

LOAN SALE AGREEMENT

BY AND BETWEEN

**THE FEDERAL DEPOSIT INSURANCE CORPORATION AS
RECEIVER FOR INDYMAC FEDERAL BANK, FSB**

AND

ONEWEST BANK, FSB

Dated as of March 19, 2009

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LOAN SALE AGREEMENT

THIS LOAN SALE AGREEMENT (as the same shall be amended or supplemented, this "**Agreement**") is made and entered into as of the 19th day of March, 2009 by and between THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC FEDERAL BANK, FSB (the "**Seller**") and ONEWEST BANK, FSB (the "**Purchaser**").

RECITALS

WHEREAS, on July 11, 2008, the FDIC (as defined below) was appointed Receiver for IndyMac Bank, FSB (the "**Failed Thrift**") and certain assets and obligations of the Failed Thrift were transferred to a newly-formed thrift, IndyMac Federal Bank, FSB ("**IndyMac Federal**"), for which the FDIC was appointed Conservator (the "**Conservator**"), and, on the date hereof, the FDIC was appointed Receiver for IndyMac Federal (the "**Receiver**");

WHEREAS, under the Federal Deposit Insurance Act, as amended, the FDIC is authorized to sell or otherwise dispose of the assets of thrift institutions for which it serves as conservator or receiver;

WHEREAS, the Seller owns the Loans (as defined below) described on the Loan Schedule (as defined below) attached hereto as Attachment A;

WHEREAS, IMB HoldCo LLC ("**HoldCo**") has agreed to purchase the Assets (as defined below) and assume certain specified liabilities of IndyMac Federal on the terms and subject to the conditions set forth herein and in the Master Purchase Agreement (as defined below);

WHEREAS, in order to facilitate the transactions provided for herein, HoldCo formed the Purchaser as a federally-chartered, insured savings association, all of the stock of which will be acquired by OneWest Bank Group LLC ("**OneWest Bank Group**"), a newly-formed direct wholly-owned subsidiary of HoldCo; and

WHEREAS, the parties desire to memorialize their agreements relating to the transactions described above and certain other matters as set forth in this Agreement and the Master Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements hereinafter contained, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows.

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.01 Definitions. For purposes of this Agreement, the following terms shall have the meanings and definitions hereinafter respectively set forth:

“**Accounting Records**” means the general ledger, supporting subsidiary ledgers and schedules, and loan servicing system records of the Seller.

“**Adjustment Date**” means, as to each Loan, the date on which the Mortgage Interest Rate is adjusted in accordance with the terms of the related Note and Mortgage.

“**Advances**” means the sum of all unreimbursed amounts advanced by or on behalf of the Failed Thrift, the Seller (or its predecessors-in-interest) or the Purchaser for the benefit of a Borrower or a third party to meet required scheduled payments or to protect or preserve the Collateral or the priority of the Noteholder’s Liens and security interests created by the Loan Documents relating thereto, including ad valorem taxes and insurance premiums (including hazard and other forced placed insurance premiums) as permitted by the terms of any Loan, but does not include Corporate Advances, Disbursements of Principal or Unfunded HELOC Commitments.

“**Affidavit and Assignment of Claim**” means an Affidavit and Assignment of Claim in the form of Attachment B to this Agreement.

“**Affiliate**” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purposes of this definition, the term “**control**” (including the phrases “**controlled by**” and “**under common control with**”) when used with respect to any specified Persons means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

“**Agreement**” has the meaning given in the preamble, and shall include all exhibits, schedules and attachments hereto.

“**Ancillary Documents**” means the Master Purchase Agreement, the Bill of Sale, the Assignment and Assumption of Interests and Obligations, the Guaranty, the Shared-Loss Agreement and any and all other agreements and instruments that may be executed and delivered by the parties in connection with the transactions contemplated by this Agreement, and upon execution thereof, the definitive agreements executed pursuant to the Term Sheet for Participation Interests in Unfunded HELOC Commitments attached hereto as Attachment H.

“**Asset-Level Statements**” has the meaning given in Section 6.01(b).

“**Assets**” has the meaning given in Section 2.01(a).

“**Assignment and Assumption of Interests and Obligations**” means an Assignment and Assumption of Interests and Obligations in the form of Attachment C to this Agreement.

“**Assignment and Lost Instrument Affidavit**” means an Assignment and Lost Instrument Affidavit in the form of Attachment D to this Agreement.

“**Assumed FHLB Financing Balance**” means the balance of principal, interest, and other fees owed, as of the Closing Date, under any obligation of the Seller for borrowed money

owed to the Federal Home Loan Bank of San Francisco assumed by the Purchaser pursuant to the Master Purchase Agreement.

“**Assumed Liabilities**” has the meaning given in Section 2.01(c).

“**Bankruptcy Rule**” means the rules set forth under the Federal Rules of Bankruptcy Procedure, as the same may be amended from time to time.

“**Bill of Sale**” means a Bill of Sale in the form of Attachment E to this Agreement.

“**Borrower**” means any borrower or other obligor with respect to any Loan, including any guarantor or surety or any other Person liable for all or any portion of the Loan or the performance of any obligations associated with any Loan.

“**Business Day**” means any day except a Saturday, Sunday or other day on which federal savings banks in California, New York or Washington, D.C. or United States federal government offices are required or authorized by Law to close.

“**Charged-Off Loan**” has the meaning given in the Shared-Loss Agreement.

“**Claims Termination Date**” means the first Business Day after the second anniversary of the Closing Date.

“**Closing**” has the meaning given in Section 2.05.

“**Closing Adjustment Documents**” has the meaning given in Section 2.07.

“**Closing Date**” means the date on which the Closing occurs.

“**Collateral**” means any and all real or personal property, whether tangible or intangible, securing or pledged to secure or collateralize a Loan, including any account, inventory, property of any kind (including equipment and other physical assets), guarantee or contract right, or other interest that is pledged pursuant to or otherwise subject to any Collateral Document (but does not include any property which had been foreclosed upon or repossessed on or prior to the Closing Date and with respect to which the Redemption Period, if any, had expired on or before the Closing Date).

“**Collateral Document**” means any pledge agreement, security agreement, personal or corporate guaranty, deed of trust, deed, mortgage, contract for the sale of real property, assignment, collateral agreement or other agreement or document of any kind, whether an original or a copy, whether similar to or different from those enumerated, securing in any manner the performance or payment by any Borrower of its obligations or the obligations of any other Borrower under any of the Loans or the Notes evidencing the Loans (but does not include any such agreement, instrument or other document insofar as the Collateral encumbered thereby had been foreclosed upon or repossessed on or prior to the Closing Date and with respect to which the Redemption Period, if any, had expired on or before the Closing Date).

“**Conservator**” has the meaning given in the preamble.

“**Contract for Deed**” means an executory contract with a third party to convey real property, including any installment land contract.

“**Corporate Advances**” means any amounts advanced for the payment of appraisal fees, broker price opinion fees, attorneys’ fees or associated legal fees, foreclosure fees, trustee fees, property inspection fees, property preservation and operating cost fees, tax penalties incurred as a result of the Failed Thrift’s or the Seller’s (or its predecessors-in-interest’s) late payment of taxes, title policies or lien search fees.

“**Custodial Account**” means an account maintained by the Seller or its agent for the deposit of principal and interest payments received in respect of one or more Loans.

“**Defect**” means the failure of any Asset-Level Statement to be true as of the Closing Date.

“**Defective Loan**” has the meaning given in Section 7.01.

“**Defect Notice**” has the meaning given in Section 7.03.

“**Deficiency Balance**” means the remaining unpaid principal balance of any Note purchased hereunder after crediting to it the proceeds of a foreclosure sale.

“**Disbursements of Principal**” means incremental funding of loan proceeds under a Note such as in the case of a revolving credit loan or a construction loan.

“**Escrow Account**” means an account maintained by the Seller or its agent for the deposit of Escrow Payments received in respect of one or more Loans.

“**Escrow Payments**” means the amounts constituting ground rents, taxes, assessments, water rates, common charges in condominiums and planned unit developments, mortgage insurance premiums, fire and hazard insurance premiums and other payments which have been escrowed by the Borrower with the Seller or its agent pursuant to any Loan.

“**Excluded Assets**” has the meaning given in the Master Purchase Agreement.

“**Excluded Liabilities**” means, collectively, all liabilities of the Seller other than the Assumed Liabilities.

