

Model Provisions: Regulation AB Compliance, Residential Mortgage Loan Purchase and Servicing Agreements

Introduction; Use of these Model Provisions

The model contractual provisions contained in this document address disclosures, certifications and reports to be provided by originators and servicers in order to facilitate compliance by issuers of mortgage-backed securities with Regulation AB and related rules. They are designed to serve as a basic framework for use in negotiating mortgage loan purchase agreements. These model provisions may be inserted into existing purchase and servicing agreements with minimal change, other than conformity of defined terms and cross-references and, of course, any modifications negotiated by the parties to a particular contract.

Sections [].02(i)-(v), [].03(c), (e) and (f), [].04, [].05 and [].06 are applicable only if the seller will (directly or through a subservicer) service the Mortgage Loans, at least for an interim period, following securitization.

Certain of these provisions include specific references to the Depositor in any Securitization Transaction. In a typical mortgage loan purchase agreement the term "Purchaser" is defined as including successors to the Purchaser and assignees of the mortgage loans, making express references to successor sponsors and depositors largely unnecessary. However, because the depositor in a synthetic securitization would not be an assignee of the referenced mortgage loans, these model provisions grant certain rights and benefits to the Depositor.

These model provisions do not include excerpts from Regulation AB; purchasers may choose to provide copies of the relevant portions of Regulation AB to sellers together with a draft contract or amendment.

These model provisions do not, in general, address terms of purchase and servicing agreements that were included in most such agreements prior to adoption of Regulation AB and are not materially affected by the new rules.

The Model Provisions

DEFINED TERMS

[Capitalized terms not defined are presumed to be defined in the applicable Agreement.]

Commission: The United States Securities and Exchange Commission.

Company Information: As defined in Section [].07(a).

Depositor: The depositor, as such term is defined in Regulation AB, with respect to any Securitization Transaction.

Exchange Act. The Securities Exchange Act of 1934, as amended.

Qualified Correspondent: Any Person from which the Company purchased Mortgage Loans, provided that the following conditions are satisfied: (i) such Mortgage Loans were originated pursuant to an agreement between the Company and such Person that contemplated that such Person would underwrite mortgage loans from time to time, for sale to the Company, in accordance with underwriting guidelines designated by the Company (“Designated Guidelines”) or guidelines that do not vary materially from such Designated Guidelines; (ii) such Mortgage Loans were in fact underwritten as described in clause (i) above and were acquired by the Company within 180 days after origination; (iii) either (x) the Designated Guidelines were, at the time such Mortgage Loans were originated, used by the Company in origination of mortgage loans of the same type as the Mortgage Loans for the Company’s own account or (y) the Designated Guidelines were, at the time such Mortgage Loans were underwritten, designated by the Company on a consistent basis for use by lenders in originating mortgage loans to be purchased by the Company; and (iv) the Company employed, at the time such Mortgage Loans were acquired by the Company, pre-purchase or post-purchase quality assurance procedures (which may involve, among other things, review of a sample of mortgage loans purchased during a particular time period or through particular channels) designed to ensure that Persons from which it purchased mortgage loans properly applied the underwriting criteria designated by the Company. Comments were negative on the definition here and ranged from those advocating that it be removed entirely to those who felt it could be used but needed to be narrowed. Those members with the latter view suggested that numerical parameters might be useful as thresholds.

Reconstitution: Any Securitization Transaction or Whole Loan Transfer.

Regulation AB: Subpart 229.1100 – Asset Backed Securities (Regulation AB), 17 C.F.R. §§229.1100-229.1123, as such may be amended from time to time, and subject to such clarification and interpretation as have been provided by the Commission in the adopting release (Asset-Backed Securities, Securities Act Release No. 33-8518, 70 Fed. Reg. 1,506, 1,531 (Jan. 7, 2005)) or by the staff of the Commission, or as may be provided by the Commission or its staff from time to time.

Securities Act: The Securities Act of 1933, as amended.

Securitization Transaction. Any transaction subject to Regulation AB involving either (1) a sale or other transfer of some or all of the Mortgage Loans directly or indirectly to an issuing entity in connection with an issuance of publicly offered, ~~rated or unrated mortgage-backed securities or~~ (2) an issuance of publicly offered, ~~rated or unrated securities,~~ the payments on which are determined primarily by reference to one or more portfolios of residential mortgage loans consisting, in whole or in part, of some or all of the Mortgage Loans. [Reg AB does not reach private placements and there was a question as to the scope of the definition here---is it really intended to reach all pass-through transfers? If so, should that term be used?]

Deleted: or privately placed

Deleted: or privately placed

Servicer: As defined in Section [].03(c).

Servicing Criteria: The “servicing criteria” set forth in Item 1122(d) of Regulation AB, as such may be amended from time to time.

Static Pool Information: Static pool information as described in Item 1105.

Deleted: (a)(1)-(3) and 1105(c) of Regulation AB.

[The comments received on the definition of subcontractor, subservicer and third-party originator were in the nature of requests for more clarification of who fits the categories and some degree of direction from the purchaser in that regard. Some would have deleted some of the definitions or differentiated the Third-Party Originator from the Company, rather than from the Qualified Correspondent.]

Subcontractor: Any vendor, subcontractor or other Person that is not responsible for the overall servicing (as “servicing” is commonly understood by participants in the mortgage-backed securities market) of Mortgage Loans but performs one or more discrete functions identified in Item 1122(d) of Regulation AB with respect to Mortgage Loans under the direction or authority of the Company or a Subservicer.

Subservicer: Any Person that services Mortgage Loans on behalf of the Company or any Subservicer and is responsible for the performance (whether directly or through Subservicers or Subcontractors) of a substantial portion of the material servicing functions required to be performed by the Company under this Agreement or any Reconstitution Agreement that are identified in Item 1122(d) of Regulation AB.

Third-Party Originator: Each Person, other than a Qualified Correspondent, that originated Mortgage Loans acquired by the Company.

Whole Loan Transfer: Any sale or transfer of some or all of the Mortgage Loans, other than a Securitization Transaction. [Some members requested that you use a direct definition rather than one done through exclusion. Note that the current definition of Securitization Transaction includes private placements, which we don't think should be covered there for purposes of the model provisions. There was a request for consideration of the use of other terms with direct definitions as opposed to “other than” definitions.]

