

October 30, 2009

Notice to Reader:

This Material Document is being re-filed to indicate where information has been redacted, and should replace the Material Document filed on December 15, 2008.

AMENDED MORTGAGE ACQUISITION AGREEMENT

THIS AGREEMENT is made as of the 20th day of October, 2006 between MCAN Mortgage Corporation (“**MCAN**”) and MCAP Commercial LP (“**MCLP**”).

WHEREAS MCAN wishes to make mortgage loans from time to time to hold as investments;

AND WHEREAS MCAN is also prepared to make mortgage loans from time to time on a short term “warehousing” basis, as a service to **MCLP**, pending **MCLP** arranging for the sale or other financing thereof;

AND WHEREAS MCLP possesses certain skills relating to the locating of potential Mortgagors and the servicing of Mortgages, and (i) is prepared to originate Investment Mortgages for **MCAN**, (ii) wishes to utilize the warehousing facilities that **MCAN** is prepared to make available to **MCLP** for Warehoused Mortgages; and (iii) is prepared to transfer such Investment Mortgages and Warehoused Mortgages it originates for **MCAN** on a fully serviced basis;

AND WHEREAS the parties are prepared to provide the other services to each other contemplated herein;

NOW THEREFORE, in consideration of the foregoing and the agreements herein contained, the parties agree as follows:

ARTICLE ONE INTERPRETATION

Section 1.1 Defined Terms

In this Agreement, the following words and phrases shall have the meanings set forth below:

“**Account Records**” has the meaning set out in Section 8.10.

“**Additional Products**” has the meaning set out in Section 3.1.

“**Administration Fee**” means all fees payable by a Mortgagor under or in connection with a Mortgage, other than Commitment Fees, Discharge Fees and Letter of Credit Fees.

“**Advance**” means all or part of an advance or series of advances made to a Mortgagor (or in the case of a Defaulted Mortgage, to a trustee, receiver or similar Person appointed in respect of such Mortgagor and including any completion expenses paid in respect of a Defaulted Mortgage) pursuant to the terms of a Mortgage (including on account of capitalized interest),

together with all right, title and interest in, to and under the related Mortgage in respect of and to the extent of such advances, including the administration and collection of such advances; in addition, where a letter of credit has been issued for the benefit of a Mortgagor in respect of a Mortgage, and a draw has been made under such letter of credit, the reimbursement of the issuing institution, or of any Person (including MCAN) which has itself reimbursed the issuing institution, for such draw shall be deemed to be an Advance to such Mortgagor for all purposes hereof and any reference herein to an Advance to a Mortgagor shall include the payment of such monies to the issuing institution or such other Person in such circumstances.

“**Adverse Claim**” means a lien, security interest, claim, mortgage or other charge or encumbrance, or any other type of preferential arrangement.

“**Affiliate**” means, at any time and with respect to any Person, any other Person that at such time directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such first Person.

“**Aggregate Outstanding Principal Balance**” means, in respect of any one or more Mortgages or Interests, the aggregate of the Outstanding Principal Balance of each such Mortgage or Interest, as applicable, at the time in question.

“**Agreement**” means this Mortgage Acquisition Agreement, as amended, supplemented, restated or replaced from time to time.

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, any law, rule, statute, regulation, order, judgement, decree, treaty, directive or other requirement having the force of law relating or applicable to such Person, property, transaction, event or other matter.

“**Business Day**” means any day, other than a Saturday or Sunday or statutory or civic holiday, on which Bank of Montreal is open for business in Toronto, Ontario and Montréal, Québec.

“**CMHC**” means Canada Mortgage and Housing Corporation and its successors and assigns.

“**Commitment Fee**” means, for any Mortgage, any commitment fee, standby fee, extension fee, amendment fee, renewal fee, deferred fee, deferred loan fee, profit participation fee, or similar fee payable under or in connection with such Mortgage.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or by contract.

“**Co-owned Mortgage**” has the meaning set out in Section 2.7.

“**Current Products**” means all real estate mortgage products currently originated or serviced for MCAN or its Affiliates, by MCLP, MFC or MSC or any Affiliates thereof, as described in Schedule E or F on the date hereof.

“**Defaulted Mortgage**” means a Mortgage (a) that, in whole or in part, has remained unpaid as to principal or interest for more than 90 days from the applicable payment due date, (b) as to which any other default has occurred which has not been cured within any applicable cure period specified therefor under the related Mortgage and which, in the opinion of the Servicer, acting reasonably, has a material and adverse effect on the value of such Mortgage, (c) in respect of which the related Mortgagor has become bankrupt or insolvent or suffered any other Insolvency Event, (d) in respect of which both MCAN and MCLP agree that an event of the type described in any other clause of this definition is reasonably likely to occur within the next 30 Business Days, and which has been added to MCAN’s watch list, or (e) that has, in accordance with the normal underwriting policies and procedures of MCLP, in the case of Warehouse Mortgage, or of MCAN, in the case of an Investment Mortgage, applied in good faith, had a specific reserve for loss (whether for all or a part of the amount outstanding) taken against it; provided that a Mortgage which has become a Defaulted Mortgage may thereafter cease to be a Defaulted Mortgage upon written notice from MCLP to MCAN, if the events which gave rise to it becoming a Defaulted Mortgage have ceased to be in effect.

“**Default Trigger**” has the meaning set out in Section 3.1(4).

“**Disbursement Account**” has the meaning set out in Section 9.6.

“**Discharge Fee**” means, for any Mortgage, any discharge fee, prepayment penalty, interest rate differential payment or yield maintenance payment payable under or in connection with such Mortgage.

“**Eligible Mortgage**” means, at any time, (i) any Warehoused Mortgage (or Mortgage which is intended to be a Warehoused Mortgage) which is a Warehouse Eligible Mortgage at such time; and (ii) any Investment Mortgage (or Mortgage which is intended to be an Investment Mortgage) (A) which complies with any applicable Product Specific Eligibility Criteria at such time; or (B) which has been approved as an Investment Mortgage by MCAN in accordance with Section 2.4(3).

“**Expense Payments**” means, for any Mortgage, any amounts paid by or on behalf of the Mortgagor with respect to such Mortgage by way of reimbursement of, or indemnity for, or to enable payment of, any Mortgage Expenses incurred or suffered in connection with such Mortgage, including interest with respect thereto.

“**Failure to Supply**” has the meaning set out in Section 3.2.

“**Funding Account**” means such account as may be specified by MCLP from time to time for the purpose of receiving payments from MCAN of Required Funding Amounts.

“**Funding Date**” has the meaning set out in Section 2.5(1).

“**Funding Limit**” means, for each Product Group for Warehoused Mortgages, the Funding Limit specified therefor in Schedule E, and for the letter of credit facility described in Section 2.3(3), the Funding Limit as specified in Part W.6 of Schedule E, in each such case as such Schedule may be amended from time to time.

“**Funding Notice**” means a notice substantially in the form of Schedule B.

“**Gain on Sale**” means, in connection with the sale (including securitization) of any Mortgage, the gain on sale realized from such sale as determined in accordance with normal industry practises and taking into account costs (both internal and external) incurred in connection with such sale; provided that if the parties cannot at any time agree as to how to determine such gain on sale, the matter shall be referred to arbitration under Section 10.13.

“**Governmental Authority**” means the government of any sovereign state or any political subdivision thereof, or any political subdivision of a political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory, administrative or other functions of or pertaining to government.

“**Insolvency Event**” shall occur with respect to any Person, if such Person (i) shall generally not pay its debts as such debts become due; (ii) shall admit in writing its inability to pay its debts generally, (iii) shall make an assignment for the benefit of its creditors or file a notice of intention to make a proposal to some or all of its creditors, (iv) shall petition or apply to any court for the appointment of a receiver, receiver manager, administrator, inspector, liquidator, agent, trustee or other similar official (a “**Receiver**”) for it or for any substantial part of its property, (v) is adjudged or declared bankrupt or insolvent and such judgment or declaration is not dismissed, rescinded, withdrawn or stayed within 30 days (provided that upon any such stay ceasing to be in full force and effect, an Insolvency Event shall thereupon be deemed to occur unless the related judgment or declaration has theretofore been dismissed, rescinded or withdrawn) or if such Person acknowledges its bankruptcy or insolvency, (vi) is dissolved, liquidated or wound-up, (vii) commences or files notice of any proceedings relating to it or any substantial part of its property under any law, whether now or hereafter in effect, of any jurisdiction relating to dissolution, liquidation, winding-up, bankruptcy, insolvency, reorganization of insolvent debtors, arrangement (including the *Companies’ Creditors Arrangement Act*) or readjustment or moratorium of debts (including passing any effective resolution authorizing any such proceeding), (viii) by any act or omission to act indicates its consent to, approval of, or acquiescence in, any such proceeding for it or for any substantial part of its property commenced by any other Person or if there is no such consent, approval or acquiescence, either any such proceeding commenced by any other Person is not dismissed within 30 days, or any of the remedies or actions sought in any such proceeding shall be granted (including the appointment of a Receiver or an order for relief against all or a substantial part of its property), (ix) shall suffer the private appointment of any Receiver, and any such appointment is not set aside or stayed within 30 days after the date that such appointment was suffered, provided that such 30-day period shall only apply if such appointment was not applied for, consented to, approved by or acquiesced in, and is being actively and diligently contested in good faith by appropriate proceedings; or (x) shall have all or any substantial part of its assets or property seized or repossessed by any encumbrancer or other Person.

“Insured Mortgage” means any Mortgage in respect of which Mortgage Insurance has been obtained and subsists.

“Interest” means, with respect to a Mortgage, an undivided percentage interest or participation (including one arising from the purchase or making of an Advance) in such Mortgage and the related Mortgage Assets, which shall entitle the owner thereof to receive Mortgage Proceeds in respect of such Mortgage based on its Proportionate Share at the time in question.

“Investment Mortgage” means a Mortgage originated hereunder for ownership by MCAN, other than a Warehoused Mortgage.

“Investment Term” has the meaning set out in Section 4.1(2).

“LC Facility Utilization Amount” means, at any time, the sum of (a) the aggregate then undrawn and unexpired amount of all then outstanding letters of credit described in Part W.6 of Schedule E hereto, plus (b) the aggregate amount of all amounts drawn under any such letters of credit which have not, as of such time, been reimbursed.

“Letter of Credit Fees” means, with respect to a Mortgage, all fees payable under such Mortgage by the related Mortgagor on account of or relating to any letters of credit made available to such Mortgagor thereunder, including all standby fees and issuance fees allocable to such letters of credit.

“Material Default” means, with respect to a Mortgage, any one or more of the following:

- (a) a default in the payment of principal, interest or fees under such Mortgage;
- (b) the bankruptcy or insolvency of the Mortgagor of such Mortgage or the occurrence of any other Insolvency Event with respect to such Mortgagor; or
- (c) the continuance of any other event of default (after the expiration of any notice periods and cure rights applicable thereto) under the Mortgage documents which may, in the reasonable opinion of MCLP, have a material adverse impact on the Related Rights or the mortgaged property.

“MCAN Actual Monthly Volume” has the meaning set out in Section 3.2.

“MCAN Projected Monthly Requirements” has the meaning set out in Section 3.2.

“MCAN Updated Projected Monthly Requirements” has the meaning set out in Section 3.2.

“MCLP AML Programs” means the anti-money laundering programs developed and maintained by the various MCLP lines of business, a copy of which is available to MCAN, to comply with the PCMLTF Act.

“**MFC**” means MCAP Financial Corporation and its successors.

“**Mortgage**” means a mortgage, charge or hypothec, and reference to a Mortgage shall include all monies payable with respect to such Mortgage (whether pursuant to the Mortgage, the Related Rights with respect thereto or otherwise) and all other rights and benefits of the mortgagee thereunder and under any and all documents, instruments and agreements between the Mortgagor and such mortgagee or its predecessors or successors in interest that amend, modify or supplement such Mortgage, including any direct debit agreement with the Mortgagor with respect to amounts owing under or in respect of such Mortgage.

“**Mortgage Assets**” means, with respect to a Mortgage: (i) such Mortgage, including all Advances made thereunder, (ii) the Related Rights and Mortgage Proceeds with respect thereto, and (iii) all proceeds of, from or with respect to, any or all of the foregoing.