“**Excluded Losses**” means any consequential, special or indirect damages, lost profits, lost investment or business opportunity, interest, damages to reputation, punitive damages, exemplary damages, treble damages, nominal damages and operating losses.

“**Failed Thrift**” has the meaning given in the recitals.

“**FDIC**” means the Federal Deposit Insurance Corporation in any capacity.

“**Foreign Jurisdiction**” means any jurisdiction, other than the United States, and any subdivision of or in such other jurisdiction.

“**Foreign Loan**” means a Loan with respect to which any of the Collateral is located in any Foreign Jurisdiction.

“**GAAP**” means United States generally accepted accounting principles as in effect from time to time.

“**Gross Margin**” means, with respect to each Loan, the fixed percentage amount set forth in the related Note which is added to the Index in order to determine the related Mortgage Interest Rate, as set forth in the Loan Schedule.

“**Group 5 Closing Payment**” has the meaning given in Section 2.03.

“**Group 5 Final Payment**” has the meaning given in Section 2.08.

“**Group 5 Final Purchase Price**” has the meaning given in Section 2.02.

“**Governmental Authority**” means any United States or non-United States national, federal, state, local, municipal or provincial or international government or any political subdivision of any governmental, regulatory or administrative authority, agency or commission, or judicial or arbitral body.

“**Guaranty**” means the Guaranty Agreement, dated as of March 18, 2009, by and among the FDIC, in its corporate capacity, HoldCo and each other Beneficiary (as defined therein) that executes a joinder thereto.

“**Guidelines**” means the Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages (September 2007), issued by the federal financial institutions regulatory agencies and the Conference of State Bank Supervisors, the Statement on Working with Mortgage Borrowers (April 2007), issued by the federal financial institutions regulatory agencies, the Home Equity Line of Credit Account Management Guidance (August 2008), issued by the Office of Thrift Supervision, and the FDIC’s Loan Modification Program, each as may be amended or supplemented from time to time.

“**HELOC**” means home equity line of credit.

“**HoldCo**” has the meaning given in the recitals.

“**Index**” means, with respect to any Loan, the index set forth in the related Note for the purpose of calculating interest therein.

“**IndyMac Federal**” has the meaning given in the recitals.

“**Initial Calculation Date**” means the close of business on January 31, 2009.

“**Law**” means any applicable statute, law, ordinance, regulation, rule, code, injunction, judgment, decree or order (including any executive order) of any Governmental Authority.

“**Lien**” means any mortgage, pledge, security interest, equity interest, participation interest, lien or other charge or encumbrance, including the lien or retained security title of a conditional vendor, upon or with respect to any property or assets.

“**Limited Power of Attorney**” means a Limited Power of Attorney in the form of Attachment F to this Agreement.

“**Loan**” means any loan listed on the Loan Schedule and any loan into which any loan listed on the Loan Schedule is refinanced, and includes with respect to each such loan: (i) any obligation evidenced by a Note; (ii) all rights, powers or Liens of the Seller in or under the Collateral Documents; (iii) any Contract for Deed and the real property which is subject to any such Contract for Deed; and (iv) any lease and the related leased property.

“**Loan Documents**” means all documents, agreements, certificates, instruments and other writings (including all Collateral Documents) now or hereafter executed by or delivered or caused to be delivered by any Borrower, any Guarantor or any other obligor evidencing, creating, guaranteeing or securing, or otherwise executed or delivered in respect of, all or any part of a Loan or any Collateral or evidencing any transaction contemplated thereby, and all Modifications thereto.

“**Loan File**” means all documents pertaining to any Loan, either copies or originals, that are in the possession of the Seller or any of its employees or contractors responsible for the servicing of the Loan, other than (i) the original Note, renewals of the Note and Collateral Documents and (ii) confidential or privileged communications between the Seller (or any predecessor-in-interest, including the Failed Thrift) and its legal counsel; provided, however, that the Loan Files do not include files maintained by other employees or agents of the Seller, or attorney-client or work product privileged materials held by the Seller’s legal counsel, unless in the opinion of such counsel, the disclosure of the material is not likely to result in the waiver of the attorney-client or work product privilege.

“**Loan Schedule**” means the schedule of Loans attached as Attachment A (and delivered in electronic format to the Purchaser), which shall be updated as of the Closing Date pursuant to Section 2.07. The Loan Schedule shall contain the following fields of information:

- (1) the Loan number;
- (2) the address, city, state and zip code of the Mortgaged Property;
- (3) the current Mortgage Interest Rate;
- (4) the current Monthly Payment;
- (5) the original term to maturity;
- (6) the scheduled maturity date;
- (7) the unpaid principal balance of the Loan;

- (8) the Gross Margin, if applicable;
- (9) the next Adjustment Date, if applicable; and
- (10) the paid through date or due date.

The Loan Schedule shall identify for each Loan whether it is an LSBO or a Servicing-Released Loan. The Loan Schedule shall also categorize each Loan into one of the following nine groups: (i) Current/Non-HELOC Loan Held for Sale; (ii) Current/Non-HELOC Loan Held for Investment; (iii) Current/HELOC Held for Investment; (iv) 30-59 Days Delinquent/Non-HELOC Loan Held for Sale; (v) 30-59 Days Delinquent/Non-HELOC Loan Held for Investment; (vi) 30-59 Days Delinquent/HELOC Held for Investment; (vii) 60+ Days Delinquent/Non-HELOC Loan Held for Sale; (viii) 60+ Days Delinquent/Non-HELOC Loan Held for Investment; (ix) 60+ Days Delinquent/HELOC Held for Investment; or otherwise identify the group to which each Loan belongs.

“**Losses**” means actual losses, damages, liabilities, costs and expenses (including reasonable attorneys’ fees and litigation and similar costs, and other out-of-pocket expenses incurred in investigating, defending, asserting or preparing the defense or assertion of any of the foregoing), deficiencies, claims, interest, awards, judgments, penalties and fines, provided, that, unless expressly stated otherwise herein, Losses shall not include Excluded Losses.

“**LSBOs**” means all Loans serviced by a third party which will be transferred and conveyed to the Purchaser pursuant to Section 2.01(a) with the servicing retained by such third party, and which are identified on the Loan Schedule as LSBOs.

“**LSBO Servicing Agreements**” has the meaning given in Section 2.01(a)(iii).

“**Master Purchase Agreement**” means the Master Purchase Agreement, dated as of March 18, 2009, by and among the Conservator (and, on the date hereof, following the appointment of the FDIC as receiver for IndyMac Federal, the Receiver by joinder as of the date hereof), IMB HoldCo LLC, OneWest Bank Group and the Purchaser (by joinder as of the date hereof).

“**MERS**” means Mortgage Electronic Registration Systems, Incorporated.

“**MERS Registered Mortgages**” has the meaning given in Section 3.02.

“**MERS® System**” means the MERSCORP, Inc. mortgage electronic registry system.

“**Modification**” means any extension, renewal, substitution, replacement, supplement, amendment or modification of any agreement, certificate, document, instrument or other writing, whether or not contemplated in the original agreement, document or instrument.

“**Monthly Payment**” means, with respect to any Loan, the scheduled monthly payment of principal and interest on such Loan which is payable by the related Borrower from time to time under the related Note.

“**Mortgage**” means, with respect to a Loan, a mortgage, deed of trust or other security instrument creating a Lien upon real property and any other property described therein which secures a Note, together with any assignment, reinstatement, extension, endorsement or Modification of any thereof.

“**Mortgage Interest Rate**” means, with respect to each fixed rate Loan, the fixed annual rate of interest provided for in the related Note and, with respect to each adjustable rate Loan, the annual rate at which interest accrues and adjusts in accordance with the provisions of the related Note.

“**Mortgaged Property**” means the real property Collateral, including land, fixtures and improvements, if any, securing the repayment of any Loan.

“**Note**” means each note or promissory note, lost instrument affidavit, loan agreement, shared credit or intercreditor agreement, reimbursement agreement, any other evidence of indebtedness of any kind, or any other agreement, document or instrument evidencing a Loan, and all Modifications to the foregoing.

“**Noteholder**” means a holder of a Note.

“**Obligations**” means all obligations and commitments of the Seller relating to a Loan and arising or due and payable after the Closing Date under and in accordance with any of the related Notes, Collateral Documents, Loan Documents or Related Agreements, including any obligations to make Advances or Disbursements of Principal with respect to any Loan.

“**OneWest Bank Group**” has the meaning given in the recitals.

“**Person**” means any individual, corporation, partnership (general or limited), limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, estate, unincorporated organization, governmental or regulatory body or other entity.

