

# Exhibit H-9

Loans and the Series 2008-1 Mortgage Loans owned by the Purchaser, based upon the respective Collateral Percentages of the Series 2005-1 Collateral and the Series 2008-1 Collateral, prior to deposit of such payments into the Collateral Account, the Servicing Fee to which it is entitled relating to such Mortgage Loans; *provided* that any such retention is reflected in the Servicer Report delivered to the Collateral Agent for the Remittance Period in which such retention occurred.

(g) The Servicer shall establish a separate account within the Collection Account to hold amounts deposited into the Collection Account with respect to Mortgage Loans that have been identified for sale by the Purchaser to a Mortgage Loan Buyer (a "Mortgage Loan Buyer Account"). Upon the establishment by the Purchaser and a Mortgage Loan Buyer of a Cut-Off Date for the sale of Mortgage Loans by the Purchaser to the Mortgage Loan Buyer, all amounts (including Servicer Monthly Advances) in respect of such Mortgage Loans which are deposited into the Collection Account on and after the Cut-Off Date and prior to the closing date for such sale (i) shall be directed by the Servicer to be held in the Mortgage Loan Buyer Account established for such sale and (ii) shall not be deposited into the Collateral Account pursuant to Section 4.6(d) hereof but shall remain in the Mortgage Loan Buyer Account until the closing or abandonment of such sale. Upon the closing of such sale, the Servicer shall, on the closing date for such sale, withdraw funds from the Mortgage Loan Buyer Account representing the amounts deposited into the Collection Account in respect of the Mortgage Loans sold to the Mortgage Loan Buyer during the period on and after the related Cut-Off Date and prior to such closing date and remit such amounts to the account of the Mortgage Loan Buyer as designated by the Purchaser. Upon failure of such sale, the amounts in the Mortgage Loan Buyer Account established for such sale shall be returned to the Collection Account for application pursuant to the provisions of this Purchase Agreement.

Section 4.7 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, in a manner which shall provide maximum available insurance thereunder. Funds deposited in any Escrow Account may be invested by the Servicer which shall be entitled to any investment income and cover any losses therefrom except as otherwise required by law. Funds deposited in any Escrow Account may be drawn on by the Servicer pursuant to Section 4.8 hereof.

The Servicer shall deposit in such Escrow Account within two (2) Business Days after receipt and retain therein (a) 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 Purchase Agreement and (b) all amounts representing Insurance Proceeds or Condemnation Proceeds which are to be applied to the restoration or repair of any Mortgaged Property.

The Servicer shall make withdrawals from any Escrow Account only to effect such payments as are required under this Purchase Agreement, as set forth in Section 4.8 hereof. The Servicer shall be entitled to retain any interest on funds deposited in the Escrow 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 interest on escrowed funds to the Mortgagor notwithstanding that such Escrow Account may be non-interest bearing or that interest paid thereon is insufficient for such purposes.

Section 4.8 Permitted Withdrawals From Escrow Account. Withdrawals from any Escrow Account may be made by the Servicer only:

- (1) To effect timely payments of ground rents, taxes, assessments, water rates, mortgage insurance premiums, fire and hazard insurance premiums or other items constituting Escrow Payments for the related Mortgage;
- (2) To reimburse the Servicer for any Servicing Advances made by the Servicer pursuant to Section 4.9 hereof 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;
- (3) To refund to any Mortgagor any funds found to be in excess of the amounts required under the terms of the related Mortgage Loan;
- (4) For transfer to the Collection Account and application to reduce the principal balance of the related Mortgage Loan in accordance with the terms of the related Mortgage and Mortgage Note;
- (5) For application to restoration or repair of the Mortgaged Property pursuant to the procedures outlined in Section 4.15 hereof;
- (6) 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
- (7) For any other purpose consistent with Accepted Servicing Practices.

Section 4.9 Payment of Taxes, Insurance and Other Charges. With respect to each Mortgage Loan, 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 of PMI Policy premiums, if any, and 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 a Mortgage does not provide for Escrow Payments, the Servicer shall maintain procedures in accordance

with Accepted Servicing Practices to insure the timely payment of such items and shall advance the amount of any payment not made by the related Mortgagor on a timely basis unless the Servicer determines in its good faith judgment that such advance would not be ultimately recoverable from future payments and collections on the related Mortgage Loan.

Section 4.10 Protection of Accounts. Monies held in the Collection Account and the Collateral Account shall be invested in Eligible Investments. All such Eligible Investments shall be made in the name of, and shall be payable to, the Collateral Agent.

Section 4.11 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 pursuant to Accepted Servicing Practices against loss by fire, hazards of extended coverage and such other hazards as are customary in the area where the Mortgaged Property is located, in an amount which is at least equal to the lesser of (i) the replacement value of the improvements securing such Mortgage Loan and (ii) the greater of (a) the outstanding principal balance of the Mortgage Loan and (b) an amount such that the proceeds thereof shall be sufficient to prevent the Mortgagor or the loss payee from becoming a co-insurer.

If upon origination or acquisition of the Mortgage Loan, the related Mortgaged Property was located in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards (and such flood insurance has been made available) the Servicer shall cause to be in effect a flood insurance policy meeting the requirements of the current guidelines of the Flood Insurance Administration with a generally acceptable insurance carrier pursuant to Accepted Servicing Practices in an amount representing coverage equal to the least of (i) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement cost basis, (ii) the outstanding principal balance of the Mortgage Loan and (iii) the maximum amount of insurance which is available under the Flood Disaster Protection Act of 1973, as amended. If at any time during the term of the Mortgage Loan, the Servicer determines in accordance with applicable law and pursuant to the Guidelines that 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 Flood Disaster Protection Act of 1973, 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 place in force the required flood insurance on the Mortgagor's behalf.

The Servicer shall cause to be maintained on each Mortgaged Property earthquake or 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 Purchaser or the Servicer shall determine that the Mortgage 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.

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 generally acceptable companies pursuant to Accepted Servicing Practices 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, 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 sufficient time for the Mortgagor to arrange for renewal coverage by the expiration date.

Pursuant to Section 4.5 hereof, any amounts collected by the Servicer under any such policies (other than amounts to be deposited in any Escrow 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 Accepted Servicing Practices as specified in Section 4.15 hereof) shall be deposited in the Collection Account within two (2) Business Days after receipt thereof, subject to withdrawal pursuant to Section 4.6 hereof.

Section 4.12 Maintenance of Mortgage Impairment Insurance. If 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 4.11 hereof and otherwise complies with all other requirements of Section 4.11 hereof, it shall conclusively be deemed to have satisfied its obligations as set forth in such Section 4.11 hereof. Any amounts collected by the Servicer under any such policy relating to a Mortgage Loan shall be deposited in the Collection Account within two (2) Business Days after receipt thereof, subject to withdrawal pursuant to Section 4.6 hereof. 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 4.11 hereof, and there shall have been a loss which would have been covered by such policy, the Servicer shall deposit in the Collection 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 Purchaser, the Servicer shall cause to be delivered to the Purchaser a certified true copy of such policy.

