

Exhibit H-12

in the cases of clauses (i), (ii) and (iii) below, will be expressed as a dollar amount per \$1,000 of the original principal amount of each Series of Notes and as a percentage of the outstanding principal balance of the Notes as of such date): (i) for each Series and each class of each Series, the total amount to be distributed to Noteholders on the next succeeding Distribution Date; (ii) for each Series and each class of each Series, the amount of such distribution allocable to principal on the Notes; (iii) for each Series and each class of each Series, the amount of such distribution allocable to interest on the Notes; (iv) for each Series and each class of each Series, to the extent applicable, the amount of Enhancement used or drawn in connection with the distribution to Noteholders of such Series or class on the next succeeding Distribution Date, together with the aggregate amount of remaining Enhancement not theretofore used or drawn; and (v) whether, to the knowledge of the Issuer, any Lien exists on any of the Collateral (other than Liens granted pursuant to the Security Agreement and the other Facility Documents or permitted thereunder);

(b) **Monthly Noteholders' Statement.** On or before each Distribution Date, the Issuer shall furnish to the Collateral Agent and the Indenture Trustee a Monthly Noteholders' Statement with respect to each Series of Notes substantially in the form of Exhibit E attached hereto;

(c) **Instructions as to Withdrawals and Payments.** The Issuer will furnish, or cause to be furnished, to the Collateral Agent, the Indenture Trustee or the Paying Agent, as applicable, an Officer's Certificate to make withdrawals and payments from any accounts specified in a Supplement and to make drawings under any Enhancement, as contemplated herein and in any Supplement. The Indenture Trustee and the Paying Agent shall promptly follow any such Officer's Certificate.

ARTICLE V

ALLOCATION AND APPLICATION OF COLLECTIONS

Section 5.1 Establishment of Accounts. To the extent specified in the Supplement with respect to any Series of Notes, the Indenture Trustee may establish and maintain one or more accounts and/or administrative sub-accounts to facilitate the proper allocation of Collections in accordance with the terms of such Supplement.

Section 5.2 Collections and Allocations. Allocations of Collections to Noteholders will be as specified in the Security Agreement and will be allocated among all Series of Notes outstanding as specified in the related Supplements. The Security Agreement specifies that, prior to the occurrence of an Event of Default, the Collateral Agent will, on each Payment Date, apply the funds on deposit in the Collateral Account (up to the amount of Deposited Funds on deposit in the Collateral Account relating to the Interest Period specified in the applicable Supplement for such Payment Date) in accordance with the priority set forth in Section 5.03(b) of the Security Agreement and on dates other than a Payment Date, will apply funds on deposit in the Collateral Account in accordance with the priority set forth in Section 5.03(a) of the Security Agreement. Further, following the occurrence of an Event of Default, the Collateral Agent will apply the proceeds of all of the Collateral of the Issuer in the order of priority set forth in Section 2.01 of the Security Agreement.

Section 5.3 Determination of Monthly Interest. Monthly interest with respect to each Series of Notes shall be determined, allocated and distributed in accordance with the procedures set forth in the applicable Supplement.

Section 5.4 Determination of Principal. Principal with respect to each Series of Notes shall be determined, allocated and distributed in accordance with the procedures set forth in the applicable Supplement. However, all principal or interest with respect to any Series of Notes shall be due and payable no later than the Final Distribution Date with respect to such Series.

[THE REMAINDER OF ARTICLE V IS RESERVED AND MAY BE SPECIFIED IN ANY SUPPLEMENT WITH RESPECT TO ANY SERIES.]

ARTICLE VI

DISTRIBUTIONS AND REPORTS TO NOTEHOLDERS

Section 6.1 Distributions on the Senior Notes in General. (a) Notwithstanding any provision hereof or of any Supplement, prior to depositing any amounts into any Distribution Account, all amounts due and payable to the Indenture Trustee pursuant to Section 10.5 and Section 10.11 hereof, to the extent not already paid by the Issuer, shall be deducted from such amounts and paid to the Indenture Trustee. Unless otherwise specified in the applicable Supplement, on each Distribution Date with respect to each outstanding Series, after payment of the amounts described in the preceding sentence, (i) the Collateral Agent shall deposit (in accordance with the Monthly Certificate delivered to the Collateral Agent and the Indenture Trustee) in the Distribution Account for each such Series the amounts on deposit in the Collateral Account allocable to Noteholders of such Series as interest and, if on the Final Distribution Date for such Series, principal, and (ii) to the extent provided for in the applicable Supplement, the Indenture Trustee shall deposit in the Distribution Account for each such Series the amount of Enhancement for such Series drawn in connection with such Distribution Date.

(b) Unless otherwise specified in the applicable Supplement, on each Distribution Date, the Paying Agent shall distribute to the Noteholders of each Series of Senior Notes, to the extent amounts are on deposit in the Distribution Account for such Series, an amount sufficient to pay all principal and interest due on such Series on such Distribution Date in accordance with the Monthly Certificate delivered to the Indenture Trustee. Such distribution shall be to each Noteholder of record of such Series on the preceding Record Date based on such Noteholder's pro rata share of the aggregate principal amount of the Senior Notes of such Series held by such Noteholder; *provided, however*, that the final principal payment due on a Senior Note shall only be paid to the holder of a Senior Note on due presentment of such Senior Note for cancellation in accordance with the provisions of the Senior Note.

(c) Unless otherwise specified by the Clearing Agency or in the applicable Supplement, amounts distributable to a Noteholder pursuant to this Section 6.1 shall be payable by wire transfer of immediately available funds released by the Paying Agent from the Distribution Account no later than 12:00 noon (New York City time) for credit to the account designated in writing by such Noteholder at least 15 days prior to the relevant Distribution Date.

(d) Unless otherwise specified in the applicable Supplement, (i) all distributions to Noteholders of all classes within a Series of Senior Notes will have the same priority and (ii) in the event that on any date of determination the amount available to make payments to the Noteholders of a Series is not sufficient to pay all sums required to be paid to such Noteholders on such date, then each class of Noteholders will receive its ratable share (based upon the aggregate amount due to such class of Noteholders) of the aggregate amount available to be distributed in respect of the Senior Notes of such Series.

(e) All distributions in respect of Senior Notes represented by a Temporary Global Note will be made only with respect to that portion of the Temporary Global Note in respect of which Euroclear or Clearstream shall have delivered to the Indenture Trustee a certificate or certificates substantially in the form of Exhibit B attached hereto. The delivery to the Indenture Trustee by Euroclear or Clearstream of the certificate or certificates referred to above may be relied upon by the Issuer and the Indenture Trustee as conclusive evidence that the certificate or certificates referred to therein or have been delivered to Euroclear or Clearstream pursuant to the terms of this Base Indenture and the Temporary Global Note. No payments of interest will be made on a Temporary Global Note after the Exchange Date therefor.

Section 6.2 [RESERVED].

Section 6.3 Distributions on the Subordinated Notes in General.

(a) On each Distribution Date on which a payment (other than as specified in Section 6.3(b) or (c) below) in respect of each outstanding Series of Subordinated Notes is to be made, the Paying Agent or its designated agent shall, to the extent that it receives funds from the Collateral Agent to make a payment in respect of any Series of Subordinated Notes, cause such funds to be deposited in, and credited to, the applicable Distribution Account for such Series. On each Distribution Date and with respect to each Series of Subordinated Notes entitled to such a payment in accordance with the Security Agreement, the Paying Agent or its designated agent shall make payment of funds in the applicable Distribution Account to the Subordinated Noteholders of the related Series as of the related Record Date. With respect to each Series of Subordinated Notes, the amount of any such payment allocated to such Series of Subordinated Notes shall be allocated *pro rata* to the holders of such Series in accordance with the principal amount of the Notes held by each holder.