ARTICLE []

COMPLIANCE WITH REGULATION AB

Section [].01. Intent of the Parties; Reasonableness.

The Purchaser and the Company acknowledge and agree that the purpose of Article [] of this Agreement is to facilitate compliance by the Purchaser and any Depositor with the provisions of Regulation AB and related rules and regulations of the Commission. Neither the Purchaser nor any Depositor shall exercise its right to request delivery of information or other performance under these provisions other than in good faith, or for purposes other than compliance with the Securities Act, the Exchange Act and the rules and regulations of the Commission thereunder. The Company acknowledges that the Commission's interpretations of the requirements of Regulation AB may change over time, and agrees to comply with reasonable requests made by the Purchaser or any Depositor in good faith for delivery of information within a reasonable timeframe under these provisions on the basis of evolving interpretations of Regulation AB. In connection with any Securitization Transaction, the Company shall cooperate in a reasonable manner with the Purchaser to deliver to the Purchaser (including any of its assignees or designees) and any Depositor, materials reasonably available to the Company, including any and all statements, reports, certifications, records and any other information that is (i) specifically enumerated in writing by the Purchaser, and (ii) necessary in the reasonable good faith determination of the Purchaser or any Depositor to permit the Purchaser or such Depositor to comply with the provisions of Regulation AB, together with such disclosures relating to the Company, and parties or items identified in writing by the Purchaser, including any Subservicer, any Third-Party Originator and the Mortgage Loans, or the servicing of the Mortgage Loans, reasonably believed by the Purchaser or any Depositor to be necessary in order to effect such compliance. It is the understanding of the Purchaser that the Company shall not be held liable under this Agreement for any failure to provide information related to periods prior to January 1, 2006, or any failure to provide information not in the control of the Company.

Deleted: whether due to interpretive guidance provided by the Commission or its staff, consensus among participants in the asset-backed securities markets, advice of counsel, or otherwise,

Deleted: shall cooperate fully

The Purchaser agrees that the Purchaser shall not without Seller's consent transfer any Mortgage Loans into a Securitization Transaction if the Mortgage Loans originated by the Seller would constitute 20% or more of the unpaid principal amount of the mortgage loans that form the pool which is the subject of the Securitization Transaction.

[We received a comment suggesting that the Purchaser should agree to furnish the Company with Static Pool Information with respect to any Mortgage Loans sold.]

The Purchaser agrees that it will cooperate with the Company and provide sufficient and timely notice of any information requirement pertaining to a Securitization Transaction. The Purchaser will make all reasonable efforts to contain requests for information, reports or any other materials to items required for compliance with Regulation AB, and will refrain from requesting information which is not required for such compliance.

Section [].02. Additional Representations and Warranties of the Company.

[We received copious comments on the representations and warranties section here and the comments ranged from the view that the section is superfluous and should be eliminated to an approach that would tie the reps and warranties strictly to what is required by Reg AB. In particular, objections were raised to portions of the representations here that would require that the Company indicate that a particular situation does not exist as of the Agreement, where Reg AB (for example in sections 1108 and 1117) would actually require a description). There are

also members that believe that some of the items listed as representations here should more appropriately be included in section .03. Those items include the following sections below: (iv), (v), (vi), (vii) The mark-up below follows some of the comments received and we believe will exemplify where sellers have concerns.]

(a) The Company shall be deemed to represent to the Purchaser and to any Depositor, as of the date on which information is first provided to the Purchaser or any Depositor under Section [].03 that, except as disclosed in writing to the Purchaser or such Depositor prior to such date: (i) the Company is not aware and has not received notice that any default, early amortization or other performance triggering event has occurred as to any other securitization due to any act or failure to act of the Company; (ii) the Company has not been terminated as servicer in a residential mortgage loan securitization, either due to a servicing default or to application of a servicing performance test or trigger; (iii) no material noncompliance with the applicable servicing criteria with respect to other securitizations of residential mortgage loans involving the Company as servicer has been disclosed or reported by the Company; (iv) [Reg AB requires a description, not the non-existence of the changes. See 1108 (b) (3)] no material changes to the Company's policies or procedures with respect to the servicing function it will perform under this Agreement and any Reconstitution Agreement for mortgage loans of a type similar to the Mortgage Loans have occurred during the three-year period immediately preceding the related Securitization Transaction; (v) [Item 1108 (b) (4) requires a description and not a warranty that there are none] there are no aspects of the Company's financial condition that could have a material adverse effect on the performance by the Company of its servicing obligations under this Agreement or any Reconstitution Agreement; (vi) [Item 117 requires a "description" and not a warranty and says nothing about "contemplated" as mentioned here] there are no material legal or governmental proceedings pending (or known to be contemplated) against the Company, any Subservicer or any Third-Party Originator; and (vii) there are no affiliations, relationships or transactions relating to the Company, any Subservicer or any Third-Party Originator with respect to any Securitization Transaction and any party thereto identified by the related Depositor of a type described in Item 1119 of Regulation AB.

(b) If so requested by the Purchaser or any Depositor on any date following the date on which information is first provided to the Purchaser or any Depositor under Section [].03, the Company shall, within ten Business Days following such request, confirm in writing the accuracy of the representations and warranties set forth in paragraph (a) of this Section or, if any such representation and warranty is not accurate as of the date of such request, provide reasonably adequate disclosure of the pertinent facts, in writing, to the requesting party.

Deleted: five

Section [] .03. Information to Be Provided by the Company.

[The time frames specified in .02 and .03 are five day periods and that period is too short for a commitment on turnaround according to members. Some wanted to reference a “reasonable” time frame but those commenting with a number of days all used ten days, so that is the way we have marked up the Model Provisions.]

In connection with any Securitization Transaction the Company shall (i) within ten Business Days following the reasonable request and subject to reasonable notice by the Purchaser or any Depositor, provide to the Purchaser and such Depositor (or, as applicable, cause each Third-Party Originator and each Subservicer to provide), in writing and in form and substance reasonably required for compliance with Regulation AB, the information and materials specified in paragraphs (a), (b), (c) and (f) of this Section, and (ii) as promptly as practicable following notice to or discovery by the Company, provide to the Purchaser and any Depositor (in writing and in form and substance as required by Regulation AB) the information specified in paragraph (d) of this Section.

