servicer imminent, permit any modification with respect to the Loan that would change the mortgage interest rate, defer or forgive the payment thereof of any principal or interest payments, reduce the outstanding principal balance (or any part thereof) except for actual payments of principal or extend the final maturity date. In such circumstance, the Servicer shall first obtain prior written consent of the Owner for any such modification. With respect to any modification, any costs associated with modifying the loan shall be borne by the Obligor to the extent allowed by applicable law. In the Servicer's discretion (and so long as the Requirements allow), the Servicer may charge Obligor a modification fee.

4. Insurance

The Servicer shall follow Fannie Mae stated guidelines relating to the disbursement of all insurance proceeds..

5. REO Properties

The Servicer shall manage, conserve, protect and operate each REO Property for the Owner for the purpose of its prompt disposition and sale. Servicer shall cause each REO Property to be inspected upon referral to REO and shall cause each REO Property to be inspected approximately monthly thereafter by the listing agent at no cost to Owner. The Servicer shall make or cause to be made a written report of each such inspection. Such reports shall be retained in the REO File and copies thereof shall be forwarded by the Servicer to the Owner upon request.

The following shall be the Servicer's goals with respect to the sale of REO Properties:

Net Execution	95%	Sales Price less Seller Concessions / Estimated Market Value
Net Net Execution	85%	Sales Price less Seller Concessions less Seller's

		Closing Costs / Estimated Market Value
Marketing Days	Average 135 days	Access date to Close of Escrow Date

A. Accepting Offers Below a Certain Percentage of Projected Net Proceeds- Servicer has the authority to accept an offer provided the anticipated net proceeds from the sale is equal to or greater than 85% of the Current Market Value minus senior liens (including property taxes). Any offer resulting in a net recovery of less than 85% shall require notice to Owner prior to approval. If Owner fails to respond to Servicer within two (2) Business Days of any request being received, Servicer may accept the offer as recommended if Servicer believes taking such action is in the best interest of Owner.

B. Property Preservation/Property Improvement – Servicer shall protect and preserve each asset and maximize the proceeds ultimately received upon the sale of an REO Property in accordance with Accepted Servicing Practices.

C. REO Advances - Servicer shall advance all fees that could cause a lien to be placed on an REO Property, including home owner association fees and real property taxes.

FIRST AMENDMENT TO LOAN SERVICING AGREEMENT

This First Amendment ("First Amendment"), dated and effective as of the 1st day of January 2006, to the Servicing Agreement dated as of July 29, 2004 (the "SA") and by and between American Residential Equities, LLC ("Owner"), a Delaware limited liability corporation, and GMAC Mortgage Corporation ("Servicer"), a Pennsylvania corporation.

Preliminary Statement

WHEREAS, Pursuant to the terms of the SA, Owner intends to transfer the servicing of certain types of mortgage loans to Servicer.

WHEREAS, Servicer has agreed to service such Mortgage Loans pursuant to the SA.

WHEREAS, Owner and Servicer desire to further amend the SA to set forth the terms and conditions regarding the Servicer's compensation of the Mortgage Loans as specified in the SA.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Exhibit "15" to the SA shall be deleted in its entirety and replaced with the attached Exhibit "15-A" which represents the Term Sheet which may be amended from time to time with the mutual consent of both parties.

2. Any conflict between the provision of this Amendment and those of the SA shall be resolved in favor of the provisions of the First Amendment. All provisions of the SA not modified by this Amendment shall continue in full force and effect.

3. The provisions of this Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

4. If any one or more of the provisions or terms of this Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Amendment.

5. This Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

6. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA.

IN WITNESS WHEREOF, the Seller and the Servicer have caused this Second Amendment to be executed by their duly authorized officers as of the date first written hereinabove.

"SERVICER"

GMAC MORTGAGE CORPORATION

By: _____

Name: Wesley B Howland

Title: Vice President

"OWNER"

AMERICAN RESIDENTIAL EQUITIES

By: _____

Name: Brian O. PLunkett

Title: Vice President

EXHIBIT 15-A

The following prices are for GMACM Branding.

