

DEFAULT SERVICES AGREEMENT

BETWEEN

**HSBC TECHNOLOGY & SERVICES (USA), INC. on behalf of itself, its subsidiaries and
its Affiliates**

AND

FIDELITY NATIONAL FORECLOSURE SOLUTIONS, INC.

DATED AS OF SEPTEMBER 2nd, 2006

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TAYLOR 00355
CONFIDENTIAL

DEFAULT SERVICES AGREEMENT

This Default Services Agreement (this "Agreement or DSA") is entered into as of this 8th day of September, 2006, by and between HSBC Technology & Services (USA), Inc. on behalf of itself, its subsidiaries and its Affiliates ("HSBC"), a Delaware corporation, having principal offices at 2700 Sanders Road, Prospect Heights, Illinois, 60070, and Fidelity National Foreclosure Solutions, Inc., a Delaware corporation ("Fidelity"), having its principal place of business at 1270 Northland Drive, Suite 200, Mendota Heights, Minnesota 55120, on the basis of the following:

WHEREAS, HSBC services and sub-services Mortgages Loans, as defined below;

WHEREAS, Fidelity provides foreclosure, bankruptcy and other Mortgage Loan-related default support services to the mortgage industry;

WHEREAS, HSBC desires to enhance its Mortgage Loan servicing capabilities by utilizing Fidelity's Services in the manner set forth herein; and

WHEREAS, Fidelity desires to provide the Services to HSBC in the manner set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 In General. In this Agreement the following terms shall have the following meanings:

"Action" means any action, arbitration, cause of action, Claim, complaint, dispute, criminal prosecution, governmental or other examination or investigation, hearing, administrative or other proceeding relating to or affecting a Party, its business, its assets (including contracts relating thereto), or the Services hereunder.

"Agency" means Fannie Mae, Freddie Mac, Ginnie Mae, FHA, HUD, VA, any other Investor, and/or Insurer, and any of their successors, as applicable

"Agreement" means this Default Services Agreement and all schedules and exhibits hereto.

"Affiliate" means, with respect to a Party, any Person at any time Controlling, Controlled by or under common Control with such Party.

"Applicable Requirements" means: (a) all contractual obligations of a Party, including, but not limited to, those contractual obligations contained herein, in any servicing agreement or other agreement with an Insurer or Investor, the applicable Guides or the Mortgage Documents, for which HSBC or, by virtue of this Agreement, Fidelity is responsible or at any time was or

hereafter will be responsible; (b) all applicable federal, state and local legal and regulatory requirements, including statutes, rules, regulations and ordinances, that are binding upon a Party; (c) ~~all other applicable requirements and guidelines of each governmental agency, board, commission, instrumentality and other governmental body or officer having jurisdiction;~~ and (d) all other applicable judicial and administrative judgments, orders, stipulations, awards, writs and injunctions.

"Bankruptcy" means a Mortgage Loan as to which the related Mortgagor has sought relief under or has otherwise been subjected to the federal Bankruptcy laws or any other similar laws of general application for the relief of debtors through the institution of appropriate proceedings and a Party has received written notice from the applicable court of such filing, and such proceedings are continuing.

"Borrower" means each obligor under a Mortgage Note.

"Business Day" means any day other than a Saturday, Sunday, federal holiday or any other day on which HSBC is not open for business.

"Change in Control" means, as to any Person: (a) any initial public offering of any class of capital stock of such Person following which the holders of such Person's capital stock immediately prior to such initial public offering shall cease to own, beneficially and of record, shares representing at least fifty percent (50%) of the aggregate ordinary voting power represented by the issued and outstanding voting securities of such Person; (b) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of such Person; (c) any sale, pledge, exchange or other transfer (in one transaction or a series of related transaction) of shares of capital stock of such Person such that any Person or group of Persons (other than the holders of such capital stock immediately prior to such transaction or series of transactions) shall become the owner, directly or indirectly, beneficially or of record, of shares representing more than fifty percent (50%) of the aggregate ordinary voting power represented by the issued and outstanding voting securities of such Person; (d) any merger, consolidation, recapitalization or similar transaction in which the outstanding voting capital stock of such Person is converted into or exchanged for cash, securities or other property, such that immediately after such transaction any Person or group of Persons (other than the holders of such capital stock immediately prior to such transaction or series of transactions) shall become the owner, directly or indirectly, beneficially or of record, of shares representing more than fifty percent (50%) of the aggregate ordinary voting power represented by the issued and outstanding voting securities of such Person; (e) the replacement of a majority of the Board of Directors of such Person over a two year period from the directors who constituted the Board of Directors of such Person at the beginning of such period, where such replacement shall not have been approved by a vote of at least a majority of the Board of Directors of such Person who either were members of such Board of Directors at the beginning of such period or whose election as members of such Board of Directors was previously so approved; or (f) the liquidation or dissolution of such Person.