Deleted: five

Deleted: satisfactory to the Purchaser and such Depositor

Deleted: reasonably satisfactory to the Purchaser and such Depositor

(a) If so requested by the Purchaser or any Depositor, the Company shall provide such information regarding (i) the Company, as originator of the Mortgage Loans (including as an acquirer of Mortgage Loans from a Qualified Correspondent), or (ii) each Third-Party Originator, and (iii) as applicable, each Subservicer, as is requested for the purpose of compliance with Items 1103(a)(1), 1105 (subject to paragraph (b) below, 1110, 1117 and 1119 of Regulation AB. Such information shall include, at a minimum:

[Note: A significant number of members suggested that items (A) through (D) (9) should be deleted because they are redundant and there is a concern that as presented, they do not just track the Regulation, but favor the Purchaser.]

(A) the originator’s form of organization;

(B) to the extent material, a description of the originator’s origination program and how long the originator has been engaged in originating residential mortgage loans, which description shall include a discussion of the originator’s experience in originating mortgage loans of a similar type as the Mortgage Loans; if material, information regarding the size and composition of the originator’s origination portfolio; and information that may be material, in the good faith judgment of the Purchaser or any Depositor, to an analysis of the performance of the Mortgage Loans, including the originators’ credit-granting or underwriting criteria for mortgage loans of similar type(s) as the Mortgage Loans [is this catchall in Item 1110(b)(2)? and such other information as the Purchaser or any Depositor may reasonably request for the purpose of compliance with Item 1110(b)(2) of Regulation AB;

(C) a brief description of any material legal proceedings pending against the Company, each Third-Party Originator and each Subservicer; and

Deleted: or governmental

Deleted: (or known to be contemplated)

(D) a description of any affiliation or relationship between the Company, each Third-Party Originator, each Subservicer and any of the following parties to a Securitization Transaction, as such parties are identified to the Company by the Purchaser

or any Depositor in writing, within ten days in advance of such Securitization Transaction:

Deleted: in

Deleted:

- (1) the sponsor;
- (2) the depositor;
- (3) the issuing entity;
- (4) any servicer;
- (5) any trustee;
- (6) any originator;
- (7) any significant obligor;
- (8) any enhancement or support provider; and
- (9) any other material transaction party.

(b) If so requested by the Purchaser or any Depositor, and required by Regulation AB, the Company shall provide (or, as applicable, cause each Third-Party Originator to provide) to the extent reasonably available to the Company (and not otherwise available to the Purchaser or Depositor), Static Pool Information with respect to the mortgage loans (of a similar type as the Mortgage Loans, as reasonably identified by the Purchaser as provided below) serviced

Deleted: . (b) .

Formatted: Bullets and Numbering

(c)

(d) by the Company or any Third-Party Originator for a period of 120 days or more and originated by (i) the Company, if the Company is an originator of Mortgage Loans (including as an acquirer of Mortgage Loans from a Qualified Correspondent), and/or (ii) each Third-Party Originator, in each case to the extent such mortgage loans were (i) purchased from the Company by the Purchaser and (ii) acquired from the Purchaser by the releant Depositor. Such Static Pool Information shall be prepared by the Company (or Third-Party Originator) pursuant to the specific written instructions of the Purchaser or the Depositor enumerating the fields or types of information to be provided and on the basis of the Purchaser's or the Depositor's, reasonable, good faith interpretation of the requirements of Item 1105(a)(1)-(3) of Regulation AB for the period of time the Company or Third-Party Originator serviced such mortgage loans. To the extent that there is reasonably available to the Company (or Third-Party Originator) Static Pool Information with respect to more than one mortgage loan type, the Purchaser or any Depositor shall be entitled to specify whether some or all of such information shall be provided pursuant to this paragraph. The content of such Static Pool Information may be in the form customarily provided by the Company, and need not be customized for the Purchaser or any Depositor. Such Static Pool Information for each vintage origination year or prior securitized pool, as applicable, shall be presented in increments no less frequently than quarterly over the life of the mortgage loans included in the vintage origination year or prior securitized pool. The most recent periodic increment must be as of a date no later than 135 days prior to the date of the prospectus or other offering document in which the Static Pool Information is to be included or incorporated by reference. The Static Pool Information shall be provided in an electronic format that provides a permanent record of the information provided, such as a portable

Deleted: its

document format (pdf) file, or other such electronic format reasonably required by the Purchaser or the Depositor, as applicable.

Promptly following notice or discovery of a material error in Static Pool Information provided pursuant to the immediately preceding paragraph (including an omission to include therein information required to be provided pursuant to such paragraph), the Company shall provide corrected Static Pool Information to the Purchaser or any Depositor, as applicable, in the same format in which Static Pool Information was previously provided to such party by the Company.

If so requested by the Purchaser or any Depositor, the Company shall provide (or, as applicable, cause each Third-Party Originator to provide), at the expense of the requesting party (to the extent of any additional incremental expense associated with delivery pursuant to this Agreement), such agreed-upon procedures letters of certified public accountants reasonably acceptable to the Purchaser or Depositor, as applicable, pertaining to Static Pool Information relating to prior securitized pools for securitizations closed on or after January 1, 2006 or, in the case of Static Pool Information with respect to the Company's or Third-Party Originator's originations or purchases, to calendar months commencing January 1, 2006, as the Purchaser or such Depositor shall reasonably request. As the requesting party and the Company may agree, such statements and letters shall be addressed to and be for the benefit of such parties as the Purchaser or such Depositor shall designate, which may include, by way of example, any Sponsor, any Depositor and any broker dealer acting as underwriter, placement agent or initial purchaser with respect to a Securitization Transaction. As the requesting party and the Company may agree, any such statement or letter may take the form of a standard, generally applicable document accompanied by a reliance letter authorizing reliance by the addressees designated by the Purchaser or such Depositor.