(b) On each Distribution Date on which a payment of Carry-Over Interest Shortfall in respect of any Series of Subordinated Notes is to be made, the Paying Agent or its designated agent shall, to the extent it receives funds from the Collateral Agent to pay Carry-Over Interest Shortfall in respect of such Series of Subordinated Notes, cause such funds to be deposited in, and credited to, the applicable Distribution Account for such Series. On each Distribution Date and with respect to each Series of Subordinated Notes entitled to a payment of Carry-Over Interest Shortfall in accordance with the Security Agreement, the Subordinated Note Paying Agent or its designated agent shall make payment of funds in the applicable Distribution Account to the Subordinated Noteholders as of the related Subordinated Note Record Date. With respect to each Series of Subordinated Notes, the amount of funds in respect of Carry-Over Interest Shortfall allocated to each Series of Subordinated Notes shall be allocated *pro rata* in accordance with the principal amount of each such Series of Subordinated Notes.

(c) On each Distribution Date on which a payment of principal amount in respect of any Series of Subordinated Notes is to be made, the Subordinated Note Paying Agent or its designated agent shall, to the extent it receives funds from the Collateral Agent to pay principal amount in respect of any Series of Subordinated Notes, cause such funds to be deposited in, and credited to, the applicable Distribution Account. On each Distribution Date and with respect to each Series of Subordinated Notes entitled to a distribution of principal amount, the Paying Agent or its designated agent shall make payment of funds in the applicable Distribution Account to the Subordinated Noteholders as of the related Record Date. With respect to each Series of Subordinated Notes, the amount of funds in respect of principal amount allocated to each Series of Subordinated Notes shall be allocated *pro rata* in accordance with the principal amount of each such Series of Subordinated Notes in reduction of the principal amount of the Subordinated Notes.

Section 6.4 Method of Distribution on the Subordinated Notes.

Payments will be made by check mailed to the addresses of the Subordinated Noteholders as they appear in the Note Register, or, upon written instructions by any Subordinated Noteholder to the Registrar at least five (5) Business Days prior to the related Distribution Date for such Subordinated Notes, by wire transfer to a bank or depository institution having appropriate facilities therefor. By acceptance of its Subordinated Note, each Subordinated Noteholder shall be deemed to agree to surrender its Subordinated Notes within thirty (30) days of the final payment in respect of such Subordinated Notes at the office or agency specified in the notice of final payment. If any payment on a Subordinated Note is due on a day that is not a Business Day, then payment will be made on the next succeeding Business Day with the same force and effect as if made on the date for payment, and no interest will accrue for the period from or after that day.

Section 6.5 Optional Repurchase of Notes. Unless otherwise specified in the related Supplements, in connection with the termination of the Issuer's Short Term Note facility (other than through the replacement thereof with a facility having substantially similar terms (other than interest rate spreads)) and upon satisfaction of the requirements included in the Facility Documents (including the payment of any amounts due and owing to the Secured Parties), on any Distribution Date, the Issuer shall have the option to purchase all outstanding Notes, in whole but not in part, in its sole and absolute discretion, at a purchase price (determined after giving effect to any payment of principal and interest on such Distribution Date) equal to (unless otherwise specified in the related Supplements) the aggregate outstanding principal amount of the Notes of all Series on such Distribution Date, plus accrued and unpaid interest on the unpaid aggregate principal balance of the Notes of all Series (calculated at the Note Rate of each such Series) through the day immediately prior to the date of such purchase plus, if provided for in the related Supplements, any aggregate premium payable at such time plus the aggregate amount of any Shortfalls payable in respect of all outstanding Notes of all Series. The Issuer shall give the Indenture Trustee and the Noteholders not more than sixty nor less than thirty days' prior written notice of the date on which the Issuer intends to exercise such option to purchase. Not later than 12:00 noon, New York City time, on such Distribution Date, with respect to each Series of Notes outstanding, an amount of the purchase price equal to the outstanding principal amount of all Notes of such Series on such Distribution Date and the amount of accrued and unpaid interest with respect to such Notes, any applicable Shortfall and

any applicable premium will be deposited into the related Distribution Account for such Series in immediately available funds. The funds deposited into such Distribution Account or distributed to the Paying Agent will be passed through in full to the Noteholders on such Distribution Date.

Section 6.6 Monthly Noteholders' Statement; Annual Noteholders' Tax Statement. (a) On each Distribution Date, the Paying Agent shall forward or make available on its website, initially located at www.etrustee.net to each Noteholder of record of each outstanding Series the Monthly Noteholders' Statement (substantially in the form of Exhibit E attached hereto) received from the Issuer with respect to such Series, with a copy to the Rating Agencies, the Indenture Trustee (if other than the Paying Agent) and any Enhancement Provider with respect to such Series.

(b) On or before July 31 of each calendar year, beginning with calendar year 2006, the Paying Agent shall furnish to each Person who at any time during the preceding calendar year was a Noteholder a statement prepared by the Issuer containing the information which is required to be contained in the Monthly Noteholders' Statements with respect to each Series of Notes aggregated for such calendar year or the applicable portion thereof during which such Person was a Noteholder, together with such other customary information (consistent with the treatment of the Notes as debt) as the Issuer deems necessary or desirable to enable the Noteholders to prepare their tax returns (each such statement, an "Annual Noteholders' Tax Statement"). Such obligations of the Issuer to prepare and the Paying Agent to distribute the Annual Noteholders' Tax Statement shall be deemed to have been satisfied to the extent that substantially comparable information shall be provided by the Paying Agent pursuant to any requirements of the Code as from time to time in effect.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

The Issuer hereby represents and warrants, for the benefit of the Collateral Agent, the Indenture Trustee, the Secured Parties and the Noteholders, as follows as of each Series Closing Date:

Section 7.1 Existence and Power. The Issuer (a) is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, (b) is duly qualified to do business as a foreign limited liability company and in good standing under the laws of each jurisdiction where the character of its property, the nature of its business or the performance of its obligations make such qualification necessary, and (c) has all limited liability company powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted and for purposes of the transactions contemplated by this Base Indenture and the other Facility Documents.

Section 7.2 Limited Liability Company and Governmental Authorization. The execution, delivery and performance by the Issuer of this Base Indenture, the related Supplement and the other Facility Documents to which it is a party (a) is within the Issuer's limited liability company powers, has been duly authorized by all necessary limited liability company action, (b) requires no action by or in respect of, or filing with, any governmental body, agency or

official which has not been obtained and (c) does not contravene, or constitute a default under, any provision of applicable law or regulation or of the Certificate of Formation or the LLC Agreement of the Issuer or of any law or governmental regulation, rule, contract, agreement, judgment, injunction, order, decree or other instrument binding upon the Issuer or any of its Assets or result in the creation or imposition of any Lien on any Asset of the Issuer, except for Liens created by the Security Agreement or the other Facility Documents. This Base Indenture and each of the other Facility Documents to which the Issuer is a party has been executed and delivered by a duly authorized signatory of the Issuer.

Section 7.3 Binding Effect. This Base Indenture and each other Facility Document, and each Note when executed and delivered in accordance with this Base Indenture (or, in the case of Series 2005-1 Notes and the Series 2008-1 Notes, the Series 2005-1 Depositary Agreement and the Series 2008-1 Depositary Agreement, respectively), is a legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms (except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws affecting creditors' rights generally or by general equitable principles, whether considered in a proceeding at law or in equity and by an implied covenant of good faith and fair dealing).