"Claim" means any claim, demand, investigation, action, and legal action or proceeding, provided, however, this term does not include mortgage insurance filings.

“Control, Controlling, or Controlled” means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent of the aggregate of all voting equity interests in a business entity.

“Confidential Information” means any proprietary and confidential information of a Party or any of its Affiliates, provided, produced or disclosed by or on behalf of the Disclosing Party to the Receiving Party or otherwise obtained by the Receiving Party, in written, electronic, oral or other form, whether tangible or intangible, including, but not limited to: (a) financial information, marketing plans, and personnel records; (b) technical and non-technical data, including, but not limited to, fee schedules, forms, information, business and management methods, trade secrets, compilation and analysis of financial information and data to prepare and submit bids and proposals to third Persons; (c) other proprietary or confidential information; (d) proprietary computer software, management information and information systems; (e) Customer Information; (f) the terms and provisions of this Agreement and any transaction or document executed by the Parties pursuant to this Agreement, provided, however, that Confidential Information shall not include any information that is: (i) publicly available or later becomes publicly available other than through a breach of this Agreement, (ii) rightfully in the possession of the Receiving Party or its employees, attorneys, accountants, agents or other Representatives without obligation of confidence prior to disclosure by the other Party, (iii) subsequently lawfully obtained by the Receiving Party or its employees, agents or Representatives from a third Person that is not under any obligations of confidentiality, (iv) independently developed by the Receiving Party or its employees, agents or Representatives, without use of or reference to the Confidential Information of the Disclosing Party, or (v) legally required to be disclosed by the Receiving Party; provided further that these exclusions shall not apply to Customer Information, which in all instances shall be treated as Confidential Information. As to such disclosures required by Applicable Requirements, the Receiving Party shall provide the Disclosing Party with reasonable notice prior to such disclosure to the extent permissible under the order requiring disclosure.

“Contested Foreclosure” means a Foreclosure, Bankruptcy, eviction, or any other proceeding involving a Mortgage Loan, in which any Person files an answer or other defense, or where any Claim is asserted against HSBC or the prosecuting Person, if not HSBC.

“Customer Information” means any personally identifiable information in any form (written, electronic or otherwise) relating to a Mortgagor, including, but not limited to: (a) a Mortgagor’s name, address, telephone number, Mortgage Loan number, Mortgage Loan payment history, delinquency status, insurance carrier or payment information, tax amount or payment information; (b) the fact that the Mortgagor has a relationship with the owner of the Servicing Rights to such Mortgagor’s Mortgage Loan; and (c) any other non-public personally identifiable information.

“Damages” means any actual out of pocket loss suffered by a Party as the result of any direct or indirect demand, Claim, payment, obligation, action or cause of action, assessment, loss, Liability, cost, damage, deficiency or expense, including, but not limited to, penalties, interest on any amount payable to a third Person as a result of the foregoing, and any legal or

other expense reasonably incurred in connection with investigating, defending, or responding to same, including, but not limited to, actual and reasonable attorneys' fees, accountants' fees, expert witness fees and related fees and court costs. "Damages" shall not include punitive, consequential, exemplary or special damages suffered directly by an Indemnified Person that is a Party or an Affiliate thereof. However, "Damages" shall include punitive, consequential, exemplary or special damages actually paid by an Indemnified Person to any other Person that is not a Party or an Affiliate thereof and that arises out of an action or proceeding by such Person, which damages shall be deemed to be direct damages to the Indemnified Person required to pay such damages.

"Disaster" means an event that Materially affects or could Materially affect Fidelity's performance of the Services.