Service Fee Per Loan (monthly)	$10.00 Minimum 1 month service fee
ARM Per Loan Service Charge (monthly)	$0.25 Non-Traditional Product: $1.00 (e.g. 3 payment options)
Loan Set Up	
Boarding Fee Per Loan	$10.00 for loans 0-30 days delinquent $50.00 for loans 30+ days delinquent and loans in bankruptcy
Transfer Remediation	$50 per hour This fee is applied for remediation of transfer items related to non-compliance with the transfer instructions (e.g. failure to complete GMACM's loan set-up file completely). Minimal loan-level discrepancies are not subject to the transfer remediation fee. GMACM suggests ARE pass this expense back to the due diligence providers or previous servicers as applicable.
Default Fees	
Service Charge Per Loan (monthly)	The table below provides the monthly Service Charge for loans in default. The Service Charge is in addition to the Service Fee Per Loan. Only one of the following Service Charges will apply to a loan in default at any given time.

Loan Status	Fee	Comments
Delinquent 30-59 days	$20.00	Assessed when account becomes greater than 30 days delinquent at month end. (e.g. The fee is assessed if the 3/1/xx payment is still owed at 3/31/xx)
Delinquent 60+ days	$35.00	Assessed when account becomes greater than 60 days delinquent at month end. (e.g. The fee is assessed if the 3/1/xx payment is still owed at 4/30/xx)
Foreclosure	$45.00	Assessed beginning with the month of referral to attorney
Bankruptcy	$45.00	Assessed for bankruptcy status

Resolution Fees

The table below indicates fees for loans at least 60+ days delinquent unless specified otherwise.

Workout Type	Fee	Comments
Reinstatement	1.25% UPB	Minimum of $750, Maximum of $1,250
Repayment Plan	1.25% UPB	Minimum of $750, Maximum of $1,250
Loan Modification	N/A	Collected from Customer $750
Short Sale	1.25% NLP	Minimum of $750, Maximum of $1,250
Deed in Lieu	1.25% UPB	Minimum of $750, Maximum of $1,250
Note Sale	1.50% of Sales Price	Minimum of $750, Maximum of $1,250 on all Note sales conducted by GMAC Mortgage

*NLP – Net Liquidation Proceeds

Other Default Fees

Type	Fee
FHA Conveyance	$500 per claim
Recovery Collection	35% of recovered amount If recovery work is suspended by the client, the Base Service Fee will apply
Title Remediation	$500 With owner's consent and if owner unable to correct
Tax Certification	$30 per loan
Document Deficiency Fee	$35 per hour Maximum of $5,000
REO	Disposition: $1,000 per property Cancellation Fee: $250 per asset (de-boarding fees may also apply) Hazard Insurance: Hazard insurance will not be placed on any REO property with a value of < $50 thousand. ARE would agree to indemnify GMACM against claim of loss associated with this process.

Tax and Flood Contract Fees

Type		Fee
Tax	No existing contract	$85.00
Tax	Non-transferable contract	$3.00
Tax	Transferable contract	$3.00
Flood	No existing contract	$7.50
Flood	Non-transferable contract	$5.00
Flood	Transferable contract	$0.00

Ancillary Cash Flows

The table below indicates the owner of certain cash flows.

Cash Flow	Owner
Late Charges	Retained by GMACM
Principal and Interest Float	Retained by GMACM
Escrow Float	Retained by GMACM
Servicing Activity Fees	Retained by GMACM (e.g. payoff statements, fax fees)
Customer Prepayment Fees	Retained by Client

Remittance and Billing

The table below indicates the structure of the remittances and subservicing billing.

Item	Method
Remittance Type	Actual/Actual
Collection Period	Calendar Month
Principal and Interest Date	5th Business Day of the Following Month
Payoff Date	5th Business Day of the Following Month
Recovery of Corporate Advances	Netted from the monthly remittance
Pre-Existing Corporate Advances at Time of Transfer	Netted from the monthly remittance
Subservicing Fee Collection	Netted from the monthly remittance

Minimum Charge (monthly)

$7,500 (assessed after month 6)

MortgageServ System Access (*Estimated Pass-Through Expenses)*

The figures below are estimates of pass-through expenses related to the establishment of connectivity to MortgageServ and ongoing access. Actual expenses may be less.