Section 4.13 Maintenance of Fidelity Bond. The Servicer shall maintain with responsible companies, at its own expense, a blanket Fidelity Bond, 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 ("Company Employees"). Any such Fidelity Bond 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, and negligent acts of such Company Employees. No provision of this Section 4.13 requiring such Fidelity Bond shall diminish or relieve the Servicer from its duties and obligations as set forth in this Purchase Agreement. The minimum coverage under any such bond shall be at least equal to



the corresponding amounts required by the Guidelines or as otherwise agreed to in writing (including without limitation, an electronic writing) by the Agencies. Upon the request of the Purchaser, the Servicer shall cause to be delivered to the Purchaser a certified true copy of such Fidelity Bond.

Section 4.14 Inspections. The Servicer shall inspect the Mortgaged Property in accordance with its Accepted Servicing Practices.

Section 4.15 Restoration of Mortgaged Property. The Servicer need not obtain the approval of the Purchaser 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. At a minimum, the Servicer shall comply with the following conditions in connection with any such release of Insurance Proceeds or Condemnation Proceeds:

- (1) The Servicer shall receive satisfactory independent verification of completion of repairs or portion thereof and issuance of any required approvals with respect thereto;
- (2) 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;
- (3) The Servicer shall verify that the Mortgage Loan is not in default; and
- (4) Pending repairs or restoration, the Servicer shall place the Insurance Proceeds or Condemnation Proceeds in an Escrow Account.

Section 4.16 Maintenance of PMI Policy; Claims. With respect to each Mortgage Loan (other than an FHA Loan or a VA Loan) with an LTV in excess of 80%, the Servicer shall, without any cost to the Purchaser, maintain or cause the Mortgagor to maintain in full force and effect a PMI Policy insuring that portion of the Mortgage Loan in excess of 80%, and shall pay or shall cause the Mortgagor to pay the premium thereon on a timely basis, until the LTV of such mortgage loan is reduced to 80% or less or until the related Mortgagor is permitted to terminate such PMI Policy in accordance with applicable law. In the event that such PMI Policy shall be terminated for any reason other than (i) the reduction of the LTV of the related mortgage loan to 80% or less or (ii) the termination of such PMI Policy by the related Mortgagor in accordance with applicable law, the Servicer shall use commercially reasonable efforts to obtain, prior to any such termination, from another Qualified Insurer on behalf of the related Mortgagor, a comparable replacement policy with a total coverage equal to the remaining coverage of such terminated PMI Policy. If the insurer shall cease to be a Qualified Insurer, the Servicer shall determine whether recoveries under the PMI Policy are jeopardized for reasons related to the financial condition of such insurer, it being understood that the Servicer shall in no event have any responsibility or liability for any failure to recover under the PMI Policy for such

reason. If the Servicer determines that recoveries are so jeopardized, it shall notify the Purchaser and the Mortgagor, if required, and use commercially reasonable efforts to obtain from another Qualified Insurer a replacement insurance policy on behalf of the related Mortgagor. The Servicer shall not take any action which would result in noncoverage under any applicable PMI Policy of any loss which, but for the actions of the Servicer, would have been covered thereunder. In connection with any assumption or substitution agreement entered into or to be entered into pursuant to Section 6.1 hereof, the Servicer shall promptly notify the insurer under the related PMI Policy, if any, of such assumption or substitution of liability in accordance with the terms of such PMI Policy and shall take all actions which may be required by such insurer as a condition to the continuation of coverage under such PMI Policy. If such PMI Policy is terminated as a result of such assumption or substitution of liability, the Servicer shall obtain a replacement PMI Policy on behalf of the related Mortgagor as provided above.

In connection with its activities as Servicer, the Servicer agrees to prepare and present claims to the insurer under any PMI Policy in a timely fashion in accordance with the terms of such PMI Policy and, in this regard, to take such action as shall be necessary to permit recovery under any PMI Policy respecting a Defaulted Loan. Pursuant to Section 4.5 hereof, any amounts collected by the Servicer under any PMI Policy shall be deposited in the Collection Account within two (2) Business Days after receipt thereof, subject to withdrawal pursuant to Section 4.6 hereof.

Section 4.17 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 as agent for the Secured Parties, or in the event the Servicer is not authorized or permitted to hold title to real property in the state where the REO Property is located, or would be adversely affected under the "doing business" or tax laws of such state by so holding title, the deed or certificate of sale shall be taken in the name of such Person or Persons as shall be reasonably acceptable to the Purchaser. The Person or Persons holding such title other than the Servicer shall acknowledge in writing that such title is being held as nominee for the Servicer.

The Servicer shall manage, conserve, protect and operate each REO Property for the Purchaser 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 manner that it manages, conserves, protects and operates other foreclosed property for its own account, and in the manner that similar property in the locality as the REO Property is managed. The Servicer shall dispose of the REO Property in accordance with Accepted Servicing Practices as soon as possible.

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 Flood Disaster Protection Act of 1973, as amended.

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 interest of the

Purchaser. The proceeds of sale of the REO Property shall be promptly deposited in the Collection Account.

Section 4.18 Servicer Reports. The Servicer shall deliver to the Purchaser, the Manager, the Collateral Agent, the Indenture Trustee, the Custodian, each Swap Counterparty and the Short Term Note Dealers at least two (2) Business Days prior to each Payment Date, a report (the "Servicer Report"), a form of which is attached hereto as Exhibit C.

Section 4.19 Real Estate Owned Reports. The Servicer shall furnish to the Purchaser, at the Purchaser's request, a statement with respect to any REO Property covering the operation of such REO Property 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. That statement shall be accompanied by such other information as the Purchaser shall reasonably request.

Section 4.20 Liquidation Reports. Upon the foreclosure sale of any Mortgaged Property or the acquisition thereof by the Purchaser pursuant to a deed in lieu of foreclosure, the Servicer shall submit to the Purchaser, at the Purchaser's request, a liquidation report with respect to such Mortgaged Property.

Section 4.21 Reports of Foreclosures and Abandonments of Mortgaged Property. Following the foreclosure sale or abandonment of any Mortgaged Property, the Servicer shall report on behalf of the Purchaser such foreclosure or abandonment as required pursuant to Section 6050J of the Code.

Section 4.22 Servicer Advance Report. The Servicer shall deliver a report (a "Servicer Advance Report") to the Collateral Agent and each Swap Counterparty, from time to time, pursuant to Sections 4.6(c) and 4.6(e) hereof, a form of which is attached hereto as Exhibit D.

Section 4.23 Secondary Market Trading Report. The Servicer shall deliver a report (a "Secondary Market Trading Report") to the Collateral Agent for the benefit of the Noteholders, each Swap Counterparty and the Indenture Trustee on or before the 20th day of each month. The Secondary Market Trading Report shall detail all secondary trades arranged by the Servicer, on behalf of the Purchaser, and settled during the calendar month immediately preceding the date of such Secondary Market Trading Report and shall include the following information related to each Mortgage Loan sold in such secondary trades: (i) the trade identification number; (ii) the trade type; (iii) the trade term; (iv) the principal amount; (v) the trade price; (vi) the trade date; (vii) the settlement date; (viii) the broker/dealer; and (ix) whether such Mortgage Loan is a Series 2005-1 Mortgage Loan or a Series 2008-1 Mortgage Loan.