Section 7.4 Financial Information: Financial Condition. All balance sheets, all statements of operations, of shareholders' equity and of cash flow, and other financial data (other than projections) which have been or shall hereafter be furnished by the Issuer to the Indenture Trustee and the Rating Agencies pursuant to Section 8.3 hereof have been and will be prepared in accordance with GAAP (to the extent applicable) and do and will present fairly the financial condition of the entities involved as of the dates thereof and the results of their operations for the periods covered thereby, subject, in the case of all unaudited statements, to normal year-end adjustments and lack of footnotes and presentation items.

Section 7.5 Litigation. There is no action, suit or proceeding pending against or, to the knowledge of the Issuer, threatened against or affecting the Issuer or its assets before any court or arbitrator or any Governmental Authority with respect to which there is a reasonable possibility of an adverse decision that could materially adversely affect the financial position, results of operations, business, properties, performance, prospects or condition (financial or otherwise) of the Issuer or which in any manner draws into question the validity or enforceability of this Base Indenture, any Supplement or any other Facility Document or the ability of the Issuer to perform its obligations hereunder or thereunder.

Section 7.6 Compliance with ERISA. The Issuer does not sponsor, contribute to, or maintain a "single employer plan" within the meaning of Section 4001(a)(15) of ERISA (a "Plan"), and is not a member of an ERISA Group, any member of which sponsors, contributes to, or maintains a Plan.

Section 7.7 Tax Filings and Expenses. The Issuer has filed all Federal, state and local tax returns and all other tax returns which, to the knowledge of the Issuer, are required to be filed (whether informational returns or not), and has paid all taxes due, if any, pursuant to said returns or pursuant to any assessment received by the Issuer, except such taxes, if any, as are being contested in good faith and for which adequate reserves have been set aside on its books.

EXHIBIT “B” PART 2

The Issuer has paid all fees and expenses required to be paid by it in connection with the conduct of its business, the maintenance of its existence and its qualification as a foreign limited liability company authorized to do business in each State in which it is required to so qualify, except where the failure to pay any such fees and expenses is not reasonably likely to have a material adverse effect.

Section 7.8 Full Disclosure. All certificates, reports, statements, documents and other information furnished to the Indenture Trustee by or on behalf of the Issuer pursuant to any provision of this Base Indenture or any Facility Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Base Indenture or any Facility Document, shall, at the time the same are so furnished, be complete and correct to the extent necessary to give the Indenture Trustee true and accurate knowledge of the subject matter thereof in all material respects, and the furnishing of the same to the Indenture Trustee shall constitute a representation and warranty by the Issuer made on the date the same are furnished to the Indenture Trustee to the effect specified herein.

Section 7.9 Investment Company Act; Trust Indenture Act; Securities Act. The Issuer is not, and is not controlled by, an "investment company" within the meaning of, and is not required to register as an "investment company" under, the Investment Company Act of 1940. It is not necessary in connection with the offer, issuance and sale of the Notes under the circumstances contemplated in the related Supplement to register any security under the Securities Act or to qualify any base indenture under the Trust Indenture Act.

Section 7.10 Regulations T, U and X. The proceeds of the Notes will not be used to purchase or carry any "margin stock" (as defined or used in the regulations of the Board of Governors of the Federal Reserve System, including Regulations T, U and X thereof). The Issuer is not engaged in the business of extending credit for the purpose of purchasing or carrying any margin stock.

Section 7.11 No Consent. No consent, action by or in respect of, approval or other authorization of, or registration, declaration or filing with, any Governmental Authority or other Person is required for the valid execution and delivery of this Base Indenture or any Supplement or for the performance of any of the Issuer's obligations hereunder or thereunder or under any other Facility Document other than such consents, approvals, authorizations, registrations, declarations or filings as shall have been obtained by the Issuer prior to the Initial Closing Date or as contemplated in Section 7.14 hereof.

Section 7.12 Solvency. Both before and after giving effect to the transactions contemplated by this Base Indenture and the other Facility Documents, the Issuer is solvent within the meaning of the Bankruptcy Code and the Issuer is not the subject of any voluntary or involuntary case or proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy or insolvency law and no Event of Bankruptcy has occurred with respect to the Issuer.

Section 7.13 Subsidiary. The Issuer has no subsidiaries and owns no capital stock of, or other interest in, any other Person (other than any parent of the Issuer), and during the term of the Base Indenture, the Issuer shall not acquire or otherwise come to have one or

more subsidiaries without the prior consent of the Indenture Trustee (on behalf of the holders of the Notes).

Section 7.14 Security Interests. (a) All action necessary (including the filing of UCC-1 financing statements for the Collateral Agent's Lien for the benefit of the Secured Parties) to protect and perfect the Collateral Agent's security interest in the Collateral now in existence and hereafter acquired or created has been duly and effectively taken.

(b) No security agreement, financing statement, equivalent security or lien instrument or continuation statement listing the Issuer as debtor covering all or any part of the Collateral and the Collateral Account is on file or of record in any jurisdiction, except such as may have been filed, recorded or made by the Issuer in favor of the Collateral Agent on behalf of the Secured Parties in connection with the Security Agreement.

(c) The Security Agreement constitutes a valid and continuing Lien on the Collateral and the Collateral Account in favor of the Collateral Agent on behalf of the Secured Parties, which Lien will be prior to all other Liens (other than Permitted Liens and as otherwise permitted in the Security Agreement), will be enforceable as such as against creditors of and purchasers from the Issuer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws affecting creditors' rights generally or by general equitable principles, whether considered in a proceeding at law or in equity and by an implied covenant of good faith and fair dealing. All action necessary to perfect such prior security interest has been duly taken.

(d) The Issuer's principal place of business and chief executive office, and the place where its records concerning the Collateral are kept, shall be: Ocala Funding, LLC, c/o Taylor, Bean & Whitaker Mortgage Corp., 315 NE 14th Street, Ocala, FL 34470, Attention: Paul Allen. The Issuer does not transact, and has not transacted, business under any other name.

(e) All authorizations in this Base Indenture for the Collateral Agent or the Indenture Trustee to endorse checks, instruments and securities and to execute financing statements, continuation statements, security agreements, and other instruments with respect to the Collateral are powers coupled with an interest and are irrevocable.

Section 7.15 Offering Memorandum. No offering memorandum or information circular used by the Issuer in connection with the offer or sale of the Notes contains any untrue statement of a material fact and/or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Section 7.16 Non-Existence of Other Agreements. As of the date of the issuance of the first Series of Notes, other than as permitted by Section 8.24 hereof (i) the Issuer is not a party to any contract or agreement of any kind or nature and (ii) the Issuer is not subject to any obligations or liabilities of any kind or nature in favor of any third party, including, without limitation, Contingent Obligations.

Section 7.17 Eligible Mortgage Loans. Based upon the representation of the Seller in the Mortgage Loan Purchase Agreement, each Mortgage Loan purchased by the Issuer is an Eligible Loan (as defined in the Mortgage Loan Purchase Agreement).

Section 7.18 Special Purpose Entity. The Issuer is a special purpose entity formed exclusively to enter into the Facility Documents and the transactions contemplated thereby or incident thereto.

Section 7.19 Perfection Representations. The Perfection Representations shall be a part of this Agreement for all purposes.

ARTICLE VIII

COVENANTS

Section 8.1 Payment of Notes. The Issuer shall pay the principal of (and premium, if any) and interest on the Notes pursuant to the provisions of this Base Indenture and any applicable Supplement. Principal and interest shall be considered paid on the date due if the Paying Agent holds on that date money designated for and sufficient to pay all principal and interest then due.