(c) If so requested by the Purchaser or any Depositor, the Company shall provide such information regarding the Company, as servicer of the Mortgage Loans, and each Subservicer (each of the Company and each Subservicer, for purposes of this paragraph, a "Servicer"), as is reasonably requested for the purpose of compliance with Items 1108 of Regulation AB. Members requested that the following items of information be deleted with the reference to the Regulation sufficing. They also noted that some of the language is not in the Regulation, particularly item (B) (5),

(d)

(d) As a condition to the succession to the Company or any Subservicer as servicer or subservicer under this Agreement or any applicable Reconstitution Agreement related thereto by any Person (i) into which the Company or such Subservicer may be merged or consolidated, or (ii) which may be appointed as a successor to the Company or any Subservicer, the Company shall provide to the Purchaser and any Depositor, at least [15] calendar days prior to the effective date of such succession or appointment, (x) written notice to the Purchaser and any Depositor of such succession or appointment and (y) in writing and in form and substance reasonably satisfactory to the Purchaser and such Depositor, all information reasonably requested by the

Deleted: S

Deleted: A

Deleted: Such information shall include, at a minimum:¶

Deleted: (A) the Servicer's form of organization;¶

(B) a description of how long the Servicer has been servicing residential mortgage loans; a general discussion of the Servicer's experience in servicing assets of any type as well as a more detailed discussion of the Servicer's experience in, and procedures for, the servicing function it will perform under this Agreement and any Reconstitution Agreements; information regarding the size, composition and growth of the Servicer's portfolio of residential mortgage loans of a type similar to the Mortgage Loans and information on factors related to the Servicer that may be material, in the good faith judgment of the Purchaser or any Depositor, to any analysis of the servicing of the Mortgage Loans or the related asset-backed securities, as applicable, including, without limitation:¶

(1) whether any prior securitizations of mortgage loans of a type similar to the Mortgage Loans involving the Servicer have defaulted or experienced an early amortization or other performance triggering event because of servicing during the three-year period immediately preceding the related Securitization Transaction;¶

(2) the extent of outsourcing the Servicer utilizes;¶

(3) whether there has been previous disclosure of material noncompliance with the applicable servicing criteria with respect to other securitizations of residential mortgage loans involving the Servicer as a servicer during the three-year period immediately preceding the related Securitization Transaction;¶

(4) whether the Servicer has been terminated as servicer in a residential mortgage loan securitization, either due to a servicing default or to application of a servicing performance test or trigger; and¶

(5) such other information as the Purchaser or any Depositor may reasonably request for the purpose ... [1]

Deleted: If so requested by the Purchaser or any Depositor for the purpose of satisfying its reporting obligation under the Exchange Act with respect to any class of asset-backed securities, the Company shall (or shall cause each Subservicer and Third-Party Originator to) (i) notify the Purchaser and any Depositor in writing of (A) any material litigation or governmental proceedings pending against the ... [2]

Deleted: e

Purchaser or any Depositor in order to comply with its reporting obligation under Item 6.02 of Form 8-K with respect to any class of asset-backed securities.

(e) In addition to such information as the Company, as servicer, is obligated to provide pursuant to other provisions of this Agreement, if so requested by the Purchaser or any Depositor, the Company shall provide such information which is reasonably available to the Company without unreasonable effort or expense, regarding the performance or servicing of the Mortgage Loans as is reasonably required to facilitate preparation of distribution reports in accordance with Item 1121 of Regulation AB.

Deleted: f

Section [].04. Servicer Compliance Statement.

On or before March [1] of each calendar year, commencing in 2007, the Company shall deliver to the Purchaser and any Depositor a statement of compliance addressed to the Purchaser and such Depositor and signed by an authorized officer of the Company containing the information required by Item 1123 of Regulation AB. [Note that the reference back to the Regulation would eliminate the specific language we suggest be deleted].

Deleted: , to the effect that (i) a review of the Company's activities during the immediately preceding calendar year (or applicable portion thereof) and of its performance under this Agreement and any applicable Reconstitution Agreement during such period has been made under such officer's supervision, and (ii) to the best of such officers' knowledge, based on such review, the Company has fulfilled all of its obligations under this Agreement and any applicable Reconstitution Agreement in all material respects throughout such calendar year (or applicable portion thereof) or, if there has been a failure to fulfill any such obligation in any material respect, specifically identifying each such failure known to such officer and the nature and the status thereof.

Section [].05. Report on Assessment of Compliance and Attestation.

(a) On or before March [1] of each calendar year, commencing in 2007, if required by Regulation AB, including Item 1122 of Regulation AB and Instruction 2 thereof, including any applicable thresholds, and upon not less than sixty days notice from the Purchaser or a Depositor that a report under this Section .05 will be required, the Company shall:

Deleted: (in form and substance reasonably satisfactory to the Purchaser and such Depositor)

(i) deliver to the Purchaser and any Depositor a report regarding the Company's assessment of compliance with the Servicing Criteria during the immediately preceding calendar year, as required under Rules 13a-18 and 15d-18 of the Exchange Act and Item 1122 of Regulation AB. Such report shall be addressed to the Purchaser and such Depositor and signed by an authorized officer of the Company, and shall address each of the Servicing Criteria specified on a certification substantially in the form of Exhibit [B] hereto delivered to the Purchaser concurrently with the execution of this Agreement;

(ii) deliver to the Purchaser and any Depositor a report of a registered public accounting firm that attests to, and reports on, the assessment of compliance made by the Company and delivered pursuant to the preceding paragraph. Such attestation shall be in accordance with Rules 1-02(a)(3) and 2-02(g) of Regulation S-X under the Securities Act and the Exchange Act;

Deleted: reasonably acceptable to the Purchaser and such Depositor

(iii) cause each Subservicer, and each Subcontractor determined by the Company pursuant to Section [].06(b) to be "participating in the servicing function" within the meaning of Item 1122 of Regulation AB, to deliver to the Purchaser and any Depositor an assessment of compliance and accountants' attestation as and when provided in paragraphs (a) and (b) of this Section; and

(iv) deliver to the Purchaser, any Depositor and any other Person that will be responsible for signing the certification (a "Sarbanes Certification") required by Rules 13a-14(d) and 15d-14(d) under the Exchange Act (pursuant to Section 302 of the Sarbanes-Oxley Act of 2002) on behalf of an asset-backed issuer with respect to a Securitization Transaction a certification in the form attached hereto as Exhibit [A].

The Company acknowledges that the parties identified in clause (a)(iv) above may rely on the certification provided by the Company pursuant to such clause in signing a Sarbanes Certification and filing such with the Commission.

