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**LOAN SALE AGREEMENT**

**DATED AND EFFECTIVE AS OF APRIL 15, 2013**

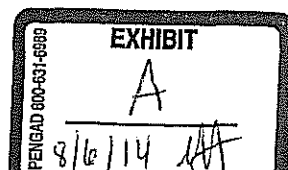
**BY AND BETWEEN**

**SELLER: FIA CARD SERVICES, N.A.**

**AND**

**BUYER: CACH, LLC**

**PA Post Seconds**



## LOAN SALE AGREEMENT

THIS LOAN SALE AGREEMENT (this "Agreement") is dated and effective as of the day and year as set forth on the cover page of this Agreement by and between FIA Card Services, N.A. (the "Seller") and CACH, LLC (the "Buyer"), for themselves and their respective successors and permitted assigns.

### RECITALS:

Recital 1. Seller desires to sell certain loans, representing credit card and/or credit line receivables, as identified on the Loan Schedule (as defined below) which is referenced on the attached Schedule 1;

Recital 2. Seller is willing, subject to the express terms, provisions, conditions, limitations, waivers and disclaimers as set forth herein, to sell, transfer, assign and convey to Buyer all of Seller's right, title and interest in, to and under such Loans (as defined below); and

Recital 3. Buyer is willing, subject to the express terms, provisions, conditions, limitations, waivers and disclaimers as set forth herein, to buy, and accept the transfer, assignment and conveyance of all of Seller's right, title and interest in, to and under such Loans;

NOW, THEREFORE, in consideration of the mutual promises herein set forth and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Seller and Buyer agree as follows:

### ARTICLE I

#### DEFINITIONS AND INTERPRETATION

For purposes of this Agreement, the parties hereto agree to the following terms, which shall have the meanings indicated:

Section 1.1. "Affiliate" means any entity controlling, controlled by, or under common control with Buyer.

Section 1.2. "Agreement" means this Loan Sale Agreement, including the cover page and all addenda, Exhibits and Schedules hereto.

Section 1.3. "Bill of Sale and Assignment of Loans" means the document to be delivered in accordance with Section 2.3 to Buyer on or before the Transfer Date (as defined below) with respect to the Loans purchased under this Agreement, substantially in the form attached hereto as Exhibit C, together with the Loan Schedule containing an identification of the Loans being sold on the Transfer Date.

Section 1.4. "Business Day" means a day that is not a Saturday, Sunday or legal holiday recognized by the federal government of the United States.

Section 1.5. "Buyer" has the meaning set forth in the preamble.

Section 1.6. "Claim" means any claim, demand, cause of action, judgment, loss, damage, penalty, fine, forfeiture, fee, liability, cost and expense (including attorneys' fees and expenses, whether suit is instituted or not), whether known or unknown, liquidated or contingent.

Section 1.7. "Current Balance" means the amount listed in the Loan Schedule as the unpaid balance in United States dollars for each Loan sold hereunder, which is correct to Seller's knowledge.

Section 1.8. "Cut-Off Date" means the fifteenth (15<sup>th</sup>) Business Day of a month as mutually agreed upon by the parties, unless the parties mutually agree in writing to an alternative date.

Section 1.9. "Evidence of Indebtedness" means with respect to each Loan (as defined below): (a) each loan agreement, line of credit agreement, or other evidence of indebtedness for such Loan, judgment, deficiency or charge-off; (b) any judgment against any Obligor; (c) any settlement agreement or other evidence of compromise by the creditor relating to the amounts due under any Loan; or (d) any other evidence, including, without limitation, any Loan payment history data or computer printouts, creditor notations or any other Loan summary information upon which a creditor could reasonably rely in asserting that the same represents a balance due and owing on a right of collection. The existence of an Evidence of Indebtedness shall evidence an unpaid and outstanding claim against an Obligor but shall not be deemed to imply that the debt evidenced thereby is enforceable. The Evidence of Indebtedness may be subject to bankruptcy or other enforcement or collection restrictions. The Evidence of Indebtedness may include, without limitation, original documents or copies thereof, whether by photocopy, microfiche, microfilm or other reproduction process. Evidence of Indebtedness shall be provided to the Buyer in accordance with Section 3.1 of this Agreement, subject to the other terms of this Agreement. Buyer expressly acknowledges that the sole Evidence of Indebtedness to be delivered to Buyer on the Transfer Date under the terms and provisions of this Agreement for any Loans shall be the information set forth in the Loan Schedule, with any amendments or changes thereto as may be forwarded to the Buyer pursuant to the terms and provisions of this Agreement.

Section 1.10. "Financial Instruments Trust Account" means the account designated by Seller into which Buyer shall deposit the Purchase Price (as defined below).

Section 1.11. "Information" means the confidential information and other information about the Loans supplied by the Seller from time to time to the Buyer, and any work product or other materials produced from or incorporating such information.

Section 1.12. "Loan Schedule" means the electronic file containing an identification of the Loans to be purchased by Buyer pursuant to the terms and provisions of this Agreement as of the Transfer Date, and setting forth the following information concerning each Loan as contained in Seller's records: the Loan numbers for Seller, the name, address, Social Security number and telephone numbers of Obligor, the date of charge-off, the last payment date, the interest rate immediately preceding charge-off and the Current Balance of each of the Loans being sold. An identification of such electronic file shall be included in Schedule 1 of this Agreement.

Section 1.13. "Loans" means (a) the accounts and related account receivables sold pursuant to this Agreement as identified in the Loan Schedule delivered by the Seller to the Buyer, which represent unsecured credit card and/or credit line receivables which have been charged-off by the Seller; (b) all rights, powers, liens or security interests of the Seller relating to the same; (c) any judgments founded upon an Evidence of Indebtedness, to the extent attributable thereto, and any lien arising therefrom; and (d) the proprietary interest of Seller in any Evidence of Indebtedness, forming the subject matter of any litigation (including, without limitation, any foreclosure, judgment, deficiency or charge-off) or bankruptcy to which Seller is a party or claimant.

Section 1.14. "Obligor" means with respect to each Loan, the obligor(s) on the Loan and/or on an Evidence of Indebtedness, including, without limitation, any and all makers, and any guarantor, surety or other person or entity who is or may be liable on the Loan.

Section 1.15. "Purchase Price" means an amount equal to 6.37% multiplied by the aggregate Current Balance of the Loans, which Purchase Price is to be paid on the Transfer Date.

Section 1.16. "Repurchase Price" means that amount calculated in accordance with the provisions of Section 5.2.

Section 1.17. "Retained Claims" means with respect to each Loan, the claims or causes of action retained by Seller pursuant to Article XIV.

Section 1.18. "Seller" has the meaning set forth in the preamble.

Section 1.19. "Transaction Documents" means this Agreement, the Mutual Non-Disclosure Agreement attached hereto as Exhibit E, and, with respect to the parties thereto, each Assignment and Acceptance Agreement entered into pursuant to Section 11.2 hereof, and, with respect to each of such documents, any and all addenda, exhibits and schedules thereto.