“**Predatory Lending Defect**” has the meaning given in [Section 7.07](#).

“**Program**” means any of the following mortgage loan modification programs: (a) for modifications currently in process or initiated within the first ninety (90) days following the signing of this Agreement, the modification program previously approved by the Board of Directors of IndyMac Federal Bank, FSB in Conservatorship; (b) the FDIC’s Mortgage Loan Modification Program, a copy of which is attached as an exhibit to the Shared Loss Agreement; and (c) any other modifications either to an individual or to a group of borrowers, with prior written consent of the FDIC.

“**Purchaser**” has the meaning given in the preamble.

“**Receiver**” means the FDIC as receiver for IndyMac Federal.

“**Redemption Period**” means the statutory time period, if any, during which a foreclosed owner may buy back foreclosed real property from the foreclosure sale purchaser under the Law

of the jurisdiction in which the property is located, which period (if the jurisdiction provides for the same) may vary among the jurisdictions which do provide for a Redemption Period.

“Related Agreement” means (i) any agreement, document or instrument (other than the Note, the Collateral Documents and the Loan Documents) relating to or evidencing any obligation to pay or securing any Loan (including any equipment lease, letter of credit, bankers’ acceptance, draft, system confirmation of transaction, loan history, affidavit, general collection information, and correspondence and comments relating to any obligation), (ii) any real property or rights in or to any real property (including leases, tenancies, concessions, licenses or other rights of occupancy or use and security deposits related thereto) related to any Loan, (iii) any collection, contingency fee, and tax and other service agreements that are specific to the Loans (or any of them), and (iv) any obligations under contracts of insurance or guaranty with respect to any Loans that are insured or guaranteed by any Governmental Authority. Related Agreements shall not include any performance or completion bond or letter of credit or other assurance filed with any Governmental Authority for the purpose of ensuring that improvements constructed or to be constructed are completed in accordance with any governmental regulations or building requirements applicable to the proposed or completed improvement. The term Related Agreement does not include any loan servicing agreement that exists between the Seller or the Failed Thrift and any other Person.

“Related Party” means any Person related to the Borrower in the manner delineated in 26 U.S.C.A §267(b) and the regulations promulgated thereunder, as such law and regulations may be amended from time to time.

“Released Parties” has the meaning given in Section 5.16(b).

“Remedy” has the meaning given in Section 7.01.

“Repurchase Price” means, with respect to any Loan, an amount equal to the sum of (i) the unpaid principal balance of such Loan as shown on the Loan Schedule, as updated as of the Closing Date, multiplied by the applicable percentage for the category shown on Schedule 2.02 to which such Loan belongs, less prorated amounts owed by the Seller with respect to such Loan through and including the Closing Date as determined pursuant to Section 2.04, plus accrued interest for Loans that are less than thirty (30) days past due, minus (ii) the total of principal, interest, and fees collected in respect of such Loan after the Closing Date, plus (iii) an amount equal to the sum of Corporate Advances outstanding and the negative escrow balance existing at the time of repurchase of such Loan, if any, less (iv) an amount equal to the positive escrow balance existing at the time of repurchase of such Loan, if any.

“RESPA” means the Real Estate Settlement Procedures Act of 1974, as amended, and all rules and regulations promulgated thereunder.

“Seller” has the meaning given in the preamble.

“Servicing-Released Loans” means all Loans other than LSBOs.

“Shared-Loss Agreement” means the Shared-Loss Agreement attached as Attachment G, dated as of the date hereof, by and between the Receiver and the Purchaser.

“**Tax**” or “**Taxes**” means all income, excise, gross receipts, ad valorem, sales, use, employment, franchise, profits, gains, property, transfer, payroll, withholding, severance, occupation, social security, unemployment compensation, alternative minimum, value added, intangibles or other taxes, fees, stamp taxes, duties, charges, levies or assessments of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, fines, additions to tax or additional amounts imposed by any Governmental Authority with respect thereto.

“**Then-Current Interest Rate**” has the meaning given in the Shared-Loss Agreement.

“**Transfer Documents**” means the endorsements and allonges to Notes, Assignment and Lost Instrument Affidavits (if applicable), assignments, deeds and other documents of assignment, conveyance or transfer required under any applicable Law to evidence the sale and transfer to the Purchaser of the Assets hereunder or the assignment and assumption of the Assumed Liabilities hereunder. Transfer Documents do not include this Agreement, the Bill of Sale or the Assignment and Assumption of Interests and Obligations.

“**Unfunded HELOC Commitment**” means the obligation pursuant to a HELOC to pay an amount equal to the difference between the maximum outstanding principal balance permitted under the HELOC and the actual outstanding principal balance of such HELOC, each measured as of the Closing Date, which amount once paid will constitute all or a portion of the unpaid principal balance of such HELOC. The Unfunded HELOC Commitment for each HELOC is listed on Schedule 1.01(a).

“**Uniform Commercial Code**” means the Uniform Commercial Code in effect in the applicable jurisdiction, as the same may be amended from time to time.

Section 1.02 Construction. This Agreement shall be construed and interpreted in accordance with the following:

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

(b) The term “or” is not exclusive.

(c) A reference to a law includes any amendment, modification or replacement to such law.

(d) Accounting terms shall have the meanings assigned to them by GAAP applied on a consistent basis by the accounting entity to which they refer.

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

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

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

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

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

ARTICLE II

PURCHASE AND SALE OF LOANS

Section 2.01 Terms and Conditions of Sale.

(a) Purchase and Sale of Assets. On the terms and subject to the conditions set forth in this Agreement and in the Ancillary Documents, the Seller hereby sells, transfers, conveys, assigns and delivers to the Purchaser, and the Purchaser hereby purchases, accepts and assumes from the Seller, without representation or warranty, express or implied, except as set forth in this Agreement and the Master Purchase Agreement, all of the Seller’s rights, title and interests in, to and under the Assets (other than the Excluded Assets). “Assets” means the following assets, whether owned, leased, licensed or otherwise contracted by, or otherwise available to, the Seller, and no others (except that, as set forth below, the schedules described in this Section 2.01 shall be updated as of the Closing Date and assets included in such updated schedules shall constitute Assets):

(i) all of the Seller’s rights, title and interests in, to and under the Loans (including all Notes, the other Loan Documents and Related Agreements) identified on the Loan Schedule attached hereto as Attachment A, endorsed without recourse, on a servicing-released basis;

(ii) all of the Seller’s rights in, to and under the Collateral pursuant to the Collateral Documents;

(iii) all rights of and benefits accruing to the Seller under the servicing agreements listed on Schedule 2.01(a) (the “LSBO Servicing Agreements”) pursuant to which the LSBOs are being serviced by third parties, including all rights to assert claims and to take other rightful actions in respect of breaches, defaults and other violations of such LSBO Servicing Agreements;

(iv) all rights to causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by or for the benefit of the Seller with respect to the Assets or the ownership, use, function, value of or other rights pertaining thereto, whether arising by way of counterclaim or otherwise, other than any claims retained by the Seller pursuant to Section 2.14; and

(v) all guaranties, warranties, indemnities and similar rights in favor of the Seller with respect to any of the Assets.

To the extent that any party discovers, within 180 days following the Closing Date, that there were assets of the Seller that all parties hereto intended to be transferred in connection with the purchase and assumption contemplated in this Agreement, but that were omitted from the schedules to this Agreement, the Seller shall or shall cause its Affiliates promptly to assign and transfer to the Purchaser all right, title and interest in such asset.

Each schedule referenced above shall be updated as of the Closing Date and delivered to the Purchaser in accordance with Section 2.07.

(b) Excluded Assets. The Assets shall not include, and the Purchaser shall not purchase or otherwise acquire, the Excluded Assets.

(c) Assumption of Liabilities. On the terms and subject to the conditions contained herein and in the Ancillary Documents, and effective as of the Closing Date, (including the retention of all rights and remedies under Article XVII of the Master Purchase Agreement and under Articles VI and VII hereto), the Purchaser shall assume and agree to pay, perform and discharge in accordance with their terms all of the following obligations, debts and liabilities of the Seller and no others (collectively, the "Assumed Liabilities"):

(i) the Obligations, including the Unfunded HELOC Commitments;

(ii) all obligations of the Seller under LSBO Servicing Agreements from and after the Closing Date; and

(iii) all obligations of the Seller with respect to (i) the lawsuits, judgments, claims and demands listed on Schedule 2.01(c), and (ii) any additional lawsuit, judgment, claim or demand involving foreclosures, bankruptcies, liens, title disputes, property condition, forfeiture, partition, easement, condemnation and eminent domain, probate, tax sale, mechanic's liens and stop notice claims with respect to any of the Assets, but only to the extent any such additional lawsuit, judgment, claim or demand is comparable in nature, scope and substance to those listed on Schedule 2.01(c), as determined by the Seller in its reasonable judgment (as evidenced by written notice thereof given to the Purchaser), if such determination is made (and such notice is provided) within sixty (60) days after the Closing Date, or by the mutual agreement of the Purchaser and the Seller, if such determination is after such sixty (60)-day period.