~~(b) Each assessment of compliance provided by a Subservicer pursuant to Section [].05(a)(i) shall address each of the Servicing Criteria specified on a certification substantially in the form of Exhibit [B] hereto delivered to the Purchaser concurrently with the execution of this Agreement or, in the case of a Subservicer subsequently appointed as such, on or prior to the date of such appointment. An assessment of compliance provided by a Subcontractor pursuant to Section [].05(a)(iii) need not address any elements of the Servicing Criteria other than those specified by the Company pursuant to Section [].06.~~

Deleted: . (b) .

Formatted: Bullets and Numbering

~~(c) Should a suspension of the duty to file reports under the Exchange Act or by act of the U.S. Congress, government regulation, published Commission staff statement or otherwise, then the requirements of the Company under this Section shall be reduced accordingly. The Purchaser or the Purchaser's Agent shall promptly notify the Company in writing of any termination of registration or any suspension of the duty to file reports under the Exchange Act, including the filing of a Form 15 under sections (12) (g) or 13 and 15 (d) thereof.~~

Section [].06. Use of Subservicers and Subcontractors.

~~[Some members believe that the paragraph here should be deleted as not required under Regulation AB and, from a business perspective, as unduly restrict with respect to operations.]~~

The Company shall not hire or otherwise utilize the services of any Subservicer to fulfill any of the obligations of the Company as servicer under this Agreement or any Reconstitution Agreement unless the Company complies with the provisions of paragraph (a) of this Section. The Company shall not hire or otherwise utilize the services of any Subcontractor, and shall not permit any Subservicer to hire or otherwise utilize the services of any Subcontractor, to fulfill any of the obligations of the Company as servicer under this Agreement or any Reconstitution Agreement unless the Company complies with the provisions of paragraph (b) of this Section.

(a) It shall not be necessary for the Company to seek the consent of the Purchaser or any Depositor to the utilization of any Subservicer. ~~If required by Regulation AB, after reasonable notice fro the Purchaser of the parties involved in the Purchaser's Securitization Transaction and their percentage involvement, the Company shall cause any Subservicer used by the Company (or by any Subservicer of the Company) for the benefit of the Purchaser and any Depositor to comply with the provisions of this Section and with Sections [].02, [].03(c) and (e), [].04, [].05 and [].07 of this Agreement, to provide the information required with respect to such Subservicer under Section [].03(d) of this Agreement. The Company shall be responsible~~

Deleted: T

Deleted: to the same extent as if such Subservicer were the Company, and

for obtaining from each Subservicer and delivering to the Purchaser and any Depositor any servicer compliance statement required to be delivered by such Subservicer under Section [].04, any assessment of compliance and attestation required to be delivered by such Subservicer under Section [].05 and any certification required to be delivered to the Person that will be responsible for signing the Sarbanes Certification under Section [].05 as and when required to be delivered.

(b) It shall not be necessary for the Company to seek the consent of the Purchaser or any Depositor to the utilization of any Subcontractor. If required by Regulation AB after reasonable notice from the Purchaser of the parties involved in the Purchaser's Securitization Transaction and their percentage involvement, the Company shall promptly upon request provide to the Purchaser and any Depositor (or any designee of the Depositor, such as a master servicer or administrator) a written description (in form and substance satisfactory to the Purchaser and such Depositor) of the role and function of each Subcontractor utilized by the Company or any Subservicer, specifying (i) the identity of each such Subcontractor, (ii) which (if any) of such Subcontractors are "participating in the servicing function" within the meaning of Item 1122 of Regulation AB, and (iii) which elements of the Servicing Criteria will be addressed in assessments of compliance provided by each Subcontractor identified pursuant to clause (ii) of this paragraph.

Deleted: T

The Company shall cause any such Subcontractor used by the Company (or by any Subservicer) to provide the disclosures, assessments of compliance and attestations required by Regulation AB. The Company shall be responsible for obtaining from each Subcontractor and delivering to the Purchaser and any Depositor any assessment of compliance and attestation required to be delivered by such Subcontractor under Section [].05, in each case as and when required to be delivered.

Deleted: As a condition to the utilization of any Subcontractor determined to be "participating in the servicing function" within the meaning of Item 1122 of Regulation AB,

Deleted: t

Deleted: for the benefit of the Purchaser and any Depositor to comply with the provisions of Sections [].05 and [].07 of this Agreement to the same extent as if such Subcontractor were the Company.

[The section below on indemnification and remedies disturbed some members considerably. We have made an effort to reflect their concerns. In general, members thought that the section expands the number of entities indemnified and the scope of what should be indemnified. Members noted that there is no cross-indemnification. They also indicated that Regulation AB does not require indemnification. They acknowledged that indemnification is warranted but felt that the draft provisions were overly broad as to the seller/servicer and that the recipients should be limited to those with a contractual relationship to the seller along with the signer of the certification for SOX. Such an approach would direct that some of the entities named here, including various officers, affiliates, SOX preparers, etc. would need to seek their indemnifications from their contract counterparties. Further, in terms of the subject areas, the servicer should indemnify only static pool information, descriptions and certifications supplied for securitization documents, and certain others.]

Section [].07. Indemnification; Remedies.

(a) The Company shall indemnify the Purchaser, each sponsor and issuing entity; each Person responsible for the preparation, execution or filing of any report required to be filed with the Commission with respect to such Securitization Transaction, or for execution of a certification pursuant to Rule 13a-14(d) or Rule 15d-14(d) under the Exchange Act with respect to such Securitization Transaction; e and shall hold each of them harmless from and against any losses, damages, penalties, fines, forfeitures, legal fees and expenses and related costs,

Deleted: each affiliate of the Purchaser, and each of the following parties participating in a Securitization Transaction:

Deleted: ach broker dealer acting as underwriter, placement agent or initial purchaser, each Person who controls any of such parties or the Depositor (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act); and the respective present and former directors, officers, employees and agents of each of the foregoing and of the Depositor,

judgments, and any other costs, fees and expenses that any of them may sustain directly related to:

Deleted: arising out of or based upon

(i)(A) any untrue statement of a material fact contained in any written information, written report, certification, accountants' letter or other material provided under this Article [] by or on behalf of the Company, or provided under this Article [] by or on behalf of any Subservicer, Subcontractor or Third-Party Originator (collectively, the "Company Information"), or (B) the omission, to state in the Company Information a material fact required to be stated in the Company Information or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, by way of clarification*, that clause (B) of this paragraph shall be construed solely by reference to the Company Information and not to any other information communicated in connection with a sale or purchase of securities, without regard to whether the Company Information or any portion thereof is presented together with or separately from such other information;