"Disclosing Party" means a Party that discloses Confidential Information to the other Party.

"Discontinued Services" means the Services that Fidelity shall cease providing to HSBC after the Disengagement Period.

"Disengagement Period" means the period beginning on the date when a Party issues a termination notice with respect of all or part of the Services and ending on the date when all such Services are transferred from Fidelity to HSBC or HSBC's Representative; *provided that* the Parties shall use commercially reasonable efforts to limit the Disengagement Period to ninety (90) calendar days.

"Disengagement Services" means the Services provided by Fidelity during the Disengagement Period to: (a) enable HSBC or HSBC's Representative to perform the Discontinued Services following the Disengagement Period; and (b) eliminate or minimize any disruption to the Services (including any Discontinued Services) as a result of the transfer of the Discontinued Services to Client or its Representative.

"Dispute" means any dispute, controversy, Claim or disagreement between the Parties arising from, relating to or in connection with this Agreement or the relationship of the Parties hereunder, including, but not limited to: (a) payment of compensation and Fees hereunder; (b) interpretation of the meaning of, performing obligations under or enjoying rights under this Agreement; (c) indemnification obligations hereunder; and/or (d) Claims based on contract, tort, common law, equity, statute, regulation, order or otherwise.

"EDP" means the electronic data processing servicing bureau and certain related electronic processing servicing bureaus and/or system or systems used by a Party, including, but not limited to, HSBC's Mortgage Loan servicing system.

"Effective Date" means September 8th, 2006.

"Fannie Mae" or "FNMA" means Fannie Mae or any successor thereto.

definition of proprietary information redacted

"FHA" means the Federal Housing Administration or any successor thereto.

"Fidelity Breach" means Fidelity's: (a) willfully wrongful action hereunder; and/or (b) breach of any of its obligations, duties, covenants, representations or warranties hereunder.

"Fidelity Contract Manager" means the employee appointed by Fidelity to manage the relationship between the Parties hereunder.

"Fidelity Network Firm" means the nationwide network of natural Persons, law firms, Foreclosure trustees, professional organizations and third Persons that have executed a Fidelity Network Agreement, and which have been selected and retained by HSBC to handle Foreclosures or otherwise provide Services in accordance with the terms and conditions of this Agreement and *Schedule A*.

"Fidelity Software" means software: (a) owned or licensed by Fidelity, a Vendor or subcontractor; and (b) licensed or sublicensed to HSBC for its use in connection with the Services or used by Fidelity in connection with the Services. Fidelity Software shall include, but not be limited to, NewTrak, and NewImage Express.

"Foreclosure" means the procedure pursuant to which a lienholder or third Person may acquire title to a Mortgaged Property in a foreclosure sale, by acceptance of a deed in lieu of foreclosure or otherwise to the Mortgage Property or pursuant to any other comparable procedure allowed under Applicable Requirements, when a Mortgage Loan is in default, and includes, to the extent applicable, in connection with a: (a) Co-op Loan, foreclosure on the stock allocated to a unit in a residential cooperative housing corporation, which foreclosure is accomplished by a sale in accordance with the provisions of Article 9 of the Uniform Commercial Code and the security agreement relating to such stock; and (b) a Mortgage Loan secured in whole or in part by a manufactured home or other personal property, any action known as a replevin, Claim and delivery, or sequestration.

"Freddie Mac" or "FHLMC" means Freddie Mac or any successor thereto.

"Ginnie Mae" or "GNMA" means the Government National Mortgage Association or any successor thereto.

"Guides" means any and all applicable rules, regulations, requirements and guidelines of any Insurer or Investor, as the same may be amended from time to time, including, but not limited to: (a) the FNMA Selling and Servicing Guides; (b) the FHLMC Sellers' and Servicers' Guides; and (c) the GNMA Mortgage Backed Securities Guides.

"HSBC Breach" means HSBC's: (a) willfully wrongful action hereunder; and/or (b) breach of any of its obligations, duties, covenants, representations or warranties hereunder.

"HSBC SofW Contract Manager" means the employee appointed by HSBC to manage the relationship between the Parties hereunder in regards to a particular SofW.

"HSBC Overall Contract Manager" means the employee appointed by HSBC to manage the relationship between the Parties hereunder in regards to the terms and conditions of this Agreement.