Section 4.24 Daily Report. The Servicer shall deliver a report (a "Daily Report") in the form of Exhibit E hereto, to the Indenture Trustee, the Collateral Agent, the Short Term Note Dealers and each Swap Counterparty, by no later than the end of each Business Day.

Section 4.25 Qualified Counterparty Report. The Servicer shall deliver a report (a "Qualified Counterparty Report") in a form substantially similar to Schedule B attached hereto, to the Short Term Note Dealers and each Swap Counterparty on each Determination Date and within fifteen (15) days (to the extent not earlier updated on a Determination Date) of a party



being added or removed as a Qualified Counterparty, upon any Qualified Counterparty becoming a Defaulting Counterparty, upon a change in the rating of a Qualified Counterparty or upon the violation of the Qualified Counterparty Concentration Limits.

Section 4.26 Repurchase Report. The Servicer shall deliver (i) a report (a "Repurchase Report") in a form substantially similar to Exhibit G attached hereto, to the Short Term Note Dealers, the Collateral Agent and each Swap Counterparty on each Business Day and (ii) a summary of each month's Repurchase Reports to the Short Term Note Dealers, the Collateral Agent and each Swap Counterparty on the second Business Day of the following month.

## ARTICLE V

### SERVICER ADVANCES

Section 5.1 Servicer Monthly Advances. On each Distribution Date, the Servicer shall deposit into the applicable sub-account of the Collection Account from its own funds an amount equal to all Monthly Payments which were due on the Mortgage Loans with respect to the applicable Due Period and which remain unpaid at the close of business on the related Determination Date or which were deferred pursuant to Section 4.1(c) hereof; *provided* that in the reasonable judgment of the Servicer, the amount of such Servicer Monthly Advance shall be recoverable from proceeds on the related Mortgage Loan. The Servicer's conditional obligation to make such Servicer Monthly Advances as to any Mortgage Loan will continue through the last Monthly Payment due prior to the scheduled payment in full of the Mortgage Loan or through the Distribution Date for the distribution of all Liquidation Proceeds and other payments or recoveries (including Insurance Proceeds and Condemnation Proceeds) with respect to the Mortgage Loan unless the Servicer provides an Officer's Certificate stating that such Servicer Monthly Advance would not be recoverable in its reasonable judgment from payments on the related Mortgage Loan or other proceeds thereof or from the related Mortgaged Property; *provided, however*, that the Servicer's obligation to make such Servicer Monthly Advances shall not continue if the Mortgage Loan has become a Defaulted Loan.

Without limitation of any other provision of this Purchase Agreement, with respect to any pair-off, sale or other settlement of a Qualified Forward Contract that does not result in a Qualified Settlement, the Servicer shall deposit into the applicable sub-account of the Collateral Account from its own funds on the day of such pair-off, sale or other settlement, an amount (each, a "Settlement Advance") equal to the amount, if any, by which (A) the aggregate Outstanding Purchase Price of the related Mortgage Loans exceeds (B) the sum of (x) the aggregate takeout prices for any Replacement Forward Contracts entered into plus (y) any Settlement Receipts received, minus (z) any Settlement Payments paid.

## ARTICLE VI

## GENERAL SERVICING PROCEDURES

Section 6.1 Transfers of Mortgaged Property. With respect to FHA Loans and VA Loans, the Mortgaged Property may be transferred in accordance with applicable FHA or VA regulations. With respect to any other Mortgage Loan, the Servicer shall enforce any "due-on-sale" provision in accordance with Accepted Servicing Practices and applicable law 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 actual 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 or if the exercise of such rights would impair or threaten to impair any recovery under the related PMI Policy, if any.

If the Servicer reasonably believes it is unable under applicable law to enforce such "due-on-sale" clause, the Servicer shall 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 that 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 guaranty 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.

Section 6.2 Satisfaction of Mortgages, Assignments of Mortgage Notes in Violation of this Purchase Agreement and the Release of Mortgage Loan Files. Upon the payment in full of each 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 Purchaser and the Collateral Agent.

If the Servicer satisfies or releases a Mortgage, without first having obtained payment in full of the indebtedness secured by the Mortgage, the Servicer pledges, transfers, assigns, sells, disposes of or otherwise delivers any Mortgage Note in any manner contrary to the provisions of this Purchase Agreement, or the Servicer otherwise prejudices any rights the Purchaser may have under the mortgage instruments which materially and adversely affects the value of the related Mortgage Loan, upon written demand of the Purchaser, the Servicer shall purchase the related Mortgage Loan at the Repurchase Price by deposit thereof in the applicable sub-account of the Collateral Account, within two (2) Business Days of receipt of such demand by the Purchaser.

Upon receipt of the Repurchase Price by the Collateral Agent, the Purchaser and the Servicer shall arrange for the reassignment of the relevant Mortgage Loans to the Servicer

and the delivery to the Servicer of any documents held by the Custodian relating to the reassigned Mortgage Loans. The Servicer shall, simultaneously with such assignment, give written notice to the Seller, the Collateral Agent, the Indenture Trustee and the applicable Swap Counterparty that such repurchase has taken place.

Section 6.3 Servicing Compensation. As compensation for its services hereunder, the Servicer shall be entitled to the Servicing Fee. 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 therefor except as specifically provided for herein.

Section 6.4 Annual Statement as to Compliance. The Servicer shall deliver to the Purchaser, the Manager, the Indenture Trustee, the Short Term Note Dealers and each Swap Counterparty on or before July 31<sup>st</sup> of each year beginning with July 31<sup>st</sup> of 2008, an Officer's Certificate, stating that (i) a review of the activities of the Servicer during the fiscal year ended on April 30<sup>th</sup> of the previous year and of its performance under this Purchase Agreement has been made under such officer's supervision, (ii) the Servicer has complied with the provisions of Article II and Article IV hereof and (iii) to the best of such officer's knowledge, based on such review, the Servicer has fulfilled its obligations in all material respects under this Purchase 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 6.5 Annual Independent Public Accountants' Servicing Report. On or before July 31<sup>st</sup> of each year beginning July 31<sup>st</sup> of 2008, 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 report to the Purchaser, the Manager, the Indenture Trustee, the Short Term Note Dealers and each Swap Counterparty to the effect that such firm has examined management's assertion about the Servicer's compliance with the minimum standards identified in the Mortgage Bankers Association of America's Uniform Single Attestation Program for Mortgage Bankers (USAP), and that such firm is of the opinion that management's assertion that the Servicer complied with the aforementioned minimum servicing standards as of and for the annual period ended on April 30<sup>th</sup> of the previous year is fairly stated in all material respects. The Indenture Trustee shall have no duty to examine such report.