One-time programming and hardware: $10,000

Recurring monthly T1 line: $1,000

Recording Fees Per Loan

Assignments	$50.00 for preparing $18.00 for recording
Power of Attorney	$18.00 If no corporate signing authority is provided
MERS	Out-of-pocket expenses are to be paid by ARE.
De-Boarding Fee Per Loan	$10.00 For termination without cause and exclusive of out-of-pocket transfer related expenses that are to be paid by ARE. A flat fee is assessed per each transfer in addition to a per loan fee based on the number of loans in each transfer.
Termination Fee Per Loan	The per loan fee is based on the year of the contract in which the loan transfers out. This charge is in addition to the de-boarding fee.

Year of Contract	Fee
Year 1	$30.00
Year 2	$20.00
Year 3	$10.00

SECOND AMENDMENT TO THE SERVICING AGREEMENT

This Second Amendment ("First Amendment"), dated and effective as of the 1st day of February 2007, to the Servicing Agreement, dated as of July 29, 2004, and amended by the First Amendment to the Servicing Agreement, dated as of July 15, 2005 ("Servicing Agreement") is by and between American Residential Equities, LLC ("Owner") and GMAC Mortgage, LLC, as successor by merger to GMAC Mortgage Corporation ("Servicer").

WHEREAS, pursuant to the terms of the Servicing Agreement, Owner intends to transfer the servicing of certain Mortgage Loans to Servicer;

WHEREAS, Servicer has agreed to service such Mortgage Loans pursuant to the Servicing Agreement;

WHEREAS, Owner and Servicer desire to amend the Servicing Agreement as set forth herein regarding the management and servicing of Mortgage Loans delivered to Servicer under the Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Existing Section 9.07 of the Servicing Agreement shall be deleted in its entirety and replaced with the following new Section 9.07:

Section 9.07 Service Contracts.

The Owner shall reimburse the Servicer for any costs or expenses incurred to (a) transfer tax service contracts and flood service contracts in connection with Mortgage Loans that have such transferable contracts issued by a provider acceptable to Servicer, or (b) to obtain such contracts in connection with Mortgage Loans that do not have such contracts or have contracts issued by a provider not acceptable to the Servicer. Per the Owner's requirements, the Servicer will handle the disposition of tax contracts following the respective Transfer Date for certain Mortgage Loans, while for other Mortgage Loans (to be identified by Owner at the time of transfer), the Servicer shall not obtain or transfer such tax service contracts for such Mortgage Loans for 45 days after the related Transfer Date. The Servicer shall not be liable for any Liability incurred by Owner or any other Person caused by or resulting from the aforesaid 45 day delay in obtaining tax contracts, and Owner acknowledges that Owner is obligated to indemnify the Servicer Indemnified Parties pursuant to Section 8.01(c)(i)(A) of the Agreement for any Liability incurred by any Servicer Indemnified Party which is caused by or results from such 45 day delay in obtaining tax and/or flood contracts.

2. Any conflict between the provisions of this Second Amendment and those of the Servicing Agreement shall be resolved in favor of the provisions of this Second Amendment. All provisions of the Servicing Agreement not modified by this Second Amendment shall continue in full force and effect.

3. Capitalized terms used but not defined in this Second Amendment shall have the meanings given to such terms in the Servicing Agreement.

4. The provisions of this Second Amendment shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

5. If any one or more of the provisions or terms of this Second Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Second Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Second Amendment.

6. This Second Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

IN WITNESS WHEREOF, the Owner and the Servicer have caused this Second Amendment to be executed by their duly authorized officers as of the date first writing hereinabove.

AMERICAN RESIDENTIAL
EQUITIES, LLC
(Owner)

By: Denise Shea
Name: Denise Shea
Title: Sr. Vice President

GMAC MORTGAGE, LLC, as successor by merger to GMAC MORTGAGE CORPORATION (Servicer)

By: _____

Name: Wesley B. Howland

Title: Vice President

THIRD AMENDMENT TO LOAN SERVICING AGREEMENT

This Third Amendment ("Third Amendment"), dated and effective as of the ____ day of May 2007, to the Servicing Agreement dated as of July 29, 2004, and amended by the First Amendment to the Servicing Agreement, dated as of January 1, 2006 and the Second Amendment to the Servicing Agreement dated as of February 1, 2007 (collectively, the "SA") and by and between American Residential Equities, LLC ("Owner"), a Delaware limited liability company, and GMAC Mortgage, LLC, as successor by merger to GMAC Mortgage Corporation ("Servicer"), a Delaware limited liability company.