"HSBC Contract Manager" means either the HSBC SofW Contract Manager or the HSBC Overall Contract Manager, where appropriate.

"HSBC SofW Affiliate" means the specific HSBC Affiliate that is a party to the Statement of Work that is the basis for the obligations of the Parties in any particular situation. In such instances, the HSBC SofW Affiliate is the Party dealing directly with Fidelity and is the only one of the HSBC Affiliates with obligations and liabilities under this Agreement.

"HUD" means the United States Department of Housing and Urban Development, or any successor to HUD.

"Information Security Program" means a Party's information security program to: (a) insure the security and confidentiality of Customer Information; (b) protect against any anticipated threats or hazards to the security or integrity of the Customer Information, and (c) protect against unauthorized access to or use of the Customer Information that could result in substantial harm or inconvenience to any Customer in accordance with the Privacy Requirements.

"Indemnification Claim" means a Claim for indemnification hereunder.

"Indemnified Person" means each Person who has the right to indemnification hereunder.

"Indemnifying Person" means each Person who is obligated to indemnify another Person hereunder.

"Insurance Documents" means insurance policies and related documents, including endorsements affecting the coverage thereof.

"Insurer" means the FHA, VA or any private mortgage insurer that insures or guarantees any of the Mortgage Loans and providers of hazard, title or other insurance with respect to any Mortgage Loan or Mortgaged Property.

"Intellectual Property" means, collectively, all United States and foreign: (a) trademarks, service marks, brand names, certification marks, collective marks, d/b/a's, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names, and other indicia of origin, all applications and registrations for the foregoing, and all goodwill associated therewith and symbolized thereby, including all renewals of same; (b) inventions and discoveries, whether patentable or not, and all patents, registrations, invention disclosures and applications therefore, including divisions, continuations, continuations-in-part and renewal applications, and including renewals, extensions and reissues; (c) patents, trade secrets and confidential information and know-how, including processes, schematics, business methods, formulae, drawings, prototypes, models, designs, customer lists and supplier lists; (d) published and unpublished works of authorship, whether copyrightable or not (including without limitation databases and other compilations of information), copyrights therein and thereto, and registrations and applications therefore, and all renewals, extensions, restorations and reversions thereof; (e) moral rights, rights of publicity and rights of privacy; and (f) all other intellectual property or proprietary rights.

"Interchange" means Fidelity's Web Services, MortgageServ Interchange, and all other applications of Fidelity that Fidelity employs hereunder to receive and submit Mortgage Loan level data and related information to and from HSBC's EDP.

"Investor" means the Person who holds a beneficial interest in a Mortgage Loan and for which HSBC services and administers such Mortgage Loan. The term "Investor" shall also include HSBC when HSBC is designated in HSBC's records as an "investor" or "internal investor" in relation to a Mortgage Loan.

"Knowledge" with respect to a: (a) Person who is an individual, shall mean: such individual's actual knowledge of a fact or other matter; and (b) Person who is not an individual, shall mean: actual knowledge of a fact or other matter by any individual who is serving as a director, chairman, president, chief financial officer, any senior executive, or other vice president, chief accounting officer, comptroller, general counsel, any assistant or deputy general counsel, director of any business unit or division, partner, executor, or trustee of such Person (or in any similar capacity).

"Liability" means any direct or indirect, primary or secondary, liability, indebtedness, obligation, responsibility, penalty, cost or expense (including actual and reasonable costs of investigation, collection and defense), Claim, deficiency, guaranty or endorsement of or by any Person of any type, whether accrued, absolute or contingent, liquidated or unliquidated, choate or inchoate, matured or unmatured, secured or unsecured, or otherwise.

"Material," or "Materially" as to any reference herein or in any Exhibit or Schedule hereto with respect to any event, change or effect as being "Material," means an event, change or effect that is Material in relation to the financial condition, properties, business, operations, prospects, assets or results of operations of a Party; provided, however, that any specific monetary amount stated in this Agreement shall determine Materiality in such instance.