Deleted: or alleged to be contained

Deleted: or alleged omission

(ii) any failure by the Company, any Subservicer, any Subcontractor or any Third-Party Originator to deliver any information, report, certification, accountants' letter or other material when and as required under this Article [], including any failure by the Company to identify pursuant to Section [].06(b) any Subcontractor "participating in the servicing function" within the meaning of Item 1122 of Regulation AB; or

(iii) [some members recommend deletion of this section] any breach by the Company of a representation or warranty set forth in Section [].02(a) or in a writing furnished pursuant to Section [].02(b) and made as of a date prior to the closing date of the related Securitization Transaction, to the extent that such breach is not cured by such closing date, or any breach by the Company of a representation or warranty in a writing furnished pursuant to Section [].02(b) to the extent made as of a date subsequent to such closing date. [Conforming changes may be needed here]

In the case of any failure of performance described in clause (a)(ii) of this Section, the Company shall promptly reimburse the Purchaser, any Depositor, as applicable, and each Person responsible for the preparation, execution or filing of any report required to be filed with the Commission with respect to such Securitization Transaction, or for execution of a certification pursuant to Rule 13a-14(d) or Rule 15d-14(d) under the Exchange Act with respect to such Securitization Transaction, for all costs reasonably incurred by each such party in order to obtain the information, report, certification, accountants' letter or other material not delivered as required by the Company, any Subservicer, any Subcontractor or any Third-Party Originator.

(b) (i) Any failure by the Company, any Subservicer, any Subcontractor or any Third-Party Originator to deliver any information, report, certification, accountants' letter or other material when and as required under this Article [], or any breach by the Company of a representation or warranty set forth in Section [].02(a) or in a writing furnished pursuant to Section [].02(b) and made as of a date prior to the closing date of the related Securitization Transaction, to the extent that such breach is not cured by such closing date, or any breach by the Company of a representation or warranty in a writing

furnished pursuant to Section [].02(b) to the extent made as of a date subsequent to such closing date, shall, except as provided in clause (ii) of this paragraph, immediately and automatically, without notice or grace period, constitute an Event of Default with respect to the Company under this Agreement and any applicable Reconstitution Agreement, and shall entitle the Purchaser or Depositor, as applicable, in its sole discretion to terminate the rights and obligations of the Company as servicer under this Agreement and/or any applicable Reconstitution Agreement related thereto without payment (notwithstanding anything in this Agreement or any applicable Reconstitution Agreement related thereto to the contrary) of any compensation to the Company; *provided* that to the extent that any provision of this Agreement and/or any applicable Reconstitution Agreement expressly provides for the survival of certain rights or obligations following termination of the Company as servicer, such provision shall be given effect.

(ii) Any failure by the Company, any Subservicer or any Subcontractor to deliver any information, report, certification or accountants' letter required under Regulation AB when and as required under Section [].04 or [].05, including any failure by the Company, as required by Regulation AB after receiving sufficient threshold information and percentages from the Purchaser, to identify pursuant to Section [].06(b) any Subcontractor "participating in the servicing function" within the meaning of Item 1122 of Regulation AB, which continues unremedied for ten calendar days after the date on which such information, report, certification or accountants' letter was required to be delivered shall constitute an Event of Default with respect to the Company under this Agreement and any applicable Reconstitution Agreement, and shall entitle the Purchaser or Depositor, as applicable, in its sole discretion to terminate the rights and obligations of the Company as servicer under this Agreement and/or any applicable Reconstitution Agreement without payment (notwithstanding anything in this Agreement to the contrary) of any compensation to the Company; *provided* that to the extent that any provision of this Agreement and/or any applicable Reconstitution Agreement expressly provides for the survival of certain rights or obligations following termination of the Company as servicer, such provision shall be given effect.

(iii) The Company shall promptly reimburse the Purchaser (or any designee of the Purchaser, such as a master servicer) and any Depositor, as applicable, for all reasonable expenses incurred by the Purchaser (or such designee) or such Depositor, as such are incurred, in connection with the termination of the Company as servicer and the transfer of servicing of the Mortgage Loans to a successor servicer. The provisions of this paragraph shall not limit whatever rights the Purchaser or any Depositor may have under other provisions of this Agreement and/or any applicable Reconstitution Agreement or otherwise, whether in equity or at law, such as an action for damages, specific performance or injunctive relief.

EXHIBIT A

[A few members also reviewed this exhibit and observed that it seemed to that the certification is broader than required by Item 1123 and is also intended as a SOX certificate.]

Deleted: EXHIBIT [A]

Deleted: ¶

Formatted: Left

FORM OF ANNUAL CERTIFICATION

Re: The [] agreement dated as of [], 200[] (the "Agreement"),
among [IDENTIFY PARTIES]

I, _____, the _____ of [NAME
OF COMPANY], certify to [the Purchaser], [the Depositor], and the [Master Servicer]
[Securities Administrator] [Trustee], and their officers, with the knowledge and intent that they
will rely upon this certification, that:

(1) I have reviewed the servicer compliance statement of the Company provided in accordance with Item 1123 of Regulation AB (the "Compliance Statement"), the report on assessment of the Company's compliance with the servicing criteria set forth in Item 1122(d) of Regulation AB (the "Servicing Criteria"), provided in accordance with Rules 13a-18 and 15d-18 under Securities Exchange Act of 1934, as amended (the "Exchange Act") and Item 1122(a) of Regulation AB (the "Servicing Assessment"), the registered public accounting firm's attestation report provided in accordance with Rules 13a-18 and 15d-18 under the Exchange Act and Section 1122(b) of Regulation AB (the "Attestation Report"), [note: not required under Reg AB or the SEC suggested SOX certification];

(2) Based on my knowledge, the Compliance Statement and the Servicing Assessment, taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which such statements were made, not misleading with respect to the period of time covered thereby;(3) Based on my knowledge, the servicing information required to be provided by the Company under the Agreement has been provided to the [Depositor] [Master Servicer] [Securities Administrator] [Trustee];

(4) I am responsible for reviewing the activities performed by the Company as servicer under the Agreement, and based upon the review required by the Agreement, and except as disclosed in the Compliance Statement, the Servicing Assessment or the Attestation Report, the Company has fulfilled its obligations under the Agreement; and