WHEREAS, the Servicer and the Owner have agreed, subject to the terms and conditions of this Third Amendment, that the SA be amended to reflect agreed upon revisions to the terms of the SA relating to the method and timing of the reimbursement of certain Servicing Advances made by Servicer.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree to that the SA is amended as follows:

1. By adding the phrase "or through reimbursement in Section 4.08(d)" immediately after the parenthetical in the last sentence of the first paragraph of Section 2.02.

2. By inserting the phrase "or 4.08(d)" immediately after the phrase "Section 2.07" in the parenthetical in Section 2.05(iv).

3. By inserting the following at the end of Section 4.08:

> "(d) In the event that Servicer determines it is in the Owner's best interest to cure a default under or pay off a senior mortgage loan related to a subordinate lien Mortgage Loan, and provided that Servicer obtains Owner's prior approval to do so, Servicer shall proceed with advancing the funds to effectuate such a cure or pay off. Owner shall respond to Servicer's request to cure a senior lien within three (3) Business Days of such a request. Failure by Owner to respond within three (3) Business Days will be deemed an approval and Servicer will cure the senior lien. Owner agrees that Servicer shall be entitled to reimburse itself for the amount of such Servicing Advance by withdrawing funds from the Custodial Account at any time after making such Servicing Advance to buyout or cure the senior lien."

4. Any conflict between the provision of this Third Amendment and those of the SA shall be resolved in favor of the provisions of the Third Amendment. All provisions of the SA not modified by this Amendment shall continue in full force and effect.

5. The provisions of this Third Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

6. If any one or more of the provisions or terms of this Third Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Third Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Third Amendment.

7. This Third Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

8. THIS THIRD AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner and the Servicer have caused this Second Amendment to be executed by their duly authorized officers as of the date first written hereinabove.

"SERVICER"

GMAC MORTGAGE, LLC, as successor by merger to GMAC Mortgage Corporation

By: _____

Name: _____

Title: _____

"OWNER"

AMERICAN RESIDENTIAL EQUITIES, LLC

By: _____

Name: Denise Shea

Title: Sr. Vice President

FOURTH AMENDMENT TO LOAN SERVICING AGREEMENT

This Fourth Amendment ("Fourth Amendment"), dated and effective as of the 10th day of April 2008, to the Servicing Agreement dated as of July 29, 2004, and amended by the First Amendment to the Servicing Agreement, dated as of January 1, 2006, the Second Amendment to the Servicing Agreement dated as of February 1, 2007, and the Third Amendment to the Servicing Agreement, dated as of May 31, 2007 (collectively, the "SA") and by and between American Residential Equities, LLC ("Owner"), a Delaware limited liability company, and GMAC Mortgage, LLC, as successor by merger to GMAC Mortgage Corporation ("Servicer"), a Delaware limited liability company.

WHEREAS, the Servicer and the Owner have agreed, subject to the terms and conditions of this Third Amendment, that the SA be amended to reflect agreed upon revisions to the terms of the SA relating to the approval of certain actions to be taken by Servicer and the timing of the remittance to the Owner.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree that the SA is amended as follows:

1. By adding the following defined term in the appropriate alphabetical order in Section 1.01, "Definitions:"

"Approval Matrix:" The approval matrix attached hereto as Exhibit 17.

2. By deleting the existing definition of "Remittance Date" in its entirety and replacing it with the following:

"Remittance Date:" The 12th day (or if such 12th day is not a Business Day, the next Business Day immediately following such 12th day) of the month following the Determination Date.