Section 8.2 Maintenance of Office or Agency. The Issuer will maintain an office or agency (which may be an office of the Indenture Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or exchange, where notices and demands to or upon the Issuer in respect of the Notes and this Base Indenture may be served, and where, at any time when the Issuer is obligated to make a payment of principal and premium upon the Notes, the Notes may be surrendered for payment. The Issuer will give prompt written notice to the Indenture Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Indenture Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Indenture Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Issuer will give prompt written notice to the Indenture Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Issuer hereby designates the Corporate Trust Office of the Indenture Trustee as one such office or agency of the Issuer.

Section 8.3 Information. The Issuer will:

(a) promptly provide the Indenture Trustee and the Rating Agencies with all financial and operational information with respect to the Facility Documents or the Issuer as the Indenture Trustee may reasonably request; and will promptly provide the Rating Agencies, the Collateral Agent, the Short Term Note Dealers and the Indenture Trustee with all statements delivered under the Interest Rate Swap, the Security Agreement and the Mortgage Loan Purchase Agreement and within 105 days after the end of each fiscal year of the Issuer and the Seller, the audited annual financial statements (on a consolidated basis) of each of the Issuer and the Seller;

(b) provide the Indenture Trustee, on behalf of the Noteholders, with access to the books and records of the Issuer and the books and records of the Servicer and/or the Collateral Agent relating to the assets of the Issuer, without charge, but only (i) upon the reasonable request of the Indenture Trustee (acting at the direction of 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) (for which purposes one (1) Business Day shall be deemed reasonable during the occurrence and continuation of an Event of Default), (ii) during normal business hours, (iii) subject to the relevant party's normal security and confidentiality procedures and (iv) at offices designated by the relevant party;

(c) provide the Rating Agencies, the Short Term Note Dealers, the Indenture Trustee, each Swap Counterparty, the Agent and the Collateral Agent with any information that it may have with respect to an Event of Default hereunder or provide notice to Indenture Trustee of any default or event of default under any other agreement between the Issuer and any of the Seller, the Servicer, any Swap Counterparty or the Collateral Agent as promptly as practicable after the Issuer becomes aware of the occurrence of any Event of Default or other default or event of default;

(d) promptly furnish to the Indenture Trustee (on behalf of the holders of the Notes) and the Short Term Note Dealers after receipt thereof copies of all written communications received from the Rating Agencies with respect to the Notes;

(e) promptly upon its knowledge thereof give notice to the Indenture Trustee (on behalf of the holders of the Notes) and the Rating Agencies of the existence of any litigation against the Issuer;

(f) give prompt notice to the Indenture Trustee (on behalf of the holders of the Notes), each Swap Counterparty, the Rating Agencies and the Short Term Note Dealers of any change to the articles of incorporation or by-laws of the Seller; and

(g) provide, on or prior to July 31 of each year (beginning in July 2006), to the Indenture Trustee a certificate of the Issuer certifying that (i) the ratings assigned by the Rating Agencies in respect of any outstanding Series of Notes, have not been withdrawn or downgraded since the date of the related Supplement, and (ii) no Rating Agency has determined that the amount of Enhancement for any outstanding Series of Notes must be increased in order to maintain the then current rating of such Series or, if any Rating Agency has made such a determination, the amount of additional Enhancement that would be required in order to maintain such current rating. Delivery of such reports, information and documents to Indenture Trustee under this Section 8.3 is for informational purposes only and the Indenture Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants.

Section 8.4 Payment of Obligations. The Issuer will pay and discharge in a timely manner in accordance with the terms of the Facility Documents, at or before maturity, all of its respective material obligations and liabilities, including, without limitation, tax liabilities and other governmental claims, except where the same may be contested in good faith by

appropriate proceedings, will maintain, in accordance with GAAP, reserves as appropriate for the accrual of any of the same, and will comply in all material respects with its obligations in the Facility Documents.

Section 8.5 [RESERVED].

Section 8.6 Conduct of Business and Maintenance of Existence. The Issuer will maintain its existence as a limited liability company validly existing, and in good standing under the laws of the State of Delaware and duly qualified as a foreign limited liability company licensed under the laws of each state in which the failure to so qualify would have a material adverse effect on the business and operations of the Issuer.

Section 8.7 Compliance with Laws. The Issuer will comply in all respects with all Requirements of Law and all applicable laws, ordinances, rules, regulations, and requirements of Governmental Authorities (including, without limitation, ERISA and the rules and regulations thereunder) except where the necessity of compliance therewith is contested in good faith by appropriate proceedings and where such noncompliance would not materially and adversely affect the condition, financial or otherwise, operations, performance, properties or prospects of the Issuer or its ability to carry out the transactions contemplated in this Base Indenture and each other Facility Document; *provided, however*, that such noncompliance will not result in a Lien (other than a Permitted Lien) on any Assets of the Issuer.

Section 8.8 Inspection of Property, Books and Records. The Issuer will keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its Assets, business and activities in accordance with GAAP; and will permit the Indenture Trustee to visit and inspect any of its properties, to examine and make abstracts from any of its books and records and to discuss its affairs, finances and accounts with its representatives, employees and independent public accountants, all at such reasonable times upon reasonable notice and as often as may reasonably be requested.

Section 8.9 Compliance with Facility Documents. The Issuer will perform and comply with each and every obligation, covenant and agreement required to be performed or observed by it in or pursuant to this Base Indenture and each other Facility Document to which it is a party and will not take any action which would permit any party to have the right to refuse to perform any of its respective obligations under any Facility Document.

Section 8.10 Notice of Defaults. (a) Promptly upon becoming aware of any Potential Event of Default or Event of Default under this Base Indenture, the Issuer shall give the Indenture Trustee, any Short Term Note Dealers, the Collateral Agent, each Enhancement Provider, each Swap Counterparty and the Rating Agencies notice thereof, together with a certificate of the Issuer setting forth the details thereof and any action with respect thereto taken or contemplated to be taken by the Issuer, and

(b) Promptly upon becoming aware of any default under any Facility Document other than this Base Indenture, the Issuer shall give the Indenture Trustee, any dealer of Short Term Notes, the Collateral Agent, each Enhancement Provider, each Swap Counterparty and the Rating Agencies notice thereof.

Section 8.11 Notice of Material Proceedings. Promptly upon becoming aware thereof, the Issuer shall give the Indenture Trustee, each Swap Counterparty and the Rating Agencies written notice of the commencement or existence of any proceeding by or before any Governmental Authority against or affecting the Issuer which is reasonably likely to have a material adverse effect on the business, condition (financial or otherwise), results of operations, properties or performance of the Issuer or the ability of the Issuer to perform its obligations under this Base Indenture or under any other Facility Document to which it is a party.

Section 8.12 Further Requests. The Issuer will promptly furnish to the Indenture Trustee, the Collateral Agent, each Enhancement Provider and the Rating Agencies such other information as, and in such form as, the Indenture Trustee or the Collateral Agent or such Enhancement Provider or the Rating Agencies may reasonably request in connection with the transactions contemplated hereby.