(5) The Compliance Statement required to be delivered by the Company pursuant to this Agreement, and the Servicing Assessment and Attestation Report required to be provided by the Company and by each any Subservicer or Subcontractor pursuant to the Agreement, have been provided to the [Depositor] [Master Servicer]. Any material instances of noncompliance described in such reports have been disclosed

Deleted: and all servicing reports, officer's certificates and other information relating to the servicing of the Mortgage Loans by the Company during 200[] that were delivered by the Company to the [Depositor] [Master Servicer] [Securities Administrator] [Trustee] pursuant to the Agreement (collectively, the "Company Servicing Information")

Deleted: any Servicing Information,

Deleted: es

Deleted: by the Company Servicing Information;¶

Deleted: all of the Company

Deleted: S

Deleted: I

Deleted: on my knowledge and the compliance review conducted in preparing the Compliance Statement and

to the [Depositor] [Master Servicer]. Any material instance of noncompliance with the Servicing Criteria has been disclosed in such reports.

Date: _____

By: _____
Name:
Title:

EXHIBIT [B]

SERVICING CRITERIA TO BE ADDRESSED IN ASSESSMENT OF COMPLIANCE

The assessment of compliance to be delivered by [the Company] [Name of Subservicer] shall address, at a minimum, the criteria identified as below as “Applicable Servicing Criteria”:

Servicing Criteria		Applicable Servicing Criteria
Reference	Criteria	
	General Servicing Considerations	
1122(d)(1)(i)	Policies and procedures are instituted to monitor any performance or other triggers and events of default in accordance with the transaction agreements.	
1122(d)(1)(ii)	If any material servicing activities are outsourced to third parties, policies and procedures are instituted to monitor the third party's performance and compliance with such servicing activities.	
1122(d)(1)(iii)	Any requirements in the transaction agreements to maintain a back-up servicer for the mortgage loans are maintained.	
1122(d)(1)(iv)	A fidelity bond and errors and omissions policy is in effect on the party participating in the servicing function throughout the reporting period in the amount of coverage required by and otherwise in accordance with the terms of the transaction agreements.	
	Cash Collection and Administration	
1122(d)(2)(i)	Payments on mortgage loans are deposited into the appropriate custodial bank accounts and related bank clearing accounts no more than two business days following receipt, or such other number of days specified in the transaction agreements.	
1122(d)(2)(ii)	Disbursements made via wire transfer on behalf of an obligor or to an investor are made only by authorized personnel.	
1122(d)(2)(iii)	Advances of funds or guarantees regarding collections, cash flows or distributions, and any interest or other fees charged for such advances, are made, reviewed and approved as specified in the transaction agreements.	
1122(d)(2)(iv)	The related accounts for the transaction, such as cash reserve accounts or accounts established as a form of overcollateralization, are separately maintained (e.g., with respect to commingling of cash) as set forth in the transaction agreements.	
1122(d)(2)(v)	Each custodial account is maintained at a federally insured depository institution as set forth in the transaction agreements. For purposes of this criterion, “federally insured depository institution” with respect to a foreign financial institution means a foreign financial institution that meets the requirements of Rule 13k-1(b)(1) of the Securities Exchange Act.	
1122(d)(2)(vi)	Unissued checks are safeguarded so as to prevent unauthorized access.	
1122(d)(2)(vii)	Reconciliations are prepared on a monthly basis for all asset-backed securities related bank accounts, including custodial accounts and related bank clearing accounts. These reconciliations are (A) mathematically accurate; (B) prepared within 30 calendar days after the bank statement cutoff date, or such other number of days specified in the transaction agreements; (C) reviewed and approved by someone other than the person who prepared the reconciliation; and (D) contain explanations for reconciling items. These reconciling items are resolved within 90 calendar days of their original identification, or such other number of days specified in the transaction agreements.	

Servicing Criteria		Applicable Servicing Criteria
Reference	Criteria	
	Investor Remittances and Reporting	
1122(d)(3)(i)	Reports to investors, including those to be filed with the Commission, are maintained in accordance with the transaction agreements and applicable Commission requirements. Specifically, such reports (A) are prepared in accordance with timeframes and other terms set forth in the transaction agreements; (B) provide information calculated in accordance with the terms specified in the transaction agreements; (C) are filed with the Commission as required by its rules and regulations; and (D) agree with investors' or the trustee's records as to the total unpaid principal balance and number of mortgage loans serviced by the Servicer.	
1122(d)(3)(ii)	Amounts due to investors are allocated and remitted in accordance with timeframes, distribution priority and other terms set forth in the transaction agreements.	
1122(d)(3)(iii)	Disbursements made to an investor are posted within two business days to the Servicer's investor records, or such other number of days specified in the transaction agreements.	
1122(d)(3)(iv)	Amounts remitted to investors per the investor reports agree with cancelled checks, or other form of payment, or custodial bank statements.	
	Pool Asset Administration	
1122(d)(4)(i)	Collateral or security on mortgage loans is maintained as required by the transaction agreements or related mortgage loan documents.	
1122(d)(4)(ii)	Mortgage loan and related documents are safeguarded as required by the transaction agreements	
1122(d)(4)(iii)	Any additions, removals or substitutions to the asset pool are made, reviewed and approved in accordance with any conditions or requirements in the transaction agreements.	
1122(d)(4)(iv)	Payments on mortgage loans, including any payoffs, made in accordance with the related mortgage loan documents are posted to the Servicer's obligor records maintained no more than two business days after receipt, or such other number of days specified in the transaction agreements, and allocated to principal, interest or other items (e.g., escrow) in accordance with the related mortgage loan documents.	
1122(d)(4)(v)	The Servicer's records regarding the mortgage loans agree with the Servicer's records with respect to an obligor's unpaid principal balance.	
1122(d)(4)(vi)	Changes with respect to the terms or status of an obligor's mortgage loans (e.g., loan modifications or re-agings) are made, reviewed and approved by authorized personnel in accordance with the transaction agreements and related pool asset documents.	
1122(d)(4)(vii)	Loss mitigation or recovery actions (e.g., forbearance plans, modifications and deeds in lieu of foreclosure, foreclosures and repossessions, as applicable) are initiated, conducted and concluded in accordance with the timeframes or other requirements established by the transaction agreements.	
1122(d)(4)(viii)	Records documenting collection efforts are maintained during the period a mortgage loan is delinquent in accordance with the transaction agreements. Such records are maintained on at least a monthly basis, or such other period specified in the transaction agreements, and describe the entity's activities in monitoring delinquent mortgage loans including, for example, phone calls, letters and payment rescheduling plans in cases where delinquency is deemed temporary (e.g., illness or unemployment).	
1122(d)(4)(ix)	Adjustments to interest rates or rates of return for mortgage loans with variable rates are computed based on the related mortgage loan documents.	