“**Mortgage Expenses**” means with respect to any Mortgage, collectively:

- (a) all insurance premiums, taxes, utility charges and any other amounts which the mortgagee is authorized to pay on behalf of the Mortgagor under any of the Mortgage documents (including the payment of any Adverse Claim against the mortgaged property);
- (b) the fees and expenses of any experts retained by MCLP pursuant to Section 8.6;
- (c) all reasonable third party out-of-pocket expenses of MCLP incurred under this Agreement in connection with such Mortgage; for greater certainty the out-of-pocket expenses of MCLP shall not include (unless otherwise agreed by MCAN) the expenses of MCLP or its Affiliates relating to their own personnel or overhead expenses such as rent, telephone, utilities, installation or maintenance of computer systems, office furniture, equipment, machines and other office expenses;
- (d) reasonable reserves for any of the above-noted Mortgage Expenses incurred or reasonably anticipated by MCLP to be incurred; and
- (e) interest on all Mortgage Expenses at the rate applicable to the Mortgage in question, from the date paid until reimbursed to MCLP.

“**Mortgage Fees**” means, with respect to a Mortgage, all Commitment Fees, Discharge Fees, Administration Fees and Letter of Credit Fees payable from time to time pursuant to such Mortgage.

“**Mortgage Insurance**” means, in respect of a Mortgage, insurance provided under a mortgage loan policy issued by CMHC or Genworth Financial Canada.

“**Mortgage Proceeds**” means, with respect to a Mortgage and without duplication, (i) all payments made by or on behalf of the Mortgagor, and all other cash collections and other cash proceeds received, whether by MCLP, MCAN or anyone else, in respect of the Mortgage,

including all cash proceeds of any contract of insurance or expropriation paid in respect of such Mortgage (in the case of cash proceeds of insurance, to the extent not required to be applied to repair damages to the property insured thereunder), all other cash proceeds of any Related Rights with respect thereto, including cash proceeds realized through the enforcement of any agreement relating to such Mortgage or other Related Rights with respect thereto against the Mortgagor, and (ii) all related Mortgage Fees.

“Mortgagor” means, in respect of a Mortgage, the Person who owes or owed payment to the mortgagee thereof, and includes a guarantor, surety or similar Person with respect to such Mortgage.

“MSC” means MCAP Service Corporation and its successors.

“Nominee” means the party to a Nominee Agreement which, pursuant to such agreement, holds title as a bare trustee and nominee, to one or more Mortgages.

“Nominee Agreement” means an agreement substantially in the form of Schedule C hereto, as the same may be amended, supplemented, restated or replaced from time to time.

“Originated Mortgage” means any Warehoused Mortgage (or Advance thereunder) which is approved for funding by MCLP on behalf of MCAN, and any Investment Mortgage (or Advance thereunder) which is approved for funding by MCAN or by MCLP on behalf of MCAN, in any such case pursuant to this Agreement; provided that a Mortgage shall cease to be an Originated Mortgage: (i) upon MCAN ceasing to own such Mortgage or have any Interest therein, (ii) upon such Mortgage being fully repaid in accordance with its terms; or (iii) without limiting MCLP’s obligations under Section 6.2, upon MCLP, acting reasonably, determining that no further Recoveries will be received in respect thereof.

“OSFI Guideline B-8”, means the Office of the Superintendent of Financial Institutions Canada guideline for deterring and detecting money laundering and terrorist financing dated November 2004 as updated and amended from time to time.

“Outstanding Principal Balance” means, at any time, (i) in respect of an Interest in a Mortgage, the principal payment obligation represented thereby that is outstanding at such time, and (ii) in respect of a Mortgage, the aggregate principal payment obligation that is outstanding thereunder at such time.

“Participation Agreement” means an agreement substantially in the form of Schedule D, as the same may be amended, supplemented, restated or replaced from time to time.

“PCMLTF Act” means the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and the Regulations applicable thereto as amended from time to time.

“Person” means any individual, company, corporation, partnership, firm, trust, sole proprietorship, government, government agency, authority or entity however designated or constituted.

“**PIPEDA**” means the Personal Information Protection and Electronic Documents Act and the Regulations applicable thereto as amended from time to time.

“**Product Groups**” means, at any time, each of the Current Products and any Additional Products, but excluding any Removed Products.

“**Product Specific Eligibility Criteria**” has the meaning set out in Section 2.4.

“**Proportionate Share**” means, on any day and with respect to a Person which holds an Interest in a Mortgage, the ratio (expressed as a percentage) equal to (i) the Outstanding Principal Balance of the Interest of such Person in such Mortgage on such day, divided by (ii) the Outstanding Principal Balance of such Mortgage on such day, in each case calculated without taking into consideration any allocation of Mortgage Proceeds on such day.

“**Records**” means, with respect to a Mortgage, all contracts, books, records and other documents and information (including computer programs, tapes, diskettes, punch cards, data processing software and related property and rights) evidencing or otherwise relating to such Mortgage, the Advances made thereunder or the Related Rights or Mortgage Proceeds in respect thereof.

“**Recoveries**” means, with respect to any Mortgage which is a Defaulted Mortgage, all amounts received in respect thereof after it has become a Defaulted Mortgage, including proceeds of realization, in each case net of reasonable costs of realization.

“**Related Rights**” means, with respect to any Mortgage:

- (a) any related loan or credit agreement, trust deed, commitment letter, promissory note or other instrument (apart from the Mortgage itself) evidencing the obligation of the Mortgagor to pay the amount secured by the Mortgage;
- (b) all security interests from time to time, to the extent they secure or purport to secure payment of any amounts payable pursuant to such Mortgage;
- (c) all guarantees, indemnities, insurance policies (including property damage and extended coverage insurance policies and mortgage impairment insurance policies), all payments and proceeds made under any such guarantee, indemnity or insurance policy, all premium refunds in respect of all insurance policies, and all other agreements or arrangements of whatsoever character from time to time evidencing, supporting or securing payment of such Mortgage;
- (d) all Records relating to such Mortgage or to any of the foregoing; and
- (e) all proceeds of or relating to the foregoing, including to such Mortgage.

“**Removed Product**” has the meaning set out in Section 3.1.

“**Required Funding Amount**” has the meaning set out in Section 2.5.

“Required Purchase Price” means, with respect to any Mortgage and at any time, the sum of (i) the Outstanding Principal Amount of such Mortgage, plus (ii) any accrued and unpaid interest on such Mortgage, plus (iii) any accrued and unpaid fees on such Mortgage, to the extent the party selling such Mortgage is entitled to such fees hereunder, plus (iv) any Mortgage Expenses reasonably incurred by the party selling such Mortgage, which it has given notice of to the other party hereto and which have not then been reimbursed, plus (v) the aggregate amount determined for origination, underwriting, processing and servicing minus (vi) if MCLP is purchasing a Mortgage from MCAN, any Mortgage Expenses reasonably incurred by MCLP which have not then been reimbursed and which MCAN is responsible to reimburse (provided that the deduction of the amount of any such Mortgage Expenses under this clause (vi) shall constitute the reimbursement of such Mortgage Expenses by MCAN), each as calculated at such time.

“Securitization Services” has the meaning set out in Section 2.2.

“Seller” has the meaning set out in Section 8.1.

“Specified Period” means, for any Warehoused Mortgage, six months, unless the description of the Product Group with respect to such Mortgage in Schedule E specifies a different period.

“Tax” means any withholding, stamp, income, business, general corporation, large corporations, property, capital, excise, customs, goods and services, sales, consumption, value added or other tax, duty, impost, fee, levy, assessment or other governmental charge, and any related penalties or interest.

“Warehouse Eligible Mortgage” means a Mortgage which, as of the date of its execution, satisfies each of the following criteria: (i) no restrictions on assignment by the mortgagee under the Mortgage, whether by contract or law; (ii) the Mortgagor is a Canadian resident and the Mortgage is payable in Canada, in Canadian dollars; (iii) the Mortgage is on market terms, as determined by MCLP, acting reasonably; and (iv) the funding of such Mortgage by MCAN does not impair its status as a “mortgage investment company” or breach any regulatory requirements applicable to MCAN; provided however that unless and until MCAN provides written notice to MCLP that the funding of a particular type or amount of Mortgage will impair such status or breach such requirements, MCLP shall be entitled to assume that the funding of such type of Mortgage will not impair such status or breach such requirements.

“Warehouse Term” has the meaning set out in Section 4.1 (1).

“Warehoused Mortgage” means a Mortgage originated hereunder solely for short term ownership by MCAN and designated by MCLP, at the time of origination hereunder, as a Warehoused Mortgage.

Section 1.2 Applicable Law

This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

Section 1.3 Headings, Etc.

The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 1.4 Expanded Meanings

Words importing the singular include the plural thereof and vice versa and words importing gender include the masculine, feminine and neuter genders. Unless otherwise provided herein, the words “**including**”, “**include**” and “**includes**” mean “including (or, as applicable, includes or include) without limitation”. Any reference to a party hereto includes its successors and permitted assigns. Any fees referred to herein are exclusive of, and do not include, any applicable goods and services or other taxes.

Section 1.5 Schedules

The schedules to this Agreement are:

- Schedule A - Closing Deliveries
- Schedule B - Funding Notice
- Schedule C - Nominee Agreement
- Schedule D - Participation Agreement
- Schedule E - Warehoused Mortgage and LC Facilities
- Schedule F - Investment Mortgage Facilities
- Schedule G - Product Specific Eligibility Criteria
- Schedule H - MCAN Funding Requirements Reports
- Schedule I - Daily Reports
- Schedule J - Monthly Reports
- Schedule K - Quarterly Reports
- Schedule L - Insurance Requirements
- Schedule M - Addresses for Notice
- Schedule N - Conflict Avoidance Policy

**ARTICLE TWO
ORIGINATION AND OTHER SERVICES**

Section 2.1 Origination

(1) MCAN hereby appoints MCLP to be its agent for the purposes of identifying and, subject to Sections 2.3 and 2.4, approving the credit of, proposed Mortgagors for Originated Mortgages, negotiating the terms of their Mortgages in accordance with the terms hereof, arranging for the execution, delivery and registration of such Mortgages and all Related Rights as agent for MCAN and performing the other origination services described in Section 2.1(3), in each case for and on behalf of MCAN.

(2) MCLP accepts such appointment and agrees to hold all monies received by MCLP under the Originated Mortgages and allocable hereunder to MCAN, in trust for MCAN in accordance with this Agreement and any applicable Participation Agreement, subject, however, to its right to commingle funds as provided in Section 9.7(3). Such appointment shall remain in effect until, with respect to Warehoused Mortgages, termination of the Warehouse Term, and with respect to Investment Mortgages, termination of the Investment Term.

(3) The duties of MCLP in connection with the origination of Originated Mortgages shall, in addition to the specific duties listed in Section 2.1(1), consist of:

- (a) to the extent necessary, retaining solicitors to perform and carry out all instructions and requirements necessary to complete the Originated Mortgages including the requisite title searches, opinions (or title insurance), and reports, the preparation, execution and delivery of the Mortgage documents and the registration and filing of the Related Rights or notices thereof as may be required to ensure the priority of the Related Rights subject only to such encumbrances and other qualifications permitted by the Mortgage and the requirements of the certificate of insurance whenever the Mortgage is an Insured Mortgage;
- (b) ensuring that all Mortgage documentation (i) contains reasonably appropriate and customary terms and conditions, including remedies, (ii) is freely and unilaterally assignable by the mortgagee thereunder, and (iii) includes any requisite consents under privacy or other legislation as may be required to enable MCAN to disclose to any assignee any relevant personal information, including the name of the Mortgagor, the amounts owing and any other information set out in the related Account Records;
- (c) subject to receipt of funds in accordance with Section 2.5 hereof, making all Advances under each Mortgage in accordance with the applicable Mortgage and related documents, including any related commitment letter or loan approval, including, where applicable, progress advances in accordance with all Applicable Law concerning construction liens;
- (d) upon any Advance being made under any Originated Mortgage, obtaining, and delivering to MCAN, a solicitor's report and opinion or a title insurance policy, which solicitor's report and opinion or title insurance policy shall provide that the related Mortgagor has good title to the mortgaged property subject to such Mortgage, free and clear of Adverse Claims other than the said Mortgage and Related Rights and such prior encumbrances, if any, as are contemplated in the approval of such Mortgage;
- (e) ensuring that, for each mortgaged property, the Mortgagor has obtained, prior to each Advance, insurance against loss by fire and other perils customarily covered for similar properties, with extended coverage

insurance and naming the applicable Nominee as first loss payee thereunder; and

- (f) providing such other incidental and reasonable origination services with respect to each Originated Mortgage as are contemplated by the terms of such Mortgage and as are consistent with MCLP's role as agent of MCAN with respect to the origination of such Mortgage.
- (g) MCLP shall provide training on the MCLP AML Programs to staff members involved in the origination and servicing of mortgages.
- (h) MCLP shall cause to be identified all mortgagors and ensure that record of such identification is obtained and retained pursuant to the MCLP AML Programs.
- (i) MCLP shall take reasonable steps to identify suspicious transactions as defined in the MCLP AML Programs and when appropriate provide the necessary reporting to MCAN and FINTRAC. MCAN acknowledges that the identification is considered personal information under the Personal Information Protection and Electronic Documents Act and will only be reviewed for the purpose of verifying receipt by MCLP.