Section 8.13 Further Assurances. (a) The Issuer shall do such further acts and things, and execute and deliver to the Indenture Trustee, the Collateral Agent, 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) such additional assignments, agreements, powers and instruments, as the Indenture Trustee, the Collateral Agent, 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) reasonably determines to be necessary to carry into effect the purposes of this Base Indenture or the other Facility Documents or to better assure and confirm unto the Indenture Trustee, the Collateral Agent, or the Noteholders their rights, powers and remedies hereunder including, without limitation, the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the liens and security interests granted hereby or under the Security Agreement. The Issuer also hereby acknowledges that the Collateral Agent has the right but not the obligation to file any such financing statement or continuation statement without further authorization of the Issuer. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any promissory note, chattel paper or other instrument, such note, chattel paper or instrument shall be deemed to be held in trust and immediately pledged and physically delivered to the Collateral Agent hereunder, and shall, subject to the rights of any Person in whose favor a prior Lien has been perfected, be duly endorsed in a manner satisfactory to the Collateral Agent and delivered to the Collateral Agent promptly. Without limiting the generality of the foregoing provisions of this Section 8.13(a), the Issuer shall take all actions that are required to maintain the security interest of the Collateral Agent on behalf of the Secured Parties in the Collateral pledged pursuant to the Security Agreement as a perfected security interest subject to no prior Liens: including, without limitation filing all UCC financing statements, continuation statements and amendments thereto necessary to achieve the foregoing. The Issuer further agrees that it will not, without Rating Agency Confirmation and without prior written notice to the Enhancement Providers, if applicable, exercise any right, remedy, power or privilege available to it with respect to any obligor under the Collateral, take any action to compel or secure performance or observance by any obligor of its obligations to the Issuer, or give any consent, request, notice, direction, approval, extension or waiver with respect to any obligor.

(b) The Issuer will warrant and defend the Collateral Agent's right, title and interest in and to the Collateral and the income, distributions and proceeds thereof, for the benefit of the Collateral Agent on behalf of the Secured Parties, against the claims and demands of all Persons whomsoever claiming against or through the Issuer.

(c) The Issuer will provide to the Collateral Agent and the Indenture Trustee, no more frequently than annually, an Opinion of Counsel to the effect that no UCC financing or continuation statements are required to be filed with respect to any of the Collateral in which a security interest may be perfected by the filing of UCC financing statements.

Section 8.14 Certain Documents. The Issuer will not take any action that would permit (i) the Seller or the Servicer to refuse to perform any of their respective obligations under the Facility Documents or (ii) the Depository to refuse to perform its obligations under any Facility Documents to which it is a party. The Issuer will not terminate the Short Term Note Dealer Agreement, the Series 2005-1 Depository Agreement or the Series 2008-1 Depository Agreement before entering into a replacement short term note dealer agreement, replacement Series 2005-1 Note depository agreement or replacement Series 2008-1 Note depository agreement, as the case may be, which is substantially similar to the Short Term Note Dealer Agreement, the Series 2005-1 Depository Agreement or Series 2008-1 Depository Agreement, as the case may be.

Section 8.15 Liens. The Issuer will not create, incur, assume or permit to exist any Lien upon any of its Assets (including the Collateral), other than (i) Liens in favor of the Collateral Agent for the benefit of the Secured Parties, (ii) Permitted Liens, (iii) Liens permitted under the Facility Documents and (iv) liabilities for services supplied or furnished to the Issuer (including reasonable accountants' and attorneys' fees); *provided* that the aggregate amount of the liabilities described in subpart (iv) relating to any Series shall not exceed \$400,000 at any one time outstanding after the closing of such Series.

Section 8.16 Other Indebtedness. The Issuer will not create, assume, incur, suffer to exist or otherwise become or remain liable in respect of any Indebtedness other than (i) Indebtedness hereunder and (ii) Indebtedness permitted under any other Facility Document.

Section 8.17 Mergers. The Issuer will not merge or consolidate with or into any other Person.

Section 8.18 Sales of Assets. The Issuer will not sell, lease, transfer, liquidate or otherwise dispose of any Assets, except as contemplated by the Facility Documents.

Section 8.19 Capital Expenditures. The Issuer will not make any expenditure (by long-term or operating lease or otherwise) for capital assets (both realty and personalty).

Section 8.20 Dividends. The Issuer shall not make any distributions to any holders of its securities without the consent of the Indenture Trustee, acting at the direction of the Required Senior Noteholders (or, if the Senior Notes have been paid in full, the Required Subordinated Noteholders), except as provided under the Facility Documents (including, without limitation, Section 7.04 of the Security Agreement) and the Notes.

Section 8.21 Name; Principal Office; Form of Organization. The Issuer will neither (a) change the location of its organization, chief executive office or principal place of business (within the meaning of the applicable UCC) without sixty (60) days' prior written notice to the Indenture Trustee, each Swap Counterparty and the Collateral Agent nor (b) change its name or form of organization without prior written notice to the Indenture Trustee, each Swap Counterparty and the Collateral Agent sufficient to allow the Collateral Agent to make all filings (including filings of financing statements on form UCC-1) and recordings necessary to maintain the perfection of the interest of the Collateral Agent on behalf of the Secured Parties in the Collateral pursuant to the Security Agreement. In the event that the Issuer desires to so change its office or change its name or form of organization, the Issuer will make any required filings and prior to actually changing its office or its name or form of organization the Issuer will deliver to the Collateral Agent and the Indenture Trustee (i) an Officer's Certificate and (except with respect to a change of the location of the Issuer's chief executive office or principal place of business to a new location in the same county) an Opinion of Counsel confirming that all required filings have been made to continue the perfected interest of the Collateral Agent on behalf of the Secured Parties in the Collateral in respect of the new office or new name of the Issuer and (ii) copies of all such required filings with the filing information duly noted thereon by the office in which such filings were made.

Section 8.22 Organizational Documents. The Issuer will not amend any of its organizational documents, including its certificate of formation or limited liability company agreement, unless, prior to such amendment, each Rating Agency provides Rating Agency Confirmation and each Swap Counterparty consents to such amendment.

Section 8.23 Investments. The Issuer will not make, incur, or suffer to exist any loan, advance, guarantee, extension of credit or other investment in any Person other than pursuant to the Facility Documents and with respect to Eligible Investments and, in addition, without limiting the generality of the foregoing, the Issuer will not cause the Collateral Agent or the Indenture Trustee to make any Eligible Investments on the Issuer's behalf that would have the effect of causing the Issuer to be required to register as an "investment company" within the meaning of the Investment Company Act.

Section 8.24 No Other Agreements. The Issuer will not (a) enter into or be a party to any agreement or instrument other than any Facility Document, agreements entered into in the ordinary course of its business, any documents related to any Enhancement or documents and agreements incidental thereto or (b) except as provided for in Sections 12.1 or 12.2 hereof, amend, modify or waive any provision of any Facility Document to which it is a party, or (c) give any approval or consent or permission provided for in any Facility Document, except as permitted in Article XII.

Section 8.25 Other Business. The Issuer will not engage in any business or enterprise or enter into any transaction other than (i) as contemplated by the Facility Documents or (ii) activities related to or incidental to any of the foregoing.

Section 8.26 Notes. The Issuer shall not issue Notes to the Seller, any Affiliate of the Seller or any trust or other entity to which the Seller or any Affiliate of the Seller is a

depositor or servicer bearing interest (or at a discount) in excess of a commercially reasonable rate.

Section 8.27 Rule 144A Information Requirement. For so long as any of the Notes remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, the Issuer covenants and agrees that it shall, during any period in which it is not subject to Section 13 or 15(d) under the Exchange Act, make available to any Noteholder in connection with any sale thereof and any prospective purchaser of Notes from such Noteholder in each case upon request, the information specified in, and meeting the requirements of, Rule 144A(d)(4) under the Securities Act.

Section 8.28 Use of Proceeds of Notes. The Issuer shall use the proceeds of Notes solely for one or more of the following purposes: (a) to pay the Issuer's Obligations when due, in accordance with the Security Agreement; and (b) to acquire Mortgage Loans from the Seller.