Section 1.20. "Transfer Date" means the seventeenth (17<sup>th</sup>) Business Day of a month as mutually agreed upon by the parties, unless the parties mutually agree in writing to an alternative date.

Section 1.21. "Transfer Documents" means the Bill of Sale and Assignment of Loans in substantially the form of Exhibit C hereto (accompanied by the Loan Schedule), which Bill of Sale and Assignment of Loans the Buyer and Seller hereby deem appropriate for the transfer of Seller's right, title and interest in and to the Loans purchased by Buyer pursuant to this Agreement.

Section 1.22. "Wire Transfer Instructions" means the instructions for transferring the Purchase Price by wire to Seller, as set forth on Exhibit D attached hereto or as set forth in any other subsequent written notice from the Seller to the Buyer.

## ARTICLE II

### PURCHASE AND SALE OF THE LOANS

Section 2.1. Agreement to Sell and Purchase Loans. Seller agrees to sell, and Buyer agrees to purchase on the Transfer Date the Loans described on the Loan Schedule, at the Purchase Price and subject to the terms, provisions, conditions, limitations, waivers and disclaimers set forth in this Agreement. The Seller's right, title and interest to the Loans purchased by the Buyer shall be transferred and assigned by delivery of the Transfer Documents to the Buyer. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT ANY ACCOUNT NUMBER WHICH IDENTIFIED ANY LOAN PRIOR TO ITS CHARGE-OFF BY THE SELLER AND THE SUBSEQUENT ASSIGNMENT OF A NEW ACCOUNT NUMBER, IS NOT BEING PURCHASED UNDER THIS AGREEMENT AND THAT BUYER WILL NOT ASSERT ANY OWNERSHIP OR OTHER INTEREST OVER THE ACCOUNT NUMBER(S) IN EFFECT PRIOR TO THE CHARGE-OFF. SELLER AGREES TO PROVIDE THE PRE-CHARGE OFF ACCOUNT NUMBER TO BUYER SOLELY FOR THE PURPOSE OF ALLOWING BUYER TO USE SUCH ACCOUNT NUMBER TO ASSIST DEBTORS IN THE COURSE OF BUYER'S COLLECTION ACTIVITIES RELATED TO THE LOANS.

Section 2.2. Purchase Price. The Purchase Price shall be paid by the Buyer to the Seller prior to the close of business on the Transfer Date. Payment must be made in immediately available funds in United States dollars by wire transfer to the Financial Instruments Trust Account in accordance with the Wire Transfer Instructions.

Section 2.3. Sale of Loans Process. After Seller has confirmation of the receipt of the Purchase Price due on the Transfer Date, Seller shall deliver to Buyer a Bill of Sale and Assignment of Loans, substantially in the form of Exhibit C hereto, executed by an authorized representative of Seller, which Transfer Document shall sell, transfer, assign, set-over, quitclaim and convey to Buyer, without recourse, warranty or representation, other than as provided herein, all right, title and interest of Seller in and to each of the Loans sold on the Transfer Date, and the right to all principal and/or interest and/or other amounts due under the Loans and/or other proceeds of any kind paid thereon after the Cut-Off Date, but excluding any and all payments, proceeds or other consideration received by or on behalf of Seller on or before the Cut-Off Date with respect to such Loans, regardless of whether timely paid or applied, and excluding any amounts due or collected by Seller in connection with any Retained Claims.

Section 2.4. Payments and Correspondence Received. Any payments received by Seller after the Cut-Off Date and within eighteen (18) months of the Cut-Off Date, with respect to a Loan (except for any Loan which has been repurchased by Seller under the terms of the Agreement), shall be promptly forwarded to Buyer. Seller shall have no obligation to remit any payment or correspondence to Buyer that is received by Seller after the eighteen month period, and any such payment or correspondence that is received by Seller may, if so determined by Seller in its sole discretion, be returned to the remitter of the payment or correspondence.

### ARTICLE III

#### TRANSFER OF LOANS AND LOAN DOCUMENTS

##### Section 3.1. Assignment of Loans and Loan Documents.

- (a) Within ninety (90) days following the Transfer Date and subject to Section 3.1(d), with respect to each Loan sold on the Transfer Date, Seller agrees to provide Buyer with copies in a format determined by Seller (but only to the extent such material is recoverable by Seller) of some or all of the following: (i) the last Loan periodic statement as issued by Seller; and (ii) the last Loan periodic statement issued by Seller indicating a payment, if any.
- (b) Should Buyer request additional documentation regarding a Loan sold to Buyer (such as an affidavit), Seller agrees to supply said documentation, if recoverable by Seller, within a mutually agreed upon timeframe.
- (c) The initial Buyer agrees to be the sole point of contact for all such requests regardless of the change in ownership as it relates to Section 11.1.
- (d) Buyer expressly acknowledges that Seller maintains and retains its books and records in accordance with Seller's then-current standard policies and procedures for the retention thereof, which may change from time to time, and that as a result documentation may be affected thereby, and may no longer be available with respect to a Loan or Loans purchased by Buyer.

### ARTICLE IV

#### SERVICING OF THE LOANS

Section 4.1. No Servicing After Transfer Date. As of the Transfer Date, all rights, obligations, liabilities and responsibilities with respect to the servicing of the sold Loans shall pass to Buyer, and Seller shall be discharged from all liability therefor, except for any applicable indemnification obligation, as provided in Section 10.2 hereof. Seller shall have no obligation to perform any servicing activities with respect to the Loans from and after the Transfer Date.

Section 4.2. Interim Servicing/Buyer Bound. Until the Transfer Date, Seller shall continue to service the Loans to be transferred and in connection therewith, Seller shall have the right, among other things, to postpone any pending bankruptcy matter until after the Transfer Date. Buyer shall be bound by the actions taken by Seller with respect to any Loan prior to the Transfer Date. **BUYER SHALL TAKE NO ACTION TO COMMUNICATE WITH ANY OBLIGOR OR ITS ACCOUNTANTS OR ATTORNEYS OR TO ENFORCE OR OTHERWISE SERVICE OR MANAGE ANY SUCH LOAN UNTIL AFTER THE TRANSFER DATE OF SUCH LOAN.** In no event shall Seller be deemed a fiduciary for the benefit of Buyer with respect to the Loans, or any Loan.

Section 4.3. Buyer Servicer Requirements/Hold Harmless and Indemnity. Buyer shall be responsible for complying with all state, commonwealth and federal laws, rules, regulations, caselaw, and other statutory requirements, if any, with respect to the ownership, servicing and/or collection of any of the Loans from and after the Transfer Date including, without limitation, any obligation to notify any Obligor of the transfer of servicing rights from Seller to Buyer.