"Material Adverse Effect," on a Party, means an event, change or occurrence that, individually or together with any other event, change or occurrence, has a Material adverse impact on: (a) the financial condition, properties, business, assets or results of operations of such Party; or (b) the ability of such Party to perform its obligations under this Agreement or to consummate the Services or (c) HSBC's rating of "Tier 1/Hall of Fame by FHLMC or "Best In Class" by FNMA. A change in HSBC's rating of "Tier 1/Hall of Fame" with FHLMC or "Best in Class" with FNMA shall be deemed to have a Material Adverse Effect in the event such change in HSBC's rating is directly related to any actions taken by Fidelity with respect to the Services provided by Fidelity hereunder; provided, however, that "Material Adverse Effect" shall be deemed to exclude the impact of: (i) changes in GAAP; (ii) actions and omissions of a Party taken with the prior informed written consent of the other Party; (iii) the direct effects of compliance with this Agreement on the operating performance of the Parties; (iv) general economic or market conditions of the banking industry in general; (v) any general suspension of trading in, or limitation on prices for, securities on any United States securities exchange or in the NASDAQ National Market for a period in excess of five (5) hours; (vi) any decline in any of the Dow Jones Industrial Average or the NASDAQ National Market in excess of forty percent (40%) measured from the close of business on the trading day immediately preceding the date of the Agreement; (vii) a declaration of a banking moratorium or any suspension of payments in

respect of banks in the United States; (viii) any Material limitation, whether or not mandatory, by any regulatory authority on the extension of credit by banks or other financial institutions; or (ix) a commencement or escalation of a war or armed hostilities or other national or international calamity directly or indirectly involving the United States.

"MIS" means the management information systems, including, but not limited to, those systems accessed or used to perform the Services, to prepare reports required under this Agreement and facilitate communications between the Parties, and the software and hardware used in connection therewith.

"Mortgage" means a first or junior lien mortgage, deed of trust, security instrument, financing statement or other such security instrument (including one that secures shares of stock in a co-operative corporation) executed by a Mortgagor pledging the Mortgaged Property (or shares of stock in a co-operative corporation) as security for repayment of a Mortgage Note.

"Mortgage Documents" means, with respect to any Mortgage Loan, the Mortgage Note, Mortgage, custodial documents, servicing documents, escrow documents, and all other documents, records, and data necessary to document and provide the Services in accordance with Applicable Requirements, whether on hard copy, microfiche or its equivalent or in electronic format.

"Mortgage File" means a file relating to a Mortgage Loan and containing such documents and/or information that are necessary or required by Applicable Requirements to perform a Foreclosure, Bankruptcy action or related matter in connection with such Mortgage Loan.

"Mortgage Loan" means a first or junior lien residential purchase-money mortgage loan, residential mortgage loan refinancing, open-end home equity line of credit, closed-end home equity loan or loan secured by shares representing ownership of a residential unit of a co-operative corporation: (a) that is serviced or sub-serviced by HSBC; and (b) for which Fidelity provides the Services.

"Mortgage Note" means the written promise of a Borrower to pay a sum of money in United States' dollars at a stated interest rate over a specified term, and that is secured by a Mortgage.

"Mortgaged Property" means the real property, together with the one-to-four family dwelling and any other improvements situated on the real property that has or have been pledged by Mortgagors under a Mortgage as collateral to secure the obligation under the related Mortgage Note.

"Mortgagor" means each Person who executes a Mortgage Note and/or Mortgage.

"OCC" means the Office of the Comptroller of the Currency or any successor thereto.

"Parties" means HSBC and Fidelity.

"Party" means HSBC or Fidelity, as the context shall require.

~~"Person" means an individual, corporation, limited liability company, partnership, joint venture, bank, savings association, trust or unincorporated organization, or a federal, state, city, municipal or foreign government or an agency or political subdivision thereof.~~

"Plan Review" means the review of a debtor's plan filed in a bankruptcy matter.

"PMI" means private mortgage insurance.

"Portfolio Acquisition Loan" means an active Mortgage Loan that is purchased by or transferred to HSBC after the Effective Date through a Mortgage Loan or Servicing acquisition or otherwise.

"Privacy Laws" means the obligations imposed by: (a) Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.; (b) the applicable federal regulations implementing such act and codified at 12 CFR Parts 40, 216, 332, 573, and/or 16 CFR Part 313; (c) Interagency Guidelines Establishing Standards For Safeguarding Borrower Information published in final form on February 1, 2001, as amended from time to time; and (d) other applicable federal, state and local laws, rules, regulations, and orders relating to the privacy and security of Customer Information, including the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., and similar state laws.