Section 8.29 Facility Document Information. The Issuer shall, or shall cause the Seller or Servicer to, provide the Indenture Trustee with copies of all reports, notices, statements and certificates delivered under the Facility Documents, and any other information that the Indenture Trustee shall reasonably request. Delivery of such reports, notices, information and documents to Indenture Trustee under this Section 8.29 and Section 8.27 hereof is for informational purposes only and the Indenture Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants.

Section 8.30 Short Term Notes. The Issuer shall not issue Short Term Notes to the Seller, any Affiliate of the Seller or any trust or other entity to which the Seller or any Affiliate of the Seller is a depositor or servicer bearing interest (or at a discount) in excess of a commercially reasonable rate.

Section 8.31 Non-Petition Agreement. The Issuer 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 Issuer 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 Issuer to invoke the process of any governmental authority for the purpose of commencing or sustaining a case against the Issuer 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 Issuer or any substantial part of its property or ordering the winding up or liquidation of the affairs of the Issuer.

ARTICLE IX

INDENTURE EVENTS OF DEFAULT AND REMEDIES

Section 9.1 Indenture Events of Default. If any one of the following events shall occur with respect to any Series of Notes (each, an "Indenture Event of Default"):

(a) failure on the part of the Seller to observe or perform in any material respect any material covenants or agreements of the Seller under the Mortgage Loan Purchase Agreement which failure continues unremedied for a period of fifteen (15) days after written notice or actual knowledge thereof;

(b) any representation or warranty made by the Seller pursuant to Section 3.1 of the Mortgage Loan Purchase Agreement proves to have been false or misleading in any material respect when made, which continues to be misleading in any material respect for a period of fifteen (15) days after written notice or actual knowledge thereof;

(c) the Issuer defaults in the payment of any interest on any Note of such Series within two (2) Business Days of the date when the same becomes due and payable;

(d) the Issuer defaults in the payment of any principal or premium on any Note of such Series within two (2) Business Days of the date when the same becomes due and payable;

(e) the Issuer fails to comply with any of its other agreements or covenants in, or provisions of, the Notes of a Series or this Base Indenture and the failure to so comply materially and adversely affects the interests of the Noteholders of any Series and continues to materially and adversely affect the interests of the Noteholders of such Series for a period of fifteen (15) days after the earlier of (i) the date on which the Issuer obtains knowledge thereof or (ii) the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Issuer by the Indenture Trustee or to the Issuer and the Indenture Trustee by 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);

(f) the occurrence of an Event of Bankruptcy with respect to the Issuer or the Servicer and, in the case of the Servicer, a replacement Servicer shall not have assumed in writing the obligations of the Servicer under the Mortgage Loan Purchase Agreement within thirty (30) days of such Event of Bankruptcy;

(g) the Issuer shall be required to register as an "investment company" under the Investment Company Act of 1940, as amended;

(h) any representation or warranty or statement made or deemed made by the Issuer in this Base Indenture or in any written certificates or statement made or entered into in connection herewith or therewith shall prove to have been incorrect when made in any material respect, and, if such representation, warranty or statement is capable of being corrected,

continues to be incorrect in any material respect for a period of fifteen (15) days after the Issuer shall have received written notice of such incorrect representation, warranty or statement;

(i) a Servicer Event of Default that results in the termination of all of the rights and obligations of the Servicer under the Mortgage Loan Purchase Agreement shall have occurred;

(j) the Security Agreement shall cease, for any reason, to be in full force and effect in accordance with its respective terms;

(k) any of (i) the Interest Rate Swaps in an aggregate Maximum Notional Amount equal to the Program Size, (ii) the Series 2005-1 Interest Rate Swap in a Maximum Notional Amount equal to the Series 2005-1 Program Size, or (iii) 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;

(l) at any time the aggregate outstanding principal amount of all Series of Subordinated Notes plus the amount on deposit in the Reserve Fund, if any, shall equal less than the Required Enhancement Amount and such shortfall continues for forty-five (45) Business Days;

(m) at any time, the Issuer is not an Approved Seller of mortgage loans for one of Freddie Mac and Ginnie Mae; *provided, however*, that the Seller may terminate its status as an Approved Seller with respect to Freddie Mac or Ginnie Mae so long as the Seller maintains such status with at least one of such Agencies at all times;

(n) [RESERVED];

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

(p) [RESERVED];

(q) the failure of the Issuer to maintain an agreement (in substantially the form of Exhibit B attached to the Mortgage Loan Purchase Agreement) with a Rated Bidder to the effect that such Rated Bidder agrees to submit a binding bid for all non-Delinquent and non-Defaulted Loans in a Termination Event Auction, which failure continues for a period of thirty (30) days or more;

(r) an Interest Rate Swap Termination Event under a portion of any Interest Rate Swap has occurred and is continuing after giving effect to any applicable grace periods and one or more replacement Interest Rate Swaps and/or an increase in the maximum notional amount of one or more existing Interest Rate Swaps shall not have been obtained in relation to the applicable Series of Notes in an aggregate maximum notional amount at least equal to the lesser of (x) the aggregate maximum notional amount of the portion of the Interest Rate Swap or Interest Rate Swaps represented by the expiring Swap Counterparty or Swap Counterparties or (y) if the applicable Series Program Size has been reduced, an amount equal to (i) the then-current applicable Series Program Size less (ii) the aggregate maximum notional amount of all

Interest Rate Swaps applicable to such Series effective as of the early termination date of the portion of the Interest Rate Swap affected by such Interest Rate Swap Termination Event; and

(s) any other event shall occur which may be specified in any Supplement as an "Indenture Event of Default";

then, at any time during the continuance of any Indenture Event of Default, the Indenture Trustee may and shall, at the written request of (x) 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 (y) any Swap Counterparty (so long as, (i) with respect to the Series 2005-1 Swap Counterparty, any Series 2005-1 Note is outstanding and (ii) with respect to the Series 2008-1 Swap Counterparty, any Series 2008-1 Note is outstanding), by written notice to the Issuer, the Collateral Agent, each Depository (with a copy to each Short Term Note Dealer), the Swap Counterparty and the holders of the Notes, (i) declare the principal and premium (if applicable) of and accrued or accreted interest in respect of the Notes to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Issuer, anything contained herein or in any Note to the contrary notwithstanding and (ii) instruct the Issuer to cease purchasing Mortgage Loans and the Issuer and the Depository to cease issuing Short Term Notes and/or (iii) notify the Servicer and the Seller that an Indenture Event of Default has occurred; *provided* that, if an Indenture Event of Default described in clause (f), (k) or (l) above shall occur, the result of which would otherwise occur only upon giving of written notice by the Indenture Trustee as specified in clauses (i) and (ii) above, then the results specified in clauses (i) and (ii) above shall occur automatically, without the giving of any such notice and the Indenture Trustee shall promptly notify the Servicer and the Seller that an Indenture Event of Default has occurred. Subject to certain conditions and to the Security Agreement, upon the occurrence of an Indenture Event of Default, the holders of the Notes may proceed to enforce their rights and remedies as permitted by the Security Agreement, including bringing an action for specific performance by the Issuer of any of the Issuer's obligations under the Facility Documents. The Issuer shall provide prompt written notice to (i) each Short Term Note Dealer, the Collateral Agent, the Indenture Trustee, each Swap Counterparty and the Rating Agencies of the occurrence of any Indenture Event of Default and (ii) each Depository, each Short Term Note Dealer, each Swap Counterparty and the Rating Agencies, of the occurrence of any event specified in clause (f) above with respect to the Issuer.