(4) MCLP will perform an annual self-assessment of its adherence to the MCLP AML Programs and the PCMLTF Act. MCLP will provide an attestation to MCAN of having performed the self-assessment and summarizing the results of such self assessment as soon as is practicable after completion of the self-assessment. MCAN may cause to be performed, upon reasonable notice, independent procedures testing against its portfolio, at its sole cost, on MCLP's compliance with the PCMLTF Act.

(5) MCLP shall perform its duties hereunder in connection with the origination of Originated Mortgages with reasonable care and diligence, using that degree of skill and attention that MCLP exercises in connection with the origination of Mortgages for itself and other Persons.

Section 2.2 Securitization Services

(1) During the Investment Term and the Warehouse Term, MCAN shall use the services of MCLP to conduct any securitization activities. [This section was redacted]

(2) If MCAN and MCLP are unable to reach terms for securitization activities then MCAN is able to use any Person provided the terms are not more beneficial to such other Person than the terms upon which MCLP was prepared to provide such services. [This section was redacted]

(3) If the parties have not agreed as to the terms of the Securitization Services, MCAN shall promptly reimburse MCLP for all costs incurred by MCLP in connection with

providing any proposal contemplated by Section 2.2(1), provided MCAN has previously approved in writing such costs.

Section 2.3 Warehoused Mortgage Facilities

(1) MCAN shall provide warehousing facilities to MCLP for Warehoused Mortgages. [This section was redacted]

Section 2.4 Approval of Investment Mortgages

(1) MCAN will, promptly after the execution of this Agreement, notify MCLP in writing of the criteria MCAN currently applies with respect to the approval of Investment Mortgages within each particular Product Group, such information to be provided in sufficient detail so that MCLP will have the information it reasonably requires to determine what features to look for in the origination of Investment Mortgages for MCAN. If at any time or times thereafter, MCAN changes any such criteria, it shall promptly notify MCLP in writing of the changes. Any such notification from MCAN shall not constitute a delegation of approval authority with respect to any such criteria, any such delegation being governed by Section 2.4(2).

(2) MCAN may, from time to time, delegate to MCLP for the Investment Term, the approval authority with respect to Investment Mortgages within any particular Product Group, provided such Mortgages are residential Mortgages and MCAN provides MCLP with objective and specific eligibility and approval criteria to apply to such Investment Mortgages (for each Product Group, the “**Product Specific Eligibility Criteria**”). MCAN may also, from time to time, request MCLP to agree to take on approval authority during the Investment Term with respect to Investment Mortgages within any particular Product Group, based on specific eligibility criteria and, to the extent that MCLP agrees to take on such approval authority, the specific eligibility criteria supplied by MCAN for each Product Group shall also be referred to as “**Product Specific Eligibility Criteria**”. The Product Specific Eligibility Criteria for Investment Mortgages of each existing Product Group as of the date hereof (but without limiting the right of MCAN hereunder to provide additional or other such criteria hereafter), are set out in Schedule G. MCAN may from time to time, on not less than 5 Business Days written notice to MCLP, cancel MCLP’s right to approve Investment Mortgages of any particular Product Group, in which case, upon the effective date set out in any such notice, the Product Specific Eligibility Criteria for such Product Group shall be cancelled.

(3) At any time or from time to time during the Investment Term, MCLP may request MCAN to provide specific approval of any Mortgage (including a Mortgage in respect of which there is Product Specific Eligibility Criteria) as an Investment Mortgage to be funded by MCAN. MCLP shall give notice to MCAN of each such request, and MCAN shall advise MCLP of its decision, within 5 Business Days after receiving such request from MCLP. If MCAN fails to give such advice to MCLP within such time period, it shall be conclusively deemed to have rejected the approval of such Mortgage.

(4) During the Investment Term, MCLP is authorized to commit MCAN to fund and is authorized to enter into on behalf of MCAN, any Mortgage as an Investment Mortgage, if such Mortgage is an Eligible Mortgage within clause (ii) of the definition of Eligible Mortgages.

(5) MCLP may enter into renewal agreements on behalf of MCAN for Investment Mortgages subject to the same approval process as described above in this Section. MCLP will prepare a standard Mortgage renewal summary which will detail the essential details of the proposed renewal terms and be in mutually agreed-upon form.

Section 2.5 Funding

(1) MCLP may, from time to time, provide a Funding Notice to MCAN requiring MCAN to fund one or more Advances to be made on a Business Day (a “**Funding Date**”) thereafter under Originated Mortgages; provided that MCLP may not (except with MCAN’s written consent), in any one week, provide (i) more than two Funding Notices, each of which has a Required Funding Amount of less than \$5,000,000, or (ii) more than one Funding Notice in which the Required Funding Amount is equal to or more than \$5,000,000. Each Funding Notice shall set out the information referred to in Schedule B hereto, including the aggregate amount to be funded by MCAN on such Funding Date (the “**Required Funding Amount**”), the breakdown of such aggregate amount on a Mortgage-by-Mortgage basis and, in the case of each such Mortgage, whether such Mortgage is or is to be a Warehoused Mortgage or an Investment Mortgage.

(2) Each Funding Notice shall, in the case of a Funding Date on which the Required Funding Amount is:

- (a) less than \$5,000,000, be given to MCAN not less than two Business Days prior to the applicable Funding Date;
- (b) equal to or more than \$5,000,000, but less than \$10,000,000, be given to MCAN not less than five Business Days prior to the applicable Funding Date;
- (c) equal to or more than \$10,000,000, but less than \$15,000,000, be given to MCAN not less than ten Business Days prior to the applicable Funding Date;
- (d) equal to or more than \$15,000,000, but less than \$20,000,000, be given to MCAN not less than 15 Business Days prior to the applicable Funding Date;
- (e) equal to or more than \$20,000,000, but less than \$25,000,000, be given to MCAN not less than 20 Business Days prior to the applicable Funding Date; and
- (f) equal to or more than \$25,000,000, be given to MCAN not less than 25 Business Days prior to the applicable Funding Date.

(3) Subject to the terms and conditions hereof, including the conditions precedent set out in Article Five hereof, on each Funding Date MCAN shall deposit to the Funding Account an amount equal to the aggregate Required Funding Amount for such Funding Date. MCLP may

from time to time withdraw funds from the Funding Account for the sole purpose of making Advances. If for any reason MCLP does not, on a particular Funding Date, use any Required Funding Amounts to make the anticipated Advances for such date, it shall reimburse the unused amount thereof to MCAN on such Funding Date (or, if not practicable, on the first Business Day thereafter) by no later than such time as required to ensure same day value to MCAN.

Section 2.6 Mortgages Funded or Entered into by MCLP

(1) MCAN acknowledges that MCLP may from time to time fund a Mortgage, but thereafter elect to take advantage, in respect of such Mortgage, of the facilities provided by MCAN hereunder in respect of Warehoused Mortgages or to sell such Mortgage to MCAN as an Investment Mortgage. In either case, MCLP may do so (within 5 Business Days of such Mortgage being funded) provided that the Mortgage is an Eligible Mortgage. In such case, MCLP may sell such Mortgage to MCAN, and MCAN shall purchase such Mortgage, at the applicable Required Purchase Price, provided that any accrued fees and expenses shall be allocated between MCAN and MCLP on the same basis as if such Mortgage had initially been originated on behalf of MCAN. Following any such purchase by MCAN, such Mortgage shall constitute a Warehoused Mortgage or Investment Mortgage, as applicable, for the relevant Product Group and an Originated Mortgage for purposes hereof. Section 2.5 shall apply with respect to the sale of any such Mortgage as if it were a funding thereof.

(2) If at any time MCLP (or any nominee for MCLP) has already entered into any documents with respect to a Mortgage prior to the Mortgage becoming an Originated Mortgage, but MCLP has not yet funded such Mortgage, then, if such Mortgage is an Eligible Mortgage, MCLP may, within 5 Business Days of such Mortgage being entered into, elect, on notice to MCAN, for such mortgage to constitute a Warehoused Mortgage or Investment Mortgage, as applicable, for the relevant Product Group and an Originated Mortgage for purposes hereof, in which case MCLP shall be deemed to have entered into such documents as agent for MCAN and MCLP shall assign (and shall be deemed to have assigned) its rights under such documents to MCAN.

(3) Except as otherwise specifically provided herein (including in Section 6.2(2)), in the case of either a Mortgage which is sold to MCAN as contemplated in Section 2.6(1) or (2), or written by MCLP as agent for MCAN as contemplated in Section 2.6(2), MCAN shall assume and perform all obligations under such Mortgage and all related documents, including the obligation to make Advances to the Mortgagor with respect thereto. Subject to obtaining the consent, if required, of the Mortgagor under such Mortgage documents, and except as otherwise specifically provided herein, MCLP shall be released from any obligations thereunder.

(4) Effective upon MCAN making a payment to MCLP to acquire a Mortgage or an Interest therein, as contemplated in this Section 2.6, MCLP does hereby sell, transfer and assign such Mortgage or Interest therein to MCAN in accordance with Section 2.9.

Section 2.7 Co-Owned Mortgages

(1) MCLP may request that MCAN fund (or in the circumstances referred to in Section 2.6, purchase) one or more Advances, rather than all Advances, under a Mortgage which

contemplates more than one Advance, or fund or purchase, as applicable, part, rather than all, of one or more Advances under a Mortgage. So long as the Mortgage is otherwise an Eligible Mortgage, the provisions hereof with respect to the funding or sale of such a Mortgage shall apply to the funding or sale of such Advance or Advances or part thereof, *mutatis mutandis*, and the Mortgage in question shall constitute an Originated Mortgage.

(2) In each such case referred to in Section 2.7(1), MCAN shall acquire an Interest in the Mortgage in question (any such Mortgage is referred to herein as a “**Co-Owned Mortgage**”), the percentage amount of which at any time shall be equal to the Proportionate Share thereof at such time.

(3) MCAN and MCLP shall enter into a Participation Agreement with respect to each Co-owned Mortgage, which shall also include as parties any other Person holding an Interest in such Mortgage. The parties acknowledge that, with respect to all Mortgages originated pursuant to the Mortgage Funding and Administration Agreement dated as of July 29, 2003 among MCLP, MCAN, Warehouse Trust and Cadim Inc. (the “**MFAA**”), the applicable Participation Agreement is the “Participation Agreement” as defined in the MFAA.

(4) Any reference herein to a Mortgage, shall, to the extent MCAN holds an Interest in the Mortgage, refer to such Interest, with all appropriate changes, depending on the context.

(5) Each Interest in a Mortgage shall entitle the holder thereof to receive its Proportionate Share of Mortgage Proceeds in respect of such Mortgage as provided herein and in the related Participation Agreement. Each such holder shall hold its respective Interest in each Mortgage as tenant in common. The rights of such holders relating to each Mortgage and the related Mortgage Assets shall, as between themselves, be several and proportionate to their respective Proportionate Shares with respect thereto from time to time and neither joint nor joint and several. Except as otherwise agreed in writing, no holder shall be responsible or otherwise liable for the obligations and liabilities of any other holder in respect of the Mortgages or the Mortgage Assets.

Section 2.8 Nominee and Ownership of Mortgages

The parties acknowledge that Originated Mortgages will be entered into in the name of a Nominee, and such Nominee shall take all related Mortgage documents and other Mortgage Assets in its name. MCLP shall advise MCAN from time to time of which Nominee it proposes to use for which Originated Mortgages, it being the current intention, however, that the Nominees shall be either MFC or MSC. The parties hereto shall enter into a Nominee Agreement with each Nominee. Notwithstanding the foregoing, MCLP acknowledges, and shall ensure that each Nominee acknowledges, that each Originated Mortgage and all Related Rights are owned by MCAN, and any title thereto held by a Nominee is solely for convenience, and as bare trustee and nominee on behalf of MCAN.