3. By deleting the first paragraph of Section 2.01 in its entirety and replacing it with the following:

From and after the date of this Agreement, the Servicer, as an independent contractor, shall service and administer each Mortgage Loan, including those Mortgage Loans subserviced pursuant to the Letter Agreement, and shall have full power and authority, acting alone, to do any and all things in connection with such servicing and administration which the Servicer may deem necessary or desirable, consistent with the terms of this Agreement, Accepted Servicing Practices, the Approval Matrix and the Servicing Performance Standards. Servicer shall only modify Mortgage Loans in accordance with the Approval Matrix and, to the extent not inconsistent therewith, the Fannie Mae Guides.

4. By removing "each Remittance Date" in Section 3.02 and replacing it with " the 9th day (or if such 9th day is not a Business Day, the next Business Day immediately following such 9th day) of the month following the Determination Date".

5. By adding the Approval Matrix attached as attachment 1 to this Fourth Amendment to the Agreement as Exhibit 17 to the Agreement.

6. Any conflict between the provision of this Fourth Amendment and those of the SA shall be resolved in favor of the provisions of the Fourth Amendment. All provisions of the SA not modified by this Amendment shall continue in full force and effect.

7. The provisions of this Fourth Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

8. If any one or more of the provisions or terms of this Fourth Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Fourth Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Fourth Amendment.

9. This Fourth Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

10. THIS FOURTH AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner and the Servicer have caused this Fourth Amendment to be executed by their duly authorized officers as of the date first written hereinabove.

"SERVICER"

GMAC MORTGAGE, LLC, as successor by merger to GMAC Mortgage Corporation

By: _____

Name: _____

Title: _____

"OWNER"

AMERICAN RESIDENTIAL EQUITIES, LLC

By: _____

Name: DENISE SHEA

Title: Sr. Vice President

Approval Matrix

Loss Mitigation

Item	Product	*Parameter for GMAC Delegated Approval*	*Parameter for Client Approval Required*	*Documentation Required for Client Approval*	*Client Contact for Approval*
Repayment Plans	First Second	Repays up to 18 months with a minimum of 2 contractual payments down.	Repays for 19-24 months duration **or** repays with less than 2 contractual payments down. FCL sale within 1week or previous repay failure. Investor Block 10000	Asset Plan (which includes all loan details, current value, reason for default & our recommendation)	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Modifications	First Second	Any modification which does not reduce the interest rate more than 2% or extend the maturity beyond 480 months or where capitalization of delinquent interest, escrow, and/or servicing advances does not exceed $20,000.00 over the original unpaid principal balance, and the modified UPB does not exceed 115% of original value. 12 months of payments must have been received since origination or last loan modification. If 12 months of payment have not been received the customer must be placed on a Trial plan until the 12 payments are made. Borrower's verbal financial information	Any modification that is outside delegated approval. Foreclosure sale within 1 week Investor Block 10000 or changes to the initial agreed modification. Loans scheduled for Service Transfer	Asset Plan	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com

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		acceptable for first time modifications.			
Settlement of Litigated Files	First Second	N/A	Client to approve all litigated files based on recommendations by GMAC and outside counsel.	Asset Plan	David Merrill (305) 577-1011 X 205 Dmerrill@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Short Sales	First Second	Approval to accept 88% or greater of interior value or MI requirement	Approval required on 87% or less of interior value.	Asset Plan	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Note Sales (Individual or Bulk)	First	Approval to accept down to 90% of Estimated Recovery Value (ERV) after REO on an individual note or on an aggregate basis in a bulk sale. ERV is defined as the most recent valuation of the property (must be less than 6 months old) less all amounts due for senior items (liens, taxes, HOA's or other encumbrances) less anticipated costs of recovery (foreclosure fees and costs, REO disposition, etc)	Approval required to accept < 90% of Estimated Recovery Value (ERV) after REO on an individual or aggregate basis.	Asset Plan	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Deed in Lieu	First	N/A	Client is to approve all Deeds in Lieu.	Asset Plan	David Merrill (305) 577-1011 X 205 Dmerrill@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com

Charge off	All	N/A	Must advise client before any Charge off	Asset Plan	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Cure or Payoff of senior mortgage lien	Second	N/A	Client to approve.	Asset Plan	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com