Section 4.4. Disputes With Obligors May Not Be Resolved Through Arbitration or Class Action Waiver. Buyer acknowledges and agrees that any claim, dispute or action against an Obligor of a Loan shall not be resolved through enforcement of any arbitration clause or class action waiver clause, if any, contained in the terms and conditions of the underlying loan agreement between Seller and such Obligor.

Section 4.5. Finance Charge Assessment. With respect to each Loan, Buyer acknowledges that Seller did not accrue additional finance charges following the date of charge-off of such Loan on its system. Buyer agrees that if and as permitted by applicable law and regulation and the applicable loan agreement, Buyer elects to assess finance charges on a Loan for the period after the charge-off date of such Loan, Buyer shall not accrue such post-charge-off finance charges for the period of time from the date of charge-off until and including the Transfer Date.

## ARTICLE V

### REPURCHASE OF LOAN AND REFUND OPTION OF SELLER

Section 5.1. Seller's Right to Notification of Claims and Actions. Buyer shall promptly notify Seller of any Claim, threatened Claim or pending or threatened arbitration or other legal proceeding by any Obligor against Seller that arises from or relates to any of the Loans purchased hereunder.

Section 5.2. Repurchase Price. If Seller determines in its sole discretion that any of the circumstances set forth in Section 5.3 exist with respect to any Loan and Seller elects to repurchase the Loan, Seller shall refund a portion of the Purchase Price paid, if any, relating to such Loan equal to the amount determined according to the following formula: the outstanding principal balance of the Loan as of the Transfer Date as set forth on the Loan Schedule containing the Loan being repurchased, multiplied by 6.37% (the "Repurchase Price"). Buyer shall pay to Seller the aggregate amount of any and all payments, credits or other consideration, if any, attributable to such Loan and actually received by Buyer on or after the Transfer Date of such Loan.

Section 5.3. Seller's Right to Retain and to Repurchase Loan(s). If Seller determines (i) after the designation of Loans for sale and the determination of Purchase Price of the Loans to be sold on the Transfer Date, or (ii) after the Transfer Date, that any of the following circumstances exist with respect to any of such Loan or Loans, then Seller shall have the right, but not the obligation, to refund to Buyer the Repurchase Price relating to such Loan(s) calculated pursuant to the provisions set forth in Section 5.2 and withdraw such Loan or Loans from the Loan Schedule and from the Transfer Documents and Buyer, upon ten (10) days written notice, agrees to reconvey such Loan or Loans to Seller:

(a) The Loan is participated among different financial entities or depository institutions or is otherwise subject to an agreement between Seller and another depository institution or other third party, which restricts or otherwise limits the sale, transfer or assignment of the loan or the servicing of the loan without obtaining the prior consent of such third party; or

(b) Seller determines that there is a pending or threatened suit, action, arbitration, bankruptcy proceeding or other legal proceeding or investigation relating to the loan or any Obligor for such loan and naming Seller or otherwise involving Seller's interest therein in a manner unacceptable to Seller, or Seller otherwise determines that such matter cannot be resolved and/or that Seller's interest therein cannot be adequately protected without Seller owning such loan, or for which a settlement agreement was entered into prior to the Cut-Off Date; or

(c) Seller determines that the loan is (i) cross defaulted, (ii) cross collateralized, or (iii) otherwise so inextricably related to any loan, asset, claim, or right of action owned by Seller or any of Seller's predecessors in interest and not expressly transferred to Buyer pursuant to this Agreement, that Seller determines that it reasonably requires the retention of such loan in order to protect Seller's interests in such other loan, asset, claim or right of action.

Section 5.4. In the event that the Seller determines under Section 5.3 to repurchase the entire Loan pool originally conveyed to Buyer on the Transfer Date under this Agreement, then notwithstanding Section 5.2 hereof, the aggregate amount of any and all payments, credits or other consideration, if any, attributable to such Loans and actually received by Buyer on or after the Transfer Date may be retained by Buyer. Payment details must be provided by Buyer to Seller in writing on or before the time of repurchase by Seller.

## **ARTICLE VI**

### **NO ADDITIONAL OBLIGATION TO REPURCHASE**

**OTHER THAN SELLER'S RIGHT TO RETAIN OR REPURCHASE A LOAN PURSUANT TO ARTICLE V, OR SELLER'S DUTY TO REPURCHASE A LOAN PURSUANT TO THE TERMS OF ARTICLE VIII, BUYER ACKNOWLEDGES AND AGREES THAT SELLER SHALL HAVE NO OBLIGATION TO REPURCHASE ANY LOAN SOLD HEREUNDER.**

## **ARTICLE VII**

### **REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER**

Buyer hereby represents, warrants and covenants, to and with Seller, as of the effective date of this Agreement, as of the Effective Date of each Assignment and Acceptance Agreement entered into as provided in Section 11.2 of this Agreement and as of the Transfer Date that:



Section 7.1. Due Formation. Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of Colorado with full power and authority to enter into this Agreement to purchase the Loans and to carry out the terms and provisions hereof.

Section 7.2. Authorization. The execution and delivery of this Agreement and the other Transaction Documents and Buyer's performance hereunder have been duly authorized on or prior to the effective date of this Agreement, by all necessary action on the part of the Buyer, and Buyer has complied with all laws, rules, regulations, charter provisions and bylaws to which it may be subject or by which its assets may be bound. The undersigned representative of Buyer is duly authorized by Buyer to act for and on behalf of and to bind Buyer to the terms of this Agreement. No authorization, consent, approval, license, qualification or formal exemption from, nor any filing, declaration or registration with, any governmental agency or regulatory authority or any other body is required in connection with the execution, delivery or performance by Buyer of this Agreement, which authorization, consent, approval, license, qualification or formal exemption from, or filing, declaration or registration has not been obtained on or prior to the Transfer Date.

Section 7.3. Binding Obligations. Assuming due authorization, execution and delivery by Seller, this Agreement and each of the other Transaction Documents and all of the obligations of Buyer hereunder and thereunder, are the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).

Section 7.4. No Breach or Default. The execution and delivery of this Agreement (or, where applicable, the Assignment and Acceptance Agreement described in Section 11.2 of this Agreement) and the performance of its obligations hereunder by Buyer will not conflict with any provision of any law or regulation to which Buyer is subject or by which any of its assets may be bound or conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any agreement or instrument to which Buyer is a party or by which it or any of its assets may be bound, or any order, injunction or decree applicable to Buyer or any of its assets.

Section 7.5. No Collusion. Neither Buyer, any of its Affiliates, nor any of their respective officers, partners, members, agents, representatives, employees or parties in interest (i) has in any way colluded, conspired, connived or agreed directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid or offer, or any bid other than a bona fide bid, in connection with the selection of the Buyer to purchase the Loans subject to this Agreement, or (ii) has, in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices, or to fix any overhead, profit or cost element of the bid price or terms of the agreement of any other bidder with respect to the selection of the Buyer to purchase the Loans subject to this Agreement, or to secure any advantage against Seller.