Section 2.9 Sale Mechanics

If at any time or from time to time either party sells a Mortgage or Interest therein to (or at the direction of) the other and this Section 2.9 is stated to apply to such sale, then such

sale shall include the Mortgage and the related Mortgage Assets, and shall be made by the selling party free and clear of all Adverse Claims arising through such selling party but otherwise (except as otherwise expressly provided herein), on an “as is, where is” basis without recourse to, or representation or warranty of, such selling party other than basic corporate authority and due execution. For greater certainty, no such sale shall include any rights in any Mortgage Proceeds which were collected prior to the time of such sale, unless otherwise expressly provided herein. Each party shall from time to time, at the expense of the other, execute such conveyance and related documents as the other may reasonably request to evidence or perfect any such sale, transfer and assignment.

ARTICLE THREE ADDITIONAL PRODUCTS AND EXCLUSIVITY

Section 3.1 Addition or Removal of Products

(1) The parties hereto may from time to time agree to add to the Product Groups additional types of Mortgages not then included in the Product Groups, as Warehoused Mortgages or Investment Mortgages (as agreed by the parties). Any types of Mortgages added to the Product Groups under this Section 3.1 or under Section 3.3, are referred to herein as “**Additional Products**” and the type of Mortgage in question shall constitute an additional Product Group for Warehoused Mortgages or Investment Mortgages, as applicable. In each case, Schedule E or F, as applicable, shall be deemed amended to include the relevant detail with respect to the Additional Products.

(2) The parties hereto may also from time to time agree to delete specific Product Groups hereunder, in which case, from and after the date of such deletion, the Product Groups shall not include such deleted Product Group.

(3) In addition, MCLP may at any time or from time to time, on not less than 60 days written notice to MCAN, advise that it wishes to remove any one or more specific Product Groups of (i) Investment Mortgages, in the event MCLP no longer originates Mortgages of such particular Product Group, or (ii) Warehoused Mortgages; and MCAN may at any time or from time to time, on not less than 60 days written notice to MCLP, advise that it wishes to delete any one or more specific Product Groups of Investment Mortgages (but not Warehoused Mortgages). Any such Product Group removed as contemplated in this Section 3.1 is referred to herein as a “**Removed Product**”. If MCLP elects to remove a Product Group, Section 3.2 shall no longer apply with respect to such Product Group. If MCAN elects to remove a Product Group under this Section 3.1(3), Section 3.2 shall continue to apply with respect to such Product Group, but otherwise Section 3.2 shall not apply to any Product Group removed by MCAN.

(4) MCAN may also, on a temporary basis, on 5 days prior written notice to MCLP, delete a particular Product Group if, for two consecutive calendar months there is a Default Trigger for such Product Group. If MCAN has deleted a particular Product Group under this Section 3.1(4), it shall also constitute a “**Removed Product**” for purposes hereof, but MCAN may thereafter at any time, on 10 Business Days prior written notice to MCLP, add such Product Group back as a Product Group, and MCAN shall add such Product Group back as a Product

Group if at any time after such removal, for two consecutive calendar months, there is no Default Trigger for such Product Group. If MCAN deletes a Product Group under this Section 3.1(4), Section 3.2 shall no longer apply with respect to such Product Group, unless and until added back as a Product Group. For purposes hereof, there shall be a “**Default Trigger**” for a particular Product Group and for a particular month, if the Aggregate Outstanding Principal Balance of all Originated Mortgages of such Product Group which were approved by MCLP under Article 2 hereof and which are Defaulted Mortgages as of the last day of such month, is greater than or equal to 2% of the total Aggregate Outstanding Principal Balance of all Originated Mortgages of such Product Group as of the last day of such month.

Section 3.2 Exclusivity and Further Right to Delete Product Groups

(1) MCAN will not, and will ensure that each Affiliate of MCAN will not, during the Warehouse Term, provide to any other Person (other than MCLP), warehousing or other similar financing facilities with respect to any Mortgages within any Product Groups for Warehoused Mortgages.

(2) Except as otherwise provided in this Section 3.2 or Section 7.4, MCAN will not, and will ensure that each Affiliate of MCAN will not, during the Investment Term, directly or indirectly, originate, fund or service any Mortgages within any Product Groups for Investment Mortgages, either itself or through any other Person, other than pursuant hereto, it being the intention of the parties that such services shall be provided exclusively by MCLP under this Agreement. In this Section 3.2, any reference to a Product Group shall include any Removed Product which was removed by MCAN as a Product Group under Section 3.1(3).

(3) Not less than 60 days prior to the commencement of each calendar year during the Investment Term, MCAN shall provide to MCLP a report substantially in the form set out in Part I of Schedule H which shall set out, among other things, MCAN’s projected aggregate monthly requirements for such calendar year for Investment Mortgages, broken down by Product Group and specifying for each, the volume (both by projected Outstanding Principal Balance and number of originations) of Investment Mortgages MCAN projects it will be looking to acquire during each such month in such year (for each Product Group and for each month, the “**MCAN Projected Monthly Requirements**”); provided that MCAN need not include in any such annual report, monthly information as to any Product Group for which MCAN’s monthly projected requirements will be less than 10% of the volume of Mortgages originated by MCLP (whether for MCAN or anyone else) during such month for such Product Group in the previous year. To facilitate the preparation of such reports by MCAN, MCLP shall, within 15 days following the end of each month during the Investment Term, provide a report to MCAN setting out the actual volume of Mortgages originated by MCLP (whether for MCAN or anyone else) during such month for each Product Group (both by projected Outstanding Principal Balance and number of originations). Attached as Part III of Schedule H is a copy of such annual MCAN report setting out MCAN’s projected requirements for the period from May until December of 2004.

(4) If MCAN subsequently determines that the MCAN Projected Monthly Requirements for any Product Group and month are different from its actual requirements, MCAN may, and if MCAN did not deal with a particular Product Group in its applicable report delivered under Section 3.2(3), it shall, not less than 15 days prior to the commencement of such

month, provide to MCLP a report substantially in the form set out in Part II of Schedule H which shall set out, among other things, MCAN's actual requirements for Investment Mortgages for the next following month and its then best estimate of its actual requirements for Investment Mortgages for each remaining month in the then current year, also broken down by Product Group and specifying for each, the volume of Investment Mortgages (both by projected Outstanding Principal Balance and number of originations) it is looking to acquire in each such month (for each Product Group and each such month, the "**MCAN Updated Projected Monthly Requirements**").

(5) Promptly following the end of each month during the Investment Term, MCLP shall determine for each Product Group, the total Outstanding Principal Balance (for each Product Group, the "**MCAN Actual Monthly Volume**") of all Mortgages which were offered by MCLP to MCAN during such month for such Product Group including (i) those Mortgages which were approved during such month as Investment Mortgages within such Product Group and (ii) those Mortgages which were offered by MCLP to MCAN during such month for such Product Group and not approved. For purposes of making such determination, any Mortgage offered to MCAN which was refused by MCAN on the basis that it was not written on market terms, shall not be taken into account unless, for any Mortgage, MCLP was able to sell to other purchasers or originate for other Persons, such Mortgage (or other Mortgages in the same Product Group written on substantially the same terms and conditions) during such month on substantially the same terms and conditions as were offered to MCAN, in which case such Mortgage shall be taken into account. If at any time MCAN disagrees with MCLP's determination of such volumes, Section 10.13 shall apply.

(6) If for any month and for any Product Group, the MCAN Actual Monthly Volume is less than the MCAN Updated Projected Monthly Requirements for such Product Group and month, or if none, then the MCAN Projected Monthly Requirements, there shall be a "**Failure to Supply**" for such Product Group and month. If there is a Failure to Supply with respect to a particular Product Group for more than two successive months, MCAN may thereafter, but only to the extent its requirements are not being fulfilled by MCLP, originate, fund and service Mortgages within such Product Group in any way it wishes (so long as limited to addressing such excess requirements for any period during which MCLP is not doing so), without being limited by Section 3.2(2); provided that if at any time thereafter, there is no Failure to Supply with respect to such particular Product Group for two successive months, Section 3.2(2) shall thereupon apply again to such Product Group, but without limiting the application of this Section 3.2(6) thereafter, if applicable once again.

(7) Notwithstanding anything else contained in this Section 3.2, MCAN may, from time to time, purchase from Persons other than MCLP, portfolios of Mortgages (other than residential construction Mortgages) that will provide MCAN with a greater yield than then available under Mortgages of the same Product Group being originated by MCLP; provided that MCAN shall, to the extent it is reasonably practical to do so in the circumstances, use its best efforts to arrange for MCLP to be the servicer of such Mortgages in accordance with the terms hereof relating to servicing.

Section 3.3 MCLP First Right of Refusal for Additional MCAN Products

(1) If at any time or from time to time MCAN or any of its Affiliates wish to enter into Mortgages of a type not then included in the Product Groups, MCAN shall first notify MCLP in writing of its wish to do so. Any such notice shall describe the particular type of Mortgages in question, and the terms (in this Section, the “applicable offer terms”) upon which MCAN would be prepared to include such Mortgages in the Product Groups, including whether they would be included as Warehoused Mortgages or Investment Mortgages.

(2) Within 30 Business Days of receiving any such notice, MCLP shall respond in writing to MCAN, specifying either (i) that it is not interested in including such types of Mortgages in the Product Groups on such terms (in this Section, a “refusal”), or (ii) that it agrees to include such Mortgages in the Product Groups (in this Section, an “acceptance”). If MCLP does not respond at all within such time, it shall be deemed to have given a refusal. If MCLP provides an acceptance, such types of Mortgages shall thereupon be included in the Product Groups on such terms.

(3) If MCLP provides or is deemed to have provided a refusal, MCAN may thereafter enter into arrangements with other Persons to provide services comparable to those specified herein with respect to such Mortgages; provided that the terms and conditions of any such arrangement may not be more beneficial in the aggregate to such other Persons than the applicable offer terms.

**ARTICLE FOUR
TERM**

Section 4.1 Term

(1) The “**Warehouse Term**” shall be the period commencing on the date hereof and continuing until April 14, 2007. Either party may, in its sole discretion and for any reason, terminate the Warehouse Term as of April 14, 2007, by giving the other not less than 60 days notice thereof prior to April 14, 2007. If no such notice is given the Warehouse Term shall continue, provided that either party may, at any time and for any reason, terminate the Warehouse Term as of any day following April 14, 2007 on not less than 90 days notice to the other party.

(2) The “**Investment Term**” shall be the period commencing on the date hereof and continuing until April 14, 2009. Either party may, in its sole discretion and for any reason, terminate the Investment Term as of April 14, 2009, by giving the other not less than 60 days notice thereof prior to April 14, 2009. If no such notice is given the Investment Term shall continue, provided that either party may, at any time and for any reason, terminate the Investment Term as of any day following April 14, 2009 on not less than 90 days notice to the other party.

(3) **MCAN**

Section 4.2 Termination for Cause

- (1) Either party may terminate any or all of the Warehouse Term and/or, the Investment Term if:
- (a) the other party defaults in the performance or observance of any of its material obligations under this Agreement and such default continues for a period of 20 Business Days following notice to such defaulting party and such default is continuing at the time such notice of termination is given, provided, however, that if such default cannot reasonably be cured within such 20 Business Day period, such 20 Business Day period may be extended by the party in default by up to an additional 60 days, so long as the party in default is (and certifies to the other party that it is) diligently and continuously pursuing the cure of such breach and has a reasonable prospect of completing such cure within such additional 60 days; or
 - (b) an Insolvency Event occurs with respect to the other party; provided that MCLP may not terminate the Investment Term as a result of the occurrence of an Insolvency Event with respect to MCAN for so long as MCAN continues to pay all amounts owing when due and payable hereunder.
- (2) If a party wishes to exercise its rights under this Section 4.2, it shall give notice thereof to the other party, referring to this Section 4.2 and stating which of the Warehouse Term or the Investment Term, as applicable, it is thereby terminating; Upon termination of each of the Warehouse Term and Investment Term this Agreement shall be considered to have terminated.
- (3) Notwithstanding any termination in accordance with this Agreement, the responsibilities of MCLP under Article VIII will continue to the earlier of maturity of the term and repayment for each respective mortgage or appointment of a replacement servicer by MCAN.
- (4) The provisions of this Section 4.2 are in addition to any other rights and remedies available to any party in the event of the breach by the other party of any of its obligations under this Agreement.