Foreclosure and Bankruptcy

Item	Product	*Parameter for GMAC Delegated Approval*	*Parameter for Client Approval Required*	*Documentation Required for Client Approval*	*Client Contact for Approval*
Bidding Instructions	First	N/A	Client approves all bids	• Total Debt • BPO Value • Recommendation	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Bidding Instructions (Senior Lien Buyout)	Second	N/A	Client approves all bids	• Total Debt • BPO Value • Recommendation	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Bidding Instructions	Second	N/A	Client approves all bids	• Total Debt	Steven Van Horn (305) 358-6077 X 14

(Junior lien buyout)				• BPO Value • Recommendation	svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Additional Fee Requests	All	GMACM will approve over allowable for 8 hours @ $175 per hour. Client to approve any additional amount(s). GMACM will email Client contact with amount and reason.	YES - if over 8 hours @ 175 per hour. Response is requested within 48 hours of request.	Attorney Summary of Fees	David Merrill (305) 577-1011 X 205 Dmerrill@arenow.com
REO					
Item	**Product**	***Parameter for GMAC Delegated Approval***	***Parameter for Client Approval Required***	***Documentation Required for Client Approval***	***Client Contact for Approval***
Marketing Strategy	All	List at a minimum of 105% of reconciled REO Fair Market Value (FMV). FMV is defined as the anticipated sale price based on review and reconciliation of BPO and appraisal reports. It is a benchmark for the REO asset management staff in setting list prices and negotiating offers.	Repaired strategy with repair costs exceeding $15,000.	• BPO • Appraisal • Repair Bids (if recommending repairs) • Marketing Strategy Narrative	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Negotiation of Offers	All	GMACM may accept net sale price of 90% of current list price. All require GMAC REO management approval.	Net sale price below 90% of current list price.	• Offer Summary detailing terms of sale • Marketing Update	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Relocation Assistance (Cash for Keys)	All	Up to 75% of the Estimated Eviction Costs but not to exceed $2,500 per unit.	Amounts in excess of 75% of the Estimated Eviction Costs or $2,500 per unit.	• Recommendation Narrative which includes	Richard Comparoni Tcomparoni@arenow.com

				marketing data	Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Price Reductions	All	GMAC may reduce list price at a maximum of 7% of the current list price every 30 days.	Price reductions greater than 7% with full marketing updated to support requested adjustment.	• Updated BPO • Updated Market Data	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
RECOVERY					
Item	**Product**	***Parameter for GMAC Delegated Approval***	***Parameter for Client Approval Required***	***Documentation Required for Client Approval***	***Client Contact for Approval***
Settlements	All	GMACM determines recoverability on a case by case basis.	N/A	N/A	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Repayment Plans	All	GMACM determines recoverability on a case by case basis.	N/A	N/A	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Note Sales	All	GMACM determines recoverability on a case by case basis.	N/A	N/A	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Deficiency Actions	All	GMACM determines recoverability on a case by	N/A	N/A	Steven Van Horn (305) 358-6077 X 14

		case basis.			svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
PROPERTY PRESERVATION					
Item	**Product**	***Parameter for GMAC Delegated Approval***	***Parameter for Client Approval Required***	***Documentation Required for Client Approval***	***Client Contact for Approval***
Maintenance or Repairs	All	GMACM determines action needed on a case by case basis up to $5000 in costs.	Investor approval requested if over $5000	• Current UPB • Date/Amt of BPO • Total amount spent on repairs to date	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Winterization or Required Emergency Repairs	All	GMACM determines action needed on a case by case basis.	N/A	N/A	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Loss Drafts/Hazard Claims	All	GMACM determines on a case by case basis, using FNMA guidelines.	N/A	N/A	Richard Comparoni Tcomparoni@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
OTHER					