Section 7.6. Nondisclosure and Compliance with Transaction Documents. Buyer is in full compliance with its obligations under the terms of the Mutual Non-Disclosure Agreement,

attached hereto as Exhibit E and the terms thereof are hereby incorporated herein, subject to Buyer's ownership rights and interests as acquired by Buyer hereunder.

**Section 7.7. Identity.** Buyer is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

**Section 7.8. No Affiliation With Seller.** Except as may have been previously disclosed to Seller in writing, Buyer is not or has not been affiliated, directly or indirectly, with Seller, or any of its respective agents, affiliates or employees.

**Section 7.9. Assistance of Third Parties.** Buyer hereby agrees, acknowledges, confirms and understands that Seller shall have no responsibility or liability to Buyer arising out of or related to any third party's failure to assist or cooperate with Buyer. In addition, Buyer is not relying upon the continued actions or efforts of Seller or any third party in connection with its decision to purchase the Loans. The risks attendant to the potential failure or refusal of third parties to assist or cooperate with Buyer and/or Seller in the effective transfer, assignment, and conveyance of the purchased Loans, and/or assigned rights shall be borne by Buyer.

**Section 7.10. Enforcement/Legal Actions/Unfair Collection Practices.** Buyer agrees, covenants, represents and warrants that Buyer shall not institute any enforcement or legal action or proceeding in the name of Seller or any subsidiary or affiliate thereof. Buyer also agrees, covenants, represents and warrants not to make any effort to collect a Loan against any Obligor that would be commercially unreasonable and Buyer shall not misrepresent, mislead, deceive, or otherwise fail adequately to disclose to any particular Obligor the identity of Buyer as the owner of the Loans. Buyer further agrees, covenants, represents and warrants not to use, adopt, exploit, or allude to Seller or any name derived from any name, trademark or service mark of Seller or confusingly similar therewith, or the name of any other local, state, commonwealth or federal agency or association to promote Buyer's sale, enforcement, collection, or management of the Loans. Buyer agrees, covenants, represents and warrants that it will not violate any applicable law or regulation including without limitation any applicable law or regulation relating to unfair credit collection practices, in connection with any of the Loans transferred to Buyer pursuant to this Agreement. Buyer agrees, acknowledges, confirms and understands that there may be no adequate remedy at law for a violation of the terms, provisions, conditions and limitations set forth in this Section 7.10 and that Seller shall have the right to seek the entry of an order by a court of competent jurisdiction enjoining any violation hereof. Buyer agrees to notify Seller within ten (10) Business Days of notice or knowledge of any Claim or demand.

**Section 7.11. Status of Buyer.** Buyer represents, warrants and certifies to Seller that it is (i) a financial institution, (ii) a sophisticated institutional purchaser that is in the business of buying or originating loans of the type being purchased or that otherwise deals in such loans in the ordinary course of the Buyer's business, and/or (iii) an entity that qualifies as an accredited investor under the federal securities laws. Buyer agrees, covenants, represents and warrants that all information provided to Seller or its agents by or on behalf of Buyer in connection with this Agreement and the transactions contemplated hereby is true and correct in all material respects and does not fail to state any fact required to make the information contained therein not misleading.

**Section 7.12. No Broker's/Finder's Fees.** Buyer has not dealt with any broker, agent or finder in connection with the transaction contemplated by this Agreement that would give rise to a claim for a brokerage commission or finder's fee. Buyer hereby indemnifies and agrees to defend and hold harmless Seller from and against any claims for brokerage fees or commissions of any broker, agent or finder resulting from the transaction contemplated by this Agreement. Buyer acknowledges that Seller shall have no liability for the payment of Buyer's brokerage fees, commissions or finder's fees in connection with the transaction contemplated by this Agreement.

**Section 7.13. Buyer Insurance Requirements.** Buyer shall, at its sole cost and expense, procure and maintain in full force and effect the following insurance coverages with an insurance carrier which is at least "A" rated by Best.

General Liability	\$2,000,000 General Aggregate
	\$2,000,000 Product Aggregate
	\$1,000,000 Each Occurrence
Excess Liability	\$5,000,000 Each Accident
	\$5,000,000 Aggregate

Seller must be provided a certificate of insurance evidencing that such coverage is in effect prior to execution of this Agreement and upon each assignment to a subsequent Buyer as provided in Section 11.2 hereof. All certificates of insurance shall be amended to name Seller and its affiliates as additional insured parties, and shall require that Seller be provided with at least thirty (30) days advance written notice of cancellation or material change in the stated coverage of such insurance. Amended certificates of insurance shall be delivered to the attention of the Seller's Corporate Insurance Department at the address provided in Exhibit A, and approved by said department prior to the commencement of any collection efforts by the Buyer on the Loans. Buyer shall furnish to Seller renewal certificates of insurance, on an annual basis, until all collection efforts with respect to the Loans have ceased.

**Section 7.14. No Proceeding.** There is no litigation or administrative proceeding before any court, tribunal or governmental body presently pending or, to the knowledge of Buyer, threatened against Buyer which would have a material adverse effect on the transactions contemplated by, or Buyer's ability to perform its obligations under, this Agreement, or any of the other Transaction Documents.

**Section 7.15. Security Breach Detection and Response.** In addition to and not in limitation of any of the other terms of the Mutual Non-Disclosure Agreement attached hereto and incorporated herein as Exhibit E, and for the avoidance of doubt, Buyer and Seller agree that the provisions of the "Detection and Response" section of such Mutual Non-Disclosure Agreement binds and shall continue to bind each party hereto, and shall survive perpetually and irrevocably.

**Section 7.16. Survival of Representations, Warranties and Covenants.** The representations, warranties and covenants set forth in this Article shall continue notwithstanding the closing on the sale of any Loans.

## ARTICLE VIII

## LIMITED REPURCHASE/REPRESENTATIONS AND WARRANTIES OF SELLER

Section 8.1. Limited Repurchase at Buyer's Option. The Buyer may, up to twice, at any time within one hundred eighty (180) days of the Transfer Date, submit a listing of Loans and require the Seller to repurchase such Loans; in the event that, with respect to each Loan on such list, prior to the Cut-Off Date (unless otherwise expressly specified below), either:

- (a) All Obligor have filed an active bankruptcy proceeding as of the Cut-Off Date which has not been adjudicated or discharged and the Loan is listed or is reasonably likely to be listed as one of the obligations to be extinguished in such proceeding; or,
- (b) All Obligor were declared legally dead prior to the Cut-Off Date; or,
- (c) The Seller, or any of its duly appointed agents, had delivered to all Obligor a release of liability or satisfaction of their obligations to the Seller, including without limitation a Form 1099-C; or
- (d) That the Seller, acting alone or in concert with its duly appointed agents, knowingly created a forged, fraudulent or fictitious Loan; or
- (e) That the Seller, on the Transfer Date, did not have good and marketable title to the Loan (except for any defect in title, lien or encumbrance arising from, related to, or resulting from (i) the expiration of any statute of limitations, or (ii) Seller's inability to produce documentation for such Loan, either of which shall negate Seller's obligation to repurchase the Loan pursuant to the terms of this Section 8.1); or
- (f) That, prior to the Transfer Date, the Seller was not in substantial compliance with any material provisions of any applicable state, commonwealth and/or federal consumer credit laws, including, without limitation and if and as applicable, the Truth-In-Lending Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act and the Fair Credit Billing Act, that Seller was required to comply with in its origination (if the Loan was originated by the Seller) or servicing of the Loan; or
- (g) The debt was incurred fraudulently by an unauthorized user or applicant, or an allegation of identity theft has been made by the Obligor, which has been verified as fraud and confirmed by Seller; or
- (h) The Obligor disputed the Loan in writing before the Transfer Date without pending resolution before the Transfer Date; or
- (i) The Obligor does not reside in the United States or its territories; or
- (j) The Obligor invoked the stay provisions of the Servicemembers Civil Relief Act prior to the Transfer Date.