Section 6.6 Right to Examine Servicer Records. (a) The Purchaser, the Manager, the Indenture Trustee (acting at the written direction of the Required Senior Noteholders) and the Collateral Agent, upon three (3) Business Days prior notice, shall each have the right to reasonable access to 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 Purchase Agreement or the Mortgage Loans, during regular business hours or at such other times as may be reasonable under applicable circumstances, upon reasonable advance notice.

(b) Agreed Upon Procedures Report. Not later than one hundred (100) days following the close of each fiscal year of the Servicer, beginning with the fiscal year ending April 30, 2009, the Servicer shall engage, at its own expense, a nationally recognized firm providing compliance, operational reviews and certifications of residential mortgage servicers, comparable to the Servicer, to perform certain agreed upon procedures, including an

examination of the books and records of the Servicer (such procedures and the scope of such examination to be mutually agreed upon beforehand by the Servicer and the Indenture Trustee), to test compliance with the Servicer's systems and procedures relating to the collection, segregation, disbursement and allocation of funds of the Issuer received pursuant to this Agreement. Such procedures shall form the basis of a report, to be furnished to the Indenture Trustee and the Swap Counterparties, that the administration and servicing of such funds is in compliance with the terms and conditions set forth in this Agreement and the Security Agreement, except for such non-material exceptions as shall be set forth in such report.

## ARTICLE VII

[RESERVED]

## ARTICLE VIII

### SERVICER TO COOPERATE

Section 8.1 Provision of Information. During the term of this Purchase Agreement, the Servicer shall furnish to the Purchaser, the Manager, each Swap Counterparty and the Indenture Trustee (on behalf of the Noteholders) such periodic, special, or other reports or information, including the Servicer Report required under the terms of this Purchase Agreement to be delivered to the Purchaser, the Manager, each Swap Counterparty, the Indenture Trustee (on behalf of the Noteholders), the Collateral Agent and the Short Term Note Dealers on each Distribution Date. All such reports, documents or information shall be provided by and in accordance with all reasonable instructions and directions which the Purchaser, any Swap Counterparty, the Manager and the Indenture Trustee may give.

The Servicer shall execute and deliver all such instruments and take all such action as the Purchaser, the Indenture Trustee (on behalf of the Noteholders), the Collateral Agent, any Swap Counterparty, the Custodian and the Short Term Note Dealers may reasonably request from time to time, in order to effectuate the purposes and to carry out the terms of this Purchase Agreement.

## ARTICLE IX

### THE SERVICER

Section 9.1 Indemnification of Third Party Claims. The Servicer agrees to indemnify and hold harmless the Purchaser, the Collateral Agent and each Swap Counterparty against any and all claims, losses, penalties, fines, forfeitures, reasonable legal fees and related costs, judgments, and any other costs, fees and expenses that the Purchaser, any Swap Counterparty and the Collateral Agent may sustain to the extent attributable to the Servicer's gross negligence, fraudulent conduct or willful misconduct in the performance of its duties hereunder or a Servicer Event of Default. The Servicer shall immediately notify the Purchaser and each Swap Counterparty if a claim is made by a third-party with respect to this Purchase Agreement and the Servicer shall assume the defense of any such claim and pay all expenses in



connection therewith, including counsel fees, and promptly pay, discharge and satisfy any judgment or decree which may be entered against the Servicer, any Swap Counterparty or the Purchaser in respect of such claim. The Servicer's indemnification obligation pursuant to this Section 9.1 shall survive the termination of this Purchase Agreement and the Servicer's termination with respect to acts or omissions occurring prior to its termination.

Section 9.2 Corporate Existence of the Servicer. The Servicer shall keep in full effect its existence, rights and franchises as a corporation, and shall obtain and preserve its qualification to do business as a foreign corporation in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Purchase Agreement or any of the Mortgage Loans and to perform its duties under this Purchase Agreement.

Section 9.3 Limitation on Liability of Servicer and Others. Neither the Servicer nor any of the directors, officers, employees or agents of the Servicer shall be under any liability to the Purchaser for any action taken or for refraining from the taking of any action in good faith pursuant to this Purchase Agreement, or for errors in judgment; *provided, however*, that this provision shall not protect the Servicer or any director, officer, employee or agent of the Servicer against any liability which would otherwise be imposed by reason of willful misfeasance, bad faith or gross negligence in the performance of duties or by reason of reckless disregard of obligations and duties hereunder, nor shall this provision protect the Servicer against any liability that would otherwise be imposed by reason of gross negligence, fraudulent conduct or willful misconduct in the performance of duties hereunder or a Servicer Event of Default. The Servicer and any director, officer, employee or agent of the Servicer may rely in good faith on any document which it in good faith reasonably believes to be genuine and have been adopted or signed by the proper authorities 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 Purchase 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 with respect to this Purchase Agreement and the rights and duties of the parties hereto. In such event, the Servicer shall be entitled to reimbursement from the Purchaser of the reasonable legal expenses and costs of such action.

Section 9.4 Limitation on Resignation and Assignment by the Servicer. The Purchaser has entered into this Purchase Agreement with the Servicer in reliance upon the adequacy of its servicing facilities, plant, personnel, records and procedures, its integrity, reputation and financial standing, and the continuance thereof. The Servicer shall not resign from the obligations and duties hereby imposed on it as to each Mortgage Loan except by consent of the Required Senior Noteholders, each Swap Counterparty, the Collateral Agent and the Required Subordinated Noteholders or upon the determination that its duties hereunder are no longer permissible under applicable law and such incapacity cannot reasonably be cured by the Servicer. Notice of any such determination permitting the resignation of the Servicer shall be delivered to each Rating Agency and such determination shall be evidenced by an Opinion of Counsel to such effect delivered to the Purchaser which Opinion of Counsel shall be in form and substance acceptable to the Purchaser. 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 12.1 hereof, subject to Rating Agency Confirmation.

Section 9.5 Limitation on Assignment of Right. Except pursuant to a resignation approved pursuant to Section 9.4 hereof, the Servicer shall not assign, sell or otherwise transfer its right to receive any payments (including the Servicing Fee) hereunder.