Item	Product	*Parameter for GMAC Delegated Approval*	*Parameter for Client Approval Required*	*Documentation Required for Client Approval*	*Client Contact for Approval*
Subordinations	Second	Customer current for past 12 months, no intervening liens, current LTV (CLTV) doesn't change or decreases from the initial CLTV, and does not put customer into alternative pricing threshold.	Customer is not current for past 12 months or intervening liens, or current LTV (CLTV) increases, or CLTV puts customer into alternative pricing threshold.	Subordination Worksheet	Steven Van Horn (305) 358-6077 X 14 svanhorn@arenow.com Denise Shea (305) 577-1011 X 203 Dshea@arenow.com
Escrow Waivers – Primary & Secondary Homes	First	Original LTV > 80%. Current LTV must be 80% or less and 0 payments 30 days or more late for 24 prior months. Original LTV < 80% - 0 payments 30 days or more late for 24 prior months.	N/A	N/A	
Escrow Waivers – Investment Properties	First	Original LTV > 70% - Current LTV less than 70% and 0 payments 30 days or more late for prior 24 months. Original LTV < 70% - 0 payments 30 days or more late for prior 24 months	N/A	N/A	
Partial Releases	All	Follow Fannie Mae Servicing guide	N/A	N/A	
Assumptions	First	Follow Fannie Mae Servicing guide	N/A	N/A	

NOTES:

- Client must respond within two business days of request for approval. No response will be taken as approval.
- Some calculations may be updated from time to time to keep in alignment with current business practices or economic conditions.
- Loan Equity (HEAT) Tables contain market level summary of proceeds received from REO sale after closing costs and broker expenses are deducted. The net execution percentage is established from the last twelve month REO portfolio history within a state and property value band.

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(GMACM proprietary data based on historical trends.)

THIRD AMENDMENT TO LOAN SERVICING AGREEMENT

This Third Amendment ("Third Amendment"), dated and effective as of the ____ day of May 2007, to the Servicing Agreement dated as of July 29, 2004, and amended by the First Amendment to the Servicing Agreement, dated as of January 1, 2006 and the Second Amendment to the Servicing Agreement dated as of February 1, 2007 (collectively, the "SA") and by and between American Residential Equities, LLC ("Owner"), a Delaware limited liability company, and GMAC Mortgage, LLC, as successor by merger to GMAC Mortgage Corporation ("Servicer"), a Delaware limited liability company.

WHEREAS, the Servicer and the Owner have agreed, subject to the terms and conditions of this Third Amendment, that the SA be amended to reflect agreed upon revisions to the terms of the SA relating to the method and timing of the reimbursement of certain Servicing Advances made by Servicer.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree to that the SA is amended as follows:

1. By adding the phrase "or through reimbursement in Section 4.08(d)" immediately after the parenthetical in the last sentence of the first paragraph of Section 2.02.

2. By inserting the phrase "or 4.08(d)" immediately after the phrase "Section 2.07" in the parenthetical in Section 2.05(iv).

3. By inserting the following at the end of Section 4.08:

> "(d) In the event that Servicer determines it is in the Owner's best interest to cure a default under or pay off a senior mortgage loan related to a subordinate lien Mortgage Loan, and provided that Servicer obtains Owner's prior approval to do so, Servicer shall proceed with advancing the funds to effectuate such a cure or pay off. Owner shall respond to Servicer's request to cure a senior lien within three (3) Business Days of such a request. Failure by Owner to respond within three (3) Business Days will be deemed an approval and Servicer will cure the senior lien. Owner agrees that Servicer shall be entitled to reimburse itself for the amount of such Servicing Advance by withdrawing funds from the Custodial Account at any time after making such Servicing Advance to buyout or cure the senior lien."

4. Any conflict between the provision of this Third Amendment and those of the SA shall be resolved in favor of the provisions of the Third Amendment. All provisions of the SA not modified by this Amendment shall continue in full force and effect.

5. The provisions of this Third Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

6. If any one or more of the provisions or terms of this Third Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Third Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Third Amendment.

7. This Third Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

8. THIS THIRD AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner and the Servicer have caused this Second Amendment to be executed by their duly authorized officers as of the date first written hereinabove.