Section 8.2. Repurchase of Loans. In the event that Buyer gives Seller written notice of Buyer's election to have Seller repurchase Loans pursuant to the provisions of Section 8.1, and supplies the Seller with evidence satisfactory to Seller that the same constitute Loans subject to

repurchase, on or before one hundred and eighty (180) days after the Transfer Date (the "Repurchase Period"), then Seller shall repurchase the Loan(s) identified in such notice for an amount equal to the Repurchase Price calculated in accordance with the terms of Section 5.2. Buyer may submit no more than two such notifications during the one hundred eighty (180) day period from the Transfer Date.

Notwithstanding any other provision of this Agreement: (i) repurchase by Seller pursuant to Sections 8.1 and 8.2 constitutes the sole and exclusive remedy available to Buyer, and (ii) Buyer hereby waives any other right or remedy, including without limitation any and all right to sue Seller or any of its affiliates at law or in equity for damages (including, without limitation, for actual, special, indirect, consequential or punitive damages) or other relief, in the event or as a result of the occurrence or existence of any or all of the events or conditions referenced in Section 8.1(a) through (j), respectively; provided however, that a failure by Seller to fulfill its obligation(s) to repurchase any Loan as required and in accordance with Sections 8.1 and 8.2 shall be subject to Section 10.2 of the Agreement. Seller shall have no obligation to repurchase any Loan for which notice and all supporting evidence have not been received by Seller within the one hundred and eighty (180) day period following the Transfer Date. Within thirty (30) days of receiving the Repurchase Price from Seller, Buyer shall reconvey the repurchased Loan to Seller using the same form of Bill of Sale and Assignment of Loans Seller used to transfer the Loan to Buyer, along with any amounts due or collected by Buyer in connection with such Loan and release its security interest on any repurchased Loan.

**Section 8.3. Discrepancies in Current Balance.** In the event that during the Repurchase Period either party gives notice to the other that the aggregate Current Balance provided to Buyer by Seller (and upon which the Purchase Price calculation was based) for the Loans sold hereunder and not repurchased as provided in this Agreement differs from the actual aggregate Current Balance of such Loans (after the application of all applicable credits, payments, interest, fees, expenses and deductions for returned payments) as of the Cut-Off Date (the "Discrepancy"), and the parties agree that a Discrepancy has in fact occurred, then an amount equal to the amount of the Discrepancy, multiplied by 6.37% shall be paid by the positively affected party to the other party, as applicable. For example, the figure provided as the Current Balance for any Loan may include interest, costs, fees and expenses and it is possible that the figure provided as the Current Balance for any Loan may not reflect credits for payments made by or on behalf of any Obligor and not posted prior to the Cut-Off Date. This figure may also reflect payments made by or on behalf of any Obligor which have been deposited and credited to the Current Balance of such Loan, but that may subsequently be returned to Seller due to insufficient funds to cover such payments. Buyer acknowledges that Seller shall have no liability beyond the above price adjustment for errors in calculation of the Current Balance.

**Section 8.4. Representations and Warranties of Seller.** Seller hereby represents and warrants to the Buyer, as of the effective date of this Agreement and as of the Transfer Date that:

(a) Seller is a national banking association duly organized, validly existing and in good standing under the laws of the United States with full power and authority to enter into this Agreement to sell the Loans and to carry out the terms and provisions hereof;

(b) The execution and delivery of this Agreement and the performance hereunder have been duly authorized on or prior to the effective date of this Agreement, by all

necessary action on the part of the Seller and no provision of applicable law or regulation or the charter or bylaws of Seller or any judgment, injunction, order, decree or other instrument binding upon Seller is or will be contravened by Seller's execution and delivery of this Agreement or Seller's performances hereunder;

(c) Assuming due authorization, execution and delivery by Buyer, this Agreement and all of the obligations of Seller hereunder are the legal, valid and binding obligations of Seller, enforceable in accordance with the terms of this Agreement, except as such enforcement may be limited by receivership, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(d) No authorization, consent, approval, license, qualification or formal exemption from, nor any filing, declaration or registration with, any governmental agency or regulatory authority or any other body is required in connection with the execution, delivery or performance by Seller of this Agreement, which authorization, consent, approval, license, qualification or formal exemption from, or filing, declaration or registration has not been obtained on or prior to the Transfer Date; and

(e) No authorization, consent, approval, license, qualification or formal exemption from, nor any filing, declaration or registration with, any governmental agency or regulatory authority or other body is required in connection with the sale of any or all of the Loans to be sold on the Transfer Date, which authorization, consent, approval, license, qualification or formal exemption, or filing, declaration or registration has not been obtained on or prior to such date.

**Section 8.5. Survival of Representations, Warranties and Covenants.** The representations, warranties and covenants set forth in this Article shall continue notwithstanding the closing on the sale of any Loans.

## **ARTICLE IX**

### **BUYER'S EVALUATION AND ACCEPTANCE OF RISK OF LOANS SOLD "AS-IS"**

Buyer hereby represents, warrants, acknowledges and agrees to the following, as of the effective date of this Agreement and as of the Transfer Date:

**Section 9.1. Independent Evaluation.** Buyer's decision to enter into this Agreement and to purchase the Loans pursuant to this Agreement is and was based upon Buyer's own independent evaluation of information deemed relevant by Buyer, including, but not limited to, the information made available by Seller to the Buyer, and Buyer's independent evaluation of the Loans and related information. Buyer has relied solely on its own investigation and determination of the quality, value and condition of the Loans and it has not relied upon any oral or written information provided or to be provided by Seller or its employees, contractors, officers, representatives, directors or agents.

Section 9.2. Due Diligence. Buyer has had the opportunity to conduct such due diligence review and analyses of the Information together with such records as are generally available to the public from local, county, state, commonwealth and federal authorities, record keeping offices and courts (including, without limitation, any bankruptcy courts in which any Obligor(s), if any, may be subject to any pending bankruptcy proceedings), as Buyer deemed necessary, proper or appropriate in order to make a completely informed decision with respect to the purchase and acquisition of the Loans.