Section 4.3 Effect of Termination

- (1) Upon termination of either the Warehouse Term or the Investment Term, MCLP may not approve any additional Mortgages pursuant to Section 2.3 or 2.4, as applicable. Within 30 Business Days following termination of the Warehouse Term, MCLP shall purchase or cause to be purchased from MCAN, and MCAN shall sell to (or at the direction of) MCLP, each Warehoused Mortgage, at a purchase price equal to the Required Purchase Price thereof, and otherwise subject to the terms of sale set out in Section 2.9. Notwithstanding termination of the Investment Term, MCAN shall remain obligated to perform all of its obligations under each Investment Mortgage, and in particular, but without limitation, MCAN shall be responsible for completing all Advances required under each such Mortgage. Upon appointment of a

replacement servicer by MCAN, MCLP shall deliver to any successor servicer MCAN designates, originals of all documents in its possession or under its control relating to each Investment Mortgage as may reasonably be requested by such successor servicer to enable it to service such Investment Mortgage.

(2) The termination of any of the Warehouse Term or Investment Term or of this Agreement generally, shall not affect or discharge any obligation of either party accrued prior to or outstanding on the termination date, and notwithstanding the termination of any of the Warehouse Term or Investment Term or of this Agreement generally, the provisions of this Section 4.3 and of Section 6.2 shall survive termination indefinitely.

Section 4.4 Force Majeure

(1) Default in the performance of any obligation under this Agreement as a result of force majeure, shall not constitute a default or a cause for termination under this Agreement for the purposes of Section 4.2, and neither party shall be under any liability to the other as a result of any delay or default in carrying out its obligations hereunder which is due in whole or in part to any force majeure. Notwithstanding the foregoing, force majeure shall in no event exempt any party from any obligation to pay, or excuse any failure to pay, any amount payable hereunder when due. A party who contends that its obligation is suspended or its performance is otherwise excused by reason of force majeure (i) must give prompt written notice to the other party specifying the condition or event constituting the same, (ii) may only rely upon this Section 4.4, for the purpose of being entitled to such suspension or excuse, for as long as such condition or event continues to exist or remain in effect, (iii) shall use such efforts that a reasonably prudent Person in the circumstances would use to attempt to rectify such condition or event, and (iv) shall not be entitled to be paid for any services which were not performed during any such period in which any such condition or event continues to exist or remain in effect.

(2) For the purposes hereof, “**force majeure**” shall mean any of the following: lightning, storms, earthquakes, floods, droughts, fires, explosions, failure or reduction of power supplies, failure to perform of, or damage to, plant, machinery, equipment or other property, shortages of labour, strikes, lock-outs, or other labour disturbances (whether or not within a party’s control) or any action taken by any Person in connection therewith, expropriation, default by any Person in respect of its obligations under a contract with a party, action of any government or governmental body or court, acts of God or any other cause, whether similar to or dissimilar from the foregoing, beyond the reasonable control of the party seeking to take advantage of force majeure and affecting performance by such party.

ARTICLE FIVE CONDITIONS PRECEDENT

Section 5.1 Conditions Precedent to Initial Advance

Prior to MCAN funding the initial Mortgage or Advance hereunder, MCLP shall deliver to MCAN or MCAN shall have received, and it shall be a condition precedent to the

obligation of MCAN to fund any Advances hereunder that it shall have received, unless waived by it in writing, the following documents, in form and substance satisfactory to MCAN:

- (a) executed copies of this Agreement and of a Nominee Agreement with each of MFC and MSC; and
- (b) copies of each of the other documents described in Schedule A hereto.

Section 5.2 Conditions to Each Advance by MCAN

In addition to, and without limiting any other requirements contained herein, including those contained in Section 2.5, the obligation of MCAN to fund any Mortgage or Advance hereunder shall also be subject to satisfaction of each of the following conditions, unless waived by MCAN:

- (a) the Mortgage shall be an Eligible Mortgage and MCLP shall have originated such Mortgage in compliance with Section 2.1;
- (b) if the Mortgage is a Warehoused Mortgage, the Warehouse Term shall still be in effect, and if the Mortgage is an Investment Mortgage, the Investment Term shall still be in effect; and
- (c) all conditions to the related Advance under the related Mortgage documents, including under any commitment letter or loan approval, shall have been satisfied, or waived by MCAN in its discretion.
- (d) The Mortgage shall have been originated in accordance with MCLP's underwriting policies and procedures and the MCLP AML Programs. For greater clarity, MCLP will instruct the solicitor or other qualified person(s) involved in satisfying conditions in this section, to identify the mortgagor(s) fully, to record the issuer, place of issue and number of the identification used by the mortgagor(s) to support their identity, and further to transmit such information to MCLP prior to any Advance under the Mortgage;(e) Pursuant to item (d), evidence of Third Party Determination shall be kept in respect of each originated Mortgage; and
- (f) Pursuant to item (d), where MCLP has identified a suspicious transaction relating to a mortgage recorded for the account of MCAN:
 - (i) MCLP shall immediately report to MCAN's Chief Anti Money Laundering Officer (CAMLO) that a reportable suspicious transaction has been identified;
 - (ii) MCLP will file a suspicious transaction report in the format agreed to between FINTRAC and MCLP;
 - (iii) MCLP will confirm to MCAN's CAMLO that a suspicious transaction report has been filed provide sufficient information to

- allow MCAN to confirm with FINTRAC that MCAN's reporting obligations have been satisfied; and
- (iv) MCLP will limit the personal information shared with MCAN to that, which is allowable under PIPEDA.

ARTICLE SIX TRANSFERS

Section 6.1 Sales by MCAN

- (1) MCAN shall sell both Investment Mortgages and Warehoused Mortgages according to the terms of this agreement. [This section was redacted]

Section 6.2 Sale of Warehoused Mortgages by MCLP

(1) MCLP may, at any time or from time to time, notify MCAN that MCLP wishes MCAN to sell, securitize or otherwise dispose of any Warehoused Mortgage or Interest therein or that MCLP wishes to purchase it itself. In any event, MCLP shall use all reasonable efforts to arrange for the sale of each Warehoused Mortgage or Interest therein within the Specified Period of MCAN funding such Warehoused Mortgage or Interest therein, or if any such Warehoused Mortgage becomes a Defaulted Mortgage, to arrange for the sale of such Warehoused Mortgage or Interest therein, as applicable, as soon as reasonably practicable after determining that it has become a Defaulted Mortgage. To facilitate such transactions, MCAN will, at the request of MCLP, sell Warehoused Mortgages or Interests therein, as applicable, to MCLP or to a third party (including Affiliates of MCLP) identified by MCLP and will execute all such documentation in connection therewith as may be reasonably requested by MCLP. If MCLP fails to complete any such sale or to purchase such Mortgages or Interest therein, as applicable, itself within the Specified Period, then, unless otherwise stated in Schedule E, MCAN may notify MCLP that it will sell the Mortgage or Interest therein in question on its own, with any loss from the Required Purchase Price being for the account of MCLP.

(2) Warehoused Mortgages will be sold by MCAN in accordance with Section 2.9 and at whatever price MCLP negotiates in connection with such sale (or in the case of a sale to MCLP, at the Required Purchase Price); provided that in the case of any sale to a third party (whether before or after termination of this Agreement), (i) if the actual sale price to MCAN is less than the Required Purchase Price therefor (the difference being referred to herein as a "deficiency"), MCLP shall pay to MCAN an amount equal to the deficiency, and (ii) if the actual sale price is more than the Required Purchase Price therefor (the difference being referred to herein as an "excess"), MCLP may retain out of the actual sales price paid, by way of additional compensation for its services hereunder, an amount equal to the excess (or if the sale price is paid directly to MCAN, MCAN shall forthwith remit to MCLP an amount equal to the excess).

(3) If, as a result of MCLP failing to complete any sale or purchase of a Warehoused Mortgage or Interest therein within the applicable Specified Period, MCAN notifies MCLP that MCAN will sell such particular Warehoused Mortgage or Interest, as provided in Section 6.2(1),

upon receipt of any such notice, MCLP shall immediately cease any attempt to sell the Warehoused Mortgage or Interest therein in question; provided that if at the time of receipt of such notice, (i) MCLP has already entered into a binding agreement to sell such Warehoused Mortgage or Interest therein, it may complete such sale on behalf of MCAN, or (ii) MCLP is already in negotiations with a third party regarding any such sale, it shall notify MCAN thereof, specifying which Warehoused Mortgage or Interest therein is the subject of such negotiations, and shall have 20 Business Days to conclude the sale on behalf of MCAN of such Warehoused Mortgage or Interest therein to such third party.

(4) If, as a result of MCLP failing to complete any sale or purchase of a Warehoused Mortgage or Interest therein within the applicable Specified Period, MCAN notifies MCLP that MCAN will sell such particular Warehoused Mortgage or Interest, as provided above, MCAN shall thereafter use all reasonable efforts to arrange for the sale of such Warehoused Mortgage or Interest therein as soon as possible and at the best available price. Except with the approval of both parties hereto, any such sale shall be for cash only. MCAN shall notify MCLP of the terms it has negotiated for each such sale, before binding itself to complete any such sale. Subject to Section 6.2(5), if the net sale price obtained by MCAN from any such sale is less than the applicable Required Purchase Price, MCLP shall pay to MCAN an amount equal to the difference, and if the actual net sale price to MCAN is more than Required Purchase Price, MCAN shall forthwith remit to MCLP an amount equal to the difference.

(5) MCLP may, within 48 hours of being notified of the terms of any such sale, advise MCAN in writing that MCLP will purchase (or cause to be purchased) such Warehoused Mortgage or Interest therein at the Required Purchase Price. Any such advise shall be irrevocable and on the first Business Day after MCLP gives any such advise, MCAN shall sell to (or at the direction of) MCLP, and MCLP shall purchase (or cause to be purchased) the Mortgage or Interest in question at such price and otherwise in accordance with Section 2.9; provided that MCLP shall reimburse MCAN for any reasonable and actual third party out-of-pocket costs it incurred to obtain such offer.

(6) MCAN and MCLP shall complete any sale contemplated by this Section 6.2 in accordance with the provisions hereof. MCAN hereby appoints MCLP as its attorney, which appointment shall be coupled with an interest and shall be irrevocable, with the power to take and perform such acts, in the name of MCAN, if required, as may be necessary to allow for the conveyance to any such third party or MCLP any such Warehoused Mortgage or Interest therein being sold pursuant to any such sale.

Section 6.3 Gain or Loss on Sale of Warehoused Mortgages

Except as otherwise specifically set forth herein (including in Schedule E), so long as MCLP has paid to MCAN or it has received the Required Purchase Price in connection with a Warehoused Mortgage that has been sold by MCAN, MCAN shall not be entitled to share in any profits or gains realized by MCLP from the sale of such Mortgage, and shall correspondingly not be liable for any losses suffered on any such sale by MCLP.

Section 6.4 Audit Right for First Right of Refusal Provisions

At the request of MCLP from time to time, MCAN shall disclose to MCAN's auditors on a confidential basis (subject to them issuing the opinion described below) the terms and conditions of any arrangement with another Person of the type described in any of Sections 2.2(2), 3.3 or 6.1(2), and instruct its auditors to provide an opinion to MCLP as to whether such disclosed terms and conditions are or are not more beneficial in the aggregate than the terms and conditions which MCLP offered or was offered, as applicable. MCLP shall pay the cost of any such opinion by such auditors, unless such auditors conclude that such disclosed terms and conditions are more beneficial to the applicable other Persons in the aggregate than the terms and conditions which MCLP offered or was offered, as applicable, in which case MCAN shall pay such costs in addition to, and without limitation of, any other damages available to MCLP as a result of such breach hereof by MCAN.