"SERVICER"

GMAC MORTGAGE, LLC, as successor by merger to GMAC Mortgage Corporation

By: _____

Name: _____

Title: _____

"OWNER"

AMERICAN RESIDENTIAL EQUITIES, LLC

By: _____

Name: Denise Shea

Title: Sr. Vice President

FIFTH AMENDMENT TO LOAN SERVICING AGREEMENT

This Fifth Amendment ("Fifth Amendment"), dated and effective as of the 16th day of February, 2009, to the Servicing Agreement dated as of July 29, 2004, and amended by the First Amendment to the Servicing Agreement, dated as of January 1, 2006, the Second Amendment to the Servicing Agreement dated as of February 1, 2007, the Third Amendment to the Servicing Agreement, dated as of May 31, 2007, and the Fourth Amendment to the Servicing Agreement dated as of April 10, 2008 (collectively, the "SA") and by and between American Residential Equities, LLC ("Owner"), a Delaware limited liability company, and GMAC Mortgage, LLC, as successor by merger to GMAC Mortgage Corporation ("Servicer"), a Delaware limited liability company.

WHEREAS, the Servicer and the Owner have agreed, subject to the terms and conditions of this Fifth Amendment, that the SA be amended to reflect agreed upon revisions to the terms of the SA relating to the approval of certain actions to be taken by Servicer.

NOW, THEREFORE, in consideration of the mutual undertakings herein expressed and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree that the SA is amended as follows:

1. The existing definition of "Servicing Performance Standards" is deleted in its entirety and replaced with the following:

> "Servicing Performance Standards": The servicing standards set forth on Exhibit 16A.

2. By deleting "The table below indicates fees for loans at least 60+ days delinquent unless specified otherwise." under Resolution Fees on Exhibit 15-A, the Term Sheet.

3. Exhibit "16" to the SA shall be deleted in its entirety and replaced with the attached Exhibit "16-A" which represents the Servicing Performance Standards which may be amended from time to time with the mutual consent of both parties.

4. Any conflict between the provisions of this Fifth Amendment and those of the SA shall be resolved in favor of the provisions of the Fifth Amendment. All provisions of the SA not modified by this Amendment shall continue in full force and effect.

5. The provisions of this Fifth Amendment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, and all such provisions shall inure to the benefit of the Owner and the Servicer.

6. If any one or more of the provisions or terms of this Fifth Amendment shall be for any reason whatsoever held invalid, then such provisions or terms shall be deemed severable from the remaining provisions or terms of this Fifth Amendment and shall in no way affect the validity or enforceability of the other provisions or terms of this Fifth Amendment.

7. This Fifth Amendment may be executed by the parties hereto in several counterparts, each of which shall be executed by the parties hereto and be deemed an original and all of which shall constitute together by one and the same agreement.

8. THIS FIFTH AMENDMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMON WEALTH OF PENNSYLVANIA.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner and the Servicer have caused this Fifth Amendment to be executed by their duly authorized officers as of the date first written hereinabove.

"SERVICER"

GMAC MORTGAGE, LLC, as successor by merger to GMAC Mortgage Corporation

By: _____

Name: Kenneth R. Perkins

Title: Senior Vice President

"OWNER"

AMERICAN RESIDENTIAL EQUITIES, LLC

By: _____

Name: _____

Title: JEFFREY KIRSCH

EXHIBIT 16A

SERVICING PERFORMANCE STANDARDS

	Service Level Name	Specific Measure Definition	Commitment
Collections	Outbound Call Starts	First delinquency day for contact	Day 2
Collections	Outbound Call Attempts	# of attempts in 30 day delinquency cycle	Daily
Collections	Outbound Penetration Rate	% of loans with attempted from eligibility date	95% within 5 days of eligibility date
Collections	Breach Letter	% sent by "X" day of delinquency	HELOC - 95%/62nd, All Other Loans - 95%/32nd
Foreclosure	Foreclosure Referral	% referred by "X" day of delinquency	HELOC - 95%/97th, All Other Loans - 95%/67th
Foreclosure	Timeline Guidelines	% completed within Freddie Mac or Insurer guidelines	95%
Bankruptcy	Proof of Claim Referral	% referred to attorney	95% referred in 15 business days of detection
Bankruptcy	Chapter 7 Motion for Relief	% referred to attorney	95% referred in 15 business days of assignment to bankruptcy processor
Bankruptcy	Chapter 13 Motion for Relief	% referred to attorney	95% at earliest date, not to exceed 90 days past post petition due date