(d) Excluded Liabilities. Notwithstanding anything to the contrary in this Section 2.01, it is understood and agreed that the Seller shall not assign and the Purchaser shall

not, pursuant to this Agreement, assume or be liable for any Excluded Liabilities that the Seller has or may have now or in the future, including the following:

(i) any liabilities and obligations with respect to any claims expressly retained by the Seller pursuant to Section 2.14;

(ii) any liabilities or obligations of the Seller arising under this Agreement or any of the Ancillary Documents;

(iii) any legal and accounting fees and expenses incurred by the Seller in connection with the consummation of the transactions contemplated by this Agreement, except as provided in the Master Purchase Agreement;

(iv) any indebtedness of the Seller for borrowed money;

(v) any liability or indebtedness of the Seller for contingent liabilities or liabilities in respect of any injury to any Person or property;

(vi) any liabilities or obligations of the Seller attributable to an act, omission or circumstances that occurred or existed prior to the Closing Date, other than the Assumed Liabilities;

(vii) all liabilities and obligations arising out of or with respect to the Excluded Assets;

(viii) all obligations of the Seller with respect to any lawsuits, judgments, claims or demands of any nature existing on or prior to the Closing Date that are not listed on Schedule 2.01(c) or otherwise described in Section 2.01(c)(iii);

(ix) any claim against or liability of the FDIC in its capacity as receiver for IndyMac Bank, FSB or the FDIC as receiver for IndyMac Federal that, under and in accordance with applicable Law, was, is or will be subject to the receivership administrative claims processes administered by the FDIC in its capacity as receiver for IndyMac Bank, FSB or the FDIC as receiver for IndyMac Federal pursuant to 12 U.S.C. §1821(d)(3) through (13), including claims and liabilities that are affirmative or defensive, now existing or arising in the future, contingent or fixed, monetary or non-monetary, equitable or legal, or declarative or injunctive; and

(x) any claim against or liability based on any alleged act or omission of IndyMac Bank, FSB or IndyMac Federal which is not provable or allowable, or is otherwise barred against the FDIC as receiver for IndyMac Bank, FSB or the FDIC as receiver for IndyMac Federal, under applicable Law, including claims and liabilities that are barred under 12 U.S.C. §§1821(c), (d), (e) (including §1821(e)(3)), (i), or (j); 12 U.S.C. §1822; 12 U.S.C. §1823; or 12 U.S.C. §1825.

(e) Loans Subject to Shared-Loss Agreement. The Seller and the Purchaser agree that the Loans sold and purchased hereunder shall be subject to the terms of the Shared-Loss Agreement.

Section 2.02 Purchase Price. Subject to the terms and conditions of this Agreement and the Master Purchase Agreement, the Purchaser shall pay to the Seller, in accordance with the procedures set forth in this Agreement and the Master Purchase Agreement, an aggregate purchase price for the Assets in an amount equal to the sum of each product obtained by multiplying (x) the unpaid principal balance of each Loan, as shown on the Loan Schedule as updated as of the Closing Date, by (y) the applicable percentage for the category set forth on Schedule 2.02 to which such Loan belongs, *plus* accrued interest from the paid-to date up to but not including the Closing Date for Loans that are less than thirty (30) days past due (such sum, the “**Group 5 Final Purchase Price**”).

Section 2.03 Closing Payment. On the Closing Date, the Purchaser shall pay to the Seller in accordance with the Master Purchase Agreement an amount equal to the balance of (i) the Group 5 Final Purchase Price, calculated using, when applicable, balances as of the Initial Calculation Date rather than the Closing Date, *less* (ii) prorated amounts owed by the Seller through and including the Closing Date which are calculable as of the Closing Date, as determined pursuant to Section 2.04, *plus* (iii) to the extent not otherwise covered, an amount equal to any negative escrow balance (expressed as a negative number), to the extent such negative escrow balance exists after netting negative escrow balances with positive escrow balances in accordance with Section 5.09 of this Agreement (collectively, the “**Group 5 Closing Payment**”). The Seller shall also provide to the Purchaser reasonable supporting information and documentation that is relied upon in connection with such calculation.

Section 2.04 Prorations. All payments under or pursuant to any LSBO Servicing Agreement assigned to the Purchaser under this Agreement and any real and personal property Taxes related to the Assets, whether or not payable after the Closing Date, shall be prorated between the Purchaser and the Seller, as the case may be, on the basis of a 365 day year and the number of days elapsed and days remaining in the applicable period through the end of the Closing Date. All amounts prorated pursuant to this Section 2.04 will be taken into account in connection with the adjustments provided in Section 2.07.

Section 2.05 Closing. The closing of the sale provided for in this Agreement, herein referred to as the “**Closing**”, shall take place pursuant to the procedures and subject to the conditions set forth in this Agreement and the Master Purchase Agreement.

Section 2.06 Closing Procedure. At the Closing, subject to and upon the terms and conditions of this Agreement and the Master Purchase Agreement:

- (a) the Purchaser shall deliver to the Seller the certificates, instruments and documents referred to in Section 2.15(a);
- (b) the Seller shall deliver to the Purchaser the certificates, instruments and documents referred to in Section 2.15(b); and
- (c) the Purchaser shall deliver to the Seller the Group 5 Closing Payment.

Section 2.07 Closing Adjustment Documents. Within sixty (60) calendar days following the Closing Date, the Purchaser shall prepare and deliver to the Seller (i) Attachment A updated as of the Closing Date and prepared in accordance with the

Accounting Records and consistent with past practice (including the preparation of the Attachments attached hereto), and (ii) a schedule setting forth in reasonable detail the calculations contemplated by Section 2.08 (collectively, the “Closing Adjustment Documents”). The parties shall cooperate in the preparation of the Closing Adjustment Documents and such additional documents as may be necessary to calculate the Group 5 Final Payment. Without limiting the generality of the foregoing, to the extent necessary, the Purchaser shall provide the Seller and its designees with reasonable access to the Purchaser’s books, records, working papers, personnel and representatives which relate to the Assets and the Assumed Liabilities.

Section 2.08 Calculation of Adjustments. The Closing Adjustment Documents shall set forth the Purchaser’s calculation of (a) the Group 5 Final Purchase Price in accordance with Sections 2.02 and 2.03 and (b) a payment amount (such amount, the “Group 5 Final Payment”) which shall be the sum of the following: (i) the Group 5 Final Purchase Price, *less* (ii) prorated amounts owed by the Seller through and including the Closing Date, as determined pursuant to Section 2.04, *plus* (iii) to the extent not otherwise covered, an amount equal to any negative escrow balance (expressed as a negative number), to the extent such negative escrow balance exists after netting negative escrow balances with positive escrow balances in accordance with Section 5.09 of this Agreement. The Closing Adjustment Documents shall be reviewed, and any Disagreements related thereto resolved, in accordance with the Master Purchase Agreement.

Section 2.09 Final Settlement. Final settlement of the Group 5 Final Purchase Price shall be made in accordance with the Master Purchase Agreement.

Section 2.10 Offsets Against Deposits. With respect to any Loan, the Seller reserves the right to permit or require offsets against deposit accounts of the Failed Thrift. If allowed by the Seller, such offsets will be retroactive to July 11, 2008. At such time as an offset is effected, the Seller will give notice of such to the Purchaser and pay the Purchaser the amount of the offset on a dollar-for-dollar basis, and the Purchaser shall credit such amount to the Loan according to the terms and conditions of the applicable Note as of July 11, 2008.

Section 2.11 Allocation of Payments. All payments and other amounts received on account of any of the Loans on or before the Closing Date shall belong to the Seller (except with respect to payments on any Loan that has been paid in advance, which shall belong to the Purchaser to the extent that any such prepayments are not reflected in the unpaid principal balance of such Loan as of the Closing Date). All payments and other amounts received on account of any of the Loans after the Closing Date shall belong to the Purchaser.