**ARTICLE SEVEN
REPRESENTATIONS AND WARRANTIES**

Section 7.1 Representations and Warranties of MCLP

MCLP hereby represents and warrants to MCAN as follows, and acknowledges that MCAN is relying on such representations and warranties in entering into this Agreement:

- (a) Incorporation and Organization and Due Authorization of Agreement: MCLP is a duly formed limited partnership under the laws of Ontario and has the power to perform its obligations under the provisions of this Agreement. The execution, delivery and performance of this Agreement by MCLP have been duly authorized by all necessary partnership action on behalf of MCLP. This Agreement has been duly executed and delivered by MCLP and is a valid and binding obligation of MCLP, enforceable against it in accordance with its terms.
- (b) Residence of MCLP: MCLP is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- (c) Non-Contravention: As at the date hereof:
 - (i) the execution, delivery and performance of this Agreement by MCLP will not result in the violation of any of the terms and provisions of its partnership agreement or any indenture or other agreement, written or oral, to which it may be a party or by which any of its assets, rights or properties are bound; and
 - (ii) the execution, delivery and performance of this Agreement by MCLP will not result in the violation of any law or regulation or any applicable order of any court, arbitrator or governmental authority having jurisdiction over it or its properties or businesses.

- (d) MCLP has established anti-money laundering programs within each line of business intended to satisfy the requirements of the PCMLTF Act and which include applicable requirements of OSFI Guideline B-8. MCLP will meet with MCAN annually, or more frequently at the request of MCAN, to review the programs and discuss the extent to which the programs are meeting the requirements of the PCMLTF Act and the applicable requirements of OSFI Guideline B-8 and any necessary changes to the programs.

Section 7.2 Representations and Warranties of MCAN

MCAN hereby represents and warrants to MCLP as follows, and acknowledges that MCLP is relying on such representations and warranties in entering into this Agreement:

- (a) **Incorporation and Organization and Due Authorization of Agreement:** MCAN is duly constituted and validly subsisting under the laws of its jurisdiction of incorporation and has the power to own and acquire Mortgages and Interests therein in accordance with, and perform its obligations under, the provisions of this Agreement. The execution, delivery and performance of this Agreement by MCAN has been duly authorized by all necessary action on behalf of MCAN and this Agreement has been duly executed and delivered by MCAN and is a valid and binding obligation of MCAN, enforceable against MCAN in accordance with its terms.
- (b) **Residence:** MCAN is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
- (c) **Non-Contravention:** As at the date hereof:
 - (i) the execution, delivery and performance of this Agreement by MCAN will not result in the violation of any of the terms and provisions of the articles, by-laws, declaration of trust or other constating documents of MCAN or any indenture or other agreement, written or oral, to which MCAN may be a party or by which any of its assets, rights or properties are bound; and
 - (ii) the execution, delivery and performance of this Agreement by MCAN (including the origination and servicing of Mortgages by MCLP on behalf of MCAN on the basis set out herein) will not result in the violation of any law or regulation or any applicable order of any court, arbitrator or governmental authority having jurisdiction over MCAN or its properties or businesses, and in particular, but without limitation, this Agreement and the performance hereof by MCAN and the origination and servicing of Mortgages by MCLP on behalf of MCAN on the basis set out herein, will comply with all current outsourcing guidelines of the

Office of the Superintendent of Financial Institutions (including Guideline B-10); MCAN covenants that, if at any time there is any change in applicable law, regulation or any such applicable order, including any change in any such outsourcing guidelines, that would affect performance of this Agreement by either MCAN or MCLP, including imposing any additional obligations on either party, MCAN shall forthwith notify MCLP thereof; and

- (d) except pursuant hereto, MCAN has not granted any other Person any agreement or option or right capable of becoming an agreement or option to provide services of the type to be provided by MCLP hereunder.

Section 7.3 Survival

The representations and warranties made in Section 7.1 and 7.2 shall survive the execution and delivery of this Agreement and shall continue in full force and effect for the benefit of the parties hereto.

Section 7.4 Ineligible Mortgages

(1) If, at any time, MCAN, acting reasonably, determines that any Mortgage in respect of which MCAN has paid a Required Funding Amount was not an Eligible Mortgage or otherwise approved by MCAN as of the time of such Mortgage being entered into on behalf of MCAN (in any such case, an “**Ineligible Mortgage**”), MCAN shall forthwith notify MCLP. In such event, and subject to Section 7.4(2), MCLP shall have 10 days from its receipt of such notice to either cure the circumstance which gave rise to such Mortgage being an Ineligible Mortgage, or pay to MCAN an amount equal to the Required Purchase Price therefor at such time. If MCLP does not do either within such time period, then until such time as it has done either, MCAN shall have no obligation to fund any Mortgages which are not then already Originated Mortgages, notwithstanding anything else contained herein and Section 3.2(2) shall not apply. Upon payment of the Required Purchase Price for a particular Mortgage in accordance with the foregoing, MCAN shall be deemed to have sold, without further instrument or formality, all of its right, title and interest in and to such Ineligible Mortgage in accordance with Section 2.9 and MCLP shall assume and thereafter perform all obligations of MCAN under such Mortgage.

(2) Notwithstanding Section 7.4(1), if MCLP, acting in good faith, disagrees with MCAN’s determination that a particular Mortgage was an Ineligible Mortgage, and the parties are not able to agree upon the matter within five Business Days, the matter shall be settled in accordance with Section 10.13, provided that the unsuccessful party in any such arbitration shall, unless otherwise agreed by the parties, indemnify the other party for any losses incurred as a result of any resulting delays. In the event this Section 7.4(2) applies, all timeframes set out in Section 7.4(1) shall be extended accordingly.

(3) The provisions of this Section 7.4 shall be the sole and exclusive remedies available to MCAN as a result of any Mortgage not being an Eligible Mortgage, and none of

MCLP, MFC, MSC or any other Nominee, or any of their Affiliates or partners, shall have any other or further obligations with respect thereto.

Section 7.5 No Other Warranties or Representations

Except as expressly set out in Sections 7.1 and 7.2 hereof, neither party hereto gives any warranty or representation with respect to any Mortgage Assets.

**ARTICLE EIGHT
SERVICING OF THE LOANS**

Section 8.1 Seller Duties

(1) All Originated Mortgages shall be acquired by MCAN from MCLP on a fully serviced basis, meaning that MCAN shall have no obligation to service the Originated Mortgages or collect the payments or to pay further compensation to MCLP in connection therewith other than as provided hereunder. MCLP acknowledges that the responsibility for servicing the Originated Mortgages is that of MCLP and that MCLP will carry out and fulfill such responsibility by performing its obligations hereunder. MCLP shall:

- (a) subject to compliance with the terms of each Originated Mortgage, arrange for regular progress Advances;
- (b) keep in an organized manner all originally executed copies of each Originated Mortgage, other security documents and underwriting documentation including personal identification required pursuant to Section 5.2(d) in accordance with Section 8.10(3) and 8.12;
- (c) make reasonable efforts to collect all payments due under each Originated Mortgage, whether principal, interest, Taxes or otherwise, including:
 - (i) for Investment Mortgages which are Defaulted Mortgages, recommending and taking appropriate enforcement action, preparing defaulted loan summaries with an overview of the Defaulted Mortgage, an analysis of the mortgaged premises and any associated environmental risk, and a recommended collection plan, (including estimated fees and expenses to implement the plan and projected loss (if any)), and
 - (ii) informing MCAN of any Material Default by any Mortgagor under any Originated Mortgage or the related Mortgage documents within five Business Days after responsible personnel at MCLP become aware of such Material Default;
- (d) remit Mortgage Proceeds under Originated Mortgages (or the relevant portion thereof payable to MCAN) to MCAN in accordance with Section 9.7, it being agreed that (i) MCLP may commingle Mortgage

Proceeds until required to be remitted, and (ii) notwithstanding anything to the contrary contained in this Agreement, MCLP shall be entitled to postpone or suspend the remittance to MCAN of any Mortgage Proceeds under a particular Mortgage if, in the opinion of MCLP, acting reasonably, such Mortgage Proceeds may be required to pay any Mortgage Expenses incurred or reasonably anticipated to be incurred by MCLP for such Mortgage, and MCLP shall forthwith notify MCAN of any such postponement or suspension;

- (e) monitor insurance for the Mortgages, periodically, and not less often than annually, satisfy itself that all insurance premiums, realty taxes, and any other charges with respect to the mortgaged property are being paid as they fall due and perform all necessary services with respect to the settlement of any loss under insurance policies in the event of damage to or destruction of any mortgaged property;
- (f) settle with any Mortgagor and any expropriating authority the amount and disposition of any compensation payable in connection with any expropriation of any part of, or any interest in, any mortgaged property;
- (g) subject to receipt of sufficient Mortgage Proceeds or, if the Mortgage Proceeds are insufficient, receipt of funds from the Mortgagor or MCAN, pay all Mortgage Expenses;
- (h) maintain and permit access to proper records and accounts (electronic or otherwise) in respect of all Originated Mortgages in accordance with Section 8.10;
- (i) give such notices to any Mortgagor or other Persons as MCLP may consider necessary or desirable; and
- (j) to provide such other incidental and reasonable services with respect to each Originated Mortgage as are either (i) contemplated by the terms of such Mortgage and consistent with MCLP's role as Servicer, or (ii) customarily provided by servicers in Ontario of similar mortgages.

(2) MCLP shall perform its duties hereunder with reasonable care and diligence, using that degree of skill and attention that MCLP exercises in managing, servicing, administering, collecting on and performing similar functions relating to comparable mortgages that it services for itself or other Persons.

(3) Notwithstanding anything to the contrary contained in this Agreement, MCLP shall not be required to take any action (or refrain from taking any action) that would result in MCLP being in default of any covenant, term, provision or condition of this Agreement, any applicable Participation Agreement or any Mortgage document or any obligation imposed on it by law, including the obligation to act in a reasonable manner and in accordance with normal lending practice.

Section 8.2 Reporting

- (1) **Reporting.** MCLP shall provide the following reports electronically to MCAN. All reports must separate Warehoused Mortgages and Investment Mortgages.
- (2) **Daily Requirements.** MCLP shall provide the following reports on each Business Day during the Investment Term and the Warehouse Term:
 - (a) a report showing daily Mortgage funding requirements for MCAN (detailed listing by Mortgage) as set out in Item 1, Schedule I;
 - (b) a report showing daily Mortgage commitments assigned to MCAN as set out in Item 2, Schedule I;
 - (c) a report showing Mortgages sold or securitized by MCAN as set out in Item 3, Schedule I; and
 - (d) an electronic file downloadable into MS Excel of Originated Mortgages outstanding, as set out in Item 4, Schedule I.
- (3) **Monthly Requirements.** MCLP shall provide the following reports in respect of each month during the Investment Term and the Warehouse Term, each such report to be delivered within the time period indicated below in this Section 8.2(3) for the particular report:
 - (a) a report showing Mortgage balances for MCAN as at month end (by the first Business Day of the following month) by Product Group, Mortgage number, term, and remaining term to maturity, as set out in Item 1, Schedule J;
 - (b) a report showing interest due and accrued as at month end (by the first Business Day of the following month) as set out in Item 2, Schedule J;
 - (c) a report showing interest and principal amounts in arrears as at month end (by the third Business Day of the following month), broken down into: greater than 30 days and less than 60 days, greater than 60 days and less than 90 days, and greater than 90 days, as set out in Item 3, Schedule J;
 - (d) a report showing uninsured Mortgages at month end in arrears at least 60 days along with information detailing the current stage of collection efforts along with specific reserves recommended against such loans, if any (by the fifth Business Day of the following month), as set out in Item 4, Schedule J;
 - (e) a report showing monthly fees earned by MCAN or MCLP by Mortgage including, but not limited to, Commitment Fees, origination fees, processing fees, Discharge Fees, Letter of Credit Fees and any other fees

charged by MCAN or MCLP (by the second Business Day of the following month), as set out in Item 5, Schedule J;

- (f) a report showing a monthly summary and reconciliation of Mortgage trading activity for MCAN, (by the third Business Day of the following month), as set out in Item 6, Schedule J;
- (g) an electronic file downloadable into MS Excel of Originated Mortgages outstanding (by the third Business Day of the following month), as set out in Item 7, Schedule J;
- (h) electronic files downloadable into MS Excel of Originated Mortgages outstanding (by the third Business Day of the following month), as set out in Items 8, 9 and 10, Schedule J;
- (i) reports showing a monthly summary of Mortgage Advances for each Product Group (by the third Business Day of the following month), as set out in Items 11, 12, 13 and 14, Schedule J;
- (j) a report showing all repayments of Originated Mortgages (by the third Business Day of the following month), as set out in Item 15, Schedule J;
- (k) a report showing renewals of Mortgages (by the third Business Day of the following month), as set out in Item 16, Schedule J;
- (l) a schedule of Mortgage commitments outstanding at month end (by the third Business Day of the following month), as set out in Item 17, Schedule J; and
- (m) a report showing a monthly summary of securitization transactions entered into by MCAN (by the third Business Day of the following month), as set out in Item 18, Schedule J.
- (n) Search MCAN's portfolio records of Originated Mortgages for any names appearing on the list of terrorists generally provided by OSFI and/or MCAN from time to time, as soon as possible upon receipt. A report on the results of such searches will be provided to MCAN upon the conclusion of each search. The frequency of searches may be increased based on the number of name matches received. The cost of completing searches beyond those required under the PCMLTF Act will be absorbed by MCAN to the extent such additional searches are for the sole benefit of MCAN.