## ARTICLE X

### DEFAULT

Section 10.1 Servicer Events of Default. Each of the following shall constitute a "Servicer Event of Default" on the part of the Servicer:

(a) Any failure by the Servicer to observe or perform in any material respect any of the terms, covenants or agreements on the part of the Servicer set forth in this Purchase Agreement, any Transfer Supplement or the Custodial Agreement (other than those set forth in clause (i) of this Section 10.1) which continues unremedied for a period of fifteen (15) days after the date on which the Servicer either has actual knowledge thereof or receives written notice thereof; or

(b) Any representation, warranty, statement or certificate made by the Servicer hereunder (excluding any representations or warranties made pursuant to Section 3.2 hereof) shall prove to have been incorrect in any material respect as of the time when made, and which continues to be incorrect in any material respect for fifteen (15) days after the date on which the Servicer either has actual knowledge thereof or receives written notice thereof; or

(c) Any failure by the Servicer to maintain any required licenses to do business in any jurisdiction where the Mortgaged Property is located, which failure has a material adverse effect on the ability of the Servicer to perform its functions under this Purchase Agreement or materially impairs the value of the Mortgage Loans and which continues to be unremedied for a period of fifteen (15) days after the date on which the Servicer either has actual knowledge thereof or receives written notice thereof; or

(d) Application by any Person (other than the Servicer) for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, including bankruptcy, marshalling 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 a decree or order in connection with such application shall have remained in force undischarged or unstayed for a period of thirty (30) days; 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, bankruptcy or reorganization statute, make an assignment for the benefit of its creditors or voluntarily suspend payment of its obligations; or

(f) The Servicer shall enter into a consent agreement or otherwise agree in writing with any federal or state regulatory agency or authority to restrict its activities, if the default of such agreement by the Servicer entitles such applicable federal or state agency to place the Servicer in receivership or conservatorship, or the Servicer shall consent to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling 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

(g) Notwithstanding anything herein to the contrary, unless the Servicer receives the written consent of both the Series 2005-1 Swap Counterparty and the Series 2008-1 Swap Counterparty, the Servicer shall fail to be an approved Servicer with FHLMC; or

(h) Failure of the Servicer to comply with its obligations under the third paragraph of Section 4.1(a)(i) hereof, which failure either cannot be remedied, or continues unremedied for a period of two (2) Business Days after the date on which the Servicer either has actual knowledge or receives written notice of such failure; or

(i) The failure on the part of the Servicer to make any payment or deposit required under this Purchase Agreement on or before two (2) Business Days after the date such payment or deposit is required to be made.

At any time during the continuance of an event described in clauses (a) through (i) above, the Purchaser may, and shall at the written request of the Required Subordinated Noteholders, with the consent of the Required Senior Noteholders, terminate all of the rights and obligations of the Servicer under this Purchase Agreement and in and to the Mortgage Loans and the proceeds thereof, other than its receipt of unpaid Servicing Fees, unpaid Servicer Monthly Advances and any unpaid Servicing Advances. Notice of such termination shall be given to the Collateral Agent, the Indenture Trustee, the Manager, the Short Term Note Dealers, each Swap Counterparty and the Rating Agencies. Upon receipt by the Servicer of such written notice, all authority and power of the Servicer under this Purchase Agreement, whether with respect to the Mortgage Loans or otherwise, shall pass to and be vested in the successor appointed pursuant to Section 12.1 hereof. Upon written request from the Purchaser, the Servicer shall prepare, execute and deliver to the successor entity designated by the Purchaser any and all documents and other instruments, place in such successor's possession all Mortgage Loan Files, and do or cause to be done all other acts or things 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 mortgage loans and related documents, at the Servicer's sole expense. The Servicer shall cooperate with 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 any Collection Account or Escrow Account or thereafter received with respect to the Mortgage Loans.

Section 10.2 Waiver of Defaults. With the consent of the Required Senior Noteholders and the Required Swap Counterparties, the Purchaser and the Required Subordinated Noteholders, by written notice to the Collateral Agent, may waive any default by the Servicer in the performance of its obligations hereunder and its consequences. Upon any 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 Purchase 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. Notice of any such waiver shall be given to each Rating Agency.

## ARTICLE XI

### TERMINATION

Section 11.1 Termination of Agreement. This Purchase Agreement shall terminate upon the final payment, other liquidation (or any advance with respect thereto) or sale or Securitization of each Mortgage Loan sold hereunder, and the Seller's delivery of a written notice to the Purchaser that its commitment to purchase Eligible Loans hereunder has been terminated.

Section 11.2 Termination of Purchase Obligations. Each of the following shall constitute a termination event under this Purchase Agreement (each, a "Termination Event"):

(a) Any representation, warranty, statement, or certification made by the Seller (excluding any representations or warranties made pursuant to Section 3.2 hereof) in any Facility Document shall prove to have been false or misleading in any material respect as of the time when made, and which continues to be misleading in any material respect for a period of fifteen (15) days after the date on which the Seller either has actual knowledge thereof or receives written notice thereof; or

(b) The failure on the part of the Seller to observe or perform in any material respect any of the material terms, covenants or agreements of the Seller contained in this Purchase Agreement and any Facility Document which continues unremedied for a period of fifteen (15) days after the date on which the Seller either has actual knowledge thereof or receives written notice thereof; or

(c) Application by any Person (other than the Seller) for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, including bankruptcy, marshalling of assets and liabilities or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against the Seller and such decree or order shall have remained in force undischarged or unstayed for a period of thirty (30) days; or

(d) (x) The Seller shall have a leverage ratio (the ratio of (i) Total Debt to (ii) Tangible Net Worth) of greater than 20:1, (y) the Tangible Net Worth of the Seller on any annual or interim report shall be less than \$100,000,000, or (z) the Rolling Two-Quarter Profitability of the Seller shall be less than \$1; or

(e) Any Servicer Event of Default has occurred and is continuing after giving effect to any applicable grace period; or

(f) The Purchaser or the Seller shall consent to the appointment of a conservator, receiver or liquidator in any insolvency, bankruptcy, readjustment of debt,



marshalling of assets and liabilities or similar proceedings of or relating to the Purchaser or the Seller or of or relating to all or substantially all of its property; or

(g) The Purchaser or the Seller 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, bankruptcy or reorganization statute, make an assignment for the benefit of its creditors, voluntarily suspend payment of its obligations; or

(h) Non-Compliance with the Portfolio Aging Limitations or the Portfolio Criteria, and such non-compliance shall continue for a period of three (3) Business Days; or

(i) Interest Rate Swaps in an aggregate Maximum Notional Amount equal to the Program Size shall cease, for any reason, to be in full force and effect; or the Series 2005-1 Interest Rate Swap in a Maximum Notional Amount equal to the Series 2005-1 Program Size shall cease, for any reason, to be in full force and effect; or the Series 2008-1 Interest Rate Swap in a Maximum Notional Amount equal to the Series 2008-1 Program Size shall cease, for any reason, to be in full force and effect; or

(j) An Indenture Event of Default shall have been declared by the Indenture Trustee, the Required Senior Noteholders, the Series 2005-1 Required Senior Noteholders or the Series 2008-1 Required Senior Noteholders (or if the Senior Notes have been paid in full, the Required Subordinated Noteholders) or an automatic Indenture Event of Default shall have occurred and be continuing; or

(k) Notwithstanding anything herein to the contrary, unless the Seller receives the written consent of both the Series 2005-1 Swap Counterparty and the Series 2008-1 Swap Counterparty, the Seller shall fail to be an approved Seller with FHLMC; or

(l) Funds on deposit in the Reserve Fund shall be less than the Required Reserve Fund Amount for five (5) Business Days or more; or

(m) [RESERVED].