"POC" means a proof of claim filed in any bankruptcy matter.

"Receiving Party" means a Party that receives Confidential Information from the other Party.

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

"Representative" means any investment banker, financial advisor, attorney, accountant, consultant or other Representative of a Person.

"Services" means the Mortgage Loan default related administrative support services provided by Fidelity to HSBC hereunder, including, but not limited to, Foreclosure, Bankruptcy, management and technology support services and products, all as specified in this Agreement and *Schedule A* hereto. The "Services" provided for under this Agreement shall not include debt collection services. Fidelity is not a debt collector, nor does it provide debt collection services.

"Servicing" means the rights, duties and obligations of a Person in such Person's capacity as the servicer or sub-servicer of Mortgage Loans under servicing agreements or Applicable Requirements to administer and collect the payments for the reduction of principal and application of interest; pay taxes, assessments, insurance and other escrow items; remit collected payments; provide Foreclosure services; make advances; provide full escrow administration and any other obligations required by any Investor or Insurer in, of, or for such Mortgage Loans

pursuant to such servicing agreements or Applicable Requirements, together with the right to receive servicing fees, float benefit and/or any ancillary income arising from or connected to such Mortgage Loans.

“Servicing Rights” means a Person’s ownership rights in Servicing.

“SofW” means a Statement of Work entered into from time to time by Fidelity and a particular HSBC Affiliate, which HSBC Affiliate is defined above as the “HSBC SofW Affiliate.”

“Subcontractor” means a person or entity having a direct contractual relationship with Fidelity to perform a portion of the Services. However, Subcontractor shall not include any Fidelity Network Firm.

“Third Person Claim” means any Action that is instituted against an Indemnified Person by a Person other than an Indemnifying Person and which, if prosecuted successfully, would result in Damages for which such Indemnified Person is entitled to indemnification under *Article 9*.

“Transition Loan” means an active Mortgage Loan that is: (a) not initially referred to Fidelity for Services hereunder; and (b) subsequently transferred by HSBC to Fidelity for ongoing monitoring.

“VA” means the Department of Veterans Affairs or any successor thereto.

“Vendor” means any Person retained by Fidelity or the Fidelity Network as a vendor or subcontractor, other than a Foreclosure or Bankruptcy Firm, to provide ancillary Services hereunder, including, but not limited to, title services, personnel support, valuation products, loss mitigation services, service of process, publication and/or posting services, property inspection and field services, and REO property management and marketing and other Services hereunder. Vendor does not mean Persons employed or otherwise directed by a governmental entity that must be utilized for the enforcement or prosecution of a Foreclosure, Bankruptcy action, or other related matters pursuant to Applicable Requirements.

“Term” means the term of this Agreement.

1.2 Interpretation.

(a) The headings contained in this Agreement are for reference purposes only and do not limit or otherwise affect any of the provisions of this Agreement.

(b) Whenever the words “include”, “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “but not limited to.” Any singular term in this Agreement will be deemed to include the plural, and any plural term the singular. All pronouns and variations of pronouns will be deemed to refer to the feminine, masculine or neuter, singular or plural, as the identity of the Person referred to may require.

(c) Whenever the words “herein” or “hereunder” are used in this Agreement, they will be deemed to refer to this Agreement as a whole and not to any specific Section.

(d) Whenever a dollar figure (\$) is used in this Agreement, it will mean United States dollars unless otherwise specified.

ARTICLE 2 SERVICES

2.1 In General. During the Term, Fidelity, as independent contract support provider, shall provide or direct the provision of the Services as set forth herein and in all Schedules and Exhibits hereto. Fidelity shall be a provider of Services to HSBC for the Mortgage Loans identified herein in Schedule A, as well as Mortgage Loans arising from HSBC's operations in the normal course of business after the Effective Date as referred to Fidelity by HSBC, in HSBC's sole discretion. Except as otherwise provided herein all Referred Files shall be processed exclusively through the Fidelity Network, subject to FHLMC and FNMA (collectively "GSE") guidelines. In the foreclosure context, the Fidelity Network Firms shall adhere to the applicable service level timelines (after credit is first given for all applicable holds and/or filters), including service levels required to maintain HSBC's "Best in Class" rating with FNMA.