Notwithstanding anything in this Base Indenture to the contrary, in the event that an Indenture Event of Default described in paragraphs (f), (k), (l), (o), (q) or (r) occurs and is continuing, the Indenture Trustee shall, by written notice to the Issuer, the holders of the Notes, each Swap Counterparty and the Collateral Agent (with a copy to each Short Term Note Dealer), (i) instruct the Issuer to cease purchasing Mortgage Loans, (ii) notify the Servicer and the Seller that an Event of Default has occurred, and (iii) in accordance with the proviso to Section 11.2 of the Mortgage Loan Purchase Agreement, instruct the Servicer to 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 Indenture Event of Default occurs. In the event that all non-Delinquent Loans and non-Defaulted Loans have not been so sold or securitized on such thirtieth (30th) day, subject to any Qualified Forward Contracts (and, if no such Qualified Forward

Contracts exist, then subject to Section 11.2 of the Mortgage Loan Purchase Agreement), the Collateral Agent shall hold a Termination Event Auction of all remaining non-Delinquent Loans and non-Defaulted Loans for settlement not later than the forty-fifth (45th) day following the date on which such Indenture Event of Default occurred. At least one of the bidders in such auction shall be a Rated Bidder.

Section 9.2 Rights upon Event of Default. If and whenever an Event of Default shall have occurred and be continuing, the Indenture Trustee at the direction of the Required Senior Noteholders, the Series 2005-1 Required Senior Noteholders or the Series 2008-1 Required Senior Noteholders, as applicable under the Security Agreement (or, if the Senior Notes have been paid in full, the Required Subordinated Noteholders) shall, exercise from time to time any rights and remedies available to it under the Security Agreement.

Section 9.3 [RESERVED].

Section 9.4 [RESERVED].

Section 9.5 Waiver of Past Events. Subject to Section 12.2 hereof, the (x) Required Senior Noteholders (or, if the Senior Notes have been paid in full, the Required Subordinated Noteholders) or (y) Required Swap Counterparties (so long as, (i) with respect to the Series 2005-1 Swap Counterparty, any Series 2005-1 Note is outstanding and (ii) with respect to the Series 2008-1 Swap Counterparty, any Series 2008-1 Note is outstanding), by notice to the Collateral Agent, and the Indenture Trustee, may waive any existing Potential Event of Default or Event of Default other than any Potential Event of Default or Event of Default related to clause (f), (k) or (l) of Section 9.1 hereof which relate to such Series and its consequences and except a continuing Potential Event of Default or Event of Default in the payment of the principal of or interest on any Note. Upon any such waiver, such Potential Event of Default shall cease to exist with respect to such Series, and any Event of Default with respect to such Series arising therefrom shall be deemed to have been cured for every purpose of this Base Indenture; but no such waiver shall extend to any subsequent or other Potential Event of Default or impair any right consequent thereon.

Section 9.6 [RESERVED].

Section 9.7 Limitation on Suits. Any other provision of this Base Indenture to the contrary notwithstanding, a Noteholder may pursue a remedy with respect to this Base Indenture or the Notes only if:

(a) The Noteholder gives to the Indenture Trustee written notice of a continuing Event of Default;

(b) The Noteholders holding at least 25% in principal amount of all then outstanding Notes of such Series make a written request to the Indenture Trustee to pursue the remedy;

(c) Such Noteholder or Noteholders offer and, if requested, provide to the Indenture Trustee indemnity satisfactory to the Indenture Trustee against any loss, liability or expense;

(d) The Indenture Trustee does not comply with the request within forty-five (45) days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) During such forty-five day (45) period the Required Senior Noteholders (or, if the Senior Notes have been paid in full, the Required Subordinated Noteholders) do not give the Indenture Trustee a direction inconsistent with the request.

A Noteholder may not use this Base Indenture to prejudice the rights of another Noteholder or to obtain a preference or priority over another Noteholder.

Section 9.8 Unconditional Rights of Holders to Receive Payment; Withholding Taxes. (a) Notwithstanding any other provision of this Base Indenture, except for clause (b) below, the right of any Noteholder of a Note to receive payment of principal and interest on the Note, on or after the respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, is absolute and unconditional and shall not be impaired or affected without the consent of the Noteholder.

(b) The Paying Agent agrees, to the extent required by applicable law, to withhold from each payment due hereunder or under any Note, United States withholding taxes at the appropriate rate, and, on a timely basis, to deposit such amounts with an authorized depository and make such reports, filings and other reports in connection therewith, and in the manner, required under applicable law. The Paying Agent shall promptly furnish each Noteholder (but in no event later than the date 30 days after the due date thereof) a U.S. Treasury Form 1042-S or Form 1099 (or similar form as at any relevant time in effect), if applicable, indicating payment in full of any taxes withheld from any payments by the Paying Agent to such Persons together with all such other information and documents reasonably requested by such Noteholder and necessary or appropriate to enable such Noteholder to substantiate a claim for credit or deduction with respect thereto for income tax purposes of any jurisdiction with respect to which such Noteholder is required to file a tax return. In the event that a Noteholder which is not a United States Person (as defined in Code Section 7701(a)(30)) has furnished to the Paying Agent a properly completed and currently effective U.S. Treasury Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party (or such successor Form or Forms as may be required by the United States Treasury Department) during the calendar year in which the payment is made, or in either of the two preceding calendar years, and has not notified the Paying Agent of the withdrawal or inaccuracy of such Form prior to the date of each interest payment, only the amount, if any, required by applicable law in respect of a bilateral treaty to which the United States is a party shall be withheld from payments under the Notes held by such Noteholder in respect of United States federal income tax. In the event that a Noteholder (x) which is not a United States Person has furnished to the Paying Agent a properly completed and currently effective U.S. Treasury Form W-8ECI in duplicate (or such successor certificate or Form or Forms as may be required by the United States Treasury Department as necessary in order to avoid withholding of United States federal income tax), during the tax year of the Noteholder in which payment is made, or in either of the two preceding calendar years, and has not notified the Paying Agent of the withdrawal or inaccuracy of such certificate or Form prior to the date of each interest payment or (y) which is not a United States Person has furnished to the Paying Agent a properly completed and currently effective U.S. Treasury Form W-8BEN

claiming exemption from United States federal withholding tax with respect to payments of "portfolio interest" under the Code during the calendar year in which the payment is made, or in either of the two preceding calendar years, no amount shall be withheld from payments under the Notes held by such Noteholder in respect of United States federal income tax. Notwithstanding the foregoing, if any Noteholder has notified the Paying Agent that any of the foregoing Forms or certificates is withdrawn or inaccurate, or if the Code or the regulations thereunder or the administrative interpretation thereof are at any time after the date hereof amended to require such withholding of United States federal income taxes from payments under the Notes held by such Noteholder, or if such withholding is otherwise required under applicable law, the Paying Agent agrees to withhold from each payment due to the relevant Noteholder withholding taxes at the appropriate rate under applicable law, and will, as more fully provided above, on a timely basis, deposit such amounts with an authorized depository and make such reports, filings and other reports in connection therewith, and in the manner required under applicable law. The Indenture Trustee hereby agrees to use its best efforts (without incurring liability for a failure to do so) to inform the Paying Agent and the affected Noteholder or Noteholders if the Indenture Trustee has failed to receive any of Forms W-9, W-8ECL, W-8IMY or W-8BEN (with appropriate attachments) from a Noteholder prior to the date of an interest payment to such Noteholder.

Section 9.9 [RESERVED].