(n) The failure of the Purchaser to maintain an agreement (in substantially the form attached hereto as Exhibit B) with a Rated Bidder to the effect that such Rated Bidder agrees to submit a binding bid for all non-Delinquent Loans and non-Defaulted Loans in a Termination Event Auction which failure continues for a period of thirty (30) or more days; or

(o) One or more Swap Counterparties fail to agree to any extension of any Interest Rate Swap and a replacement Swap Counterparty or Swap Counterparties shall not have been obtained at least sixty (60) days prior to the scheduled termination date in a maximum notional amount at least equal to the lesser of (x) the Maximum Notional Amount of the Interest Rate Swap or Interest Rate Swaps represented by the non-extending Swap Counterparty or Swap Counterparties or (y) if the relevant Series Program Size has been modified, an amount equal to (i) the then-current Series Program Size less (ii) the Maximum Notional Amount of all applicable and effective (as of such scheduled termination date) Interest Rate Swaps; or

(p) (x) Taylor, Bean & Whitaker Mortgage Corp. shall fail to pay or post any of its payment obligations (including, for the avoidance of doubt, any collateral posted pursuant to a credit support annex or other credit support document) under any interest rate swap, credit support annex, other credit support document or similar hedging transaction with a notional amount, individually or in the aggregate, of more than \$50,000,000 and such failure continues unremedied for a period of three (3) Business Days after notice or (y) the Servicer shall fail to pay (after expiration of any applicable grace period) any of its debt obligations in excess of \$20,000,000 in the aggregate and such failure continues unremedied for a period of three (3) Business Days after notice; or

(q) The occurrence of an Event of Bankruptcy with respect to the Seller; or

(r) (i) The Forward Coverage Test is failed for a period of seven (7) consecutive Business Days, or (ii) the Forward Coverage Test is failed and cured, and subsequently failed in any period of seven (7) consecutive Business Days, or (iii) a Forward Coverage Test Default shall have occurred and be continuing; or

(s) [RESERVED].

(t) The Servicer shall fail to comply with its obligation to make an advance as set forth in the second paragraph of Section 5.1 hereof and such failure continues for a period of three (3) consecutive Business Days; or

(u) [RESERVED].

(v) On the last day of any calendar month, the aggregate Outstanding Purchase Price of Mortgage Loans in respect of which the Eligibility Representations were breached during such month shall exceed one (1) percent of the average aggregate Outstanding Purchase Price of all Mortgage Loans owned by the Purchaser during such calendar month; or

(w) The failure of the Servicer to deliver any reports listed on Schedule C in fully completed form by the applicable delivery date to each Swap Counterparty and such failure continues for a period of two (2) Business Days after either discovery by or notice to the Seller of such failure; or

(x) The failure of the Seller to repurchase or sell, in accordance with Section 3.3 hereof, any Mortgage Loans in respect of which the Eligibility Representations were breached or that are First Pay Defaulted Loans (after giving effect to the related cure periods, if any); or

(y) A Change of Control shall occur; or

(z) The Excess Spread Test is failed and such failure continues for a period of ten (10) consecutive Business Days after notice to the Seller of such failure;

*provided, however*, (i) at any time during the continuance of an event described in clauses (a), (b), or (e) above, the Purchaser may, and shall at the written request of the Required Subordinated Noteholders, with the consent of the Required Senior Noteholders, the Series 2005-

1 Required Senior Noteholders or the Series 2008-1 Required Senior Noteholders, notify the Seller that the commitment of the Purchaser to purchase Eligible Loans from the Seller shall terminate; (ii) at any time during the continuance of an event described in clause (a), (b), (d), (e), (p), (q), (r), (t), (x), (y) or (z) above, the Purchaser shall, at the written request of either Swap Counterparty, notify the Seller that the commitment of the Purchaser to purchase Eligible Loans from the Seller shall terminate; (iii) in the event of the occurrence of a Termination Event described in clauses (c), (f) through (l), (n) and (v) through (x) above, the commitment of the Purchaser to purchase Eligible Loans from the Seller shall automatically terminate; (iv) upon the declaration of a Termination Event by the Purchaser or the occurrence of an automatic Termination Event, the Purchaser will no longer be permitted to purchase additional Eligible Loans and principal payments on the Mortgage Loans, principal proceeds of sales and Securitizations of Mortgage Loans and amounts received from each Swap Counterparty will be retained under the Security Agreement and used to pay the outstanding obligations of the Purchaser pursuant to the terms thereof; (v) in arranging for sales and Securitizations of Mortgage Loans, the Servicer shall arrange for the timely delivery of Mortgage Loans or Securitization Securities, as applicable, into the related Qualified Forward Contract in accordance with the terms of such Qualified Forward Contract; (vi) if a Termination Event described in clauses (h), (l), (n) or (v) through (x) above occurs or an Indenture Event of Default described in clause (f), (k), (l), (o) or (q) of Section 9.1 of the Indenture occurs, the Servicer shall use commercially reasonable efforts to sell or Securitize all non-Delinquent Loans and non-Defaulted Loans within thirty (30) days of the date on which such Termination Event or Indenture Event of Default occurred; (vii) in performing its obligations, the Servicer shall arrange for the timely delivery of Mortgage Loans or Securitization Securities, as applicable, into the related Qualified Forward Contract in accordance with the terms of such Qualified Forward Contract, and shall only arrange for other sales or Securitizations in such thirty (30) day period to the extent that any non-Delinquent Loans or non-Defaulted Loans are not committed to a Qualified Forward Contract; (viii) in the event that all non-Delinquent Loans and non-Defaulted Loans have not been so committed for delivery into a Qualified Forward Contract or otherwise sold or Securitized, on such thirtieth (30<sup>th</sup>) day, the Collateral Agent shall hold an auction (a "Termination Event Auction") of the remaining non-Delinquent Loans and non-Defaulted Loans for settlement not later than the forty-fifth (45<sup>th</sup>) day following the date on which such Termination Event or Indenture Event of Default occurred; (ix) the Collateral Agent shall notify potential bidders of the Termination Event Auction, including one bidder (unaffiliated with the Seller) obligated to make a bid in any such auction; *provided, however*, such bidder shall have a "P-1" rating from Moody's (the "Rated Bidder"); (x) during the Termination Event Auction, the Collateral Agent shall promptly notify the applicable Swap Counterparty of the highest bid price obtained in the Termination Event Auction for each such non-Delinquent Loan and non-Defaulted Loan and such Swap Counterparty shall have the right to bid on such non-Delinquent Loan and non-Defaulted Loan; (xi) the Collateral Agent shall be permitted to sell such Mortgage Loans to the highest bidder, including any Swap Counterparty that is the highest bidder; (xii) if either (1) a Termination Event described in clause (d), (p), (q), (r), (t) or (x) above occurs and, as a result of the occurrence of such Termination Event, either Swap Counterparty reasonably believes, in its sole discretion, that there will be a material impairment in the value of the Mortgage Loans or (2) after the occurrence of any Termination Event any Mortgage Loan is not deliverable into a Qualified Forward Contract, whether as a result of a default by the Qualified Counterparty or otherwise, then in either case, the Servicer shall, at the