Section 9.3. Economic Risk. Buyer acknowledges that the Loans may have limited or no liquidity. Buyer has the financial wherewithal to own the Loans for an indefinite period of time and to bear the economic risk of an outright purchase of the Loans and a total loss of the Purchase Price for the Loans.

Section 9.4. Loans Sold As Is. With respect to this Section, the term "Seller" shall include without limitation its affiliates, agents, directors, officers, representatives, contractors and employees. THE BUYER ACKNOWLEDGES AND AGREES THAT THE SALE OF ALL LOANS MADE BY SELLER PURSUANT TO THIS AGREEMENT SHALL BE WITHOUT RECOURSE, REPRESENTATION OR WARRANTY EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AND THAT SELLER HAS NOT MADE, DID NOT MAKE AND SPECIFICALLY DISCLAIMS (AND BUYER IS NOT RELYING ON SELLER WITH RESPECT TO) ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE FOLLOWING:

- (a) THE MARKETABILITY, VALUE, QUALITY OR CONDITION OF ANY LOAN OR LOANS;
- (b) THE COLLECTABILITY OF THE EVIDENCE OF INDEBTEDNESS OR LOANS; OR
- (c) ANY OTHER MATTERS PERTAINING TO THE LOANS.

IN ADDITION, SELLER EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BUYER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE LOANS MAY HAVE BEEN OR COULD BE OBTAINED FROM A VARIETY OF SOURCES (SUCH AS A PRIOR OWNER(S), IF ANY, OF THE LOAN OR A THIRD PARTY VENDOR) AND THAT SELLER HAS NOT MADE AND WILL NOT BE OBLIGATED TO MAKE AN INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH THIRD PARTY SOURCED INFORMATION, AND SELLER MAKES NO REPRESENTATION AS TO SUCH INFORMATION. FINALLY BUYER ACKNOWLEDGES THAT ANY DOCUMENTS EXCLUDED FROM THE INFORMATION PROVIDED TO BUYER COULD CONTAIN INFORMATION WHICH, IF KNOWN TO BUYER, COULD HAVE A MATERIAL IMPACT ON ITS DETERMINATION OF VALUE OF THE LOANS. EXECUTION OF THIS AGREEMENT SHALL CONSTITUTE AN ACKNOWLEDGMENT BY BUYER THAT, EXCEPT FOR REPRESENTATIONS AND

WARRANTIES EXPRESSLY SPECIFIED HEREIN, THE LOANS WERE ACCEPTED WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED OR OTHERWISE, IN AN "AS IS" AND "WHERE IS" CONDITION BASED SOLELY ON BUYER'S OWN INSPECTION. NO EVENT OR CONDITION SHALL ENTITLE BUYER TO REFUSE TO PURCHASE A LOAN OR TO REQUEST SELLER TO REPURCHASE A LOAN, EXCEPT AS SPECIFIED IN THIS AGREEMENT.

## ARTICLE X

### INDEMNIFICATION

Section 10.1. Buyer's Indemnification. From and after the Transfer Date, but subject to the other provisions of this Agreement, Buyer shall defend, indemnify and hold harmless Seller or Seller's agents, affiliates, employees, contractors, officers, directors and representatives against and from any and all liability for, and from and against any and all losses or damages Seller may suffer as a result of any Claim or threatened Claim that Seller shall incur or suffer as a result of: (i) any negligent act or omission of Buyer or Buyer's agents, Affiliates, employees, contractors, officers, assignees, directors and representatives in connection with the Loans and its purchase of the Loans pursuant to the Agreement; (ii) the breach or inaccuracy of any of Buyer's representations or warranties as set forth in this Agreement and/or in the other documents executed in connection with the selection of the Buyer to enter into this Agreement and the sale of the Loans; (iii) the breach of any of Buyer's covenants as set forth in this Agreement and/or in the other documents executed in connection with Buyer's purchase of the Loans or in the Mutual Non-Disclosure Agreement attached hereto as Exhibit E; or (iv) any Claim or threatened Claim by any Obligor regarding any assignment, enforcement, collection, servicing or administration of the Loans by Buyer or Buyer's agents, Affiliates, employees, contractors, officers, directors, assignees and representatives on or after the Transfer Date.

Section 10.2. Seller's Indemnification. From and after the Transfer Date, but subject to the other provisions of this Agreement, Seller shall defend, indemnify and hold harmless Buyer or Buyer's agents, Affiliates, employees, contractors, officers, directors and representatives against and from any and all liability for, and from and against any and all losses or damages Buyer may suffer as a result of any Claim or threatened Claim that Buyer shall incur or suffer as a result of: (i) any negligent act or omission of Seller or Seller's agents, affiliates, employees, contractors, officers, assignees, directors and representatives in connection with the Loans and its sale of the Loans, pursuant to the Agreement; (ii) the breach or inaccuracy of any of the Seller's representations or warranties as set forth in this Agreement and/or in the other documents executed by the Seller in connection with the sale of the Loans; (iii) the breach of any of Seller's covenants as set forth in this Agreement and in the other documents executed in connection with Seller's sale of the Loans; or (iv) any Claim or threatened Claim by any Obligor regarding any assignment, enforcement, servicing, collection or administration of the Loans by Seller or Seller's agents, affiliates, employees, contractors, officers, directors, assignees and representatives arising prior to the Transfer Date.



## ARTICLE XI

### ASSIGNMENT OF RIGHTS TO THIRD PARTIES

Section 11.1. Assignment of Agreement; Assignment of Loans. Buyer may assign this Agreement to an Affiliate as provided in Section 11.2. of this Agreement and may assign or grant a security interest in the Loans for purposes of collateralizing financing arrangements as provided in Section 11.3. of this Agreement. Except as provided in Sections 11.2. and 11.3. of this Agreement, Buyer shall not assign, encumber, transfer, sell or otherwise convey its rights under this Agreement or any Loan purchased pursuant to the terms of this Agreement.

No assignment or transfer of the Agreement or any Loan shall relieve Buyer of any of its liabilities or obligations under this Agreement. Each transferee or assignee of this Agreement shall be bound by all of the terms and provisions of this Agreement, and Buyer shall remain liable for all obligations of Buyer to Seller hereunder, notwithstanding such assignment.

Section 11.2. Assignment to Affiliate. Such entity as may from time to time be the Buyer hereunder may assign all of its rights and obligations with respect to the purchase and sale of Loans occurring after such assignment to an Affiliate, if any, provided that assignor and assignee enter into an Assignment and Acceptance Agreement, substantially in the form of Exhibit F attached hereto and, upon delivery of a copy of such fully executed Assignment and Acceptance Agreement to the Seller, the assignee named in such document shall, as of the "Effective Date" set forth in such document, become the Buyer under the terms of this Agreement, shall be bound by the terms of this Agreement and shall, as of the time of such assignment be deemed to have made all of the representations, warranties and covenants of the Buyer set forth in Article VII of this Agreement. Each such assignment shall be effective only if such assignment is made to an Affiliate.