Servicing Criteria		Applicable Servicing Criteria
Reference	Criteria	
1122(d)(4)(x)	Regarding any funds held in trust for an obligor (such as escrow accounts): (A) such funds are analyzed, in accordance with the obligor's mortgage loan documents, on at least an annual basis, or such other period specified in the transaction agreements; (B) interest on such funds is paid, or credited, to obligors in accordance with applicable mortgage loan documents and state laws; and (C) such funds are returned to the obligor within 30 calendar days of full repayment of the related mortgage loans, or such other number of days specified in the transaction agreements.	
1122(d)(4)(xi)	Payments made on behalf of an obligor (such as tax or insurance payments) are made on or before the related penalty or expiration dates, as indicated on the appropriate bills or notices for such payments, provided that such support has been received by the servicer at least 30 calendar days prior to these dates, or such other number of days specified in the transaction agreements.	
1122(d)(4)(xii)	Any late payment penalties in connection with any payment to be made on behalf of an obligor are paid from the servicer's funds and not charged to the obligor, unless the late payment was due to the obligor's error or omission.	
1122(d)(4)(xiii)	Disbursements made on behalf of an obligor are posted within two business days to the obligor's records maintained by the servicer, or such other number of days specified in the transaction agreements.	
1122(d)(4)(xiv)	Delinquencies, charge-offs and uncollectible accounts are recognized and recorded in accordance with the transaction agreements.	
1122(d)(4)(xv)	Any external enhancement or other support, identified in Item 1114(a)(1) through (3) or Item 1115 of Regulation AB, is maintained as set forth in the transaction agreements.	

[NAME OF COMPANY] [NAME OF
SUBSERVICER]

Date: _____

By: _____
Name:
Title:

Document comparison done by DeltaView on Tuesday, November 15, 2005 4:31:34 PM

Input:	
Document 1	interwovenSite://DCIMANAGE/MNDCiManage/167116/1
Document 2	interwovenSite://DCIMANAGE/MNDCiManage/167116/2
Rendering set	MNStandard

Legend:	
<u>Insertion</u>	
Deletion	
<u>Moved from</u>	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	6
Deletions	4
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	10

- (A) the Servicer's form of organization;
- (B) a description of how long the Servicer has been servicing residential mortgage loans; a general discussion of the Servicer's experience in servicing assets of any type as well as a more detailed discussion of the Servicer's experience in, and procedures for, the servicing function it will perform under this Agreement and any Reconstitution Agreements; information regarding the size, composition and growth of the Servicer's portfolio of residential mortgage loans of a type similar to the Mortgage Loans and information on factors related to the Servicer that may be material, in the good faith judgment of the Purchaser or any Depositor, to any analysis of the servicing of the Mortgage Loans or the related asset-backed securities, as applicable, including, without limitation:
- (1) whether any prior securitizations of mortgage loans of a type similar to the Mortgage Loans involving the Servicer have defaulted or experienced an early amortization or other performance triggering event because of servicing during the three-year period immediately preceding the related Securitization Transaction;
 - (2) the extent of outsourcing the Servicer utilizes;
 - (3) whether there has been previous disclosure of material noncompliance with the applicable servicing criteria with respect to other securitizations of residential mortgage loans involving the Servicer as a servicer during the three-year period immediately preceding the related Securitization Transaction;
 - (4) whether the Servicer has been terminated as servicer in a residential mortgage loan securitization, either due to a servicing default or to application of a servicing performance test or trigger; and
 - (5) such other information as the Purchaser or any Depositor may reasonably request for the purpose of compliance with Item 1108(b)(2) of Regulation AB;
- (C) a description of any material changes during the three-year period immediately preceding the related Securitization Transaction to the Servicer's policies or procedures with respect to the servicing function it will perform under this Agreement and any Reconstitution Agreements for mortgage loans of a type similar to the Mortgage Loans;
- (D) information regarding the Servicer's financial condition, to the extent that there is a material risk that an adverse financial event or circumstance involving the Servicer could have a material adverse effect on the performance by the Company of its servicing obligations under this Agreement or any Reconstitution Agreement;
- (E) information regarding advances made by the Servicer on the Mortgage Loans and the Servicer's overall servicing portfolio of residential mortgage loans for the three-year period immediately preceding the related

Securitization Transaction, which may be limited to a statement by an authorized officer of the Servicer to the effect that the Servicer has made all advances required to be made on residential mortgage loans serviced by it during such period, or, if such statement would not be accurate, information regarding the percentage and type of advances not made as required, and the reasons for such failure to advance;

(F) a description of the Servicer's processes and procedures designed to address any special or unique factors involved in servicing loans of a similar type as the Mortgage Loans;

(G) a description of the Servicer's processes for handling delinquencies, losses, bankruptcies and recoveries, such as through liquidation of mortgaged properties, sale of defaulted mortgage loans or workouts; and

(H) information as to how the Servicer defines or determines delinquencies and charge-offs, including the effect of any grace period, re-aging, restructuring, partial payments considered current or other practices with respect to delinquency and loss experience.

If so requested by the Purchaser or any Depositor for the purpose of satisfying its reporting obligation under the Exchange Act with respect to any class of asset-backed securities, the Company shall (or shall cause each Subservicer and Third-Party Originator to) (i) notify the Purchaser and any Depositor in writing of (A) any material litigation or governmental proceedings pending against the Company, any Subservicer or any Third-Party Originator and (B) any affiliations or relationships that develop following the closing date of a Securitization Transaction between the Company, any Subservicer or any Third-Party Originator and any of the parties specified in clause (D) of paragraph (a) of this Section (and any other parties identified in writing by the requesting party) with respect to such Securitization Transaction, and (ii) provide to the Purchaser and any Depositor a description of such proceedings, affiliations or relationships.