written request of such Swap Counterparty (such request shall certify in writing to the reasonable belief of such Swap Counterparty to the material impairment in the value of the Mortgage Loans), use commercially reasonable efforts to sell or Securitize all non-Delinquent Loans and non-Defaulted Loans within thirty (30) days of the date on which the Termination Event occurred or the failure of any Mortgage Loan to be so deliverable, as applicable; (xiii) in performing its obligations, (x) the Servicer shall arrange for the timely delivery of Mortgage Loans or Securitization Securities, as applicable, into the related Qualified Forward Contract in accordance with the terms of such Qualified Forward Contract, and shall only arrange for other sales or Securitizations in such thirty (30) day period to the extent that any non-Delinquent Loans or non-Defaulted Loans are not committed to a Qualified Forward Contract and (y) the Servicer shall arrange for the sale of Delinquent Loans within twenty (20) days of the date on which the Termination Event or Indenture Event of Default occurred; (xiv) in the event that all non-Delinquent Loans and non-Defaulted Loans have not been so committed for delivery into a Qualified Forward Contract or otherwise sold or Securitized, on such thirtieth (30<sup>th</sup>) day the Collateral Agent shall hold a Termination Event Auction, in the manner described above, for settlement not later than the forty-fifth (45<sup>th</sup>) day following the date on which such Termination Event occurred; and (xv) upon (1) the date of a declaration of a Termination Event by the Purchaser or the occurrence of an automatic Termination Event and (2) every fourth (4<sup>th</sup>) Business Day thereafter (each, a "Bid Date"), each Swap Counterparty, the Servicer and the Collateral Agent shall agree to cooperate in connection with the sale, delivery and assignment of the remaining Mortgage Loans, Securitization Securities, and Qualified Forward Contracts and Forward Trades in a manner which will maximize the sales proceeds and net Settlement Receipts from the sale of such Mortgage Loans, Securitization Securities, and Qualified Forward Contracts and Forward Trades.

Notwithstanding anything in this Section 11.2 or any other Facility Document to the contrary, no Termination Event shall arise solely as a result of non-compliance with clause (iii) of the definition of Portfolio Criteria during the period from August 5, 2005 through February 27, 2006, and any Termination Event that otherwise would have arisen as a result of such non-compliance shall be deemed cured and the consequences of any such Termination Events permanently shall be waived and cease to be in effect.

Section 11.3 Termination of Servicing With Respect to Any Mortgage Loan. The servicing of any Mortgage Loan in accordance with the terms of this Purchase Agreement shall terminate upon the occurrence of the following: (i) the receipt into the Collateral Account of the proceeds of any sale or Securitization of such Mortgage Loan or the Repurchase Price or Principal Prepayment in full of such Mortgage Loan or (ii) the effectiveness of the termination of the Servicer pursuant to Section 12.1 hereof. No termination shall become effective until a successor shall have assumed the Servicer's responsibilities and obligations hereunder in the manner provided in Section 12.1 hereof.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

Section 12.1 Successor to Servicer. Prior to termination of the Servicer's responsibilities and duties under this Purchase Agreement pursuant to Sections 9.4 or 10.1



hereof, the Purchaser shall appoint a successor servicer, subject to the approval of the Required Swap Counterparties and Required Senior Noteholders, which shall succeed to all rights and assume all of the responsibilities, duties and liabilities of the Servicer under this Purchase Agreement prior to the termination of the Servicer's responsibilities, duties and liabilities under this Purchase Agreement. In the event that the Servicer's duties, responsibilities and liabilities under this Purchase Agreement should be terminated pursuant to the aforementioned Sections, the Servicer shall discharge such duties, responsibilities and liabilities during the period from the date it acquires knowledge of such termination until the effective date thereof with the degree of diligence and prudence which it is obligated to exercise under this Purchase Agreement and shall take no action whatsoever that might impair or prejudice the rights or financial condition of its successor. The resignation or removal of the Servicer pursuant to the aforementioned Sections shall not become effective until (i) a successor shall be appointed pursuant to this Section 12.1 and (ii) notice thereof shall have been given to the Rating Agencies and each Swap Counterparty and the Purchaser shall have received Rating Agency Confirmation, and such resignation or removal shall in no event relieve the Servicer of the representations and warranties made pursuant to Section 3.1 hereof and the remedies available to the Purchaser under Section 9.1 hereof, it being understood and agreed that the provisions of such Sections 3.1 and 9.1 hereof shall be applicable to the Servicer notwithstanding any such sale, assignment, resignation or termination of the Servicer, or the termination of this Purchase Agreement.

Any successor appointed as provided herein shall execute, acknowledge and deliver to the Servicer and the Purchaser an instrument accepting such appointment, wherein the successor shall make the representations and warranties set forth in Section 3.1 hereof, whereupon such successor shall become fully vested with all the rights, powers, duties, responsibilities, obligations and liabilities of the Servicer, with like effect as if originally named as a party to this Purchase Agreement. Any termination or resignation of the Servicer or termination of this Purchase Agreement pursuant to Sections 9.4 or 10.1 hereof shall not affect any claims that the Purchaser may have against the Servicer arising out of the Servicer's actions or failure to act prior to any such termination or resignation.

The Servicer shall promptly deliver to the successor servicer the funds in any Collection Account and Escrow Account and all Mortgage Loan Files and related documents and statements held by it hereunder and the Servicer shall account for all funds and shall execute and deliver such instruments and do such other things as may reasonably be required to more fully and definitively vest in the successor all such rights, powers, duties, responsibilities, obligations and liabilities of the Servicer.

Section 12.2 Amendment. This Purchase Agreement may only be amended with the written consent of the Purchaser, the Seller, each Swap Counterparty and the Servicer, and upon prior written notice of such amendment to each Rating Agency; *provided, however*, that any material amendment shall be subject to Rating Agency Confirmation. The costs and expenses associated with any such amendment shall be borne by the party requesting the amendment.

Section 12.3 Governing Law. THIS PURCHASE AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER

SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS WITHOUT REGARD TO ANY PROVISIONS OF NEW YORK LAW THAT WOULD REQUIRE THE APPLICATION OF THE LAW OF ANOTHER STATE OR FOREIGN COUNTRY.

Section 12.4 Duration of Agreement. This Purchase Agreement shall continue in existence and effect until terminated as provided in Section 11.1 hereof.

Section 12.5 Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at, mailed by registered mail, postage prepaid, or sent by telecopier or electronic messaging, addressed as follows:

- (i) if to the Company:

Taylor, Bean & Whitaker Mortgage Corp.  
315 NE 14<sup>th</sup> Street  
Ocala, FL 34470  
Attention: Paul Allen  
Facsimile: 352-690-0512

with a copy to the general counsel delivered at the same address, or such other address, facsimile number or electronic mail address, as applicable, as may hereafter be furnished to the Purchaser in writing.