2.2 Scope of Authority. Other than as specifically set forth herein, Fidelity shall have full power and authority, acting alone, to organize, reorganize, deploy, structure, and perform all Services that: (a) are permitted by Applicable Requirements; and (b) Fidelity may reasonably deem necessary or desirable. If reasonably required by Fidelity, and agreed to in writing by HSBC, HSBC shall furnish Fidelity with such limited powers of attorney and other documents necessary or appropriate to enable Fidelity to perform the Services.

2.3 Compliance With Applicable Requirements. Fidelity shall comply with all Applicable Requirements, including, but not limited to, all of Fidelity's covenants, obligations, representations and warranties hereunder and any other obligations as Fidelity may from time to time assume in writing. Pursuant to Section 2.11 below, Fidelity shall provide HSBC with the information discussed therein to assist HSBC in complying with, among others, its Regulation AB reporting requirements.

2.4 (a) Fidelity shall be the exclusive provider of the Services to the HSBC entity that has completed an applicable Statement of Work, during the Term hereof with respect to the: (a) residential mortgage loans serviced or sub-serviced by such HSBC entity as of the Effective Date; and (b) residential mortgage loans or Servicing Rights acquired by such HSBC entity after the Effective Date in the ordinary course of business. In the event the terms of each Statement of Work conflict with the terms of this Agreement, the terms of the applicable Statement of Work shall prevail. Notwithstanding the foregoing, Fidelity shall not be the exclusive provider of Services with respect to any mortgage loans or Servicing Rights acquired or owned by HSBC for which another Person has any right to provide services similar to the Services hereunder. HSBC shall use commercially reasonable efforts to terminate such conflicting obligations of exclusivity, *provided, however,* that HSBC shall not be required to incur any costs, expenses or fees in connection with the termination thereof. All Mortgage Files shall be processed exclusively through the Fidelity Network, subject to Fannie Mae's and Freddie Mac's Guides and requirements and/or similar involuntary programs, as applicable.

(b) HSBC acknowledges that the Services to be provided by Fidelity under this Agreement are all-inclusive from a business and pricing perspective. Once HSBC has made the determination as to which files will be referred to Fidelity for the provision of Services under this Agreement, HSBC agrees that it will not perform or provide any substantial portion of the Services on such referral population, nor engage any third party to perform or provide any substantial portion of the Services on such referral population. If HSBC does so, Fidelity shall give HSBC 30 day's written notice of such breach of this Agreement and, thereafter, HSBC shall either cure the breach or reimburse Fidelity for any loss of revenue associated with such breach. The prohibition contained in this subsection (b) shall not prevent HSBC from taking such action on a limited number of individual files where such action is warranted or required.

2.5 Executing Documents as Officers of HSBC. Where appropriate in connection with the provision of the Services, Fidelity shall designate certain of its employees to execute documents on HSBC's behalf in such employees' capacity as authorized corporate officers of HSBC, as described in the HSBC's Unanimous Consent of its Board of Directors, or Limited Power of Attorney, attached hereto as *Schedule G*, or similar form. Fidelity shall forward to HSBC or HSBC's designee all such documents that cannot be so executed.

2.6 Recommended Actions.

(a) Fidelity shall have the power to take such action designated as Fidelity Global Responsibilities on the attached Schedule A, entitled "Responsibilities Matrix" to do any and all things in connection with the Services that Fidelity may reasonably deem necessary or desirable. Schedule A may be amended from time to time by written agreement of the Parties. If reasonably required by Fidelity, HSBC shall furnish Fidelity with such limited powers of attorney and other documents necessary or appropriate to enable Fidelity to perform the Services.