Section 2.12 Rebates and Refunds. The Purchaser is not entitled to any rebates or refunds from the Seller from any pre-computed interest Loan regardless of when the Note matures. Further, on pre-computed interest Loans, the Seller will not refund any unearned discount amounts to the Purchaser.

Section 2.13 Interest Conveyed. In the event a foreclosure with respect to any Loan occurs after the Closing Date, or occurred on or before the Closing Date but the Redemption Period had not expired on or before the Closing Date, the Seller shall convey to the Purchaser the Deficiency Balance, if any, together with the net proceeds, if any, of such foreclosure sale. If the

Seller was the purchaser at such foreclosure sale, the Seller shall convey to the Purchaser the Deficiency Balance, if any, together with a special warranty deed to the property purchased at such foreclosure sale.

Section 2.14 Retained Claims and Release. Notwithstanding anything to the contrary contained in this Agreement, the Purchaser and the Seller hereby agree that the sale and transfer of the Loans pursuant to this Agreement will exclude the transfer to the Purchaser of all right, title and interest of the Seller in and to any and all claims of any nature whatsoever that might now exist or hereafter arise, whether known or unknown, that the Seller has or might have against any of the following: (a) officers, directors, employees, insiders, accountants, attorneys, other Persons employed by the Seller, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest, underwriters or any other similar Persons who have caused a loss to the Seller, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest in connection with the origination, servicing or administration of a Loan, (b) any appraisers, accountants, auditors, attorneys, investment bankers or brokers, loan brokers, deposit brokers, securities dealers or other Persons who performed services for the Seller, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest relative to a Loan, (c) any third parties involved in any alleged fraud or other misconduct relating to the making or servicing of a Loan or (d) any appraiser or other Person with whom the Seller, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest or any servicing agent contracted for services or title insurance in connection with the making, insuring or servicing of a Loan.

Section 2.15 Delivery of Closing Documents.

(a) In addition to any other documents to be delivered under other provisions of this Agreement or the Master Purchase Agreement, the Purchaser shall deliver and release, subject to and in accordance with this Section 2.15(a), to the Seller the following on or prior to the Closing:

- (i) the Group 5 Closing Payment in accordance with the Master Purchase Agreement;
- (ii) four originals of the Assignment and Assumption of Interests and Obligations executed by the Purchaser;
- (iii) four originals of this Agreement executed by the Purchaser; and
- (iv) four originals of the Shared-Loss Agreement executed by the Purchaser.

(b) In addition to any other documents to be delivered under other provisions of this Agreement or the Master Purchase Agreement, the Seller shall deliver and release, subject to and in accordance with this Section 2.15(b), to the Purchaser the following on or prior to the Closing:

- (i) an original of the Bill of Sale executed by the Seller;

- (ii) four originals of the Assignment and Assumption of Interests and Obligations executed by the Seller;
- (iii) four originals of this Agreement executed by the Seller;
- (iv) four originals of the Shared-Loss Agreement executed by the Seller; and
- (v) one original Limited Power of Attorney granted by the Seller pursuant to Section 3.04 below.

ARTICLE III

TRANSFER OF LOANS, COLLATERAL DOCUMENTS AND SERVICING

Section 3.01 Transfer of Documents. The Seller and the Purchaser shall cooperate with each other in the physical or other transfer to the Purchaser or the custodian or other designee on the Closing Date of the Notes, the Loan Files, the Loan Documents, the Collateral Documents and the Related Agreements.

Section 3.02 MERS Mortgage Loans. If any of the Mortgages are registered on the MERS® System (the "**MERS Registered Mortgages**"), the Purchaser shall cause the MERS Registered Mortgages to be transferred on the MERS® System on or within a reasonable time after the Closing Date. The costs imposed by MERS with respect to the transfer of the MERS Registered Mortgages shall be allocated between the Purchaser and the Seller in accordance with Section 19.03 of the Master Purchase Agreement.

Section 3.03 Forwarding Post-Closing Date Items. With respect to any checks or other funds in respect of any Loan which are received by the Seller within thirty (30) calendar days after the Closing Date, the Seller shall, to the extent no Limited Power of Attorney is granted to the Purchaser in accordance with Section 3.04(a), promptly endorse without recourse and send the same to the Purchaser via overnight mail. Any checks or other funds in respect of any Loan which are received by the Seller after such thirty (30) day period shall be endorsed without recourse by the Seller to the Purchaser and sent by first class mail to the Purchaser promptly after receipt. Except as otherwise provided herein, the Seller shall promptly forward to the Purchaser all correspondence, Tax bills or any other correspondence or documentation related to any of the Loans or the other Assets which is received by the Seller after the Closing Date.

Section 3.04 Delivery of Loans.

(a) The Seller will grant a Limited Power of Attorney to the Purchaser in the form attached hereto as Attachment F. The Purchaser will prepare and execute on behalf of the Seller, within a reasonable time after the Closing Date, all Transfer Documents not delivered by the Seller to the Purchaser at Closing, and the Purchaser shall perform all acts required to be performed by the Seller pursuant to Section 3.03. The Seller shall cooperate with the Purchaser with respect to the Purchaser's obligation to prepare and record (if applicable) such Transfer Documents. All Transfer Documents prepared by the Purchaser shall be in appropriate form suitable for filing or recording (if applicable) in the relevant jurisdiction and otherwise subject to

the limitations set forth herein, and the Purchaser shall be solely responsible for the preparation, contents and form of such documents. The Purchaser hereby releases the Seller from any loss or damage incurred by the Purchaser due to the contents or form of any documents prepared pursuant to this Section 3.04 and shall indemnify and hold the Seller harmless from and against any claim, action or cause of action asserted by any Person, including the Purchaser, arising out of the contents or form of any Transfer Document, including any claim relating to the adequacy or inadequacy of any such document or instrument for the purposes thereof, and the use (or purported use) by the Purchaser of the Limited Power of Attorney in any way not expressly permitted by its terms. All expenses incurred by the Purchaser in compliance with this Section 3.04 shall be allocated between the Purchaser and the Seller in accordance with Section 19.03 of the Master Purchase Agreement.

(b) The parties hereby agree that all Notes evidencing Loans shall be endorsed without recourse, and without representation or warranty by the Seller, express or implied, except (as to the Purchaser) as set forth in this Agreement. The form of any endorsement of Notes or allonge to the Notes is as follows:

Pay to the order of
OneWest Bank, FSB
Without Recourse

Federal Deposit Insurance Corporation as Receiver
for IndyMac Federal Bank, FSB

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

All other documents of assignment, conveyance or transfer shall contain the following sentence: "This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in any capacity."

(c) As to Foreign Loans, the Purchaser must retain counsel licensed in the Foreign Jurisdictions involved with the Foreign Loans. Such foreign counsel shall draft the documents necessary to assign the Foreign Loans to the Purchaser. Documents presented to the Seller to assign Foreign Loans to the Purchaser must be accompanied by a letter on the foreign counsel's letterhead, signed by the foreign counsel preparing those documents, certifying that those documents conform to the Law of the Foreign Jurisdiction. Each such document shall be delivered to the Seller in the English language, provided, however, that any document required for its purposes to be executed by the Seller in a language other than the English language shall be delivered to the Seller in such language, accompanied by a translation thereof in the English language, certified as to its accuracy by an executive officer or general counsel of the Purchaser and, if such executive officer or general counsel shall not be fluently bilingual, by the translator thereof.

(d) Nothing contained herein or elsewhere in this Agreement shall require the Seller to make any agreement, representation or warranty or provide any indemnity in any

document or instrument or otherwise, nor is the Seller obligated to obtain any consents or approval to the sale or transfer of the Loans or the related servicing rights, if any, or the assumption by the Purchaser of the Assumed Liabilities.

Section 3.05 Recordation of Documents. The Purchaser shall promptly submit all Transfer Documents for recordation or filing in the appropriate land, chattel, Uniform Commercial Code, and other records of the appropriate county, state or other jurisdictions (including any Foreign Jurisdiction) to effect the transfer of the Assets to the Purchaser, and to render legal, valid and enforceable the obligations of the Borrowers to the Purchaser and the assumption by the Purchaser of Assumed Liabilities. The Purchaser shall be responsible for following up on the status of all Transfer Documents submitted for recordation.