- (ii) if to the Purchaser:

Ocala Funding, LLC  
c/o Taylor, Bean & Whitaker Mortgage Corp.  
315 NE 14<sup>th</sup> Street  
Ocala, FL 34470  
Attention: Paul Allen  
Facsimile: 352-690-0512

with a copy to the general counsel delivered at the same address, or such other address, facsimile number or electronic mail address, as applicable, as may hereafter be furnished to the Seller or the Servicer in writing.

- (iii) If to a Swap Counterparty, at the address set forth in the applicable Interest Rate Swap.

Section 12.6 Severability of Provisions. If any one or more of the covenants, agreements, provisions or terms of this Purchase 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 Purchase Agreement and shall in no way affect the validity or enforceability of the other provisions of this Purchase Agreement.

Section 12.7 Relationship of Parties. Nothing herein contained shall be deemed or construed to create a partnership or joint venture between the parties hereto and the services of the Servicer shall be rendered as an independent contractor and not as agent for the Purchaser.

Section 12.8 Execution; Successors and Assigns. This Purchase Agreement may be executed in one or more counterparts and by the different parties hereto in separate counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, together, shall constitute one agreement. This Purchase Agreement shall inure to the benefit of and be binding upon the Servicer and the Purchaser and their respective successors and assigns; *provided, however*, that the rights of the Purchaser and each Swap Counterparty to indemnity from the Servicer pursuant to Section 9.1 hereof are not assignable and shall inure only to the benefit of the Purchaser and such Swap Counterparty and to no other Person.

Section 12.9 Recordation of Assignments of Mortgage. To the extent permitted by applicable law, each of the Assignments of Mortgage may be recorded 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 at the Purchaser's expense in the event recordation is requested by the Purchaser upon the occurrence of a Termination Event that would require the Servicer to sell or Securitize all non-Delinquent or non-Defaulted Loans pursuant to Section 11.2 hereof.

Section 12.10 Assignment by Purchaser. The Purchaser shall have the right to assign its interest under this Purchase Agreement to the Collateral Agent for the benefit of the Secured Parties pursuant to the Security Agreement.

Section 12.11 Non-Petition Agreement. Notwithstanding any prior termination of this Purchase Agreement, each of the Seller and the Servicer severally and not jointly covenants and agrees that it shall not, prior to the date which is one year and one day (or if longer, the applicable preference period then in effect) after the payment in full of the Notes or any other rated obligations of the Purchaser, acquiesce, petition or otherwise, directly or indirectly, invoke or cause the Purchaser to invoke the process of any governmental authority for the purpose of commencing or sustaining a case against the Purchaser under any federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Purchaser or any substantial part of its property or ordering the winding up or liquidation of the affairs of the Purchaser.

Section 12.12 Waiver of Offset. The Servicer agrees to deliver to the Purchaser all amounts required by this Purchase Agreement to be delivered by the Servicer to the Purchaser free and clear of any offset, counterclaim or other deduction on account of, or in respect of, any Purchaser to the Servicer hereunder.

Section 12.13 Limited Recourse. The Servicer agrees that the obligations of the Purchaser to the Servicer under this Purchase Agreement are limited recourse obligations of the Purchaser payable solely from the assets of the Purchaser available for such purposes under the Security Agreement and that, upon application of all assets of the Purchaser available under the Security Agreement for such purposes, the Servicer shall have no recourse to the Purchaser for

any obligations of the Purchaser to the Servicer to the extent such application does not provide for full satisfaction and payment of such obligation. This Section 12.13 shall survive the termination of this Purchase Agreement.

Section 12.14 Non-Petition Agreement. The Purchaser shall cause each party to the Facility Documents and each party to any other document incidental or related to any Facility Document (other than the Manager and the Person acting as "Special Member" of the Purchaser under the LLC Agreement), to covenant and agree that it shall not, prior to the date which is one year and one day (or if longer, the applicable preference period then in effect) after the payment in full of the latest maturing Note, acquiesce, petition or otherwise, directly or indirectly, invoke or cause the Purchaser to invoke the process of any governmental authority for the purpose of commencing or sustaining a case against the Purchaser under any federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Purchaser or any substantial part of its property or ordering the winding up or liquidation of the affairs of the Purchaser. This Section 12.14 shall survive the termination of this Purchase Agreement.

Section 12.15 Third-Party Beneficiary. Each Swap Counterparty and the Rated Bidder are third-party beneficiaries to this Purchase Agreement and are entitled to the rights and benefits hereunder and may enforce the provisions hereof as if they were parties hereto.

### ARTICLE XIII

[RESERVED]

### ARTICLE XIV

#### ASSIGNMENT

Section 14.1 Assignment. Notwithstanding anything to the contrary contained in this Purchase Agreement but subject to the provisions of Sections 2.2(b), 3.3 and 12.15 hereof that assign specific rights to each Swap Counterparty, the Purchaser hereby assigns, conveys, transfers, delivers and sets over unto the Collateral Agent for the benefit of the Secured Parties, all of its right, title and interest in, to and under, whether now owned or existing, or hereafter acquired, this Purchase Agreement. The Purchaser acknowledges the security interest in the Mortgage Loans of the Collateral Agent as representative secured party for the Secured Parties and the Persons or entities to whom the Purchaser owes the obligations secured by such Mortgage Loans.


Subject to Section 8.01 of the Security Agreement, the Purchaser and the Seller shall each treat the Collateral Agent as the Purchaser under this Purchase Agreement and each consent to such assignment and acknowledge that the Collateral Agent shall enjoy the Purchaser's rights under this Purchase Agreement pursuant to the provisions of this Section 14.1. Without limiting the generality of the foregoing, the Purchaser and the Seller shall each report to and correspond and communicate with the Collateral Agent and in all other regards treat the Collateral Agent as the purchaser hereunder with respect to the Mortgage Loans. The Collateral



Agent shall have all rights of the Purchaser to enforce the covenants and conditions set forth in this Purchase Agreement with respect to the Mortgage Loans, and the Purchaser and the Seller, respectively, shall each follow the instructions of the Collateral Agent under this Purchase Agreement. The Collateral Agent shall have the right to give any waivers or consents required or allowed under this Purchase Agreement, and such waivers and consents shall be binding upon the Purchaser and any party for whom the Collateral Agent acts as representative secured party as if the Purchaser or such party had given the same. All amounts due the Purchaser under this Purchase Agreement shall be remitted to the Collateral Agent in accordance with the Collateral Agent's instructions and in accordance with this Purchase Agreement.

IN WITNESS WHEREOF, the Seller, the Servicer and the Purchaser have caused their names to be signed hereto by their respective officers thereunto duly authorized as of the day and year first above written.

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.,  
as Seller and Servicer

By:   
Name: PAUL R ALLEN  
Title: CEO

OCALA FUNDING, LLC,  
as Purchaser

By: Taylor, Bean & Whitaker Mortgage Corp.,  
as Manager

By:   
Name: PAUL R ALLEN  
Title: CEO