Where a match occurs, MCLP will immediately notify MCAN's CAMLO, providing such detail as to allow MCAN to file the required reports.

(4) Quarterly Requirements. MCLP shall provide the following reports in respect of each calendar quarter during the Investment Term and the Warehouse Term:

- (a) a report (by the third Business Day of the following month) for residential, commercial, construction and warehouse Mortgage balances showing:
 - (i) principal increases and decreases,
 - (ii) balances by security type,
 - (iii) balances by province,as set out in Items 1, 2 and 3, Schedule K;
- (b) a report showing amounts in arrears by asset type as at month end (by the third Business Day of the following month), broken down into: greater than 30 days and less than 60 days, greater than 60 days and less than 90 days, and greater than 90 days, as set out in Item 4, Schedule K;
- (c) a report showing Mortgage interest income (by the third Business Day of the following month) split into residential and non-residential income, as set out in Item 5, Schedule K; and
- (d) a report showing Mortgage balances by size (by the third Business Day of the following month) split into: less than \$250,000, greater than \$250,000 and less than \$500,000, greater than \$500,000 and less than \$1,000,000, greater than \$1,000,000 and less than \$ 5,000,000, and greater than \$5,000,000, as set out in Item 6, Schedule K.

(5) Additional Reports. MCLP shall furnish such additional reports as may reasonably be requested by MCAN from time to time, the cost to be determined and agreed to (acting reasonably) with MCAN in advance of such furnishment, and to be borne by MCAN.

Section 8.3 Action by MCLP

MCLP may, without the prior consent of MCAN but subject to the terms of any other agreement between the parties, take any action it considers advisable, acting reasonably, in dealing with any Mortgagor under an Originated Mortgage, any related Mortgage documents or any related mortgaged property, including:

- (a) acquiring additional security from time to time if MCLP deems it necessary; and
- (b) amending or waiving any term or provision of any related Mortgage document; provided, however, that MCLP shall not make any material change in respect of any Investment Mortgage or take any enforcement

action in connection with any Defaulted Mortgage which is an Investment Mortgage without first obtaining the approval of MCAN, in writing, of such material change or enforcement action, as applicable.

Section 8.4 Power of Attorney

MCAN hereby appoints MCLP as its attorney, which appointment shall be coupled with an interest and shall be irrevocable so long as MCLP continues to service the Originated Mortgages, with the power to take and perform such acts, in the name of MCAN, if required, as may be necessary for MCLP to perform its obligations hereunder, including the power to direct, collect and enforce payment of the Originated Mortgages and the security therefor, and exercise the rights of MCAN under the Originated Mortgage documents.

Section 8.5 Mortgage Expenses

MCLP shall not be required (nor will it have any obligation) to expend its own funds to pay Mortgage Expenses under an Originated Mortgage, provided that MCLP may (but need not), on written notice to MCAN, advance its own funds for such purpose if it deems it necessary or desirable to do so. Upon receipt of such notice MCAN may notify MCLP that MCAN will expend its own funds to pay such Mortgage Expenses under such Originated Mortgage. If MCLP does advance its own funds in any such circumstances, MCLP shall be reimbursed by MCAN for such advance(s) in accordance with Section 9.7, and shall be entitled to interest on such funds at the rate applicable to the Mortgage in question from the date of payment of such Mortgage Expenses until such amount has been fully reimbursed to MCLP.

Section 8.6 Experts

To assist in administering any Mortgage Assets and carrying out its duties hereunder, MCLP may from time to time retain, at its own expense in the case of Warehoused Mortgages, and at the expense of MCAN in the case of Investment Mortgages, such solicitors, notaries, counsel, auditors, appraisers and other experts and agents (including securitization experts) as MCLP may, acting reasonably, select; provided that MCLP may not incur any such expenses under an Investment Mortgage on any one occasion in excess of \$1,000, without MCAN's prior written consent which shall not be unreasonably withheld.

Section 8.7 Dealings with Mortgagors

(1) So long as MCLP is servicing the mortgages, and in the case of Warehoused Mortgages, whether or not MCLP is servicing the mortgages, MCAN shall not, except in the case where the Mortgage documents are held in MCAN's name and then only as may be necessary in connection therewith, contact or deal either directly or indirectly with any Mortgagor under an Originated Mortgage or other Person in connection therewith, or enter into any other agreement or take any other security, with respect to this Agreement, any related Mortgage Assets or any Interest therein without the prior written consent of MCLP.

(2) MCAN shall not exercise any right of set-off, counterclaim or any other claim it may have against any Mortgagor or other Person with respect to any Warehoused Mortgage.

Section 8.8 Privacy

During the term of this Agreement, subject to the provisions of PIPEDA, MCLP shall:

- (a) Immediately advise MCAN of any individual who contacts MCLP with a complaint specifically naming MCAN about personal information that has been provided to or is held by MCLP in connection with the performance of its duties hereunder. MCAN
- (b) use appropriate security measures to protect such personal information which shall include the protection of such personal information against unauthorized use, disclosure, access or modification;
- (c) on reasonable notice and during normal business hours and at MCAN's expense, permit MCAN to audit MCLP's compliance with its obligations described in this Agreement and to enter onto MCLP's premises for that purpose; and
- (d) when subcontracting, assigning or delegating its obligations with respect to personal information under this Agreement, impose similar obligations on the Person to whom it has subcontracted, assigned or delegated its obligations as have been imposed on MCLP hereunder.

Section 8.9 Duty of Care/No Liability

Notwithstanding anything herein contained to the contrary (including in Section 8.4), but except as otherwise provided in this Section 8.9 or Sections 6.2, 6.3 or 7.4, MCAN acknowledges and agrees that:

- (a) neither MCLP nor any director, officer, employee or agent of MCLP shall be liable to it for any loss incurred by it in respect of the origination, administering and servicing of any Mortgage in accordance with this Agreement, save and except for any such loss resulting from the breach of any of MCLP's representation and warranties or by reason of wilful misfeasance, fraud, bad faith or negligence in the performance of its duties hereunder;
- (b) MCLP shall not be liable for any error of judgement or any action taken or omitted to be taken by it under or in connection with this Agreement except for its wilful misfeasance, fraud, bad faith or negligence;
- (c) without limiting the generality of the foregoing, MCLP shall incur no liability under or in connection with this Agreement if it acts in good faith upon, or relies on, any advice received from any expert retained by MCLP pursuant to Section 8.6;

- (d) it has reviewed this Agreement and the provisions hereof and the schedules hereto and is satisfied with the terms hereof and the obligations that MCLP has expressly taken on hereunder; and
- (e) MCLP assumes no responsibility with respect to the collectability of any of the Originated Mortgages, nor for the financial condition of any Mortgagor or the security value of any mortgaged property or any other collateral, or the performance of any obligation of any Mortgagor;

provided that the foregoing shall not limit the obligation of MCLP to perform its duties hereunder in accordance with Sections 2.1(4) and 8.1(2).

Section 8.10 Records and Reports

(1) MCLP shall maintain written records (which, for greater certainty, may take the form of electronic computer ledgers recorded and maintained in electronic media without any, specific requirement to produce paper copies of such records, provided that the capacity to generate such paper copies is available and that such paper copies may be prepared by MCLP in a timely fashion) in respect of Originated Mortgages (by account number or other account identifier) and the Related Rights adequate to provide accurate and timely data and information to maintain and service such Mortgages and the Related Rights and to enable MCLP to make the calculations and determinations to be made and the reports to be issued hereunder (the “**Account Records**”), including records showing all Advances, receipts and disbursements in respect of all Originated Mortgages. MCLP shall afford MCAN and its authorized representatives, including MCAN’s auditors and government regulators, reasonable access (in any event on not less than two Business Days prior written notice) to, and the right to obtain copies of, the Account Records and other pertinent documentation relating to Originated Mortgages and will cause its personnel to assist in any such examination. Without limiting the generality of the foregoing, MCAN may cause its representatives, including MCAN’s auditors and government regulators, to have access to the Account Records and such other documentation sufficient to enable them to, (i) using generally accepted auditing standards, verify and confirm the calculations, determinations and reports to be made and given by MCLP hereunder and otherwise to satisfy their reporting obligations under applicable law, including to applicable regulatory authorities and (ii) verify that MCLP and MCAN are in compliance with their obligations under this Agreement, the PCMLTFA and OSFI Guideline B-8 as applicable.

(2) In addition, the parties shall, promptly after execution hereof, negotiate in good faith the basis and terms of reference for a “5900 review” which will be conducted by the external auditors of MCLP and delivered to MCAN at least once per year.

(3) MCLP shall ensure that all Account Records are maintained at its offices in Toronto.

Section 8.11 Contingency Planning

MCLP shall develop and maintain in effect throughout the Investment Term and the Warehouse Term, a detailed contingency plan, including business continuity and disaster

recovery procedures, all relating to its performance of its obligations hereunder, whether as Servicer or otherwise. MCLP shall provide a copy of such plans to MCAN on request from time to time. Not less than twice per year, MCLP shall provide MCAN with written confirmation that it has reviewed, tested and updated, as appropriate, all such plans. A copy of such plan as in effect on the date hereof has been delivered by MCLP to MCAN and identified as the plan referred to in this Section 8.11.

Section 8.12 Security Policy

MCLP shall store all original documentation with respect to the Originated Mortgages in a safe and secure location. MCLP shall develop and maintain throughout the Servicing Term, and ensure compliance with, a detailed set of guidelines and policies relating to security, both with respect to original documentation, and other Account Records, including guidelines as to who can access information, on what basis, the implementation of firewalls and other security procedures and similar matters. MCLP shall provide a copy of such plans to MCAN on request from time to time. Not less than twice per year, MCLP shall provide MCAN with written confirmation that it has reviewed, tested and updated, as appropriate, all such plans.

Section 8.13 Insurance

MCLP shall maintain in effect throughout the Investment Term and the Warehouse Term insurance with respect to its obligations hereunder, including errors and omissions insurance, all as more particularly outlined in Schedule L.

Section 8.14 CEO/CFO Subcertification

MCLP shall cause its CEO or CFO to provide to MCAN such certifications with respect to the performance of MCLP's obligations hereunder and any reports provided in connection herewith, as may be reasonably requested from time to time by MCAN in order to comply with securities, regulatory or other similar requirements applicable to MCAN, whether as a public company or a federally-regulated financial institution.

Section 8.15 Software

Throughout the Investment Term and the Warehouse Term, MCLP shall ensure that the software it uses for the performance of its obligations hereunder is readily available to MCAN or any successor servicer (subject to payment of any appropriate licensing fees), and that in the event it is necessary to transfer Account Records to a successor servicer, there is no reason known to MCLP why such successor servicer could not access software which would enable it to process the Account Records.

Section 8.16 Compliance with Law

Without limiting else contained herein, MCLP shall ensure that, in the performance of all of its obligations hereunder, including as Servicer, it complies in all material respects with all Applicable Law, including any laws relating to privacy, antiterrorism legislation

and proceeds of crime. MCLP shall also co-operate reasonably with MCAN in responding to any request under any such legislation, at its own expense.