Section 3.06 Additional Actions; Transaction Costs. The Seller shall, if such is affirmatively required under applicable Law, take such actions as are necessary to effect the purposes of this Article III. All Taxes, fees, costs and expenses incurred in connection therewith shall be allocated between the Purchaser and the Seller in accordance with Section 19.03 of the Master Purchase Agreement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The representations and warranties made by the Purchaser to the Seller with respect to the transactions contemplated hereby are as set forth in the Master Purchase Agreement.

ARTICLE V

COVENANTS, DUTIES AND OBLIGATIONS

Section 5.01 Servicing of Loans. From and after the Closing Date, the Purchaser shall comply with all applicable Law with respect to the ownership and/or servicing of the Servicing-Released Loans, including (if applicable), the Fair Debt Collection Practices Act (15 U.S.C. § 1692 *et seq.*, as amended) and similar state Laws, and shall comply with all of the terms and conditions of the Guidelines, the Collateral Documents and any other instruments and documents governing or relating to the Servicing-Released Loans and/or the servicing rights and other rights thereunder.

Section 5.02 Collection Agency/Contingency Fee Agreements. Subject to Section 2.04, the Purchaser acknowledges and agrees that it accepts and acquires the Servicing-Released Loans subject to the agreements with collection agencies and contingency fee agreements with attorneys (all of which are listed on Schedule 4.01(f) of the Master Purchase Agreement) (in either case that are outstanding and in effect as of the Closing Date) that relate to any of the Servicing-Released Loans and are assignable, and assumes and agrees to fulfill all Obligations of the Seller thereunder. The Purchaser shall indemnify and hold the Seller harmless from and against any and all claims, demands, losses, damages, penalties, forfeitures or judgments made or rendered against the Seller or any legal fees or other costs, fees or expenses incurred by the Seller arising out of or based upon such agreements with collection agencies or contingency fee

agreements with attorneys, but only to the extent arising out of or based upon acts or events occurring after the Closing Date. The Purchaser shall notify the Seller within thirty (30) Business Days of notice or knowledge of any such claim or demand.

Section 5.03 Insured or Guaranteed Loans. If any of the Servicing-Released Loans are insured or guaranteed by any Governmental Authority, and such insurance or guaranty is not being specifically terminated by the Seller, the Purchaser acknowledges and agrees that such Servicing-Released Loans must be serviced by a servicer, lender or mortgagee approved by such Governmental Authority, if such approval is required. The Purchaser further acknowledges and agrees that, upon assumption of the Assumed Liabilities with respect to the Servicing-Released Loans, it assumes full responsibility for determining whether or not any such insurance or guarantees are in full force and effect on the Closing Date and, with respect to those Servicing-Released Loans with respect to which any such insurance or guarantee is in full force and effect on the Closing Date, the Purchaser acknowledges and agrees that, upon assumption of the Assumed Liabilities with respect to the Servicing-Released Loans, it assumes full responsibility for taking any and all actions as may be necessary to insure such insurance or guarantees remain in full force and effect. The Purchaser acknowledges and agrees that, upon assumption of the Assumed Liabilities with respect to the Servicing-Released Loans, it assumes and agrees to fulfill all of the Seller's or IndyMac Federal's obligations under the contracts of insurance or guaranty.

Section 5.04 Reporting to or for the Applicable Taxing Authorities. The Seller shall be responsible for submitting all Internal Revenue Service information returns related to the Loans for all applicable periods ending on or prior to December 31, 2008 (except with respect to those LSBOs for which the related servicer is obligated to submit such returns). The Purchaser shall be responsible for submitting all Internal Revenue Service information returns related to such Loans for all applicable periods commencing thereafter. Information returns include reports on Forms 1098 and 1099. The Purchaser shall be responsible for submitting all information returns required under applicable Law of any Foreign Jurisdiction, to the extent such are required to be filed by the Purchaser or the Seller under such Law, relating to such Loans, for the calendar or tax year beginning January 1, 2009 and thereafter. The Seller shall provide the Purchaser with any information that is required to comply with any of the Purchaser's Tax reporting responsibilities, including the responsibilities described herein; provided that, such information is in the possession of the Seller and not in the possession of the Purchaser, OneWest Bank Group or HoldCo.

Section 5.05 Loans in Litigation.

(a) With respect to any Loans that, as of the Closing Date, are subject to any pending litigation that is listed on Schedule 2.01(c) or of which the Purchaser has received written notice of from the Seller, the Purchaser shall notify the FDIC's Regional Counsel, 1601 Bryan Street, Dallas, Texas 75201, within thirty (30) Business Days after the Closing Date, or within thirty (30) Business Days after receiving such written notice, as the case may be, of the name of the attorney selected by the Purchaser to represent the Purchaser's interests in the litigation. The Purchaser shall, within thirty (30) Business Days after the Closing Date, or within thirty (30) Business Days after receiving the written notice described above, as the case may be, notify the clerk of the court or other appropriate official and all counsel of record that ownership

of the Loan was transferred from the Seller to the Purchaser. Subject to the provisions of Section 5.07, the Purchaser shall have its attorney file appropriate pleadings and other documents and instruments with the court or other appropriate body within thirty-five (35) Business Days after the Closing Date, or within thirty-five (35) Business Days after receiving the written notice described above, as the case may be, substituting the Purchaser's attorney for the Seller's attorney, removing the Seller and IndyMac Federal (or its predecessor-in-interest) as a party to the litigation and substituting the Purchaser as the real party-in-interest. Except as otherwise provided in Section 5.05(b) (and the Purchaser's compliance with its obligations therein), in the event the Purchaser fails to comply with this Section 5.05(a) within thirty-five (35) Business Days after the Closing Date, or within thirty-five (35) Business Days after receiving the written notice described above, as the case may be, the Seller may, at its option, dismiss with or without prejudice or withdraw from, any such pending litigation.

(b) If the Purchaser is unable, as a matter of applicable Law or due to the actions or inactions of third parties unrelated to the Purchaser and over whom the Purchaser has no control, to cause the Seller and IndyMac Federal (or its predecessors-in-interest) to be replaced by the Purchaser as party-in-interest in any pending litigation as required by Section 5.05(a), the Purchaser shall provide to the FDIC's Regional Counsel, at the address specified above, within thirty-five (35) Business Days after the Closing Date, or within thirty-five (35) Business Days after receiving the written notice described in Section 5.05(a), as the case may be, evidence to such effect, including reference to any applicable Law, and stating the reasons for such inability. In any such event, (i) the Purchaser shall cause its attorney to conduct such litigation at the Purchaser's sole cost and expense; (ii) the Purchaser shall cause the removal of the Seller and IndyMac Federal (or its predecessor-in-interest) and substitution of the Purchaser as party-in-interest in such litigation as soon as reasonably practicable; (iii) the Purchaser shall use commercially reasonable efforts to cause such litigation to be resolved by judgment or settlement in as reasonably efficient a manner as practical; (iv) the Seller shall cooperate with the Purchaser and the Purchaser's attorney as reasonably required to bring such litigation or any settlement relating thereto to a reasonable and prompt conclusion; and (v) no settlement shall be agreed upon by the Purchaser or its agents or counsel without the express prior written consent of the Seller, unless such settlement includes an irrevocable and complete waiver and release of any and all potential claims against the Seller and IndyMac Federal (or its predecessor-in-interest) in relation to such litigation or the subject Loans or obligations by any Person asserting any claim in the litigation and any Borrower, and any and all losses, liabilities, claims, causes of action, damages, demands, taxes, fees, costs and expenses relating thereto shall be paid by the Purchaser without recourse of any kind to the Seller or IndyMac Federal (or its predecessors-in-interest). The Purchaser shall provide to the Seller twenty (20) Business Days following the Closing Date a status report for each pending litigation regarding replacement by the Purchaser as the party-in-interest. The Purchaser shall pay all of the costs and expenses incurred by it in connection with the actions required to be taken by it pursuant to Section 5.05(a) and this Section 5.05(b), including all legal fees and expenses and court costs, and shall reimburse the Seller for all reasonable out-of-pocket costs, including all legal expenses, incurred by the Seller on or after the Closing Date with respect to any such litigation, including costs incurred in connection with the dismissal thereof or withdrawal therefrom.

(c) Notwithstanding the foregoing, the Purchaser shall retain all rights and remedies under Article XVII of the Master Purchase Agreement and under Article VI and Article VII hereto.