Section 11.3. Assignment of Loans. The Buyer and any Affiliate may assign its rights under this Agreement (without assigning its obligations hereunder), or assign or grant a security interest in the Loans purchased hereunder, as applicable, to a financial institution, trustee or agent for the benefit of secured parties, or to or through any other entity as collateral for a loan or other structured finance funding arrangement to be made for the purposes of financing the purchase of such Loans, including without limitation into a trust or other special purpose entity for the purpose of providing collateral in the context of a securitization of such Loans as a financing vehicle for the Buyer or an Affiliate. Any Loan assigned pursuant this Section 11.3 may not be subsequently sold, assigned or transferred to any person or entity. Notwithstanding the assignment or collateralization of Loans and any of Buyer's rights under this Agreement pursuant to the terms of this Section 11.3, the Buyer and/or Affiliate which transfers such Loans or rights shall remain liable for all obligations of the Buyer hereunder and with respect to such Loans and/or rights.

Section 11.4. Audit. Buyer agrees that each of Seller, its regulatory authorities and their respective representatives and auditors shall have the right upon twenty-four (24) hours prior notice to Buyer to perform, at Seller's expense, audits to examine Buyer's performance relating to this Agreement, including without limitation this Article XI.

## ARTICLE XII

### FILES AND RECORDS

Section 12.1. Conformity to Law. Buyer agrees, at its sole cost and expense, to abide by all applicable state, commonwealth and federal laws, rules and regulations regarding the handling, maintenance, servicing and collection of all Loans and in the maintenance of all documents and records relating to the Loans purchased hereunder, including, but not limited to, the length of time such documents and records are to be retained, and to make any disclosures to Obligor as may be required by the foregoing.

Section 12.2. Credit Bureau Reporting. Seller agrees to report all Loans as sold or transferred to another lender, as permitted by the Fair Credit Reporting Act.

## ARTICLE XIII

### INFORMATIONAL TAX REPORTING

Section 13.1. Informational Tax Reporting. Buyer hereby agrees to perform all of its obligations with respect to federal, state and/or commonwealth tax reporting relating to or arising out of the Loans sold and assigned pursuant to this Agreement including, without limitation, the obligations with respect to Form 1099-C and backup withholding with respect to the same, if required, for the period beginning after the Transfer Date. Seller reserves the right to notify Buyer that Seller shall file such reporting forms relating to Loans that have received a payment during the period prior to their Transfer Date. Upon reasonable request, each party will provide the requesting party with copies, delivered in a commercially reasonable format, of their respective Form 1099-C.

## ARTICLE XIV

### RETAINED CLAIMS

Section 14.1. Retained Claims. Buyer and Seller agree that the sale of the Loans pursuant to this Agreement shall exclude the transfer to Buyer of any and all claims and/or causes of action Seller has or may have: (i) against officers, directors, employees, insiders, accountants, attorneys, other persons employed by Seller, underwriters or any other similar person or persons who have caused a loss to Seller in connection with the initiation, origination or administration of any of the Loans; (ii) against any third parties involved in any alleged fraud or other misconduct relating to the making or servicing of any of the Loans; or (iii) against any other party from whom Seller contracted services in connection with any of the Loans.

## ARTICLE XV

## NOTICES

Section 15.1. Notices. All notices, waivers, demands, requests and other communications required or permitted by this Agreement (collectively, "Notices") shall be in writing and given as follows by: (a) personal delivery, (b) established overnight commercial courier with delivery charges prepaid or duly charged, or (c) registered or certified mail, return receipt requested, first class postage prepaid. All Notices which relate to any of the Loans shall specify the Transfer Date of such Loans. Notices shall be addressed to Buyer at the address set forth on Exhibit B to this Agreement and incorporated herein, or as otherwise provided by Buyer to Seller in writing. Notices shall be sent to Seller at the address set forth on Exhibit A to this Agreement and incorporated herein, or as otherwise provided by Seller to Buyer in writing. Notices given by personal delivery shall be presumed to have been received upon tender to the applicable natural person designated below to receive Notices or, in the absence of such a designation, upon tender to the person signing this Agreement on behalf of the applicable party or other officer of the recipient party. Notices given by overnight courier shall be presumed to have been received the next Business Day after delivery to such overnight commercial courier. Notices given by mail shall be presumed to have been received on the third (3rd) day after deposit into the United States postal system.

## ARTICLE XVI

### WAIVER AND RELEASE

Section 16.1. Waiver and Release. Buyer, on behalf of itself and each of its Affiliates, and their respective officers, directors, successors or assignees, and all subsequent permitted transferees of the Loans, and all others claiming by or through Buyer or subsequent transferees, hereby disclaims and waives any right or cause of action that it or any of them may now or in the future have against Seller, and any of Seller's respective affiliates, contractors, officers, directors, employees, attorneys, agents, and predecessors in interest as a result of the purchase of the Loans; provided, however, that this waiver and release shall not extend to any liability of Seller arising from Seller's failure to perform its obligations in accordance with the terms of this Agreement or any liability of Seller to Buyer indemnified pursuant to Section 10.2. In addition, Buyer, on behalf of itself and each of its Affiliates, and their respective officers, directors, successors or assignees thereof, and all subsequent permitted transferees of the Loans, and all others claiming by or through Buyer or subsequent transferees, hereby releases Seller, its affiliates, agents, officers, directors, representatives, contractors, employees, attorneys and their successors and assigns, from any and all Claims arising from or related to the Loans or arising out of the violation of any applicable laws (including, without limitation, state, commonwealth and federal securities laws), except for Claims indemnified pursuant to Section 10.2.

## ARTICLE XVII

### MISCELLANEOUS PROVISIONS

Section 17.1. Severability. If any term, covenant, condition or provision hereof is unlawful, invalid, or unenforceable for any reason whatsoever, and such illegality, invalidity, or

unenforceability does not affect the remaining parts of this Agreement, then all such remaining parts hereof shall be valid and enforceable and have full force and effect as if the invalid or unenforceable part had not been included. In addition, the parties hereto agree to amend the Agreement to add a legally valid and enforceable provision, which will provide the same or substantially similar economic benefits or other benefits to the affected party as the deleted, unenforceable or invalid provision.

Section 17.2. Rights Cumulative; Waivers. The rights of each party under this Agreement are cumulative and may be exercised as often as such party considers appropriate under the terms and conditions specifically set forth. The rights of each party hereunder shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. Any failure to exercise or any delay in exercising any of such rights shall not operate as a waiver or variation of that or any other such right. Any defective or partial exercise of any of such rights shall not preclude any other or further exercise of that or any other such right. No act or course of conduct or negotiation on the part of any party shall in any way preclude such party from exercising any such right or constitute a suspension or any variation of any such right.