Section 8.17 Shareholders' Equity

MCLP shall provide evidence of an appropriate level of shareholders' equity.
[This section was redacted]

**ARTICLE NINE
FEES, EXPENSES AND ALLOCATIONS**

Section 9.1 Compensation

MCAN shall pay to MCLP a purchase price for each Originated Mortgage which includes, the par value of the loan plus any accrued interest owing on the loan plus any fees relating to originating, underwriting, processing and servicing the Originated Mortgages as detailed in Schedule E and F

Section 9.2 Fees to MCAN

(1) Standby Fees. MCLP shall pay to MCAN a standby fee for each Product Group relating to Warehoused Mortgages and for the letter of credit facility referred to in Section 2.3(3). Each such standby fee shall be calculated daily and payable monthly in arrears, and shall be determined as a percentage per annum calculated on the amount by which the related Funding Limit exceeds, in the case of Warehoused Mortgages, the Aggregate Outstanding Principal Balance of all Warehoused Mortgages within such Product Group on such day, and in the case of letters of credit, the LC Facility Utilization Amount at such time, in each case calculated at the beginning of such day, before taking into account any payments made on such Mortgages or letters of credit on such day or additional Advances with respect to Mortgages in such Product Group on such day). The particular percentage for each Product Group and for letters of credit shall be the percentage specified in Schedule E, provided that for each Product Group, if no such percentage is specified, or if a description for the particular Product Group specifies that no standby fee is payable, then in either event, no standby fee shall be payable in connection with such Product Group.

(2) Right to Reduce Funding Limits. MCLP may at any time or from time to time, by notice in writing to MCAN, elect to reduce the Funding Limit for any particular Product Group or for letters of credit, and upon giving any such notice, such Funding Limit shall be irrevocably reduced by the amount specified in such notice. Following any such reduction, the fees referred to in Section 9.2(1) shall be calculated based on the new reduced Funding Limit.

Section 9.3 Nominee Fees

MCAN shall pay to each Nominee any such fees as are provided for in the applicable Nominee Agreement.

Section 9.4 Sharing of Mortgage Fees and Sale Proceeds

- (1) Mortgage Fees. The parties hereto will share all Mortgage Fees payable under each Originated Mortgage on the bases set out in Schedules E and F with respect to the particular Product Groups.
- (2) Gain on Sale. All Gain on Sale realized on the sale (including securitization) of any Warehoused Mortgage shall be shared between the parties on the basis set out in Schedule E with respect to the particular Product Group. Upon completion of the sale of any Warehoused Mortgage, MCLP (or, if it has completed such sale, MCAN) shall promptly remit to the other party out of the sale proceeds, the applicable share payable to the other party, retaining for itself the applicable share of the Gain on Sale to which it is entitled.

Section 9.5 Cost Sharing

Any origination costs and hedging costs (other than the fees otherwise provided for herein) shall be borne by either MCAN or MCLP, as specified in Schedules E and F with respect to the related Product Group.

Section 9.6 Establishment of Disbursement Account

MCLP shall open and operate a separate account for MCAN (the “**Disbursement Account**”) for the purpose of receiving and disbursing all payments of Mortgage Proceeds as provided in this Agreement.

Section 9.7 Mortgage Proceeds

- (1) MCLP may retain any Expense Payments made by a Mortgagor under any Originated Mortgage (or in the event that MCAN only holds an Interest in such Mortgage, the Proportionate Share of MCAN in such Expense Payments), to compensate it for any Mortgage Expenses in connection with such Originated Mortgage that it has paid (or, in the case of interest as provided in paragraph (e) of the definition of Mortgage Expenses, to compensate it for such interest), or to the extent not yet paid but required to be paid within the next 30 days, to enable MCLP to pay same. MCLP may also retain a portion of any Mortgage Fees paid under any Originated Mortgage, to the extent of its entitlement thereto as provided in Section 9.4.
- (2) MCLP shall apply all Mortgage Fees it collects under any Originated Mortgage in accordance with Section 9.4(1).
- (3) Except as provided above in this Section 9.7, on each Business Day, MCLP shall deposit to the Disbursement Account all Mortgage Proceeds received on the previous Business Day under any Originated Mortgages. MCAN acknowledges that, subject to MCLP’s obligation to make such deposit, MCLP is entitled to retain and commingle with its own funds, Mortgage Proceeds which it receives.

- (4) On each Business Day, MCLP shall apply all funds deposited into the Disbursement Account on such Business Day in respect of Originated Mortgages as follows:
- (a) firstly, to pay or reimburse any Mortgage Expenses that have not been reimbursed or provided for under Section 9.7(1);
 - (b) secondly, to pay to itself any fees or other amounts then owing under Section 9.1 or 9.4; and
 - (c) thirdly, to pay MCAN any principal, interest or fees then owing to MCAN in connection with any Originated Mortgage for which deposits were made on such day.

ARTICLE TEN GENERAL

Section 10.1 Separate Activities

Except as otherwise expressly provided herein or otherwise agreed in writing, each party hereto shall have the absolute right to commence, continue, expand, diminish or cease to carry on any business or undertakings whatsoever (including the acquisition, development, leasing, sale, operation and management of any mortgaged property or Mortgages) and to engage in undertakings separate and apart from those relating to the Originated Mortgages without any accountability to any other party even if such activity or business competes with the Originated Mortgages. No party hereto, by reason of this Agreement, shall have any interest in any other property now owned, or hereafter acquired, by any other party hereto or in any other undertaking of any other party hereto, whether or not similar to the Mortgage Assets.

Section 10.2 Expenses

Except as otherwise expressly provided herein, each of MCAN and MCLP will pay for their own respective costs incurred in connection with this Agreement and the completion of the transactions contemplated hereby, including costs of negotiating this Agreement and legal and accounting costs.

Section 10.3 Conflict Avoidance Policy

MCLP will maintain in effect a conflict avoidance policy and resolution process which will, among other things, set out a process for managing conflicts as they pertain to investment decisions, maintaining confidential information and non-arms length transactions. A copy of MCLP's conflict avoidance policy is attached as Schedule P hereto.

Section 10.4 Delegation

MCLP may from time to time, on prior written notice to MCAN, delegate or subcontract all or part of its responsibilities hereunder to MFC, MSC or any wholly owned subsidiary of MCLP. MCLP may also from time to time, with the consent of MCAN which shall

not be unreasonably withheld, delegate or subcontract all or part of its responsibilities hereunder to any one or more Affiliates of MCLP. Notwithstanding any such delegation or subcontracting, (i) MCLP shall remain responsible hereunder to MCAN for the performance thereof, (ii) any such Person shall perform the delegated responsibilities in accordance with the standards set out herein, and (iii) in any event, MCLP may not, except with the consent of MCAN, delegate or subcontract to any Person which carries on business, or performs the responsibilities so delegated or subcontracted, outside of Canada.

Section 10.5 No Partnership

The relationship of MCAN and MCLP hereunder is solely that of principal and agent, and nothing contained herein shall constitute MCAN and MCLP partners or joint venturers or shall impose any liability on either of them as partners or joint venturers, without limiting however, any other agreements between the parties.

Section 10.6 Notices

All notices, consents, approvals or communications required or permitted hereunder shall be in writing and shall be delivered by courier or sent by facsimile transmission and addressed as set out in Schedule M. Any such notice, consent, approval or communication delivered or sent as aforesaid shall be deemed to be received on the Business Day next following the day it is delivered or sent. Any party hereto may change its address for the foregoing purposes by giving the other party hereto notice of such change of address as hereinbefore provided.

Section 10.7 Publication or Registration of Interest

MCAN shall not register this Agreement or notice thereof in any manner on title with respect to any mortgaged property without the prior written consent of MCLP.

Section 10.8 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors and permitted assigns. Neither party may assign, in whole or in part, any of its rights or obligations hereunder without the prior written consent of the other party, which may be unreasonably withheld; provided that the foregoing shall not restrict any assignment by a party to a wholly owned subsidiary of such party; and provided further that if a party wishes to assign this Agreement as part of a bona fide corporate reorganization, the consent of the other party hereto shall not be unreasonably withheld.

Section 10.9 No Waiver

The failure of any party at any time to insist upon the strict adherence to or performance by the other party of any of the covenants contained herein shall not be considered as a waiver of such covenant by such party. A waiver of any provision in this Agreement must be in writing and signed by the waiving party.

Section 10.10 Counterparts

This document may be executed in counterparts, each of which shall be deemed to be an original and such counterparts together shall constitute one and the same instrument and notwithstanding the date of execution shall be deemed to be dated as of the date hereof.

Section 10.11 Further Assurances

The parties hereto covenant and agree that each of them shall, upon reasonable request of the other party, make, do, execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices and assurances whatsoever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.

Section 10.12 Unenforceable Provisions

Any provision hereof which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

Section 10.13 Arbitration

Except for the right of either party to apply to a court of competent jurisdiction for an interim or interlocutory injunction or other provisional remedy to preserve the status quo or prevent irreparable harm pending selection of an arbitrator, any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration before a single arbitrator in Toronto, Ontario in accordance with the *Arbitrations Act* (Ontario). If the parties fail to appoint a single arbitrator within 15 days of service of notice of intention to arbitrate (which notice shall include a description of the claim, a concise statement of the facts supporting it, and the relief sought), either party may apply to a judge of the Ontario Superior Court (General Division) for appointment of such arbitrator. The arbitrator shall have a background in the real estate and mortgage industry. The language of the arbitrator shall be English. The arbitrator must allow pre-hearing discovery on terms and for a period of time that the arbitrator deems reasonable. Each party shall bear its own expenses, but the arbitrator's fees and costs shall be borne equally by the parties participating in the arbitration. The written decision and reasons of the arbitrator shall be communicated to the parties not later than 30 days after the close of argument in the arbitration.

Section 10.14 Entire Agreement

This Agreement and the Schedules hereto constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior proposals and agreements, whether oral or written, with respect to such subject matter; provided that this Agreement will not supersede and will be subject to the Warehouse Trust/Ridge Trust agreements as in effect as of the date hereof, each of which will remain in full force and effect and, to the extent inconsistent with the terms hereof, shall supersede this Agreement. For greater certainty, the parties hereto expressly terminate each other agreement between them (or with

MFC or MSC) with respect to the subject matter hereof, including the 1998 agreements between MSC and MFC as to such matters.

Section 10.15 Amendment

No term or provision of this Agreement may be amended, waived, discharged or terminated without the written consent of the parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written above.

MCAN MORTGAGE CORPORATION

Per: _____
Name:
Title:

Per: _____
Name:
Title:

MCAP COMMERCIAL LP, by its general partner, 4223667 Canada Inc.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE A
CLOSING DELIVERIES

Nil

SCHEDULE B
FUNDING NOTICE

The parties settled on a standard funding notice

SCHEDULE C
NOMINEE AGREEMENT

The parties to the agreement entered into a nominee agreement

[This section was redacted]

SCHEDULE D
PARTICIPATION AGREEMENT

No standard participation agreement was created as a custom agreement was created for each instance when needed.

SCHEDULE E
WAREHOUSED MORTGAGE AND LC FACILITIES

This schedule dictates the responsibilities for different product types and the splits on fees received and paid.

[This section was redacted]

SCHEDULE F
INVESTMENT MORTGAGE FACILITIES

This schedule dictates the responsibilities for different product types and the splits on fees received and paid.

[This section was redacted]

SCHEDULE G
PRODUCT SPECIFIC ELIGIBILITY CRITERIA

MCAN provides specific criteria for different mortgage types on an ongoing basis.

SCHEDULE H
MCAN FUNDING REQUIREMENTS REPORTS

MCLP provides funding reports to allow cash flow forecasting.

SCHEDULE I
DAILY REPORTS

MCAN and MCLP settled on a daily report to satisfy record keeping for both parties.

SCHEDULE J
MONTHLY REPORTS

MCLP provides detailed monthly reports to allow MCAN to record mortgage activity for each month.

SCHEDULE K
QUARTERLY REPORTS

MCLP provides detailed quarterly reports to allow MCAN to record mortgage activity for each quarter.

SCHEDULE L
INSURANCE REQUIREMENTS

MCLP provides evidence of insurance coverage to MCAN.

SCHEDULE M
ADDRESSES FOR NOTICE

1. If to MCAN:

MCAN Mortgage Corporation
200 King Street West, Suite 400
Toronto, Ontario
M5H 3T4
Attention: President & CEO
Fax No.: (416) 598-4142

2. If to MCLP:

MCAP Commercial LP
200 King Street West, Suite 400
Toronto, Ontario
M5H 3T4
Attention: President
Fax No.: (416) 598-1239

SCHEDULE N
CONFLICT AVOIDANCE POLICY

MCLP Investment Committee developed a Conflict Avoidance Policy acceptable to MCAN that ensures that mortgages are allocated to managed investors in a fair and prudent manner.