Section 5.06 Loans in Bankruptcy. In accordance with Bankruptcy Rules 3001 and 3002, the Purchaser shall take all actions necessary to file, within thirty (30) Business Days after the Closing Date, (i) proofs of claims in pending bankruptcy cases involving any Loans for which the Seller or IndyMac Federal (or its predecessors-in-interest) has not already filed a proof of claim, and (ii) all documents required by Bankruptcy Rule 3001 and to take all such similar actions as may be required in any relevant jurisdiction in any pending bankruptcy or insolvency case or proceeding in such jurisdiction involving any Loans in order to evidence and assert the Purchaser's rights. The Purchaser shall prepare and provide to the Seller, within thirty (30) Business Days after the Closing Date, an Affidavit and Assignment of Claim or any similar forms as may be required in any relevant Foreign Jurisdiction and shall be acceptable to the Seller, for each Loan where a Borrower under such Loan is in bankruptcy as of the Closing Date. The Purchaser hereby releases the Seller and IndyMac Federal (and its predecessors-in-interest) and the FDIC from any claim, demand, suit or cause of action the Purchaser may have as a result of any action or inaction on the part of the Seller or IndyMac Federal (or its predecessors-in-interest) or the FDIC with respect to such Loan, and the Purchaser further agrees to reimburse the Seller for any cost or expense incurred by the Seller as a result of the Purchaser's failure to file an Affidavit and Assignment of Claim or similar forms as required herein.

Section 5.07 Retained Claims. The provisions of Sections 5.05 and 5.06 are subject to the Seller's retention of claims pursuant to Section 2.14 of this Agreement, including any such claims as may have been asserted in litigation pending as of the Closing Date. If the Seller determines to pursue any claim retained pursuant to Section 2.14, then, at the Seller's discretion, litigation involving any such claims shall be bifurcated, with the Seller remaining the real party-in-interest and retaining control over (and being responsible for pursuing and bearing the related costs to pursue) claims retained by it pursuant to Section 2.14 and with the Purchaser substituting itself as the real party-in-interest and taking control of (and being responsible for pursuing and bearing the cost of pursuing) the remaining claims in litigation.

Section 5.08 Loan Related Insurance. As of the Closing Date, the Purchaser is responsible for having itself substituted as loss payee on all Loan-related insurance with respect to which the Failed Thrift or the Seller is currently identified as a loss payee. As between the Purchaser and the Seller, the Purchaser shall be solely responsible and liable for any loss after the Closing Date to a Borrower or to the Purchaser, or to the value or collectibility of any Loan, that is due to the lapse of, or to the Seller's cancellation of, any insurance policy after the Closing Date.

Section 5.09 Unremitted Collections; Escrow Accounts and Custodial Accounts. Escrow funds, custodial funds and other amounts or balances related to the Loans on deposit in Escrow Accounts, Custodial Accounts or other accounts held or controlled by the Seller shall be transferred by the Seller, along with the related accounts, to the Purchaser on the Closing Date. It is intended that the Seller will use commercially reasonable efforts to cause such Escrow Accounts, Custodial Accounts and other accounts to be retitled in the name of the Purchaser. All such funds and related accounts shall become the responsibility of the Purchaser when

transferred by the Seller. Any negative escrow balances shall be netted against the amount of any positive escrow balances held in the Escrow Accounts transferred to the Purchaser.

Section 5.10 [Reserved].

Section 5.11 Files and Records. The Purchaser shall comply with all applicable Laws in connection with the retention, storage and maintenance of all documents and records relating to the Loans, including the length of time such documents and records are to be retained. The Purchaser shall also:

(a) allow the Seller the continuing right to use, inspect and make extracts from or copies of any such documents or records upon the Seller's reasonable notice to the Purchaser, provided, that the Seller will reimburse the Purchaser for the Purchaser's actual, reasonable and documented out-of-pocket costs incurred in connection with the Seller's exercise of such right;

(b) allow the Seller the possession, custody and use of original documents for any reasonable lawful purpose and upon reasonable terms and conditions; and

(c) give reasonable notice to the Seller of the Purchaser's intention to destroy or dispose of any such documents or records and to allow the Seller, at its own expense, to recover the same from the Purchaser.

Section 5.12 Reimbursement for Use of the Seller's Employees. In the event of litigation with respect to the Loans, other than litigation relating to the claims retained by the Seller pursuant to Section 2.14 or otherwise, in which the Seller or IndyMac Federal (or its predecessors-in-interest), or any of their employees (or any of the other Released Parties) are requested or required by subpoena, court order or otherwise to perform any acts, including testifying in litigation, preparing responses to subpoenas or other legal process or pleadings or performing any review of public or private records such as tracing funds, whether said litigation is commenced by the Purchaser or any other party, the Seller shall be reimbursed by the Purchaser for all associated reasonable and documented out-of-pocket expenses of such employees, including travel, lodging and per diem costs. The Seller shall, in its sole and absolute discretion, determine and assign the personnel necessary to perform said acts. The Purchaser also shall reimburse the Seller for copies made in the course of performing said acts at cost.

Section 5.13 Notice to Borrowers. The Purchaser shall, on a timely basis in accordance with RESPA and any other applicable Laws, and pursuant to the Limited Power of Attorney granted to it in accordance with Section 3.04(a), prepare and transmit to each Borrower a joint "hello" and "goodbye" letter, at the Purchaser's expense. The form of such letter shall be subject to the review and reasonable approval of the Seller.

Section 5.14 Notice of Claim. Each party hereto shall promptly notify the other party of any claim, threatened claim or litigation against the Failed Thrift, the Seller, the Purchaser, or any of their respective employees, officers, agents and representatives arising out of or in any way related to any Loans purchased by the Purchaser that may come to its attention.

Section 5.15 Prior Servicer Information. The Purchaser acknowledges and agrees that the Seller might not have access to information from prior servicers of a Loan and that the Seller has not requested any information not in the possession of the Seller or its servicing contractor from any prior servicer of a Loan. The Purchaser acknowledges and agrees that the Seller will not be required under the terms of this Agreement to request any information from any prior servicer.

Section 5.16 Release of Seller.

(a) Except as otherwise specifically provided in Article VII of this Agreement or in any Ancillary Document, the Purchaser hereby releases and forever discharges the Seller, the Failed Thrift and its predecessors-in-interest, and the FDIC, and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors, assigns (other than the Purchaser) and Affiliates, from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and remedies of whatever kind or nature that the Purchaser now has or might have in the future, whether now known or unknown, which are related in any manner whatsoever to the Loans, this Agreement, the servicing of the Loans (before or after the Closing Date) by the Seller, the Failed Thrift or its predecessors-in-interest, the FDIC or any Person acting on behalf of the Seller, the Failed Thrift or its predecessors-in-interest or the FDIC, or the acquisition of the Loans (other than gross negligence or willful misconduct); provided, however, that nothing contained in this Section 5.16(a) shall constitute or be interpreted as a waiver of any express right that the Purchaser has under this Agreement or any of the Ancillary Documents (including any rights under Article XVII of the Master Purchase Agreement and under Article VI and VII of this Agreement).

(b) Subject to Section 5.20, the Purchaser will not renew, extend, renegotiate, compromise, settle or release any Note or Loan or any right of the Purchaser founded upon or growing out of this Agreement, except upon payment in full thereof, unless all Borrowers on said Note or Loan shall first release and discharge the Failed Thrift and its predecessors-in-interest, the FDIC and the Seller, and their respective agents and assigns (other than the Purchaser) (the "**Released Parties**") from all claims, demands and causes of action which any such Borrower may have against any such Released Party arising from or growing out of any act or omission occurring prior to the date of such release. If the Purchaser fails to obtain such release, the Purchaser will protect, save and hold the Seller harmless from any expense or damage the Seller suffers that might have been prevented had the Purchaser obtained the release.

Section 5.17 Borrower as Purchaser. In the event that the Purchaser is the Borrower or a Related Party with respect to any Loan, then the Purchaser, on its own behalf and on behalf of any Related Party, shall, and hereby does, release and discharge and shall indemnify, defend (with counsel reasonably satisfactory to the Seller) and hold harmless the Failed Thrift, the Seller (and its predecessors-in-interest), the FDIC and all of their respective officers, directors, shareholders, principals, employees, agents, attorneys, contractors and representatives, and all of their respective successors, assigns and Affiliates, from and against all damages, losses, claims, demands, liabilities, obligations, causes of action, judgments or legal proceedings and remedies of any kind or nature whatsoever arising out of any act or omission related to such Loan. The Purchaser acknowledges and agrees that it shall not be entitled to any Remedy pursuant to

Section 7.01 with respect to any Loan for which the Purchaser or a Related Party is the Borrower pursuant to Article VII of this Agreement. At the Purchaser's request, and upon preparation of appropriate documentation by the Purchaser in conformance with Section 2.15(a), the Seller will release and discharge a Loan for which the Purchaser is the Borrower in lieu of assigning the same to the Purchaser. In any event, the Seller will issue a Form 1099 to report any discharge of indebtedness in connection with the sale or release of the Loan to the Borrower or a Related Party in accordance with Internal Revenue Service regulations and FDIC policy. Notwithstanding the foregoing, any failure by the Seller to issue a Form 1099 does not relieve the Purchaser of its responsibility to report the discharge of indebtedness in accordance with applicable federal tax law.