Section 9.10 The Indenture Trustee May File Proofs of Claim. Subject to Section 13.17 hereof, the Indenture Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Indenture Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Indenture Trustee, its agents and counsel) allowed in any judicial proceedings relative to the Issuer (or any other obligor upon the Notes), its creditors or its property, and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claim. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Indenture Trustee, its agents and counsel, and any other amounts due the Indenture Trustee under Section 10.5 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, Notes and other properties which the Noteholders of the Notes may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Indenture Trustee to authorize or consent to or accept or adopt on behalf of any Noteholder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Noteholder thereof, or to authorize the Indenture Trustee to vote in respect of the claim of any Noteholder in any such proceeding.

Section 9.11 Priorities. If the Indenture Trustee collects any money pursuant to this Article, the Indenture Trustee shall pay out the money to the Collateral Agent who shall distribute such money in accordance with the provisions of Article V of this Base Indenture.

Section 9.12 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Base Indenture or in any suit against the Indenture Trustee for any action taken or omitted by it as an Indenture Trustee, a court in its discretion may require the filing by

any party litigant in the suit of any undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 9.12 does not apply to a suit by the Indenture Trustee, or a suit by a Noteholder pursuant to Section 9.7 hereof.

Section 9.13 Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Indenture Trustee or to the holders of Notes is intended to be exclusive of any other right or remedy, and every right or remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given under this Base Indenture or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy under this Base Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 9.14 Delay or Omission Not Waiver. No delay or omission of the Indenture Trustee or of any holder of any Note to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article IX or by law to the Indenture Trustee or to the holders of Notes may be exercised from time to time, and as often as may be deemed expedient, by the Indenture Trustee or by the holders of Notes, as the case may be.

ARTICLE X

THE INDENTURE TRUSTEE

Section 10.1 Duties of the Indenture Trustee. (a) If an Event of Default has occurred and is continuing, the Indenture Trustee shall exercise such of the rights and powers vested in it by this Base Indenture and the Facility Documents, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; *provided, however*, that the Indenture Trustee shall have no liability in connection with any action or inaction taken, or not taken, by it upon the deemed occurrence of an Event of Default of which a Trust Officer has not received written notice; and *provided, further*, that the preceding sentence shall not have the effect of insulating the Indenture Trustee from liability arising out of the Indenture Trustee's negligence or willful misconduct.

(b) Except during the occurrence and continuance of an Event of Default:

(i) The Indenture Trustee undertakes to perform only those duties that are specifically set forth in this Base Indenture or the Facility Documents and no others, and no implied covenants or obligations shall be read into this Base Indenture against the Indenture Trustee; and

(ii) In the absence of bad faith on its part, the Indenture Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Indenture Trustee and

conforming to the requirements of this Base Indenture or the Facility Documents. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Indenture Trustee, the Indenture Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Base Indenture. The Indenture Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Base Indenture or the applicable Facility Document (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Indenture Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) This clause does not limit the effect of clause (b) of this Section 10.1.

(ii) The Indenture Trustee shall not be liable for any error of judgment made in good faith by the Indenture Trustee, unless it is proved that the Indenture Trustee was negligent in ascertaining the pertinent facts.

(iii) The Indenture Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it hereunder or in the absence of a direction in accordance with Section 9.2 hereof.

(iv) The Indenture Trustee shall not be charged with knowledge of any default under any Facility Document, unless a Trust Officer of the Indenture Trustee receives written notice of such default.

(d) Notwithstanding anything to the contrary contained in this Base Indenture or any of the Facility Documents, no provision of this Base Indenture shall require the Indenture Trustee to expend or risk its own funds or incur any liability. The Indenture Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(e) In the event that the Paying Agent or the Transfer Agent and Registrar shall fail to perform any obligation, duty or agreement in the manner or on the day required to be performed by the Paying Agent or the Transfer Agent and Registrar, as the case may be, under this Base Indenture, the Indenture Trustee shall be obligated as soon as practicable upon actual knowledge of a Trust Officer thereof and receipt of appropriate records and information, if any, to perform such obligation, duty or agreement in the manner so required.

(f) Subject to Section 10.3 hereof, all moneys received by the Indenture Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law or the Facility Documents. The Indenture Trustee may allow and credit to the Issuer interest agreed upon in writing by the Issuer and the Indenture Trustee from time to time as may be permitted by law.

Section 10.2 Rights of the Indenture Trustee. Except as otherwise provided by Section 10.1 hereof:

(a) The Indenture Trustee may conclusively rely and shall be fully protected in acting or refraining from acting in good faith based upon any document or other evidence provided to it believed by it to be genuine and to have been signed by or presented by the proper person.

(b) The Indenture Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Indenture Trustee may act through agents, custodians and nominees and shall not be liable for any misconduct or negligence on the part of, or for the supervision of, any such agent, custodian or nominee so long as such agent, custodian or nominee is appointed with due care. The Indenture Trustee shall provide written notice to each Swap Counterparty and the Rating Agencies of any such appointment and, if practicable, shall provide prior written notice to each Swap Counterparty and the Rating Agencies of any such appointment.

(d) The Indenture Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by the Base Indenture or the Facility Documents.

(e) The Indenture Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Base Indenture, any Supplement or any Facility Document, or to institute, conduct or defend any litigation hereunder or in relation hereto, at the request, order or direction of any of the Noteholders, pursuant to the provisions of this Base Indenture, any Supplement or any Facility Document, unless such Noteholders shall have offered to the Indenture Trustee security or indemnity satisfactory to the Indenture Trustee against the costs, expenses and liabilities which may be incurred therein or thereby; nothing contained herein shall, however, relieve the Indenture Trustee of the obligations, upon the occurrence of a default by the Issuer (which has not been cured or waived), to exercise such of the rights and powers vested in it by this Base Indenture, any Supplement or any Facility Document, and to use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(f) The Indenture Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond or other paper or document, unless requested in writing to do so by 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) of any Series which could be adversely affected if the Indenture Trustee does not perform such acts.

(g) The Indenture Trustee shall not be liable for any losses or liquidation penalties in connection with Eligible Investments, unless such losses or liquidation penalties were incurred through the Indenture Trustee's own willful misconduct, negligence or bad faith.

(h) The rights, privileges, protections, immunities and benefits given to the Indenture Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Indenture Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Indenture Trustee shall not be personally liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Base Indenture.

(j) The right of the Indenture Trustee to perform any discretionary act enumerated in this Base Indenture shall not be construed as a duty, and the Indenture Trustee shall not be answerable for other than its own gross negligence or willful misconduct in the performance of such act.

(k) The Indenture Trustee shall not be required to give any bond or surety in respect of the execution of the powers granted hereunder.

Section 10.3 Individual Rights of the Indenture Trustee. The Indenture Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Issuer or an Affiliate of the Issuer with the same rights it would have if it were not Indenture Trustee. Any agent may do the same with like rights. However, the Indenture Trustee is subject to Section 10.8 hereof.

Section 10.4 Notice of Indenture Events of Default and Potential Indenture Events of Default. If an Event of Default or a Potential Event of Default occurs and is continuing and if a Trust Officer of the Indenture Trustee receives written notice or has actual knowledge thereof, the Indenture Trustee shall promptly provide the Collateral Agent, the Noteholders, each Swap Counterparty, any Short Term Note Dealers and each Rating Agency with notice of such Event of Default or the Potential Event of Default, if such Notes are represented by a global note, by telephone, facsimile and electronic mail, and, if such Notes are represented by Definitive Notes, by first class mail.

Section 10.5 Compensation. (a) The Issuer shall promptly pay to the Indenture Trustee from time to time compensation for its acceptance of this Base Indenture and services hereunder as agreed in writing between the Issuer and the Indenture Trustee, as may be amended from time to time. The Indenture Trustee's compensation shall not be limited by any law on compensation of an Indenture Trustee of an express trust. The Issuer shall reimburse the Indenture Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Indenture Trustee's agents and counsel.