Section 17.3. Headings. The headings of the Articles and Sections contained in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

Section 17.4. Construction. Unless the context otherwise requires, singular nouns and pronouns, when used herein, shall be deemed to include the plural of such noun or pronoun, and pronouns of one gender shall be deemed to include the equivalent pronoun of the other gender.

Section 17.5. Assignment. Subject to the restrictions set forth in Article XI, this Agreement and the terms, covenants, conditions, provisions, obligations, undertakings, rights and benefits hereof, including any addenda, Exhibits and Schedules hereto, shall be binding upon, and shall inure to the benefit of, the undersigned parties and their respective administrators, representatives, and permitted successors and assigns.

Section 17.6. Prior Understandings. This Agreement supersedes any and all prior discussions and agreements between Seller and Buyer with respect to the purchase of the Loans and other matters contained herein.

Section 17.7. Integrated Agreement. The Transaction Documents together with the Transfer Documents constitute the final and complete expression of the intent and understanding of Buyer and Seller with respect to the transactions contemplated herein. This Agreement shall not be altered or modified except by a subsequent writing, signed by Buyer and Seller.

Section 17.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing any such counterpart. This Agreement shall be deemed to be binding when executed by Buyer and Seller and signature pages have been exchanged by the parties hereto via facsimile or other electronic means. Telecopy or electronically provided signatures shall be deemed valid and binding to the same extent as original signatures.

**Section 17.9. Non-Merger/Survival.** Each and every covenant made by Buyer or Seller in the Transaction Documents including, without limitation, any representation, warranty, covenant and any indemnity shall survive the execution and delivery of the Transfer Documents and this Agreement, and/or any sale or other transfer of any Loan(s) hereunder, and shall not merge into the Transfer Documents, but instead shall be independently enforceable.

**Section 17.10. Governing Law/Waiver of Trial By Jury.** This Agreement shall be construed, and the rights and obligations of Seller and Buyer hereunder determined, in accordance with the laws of the State of Delaware, without regard to its conflicts of law principles. The parties to this Agreement irrevocably and unconditionally waive, to the maximum extent allowed by law, any right to a trial by jury for any claim or action arising out of this Agreement.

**Section 17.11. No Third-Party Beneficiaries.** Each of the provisions of this Agreement is for the sole and exclusive benefit of the parties hereto, and none of the provisions of this Agreement shall be deemed to be for the benefit of any other person or entity.


**Section 17.12. Further Assurances.** From and after the date hereof, each party will take such action as the other party may reasonably request to carry out the purposes of the Agreement at the expense of the party requesting such action for the out-of-pocket costs of carrying out such requested action.

**Section 17.13. Expenses.** Except as otherwise expressly provided in the Agreement, the Buyer and the Seller will each bear its own out-of-pocket expenses, including fees and disbursements of its attorneys and any other agents or representatives, in connection with the transaction contemplated by the Agreement, except that the Buyer will pay any tax, including transfer tax, sales or use tax, arising from the transfer of the Loans; provided however, that this sentence will not apply with respect to net income taxes (including without limitation, branch profit taxes, or minimum taxes computed under alternative methods, at least one of which is based on net income), and franchise taxes that are based upon net income, or any tax upon or measured by net income or gross receipts imposed on any party (any excluded tax imposed on any party will be the sole responsibility of the party upon whom the tax is imposed).


[Remainder of page intentionally left blank]

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement.

BUYER: CACH, LLC

By:   
Name: Brian V. Tirk  
Title: ESD

SELLER: FIA CARD SERVICES, N.A.

By:   
Joseph Orlando  
Senior Vice President

**SCHEDULE 1**

**LOAN SCHEDULE**

**BAC PA Post Seconds SqTwo Sale File 0413 Final.xlsx**

**EXHIBIT A**

**IDENTITY OF SELLER**

**Name:** FIA CARD SERVICES, N.A.

**Address:** 655 Papermill Road  
Newark, DE 19884-1322

**Contact Person:** Manager of Sales Support  
Attention: Joseph Orlando

**Telephone No.:** (302) 355-6724  
**Telecopy No.:** (302) 458-4305



**EXHIBIT B**

**IDENTITY OF BUYER**

Name: CACH, LLC

Address: 4340 S. Monaco, 2<sup>nd</sup> Floor, Denver, CO 80237

Contact Person: Hart Williams

Telephone No.: (303) 713-2046

Telecopy No.: ( ) \_\_\_\_\_

Tax ID/SS No.:

Seller will document systematically Buyer's name and telephone number on each Loan purchased under this Agreement. Seller shall maintain these accounts on its applicable computer system(s) for such period of time as is required pursuant to Seller's then-current record retention policies and procedures.

Seller will provide Buyer with a support person to handle inquiries related to the sale of the Loans in this Agreement.

**EXHIBIT C**

**BILL OF SALE AND ASSIGNMENT OF LOANS**

**THIS BILL OF SALE AND ASSIGNMENT OF LOANS** is made and entered into between **CACH, LLC** ("**Purchaser**") and **FIA CARD SERVICES, N.A.** ("**Seller**"), pursuant to the Loan Sale Agreement dated April 15, 2013 (the "**Agreement**") entered into between Purchaser and Seller. Capitalized terms not defined herein, shall have the same meaning as defined in the Agreement.

(a) In consideration of the payments made pursuant to the Agreement and such other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Seller does hereby sell, transfer, convey, assign and deliver to Purchaser all of Seller's right, title and interest in and to each and all of the Loans, as Included on the electronic file referenced in Schedule I of the Loan Agreement as BAC PA Post Seconds SqTwo Sale File 0413 Final.xlsx, without recourse and without representation or warranty of any type, kind, character or nature, express or implied, except as specifically provided in the Agreement, and subject to Buyer's and Seller's repurchase rights as set forth in the Agreement.

(b) Purchaser hereby accepts such sale, transfer, conveyance, assignment, and delivery of the Loans, including without limitation the right to all principal, interest or other proceeds of any kind with respect to the Loans remaining due and owing as of the Cut-Off Date applicable to such Loans.

(c) Nothing in this Bill of Sale and Assignment of Loans shall be deemed to modify, limit or amend any of the rights or obligations of Purchaser or Seller under the Agreement. This Bill of Sale and Assignment of Loans shall inure to the benefit of, and be binding upon, the respective, permitted successors and assigns of Seller and Purchaser and shall be governed by and construed and interpreted in accordance with the Agreement and the laws of the State of Delaware, without regard to such state's principles of conflicts of law.

(d) This Bill of Sale and Assignment of Loans may be executed by facsimile or electronic transmission in multiple counterparts, each of which shall be an original, but together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, each party, through its duly authorized officer, has caused this Bill of Sale and Assignment of Loans to be executed in their name this \_\_\_\_\_ day of April, 2013.

**SELLER/ASSIGNOR:**

**FIA CARD SERVICES, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER/ASSIGNEE:**

**CACH, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_