Section 5.18 HELOCs.

(a) From and after the Closing Date, (i) the Purchaser will be obligated to fund all Disbursements of Principal with respect to the Unfunded HELOC Commitments, and (ii) the Seller will be obligated to reimburse the Purchaser for such Disbursements of Principal in exchange for participation interests in the HELOCs underlying such Unfunded HELOC Commitments, in each case as set forth in the term sheet attached hereto as Attachment H and the more detailed definitive documentation executed pursuant thereto. For the avoidance of doubt, the obligations, terms and commitments set forth in the term sheet attached hereto as Attachment H are binding obligations of the parties hereto as if they were set forth in full herein, notwithstanding any delay in executing or failure to execute more detailed definitive documentation as contemplated therein.

(b) Notwithstanding anything to the contrary in this Agreement, on and after the Closing Date, the Purchaser shall (i) to the extent permitted by applicable Law, terminate or suspend each HELOC purchased hereunder with respect to which there is a decline in the value of the Mortgaged Property or the credit score of the Borrower, as and to the extent permitted under the related credit line agreement, and will assist with any refinancing program (or voluntary termination or freeze program) proposed by the Seller with respect to such HELOC. The Purchaser acknowledges and agrees that if at any time after the Closing Date the Purchaser opens any line of credit with respect to any HELOC which the Seller has suspended or terminated future Unfunded HELOC Commitments, any obligation to advance funds under any such reopened HELOC shall at such time and thereafter be the obligation solely of the Purchaser, and the Seller shall have no obligation to reimburse the Purchaser therefor. The Purchaser shall comply with all terms under the related Mortgage Note and shall freeze, modify or terminate any undrawn lines of credit only in a manner consistent with the terms of the related Mortgage Note and the policies set forth in the Guidelines.

Section 5.19 Repurchase of Charged-Off Loans. The Seller may, at its option, repurchase any Charged-Off Loan with respect to which a loss share payment has been made pursuant to the Shared-Loss Agreement at a repurchase price equal to the unpaid principal balance on such Loan less the amount charged-off.

Section 5.20 Loan Modification Program. Notwithstanding anything to the contrary in Section 5.16, the Purchaser shall complete the processing of all Servicing-Released Loan Modifications in process pursuant to the Program as of the Closing Date and shall honor all

offers of Modifications for which processing has not yet commenced in accordance with the terms of the Program. The Purchaser shall comply with the Program as it may be amended by the FDIC from time to time, provided, however, that, unless otherwise required by Law, the Purchaser shall not be required to comply with any changes to the Program after January 2, 2009 if such changes would (i) require the Purchaser to take any action in violation of applicable Law or the terms of any servicing agreement then in effect or (ii) result in the net present value of the estimated cash flows on the related Loan, discounted at the Then-Current Interest Rate, after any such change being less than the net present value of the estimated cash flows on the related Loan, discounted at the Then-Current Interest Rate, prior to such change. The Seller hereby acknowledges that a loss suffered with respect to any Loan modified in accordance with the Program will be covered by the Shared-Loss Agreement. The Purchaser acknowledges and agrees that it will be required to comply with reporting requirements with respect to the Program that are acceptable to the FDIC in order to allow the FDIC to monitor compliance with, and the results of, the Program. Notwithstanding any of the foregoing, the Purchaser shall be obligated to comply with the Program only for so long as any financing provided by the Seller remains outstanding or, if later, for so long as any of the Loans are subject to the Shared-Loss Agreement. If the Purchaser receives any fees under any government-sponsored, or government-sponsored entity's, program relating to loan modifications, the Purchaser shall use any such fees for purposes that enhance or further the expressed intentions of such program or the Program.

Section 5.21 Loans in Process. The Purchaser shall continue to process all pending loan applications as they exist at IndyMac Federal as of the Closing Date; provided, however, that the Purchaser shall have no obligation to enter into commitments with respect thereto.

Section 5.22 Cooperation.

(a) The Seller and the Purchaser shall mutually cooperate in order to facilitate an orderly transition of the Assets and Assumed Liabilities to the Purchaser. Each party will cooperate in good faith with the other and will take all appropriate action that may be reasonably necessary or advisable to carry out any of the transactions contemplated hereunder. From and after the Closing Date, the Seller will promptly refer all inquiries with respect to the Assets (including ownership thereof) and Assumed Liabilities to the Purchaser, and the Purchaser will promptly refer all inquiries with respect to the Excluded Assets (including ownership thereof) and Excluded Liabilities to the Seller.

(b) The Seller acknowledges that the Purchaser may, after the Closing Date, enter into a financing with a Federal Home Loan Bank or with another third party related to, or consummate a securitization transaction in respect of, the Loans. The Seller will, at the Purchaser's expense, cooperate with the Purchaser and any prospective counterparty in connection with any such financing or securitization transaction and provide such reasonable assistance, information or verification of information as may be reasonably requested by the Purchaser or such counterparty and reasonably available to the Seller and its Affiliates.

Section 5.23 Additional Title Documents. The Seller and the Purchaser each agree, at any time, and from time to time, upon the request of any party hereto, to execute and deliver such additional instruments and documents of conveyance as shall be reasonably necessary to vest in the Purchaser its full legal or equitable title in and to the Assets. The Purchaser shall

prepare such instruments and documents of conveyance (in form and substance reasonably satisfactory to the Seller) as shall be necessary to vest title to the Assets in the Purchaser. The Purchaser shall be responsible for recording such instruments and documents of conveyance. All expenses incurred by the Purchaser in compliance with this Section 5.23 shall be allocated between the Purchaser and the Seller in accordance with Section 19.03 of the Master Purchase Agreement.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES; ASSET-LEVEL STATEMENTS

Section 6.01 Assets Conveyed "AS IS"; Purchaser Acknowledgments.

(a) THE ASSETS ARE BEING SOLD TO THE PURCHASER "AS IS" AND "WITH ALL FAULTS," WITHOUT ANY REPRESENTATION, WARRANTY OR GUARANTY WHATSOEVER, INCLUDING AS TO COLLECTIBILITY, ENFORCEABILITY, VALUE OF COLLATERAL, ABILITY OF ANY OBLIGOR TO REPAY, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED OR BY OPERATION OF LAW, BY ANY PERSON, INCLUDING THE SELLER, THE FAILED THRIFT OR THE FDIC, OR ANY PREDECESSOR OR AFFILIATE OF THE SELLER, THE FAILED THRIFT OR THE FDIC, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS.

(b) The Purchaser acknowledges that (i) the Seller has performed limited due diligence with respect to the Assets and, therefore, none of the Seller, the Failed Thrift or the FDIC makes (or can make) any representations, warranties or guaranties with respect to the Assets or the presence or absence of Defects, (ii) the statements set forth in Section 6.09 (the "Asset-Level Statements") are being provided solely as a means for providing the Purchaser with a basis for a remedy in the event a Defect is discovered, so long as all conditions for obtaining a remedy are otherwise met, (iii) the only remedies available to the Purchaser in connection with any Defect are those that are set forth in Section 7.01, and (iv) in no event will the existence of any Defect be evidence of bad faith, misconduct or fraud, even in the event that it is shown that Seller, the Failed Thrift or the FDIC, or any of their respective directors, employees, officers or agents, knew or should have known of the existence of any facts relating to the existence of such Defect.

(c) Nothing contained in this Agreement shall be construed as a representation, warranty or guaranty with respect to the Assets or that no Defect exists with respect thereto, whether oral or written, past or present, express or implied or by operation of law, and each of the Seller, the Failed Thrift and the FDIC specifically disclaims, and the Purchaser expressly waives and releases the Seller, the Failed Thrift and the FDIC from, any and all liability or other obligation under this Agreement with respect to any of the following:

- (i) except for the remedies set forth in Section 7.01, any Defect; or