(b) When Fidelity cannot take action in those instances because said actions are not enumerated in the attached Responsibilities Matrix, Fidelity shall request the consent of HSBC to a course of action that Fidelity proposes to take. Said proposed courses of action must be communicated to HSBC in writing via any applicable EDP. HSBC shall give a written response via applicable EDP to Fidelity within five (5) Business Days after receipt of Fidelity's recommended course of action. In the event that HSBC fails to respond within said time period, Fidelity shall not take the recommended course of action. If HSBC provides Fidelity with a written objection to the Fidelity recommended course of action (i) Fidelity shall take such action as is recommended by HSBC; or (ii) if HSBC makes no objection or recommendation after Fidelity has fully utilized and complied with the Escalation Policy, Fidelity may take its recommended course of action. Fidelity shall bear no liability to HSBC for any Losses incurred by HSBC resulting or arising from Fidelity's recommended course of action in the event HSBC fails to timely authorize or object to Fidelity's recommended course of action, or provide an alternative thereto after Fidelity's notice to HSBC as set forth herein.

(c) Delay in HSBC's approvals and notification shall be handled as follows:

(i) Where HSBC has a right of approval, prior authorization or consent, and such approval, authorization, or consent is delayed by five (5) Business Days beyond the second

request by Fidelity, and such delay affects Fidelity's ability to either provide the Services or to protect HSBC's interests, then Fidelity shall follow the Escalation Policy attached as Exhibit F.

(ii) In situations requiring immediate action to preserve the value and quality of HSBC's loans and security, Fidelity shall proceed as if it had actually received such approval, prior authorization, or consent, but shall immediately advise HSBC in writing via any applicable EDP, including but not limited to e-mail of the action taken. HSBC shall be required to take such actions and make such payments on Invoices as if it had actually given such consent. For those Services where HSBC (A) is required to provide notification of approval or consent, or (B) is required to perform a responsibility set forth in this Agreement and such notification or performance is delayed or withheld despite Fidelity's compliance with the Escalation Policy, and such delay or withholding is not caused by Fidelity and Materially affects Fidelity's ability to provide the Services, HSBC will relieve Fidelity of the responsibility for that portion of the Services affected by the delay or withholding during the period such notification or performance is delayed.

(d) **Excuse from Performing.** Fidelity shall not be obligated to perform any Service hereunder with respect to which: (i) HSBC has an obligation to provide notice to Fidelity or perform hereunder; (ii) HSBC fails to provide such notice or satisfy such performance within the applicable time period set forth herein without Fidelity's consent; (iii) such failure does not relate to or arise out of any action or failure to take action by Fidelity; and (iv) such failure Materially affects Fidelity's ability to provide the Services hereunder. Notwithstanding the foregoing, Fidelity shall be excused from performing such Services only during the period in which HSBC fails to provide such notice or satisfy such performance hereunder.

2.7 Reports.

(a) **Monthly Reports.** Fidelity shall provide HSBC with monthly written reports as identified from time to time in *Schedule A*, as well as any new reports created for its client base, with such form and substance as the Parties shall mutually agree.

(b) **Standard Reports.** Fidelity shall provide HSBC with Fidelity's standard reports in effect from time to time and as identified from time to time in *Schedule A*. From time to time upon HSBC's request, Fidelity shall make reasonable modifications to the form and substance of such reports without additional cost or expense to HSBC.

(c) **Special Reports.** Fidelity shall use commercially reasonable efforts to provide HSBC with additional written reports identified from time to time in *Schedule A* with such form, substance and frequency as the Parties shall mutually agree. HSBC shall reimburse Fidelity for any significant and agreed upon costs relating to Fidelity's provision of any such special report.

2.8 Name in which Foreclosures or Bankruptcies are Brought or Handled. The Fidelity Network firm selected by HSBC shall bring all actions, motions, or proceedings for all Mortgage Loans that are in Bankruptcy, Foreclosure, or other similar proceedings in the name of the Person identified by HSBC at the time of referral. With respect to each Mortgage Loan, HSBC shall provide Fidelity with the name in which title to the related Mortgaged Property shall

be taken following a Foreclosure sale of such Mortgaged Property. HSBC acknowledges and understands that Fidelity shall rely upon HSBC to provide such information in order for Fidelity to perform the Services identified in this *Article 2*.

2.9 Fidelity Network, Vendors and Other Subcontractors.

(a) **In General.** Fidelity shall manage the Fidelity Network firms and Vendors selected by HSBC in accordance with the Services after receiving HSBC's prior written approval therefore. Fidelity shall designate which Fidelity Network firm will provide Nationwide POC and Plan Review services, if any. Fidelity shall: (i) ensure that the Fidelity Network and all Vendors are bound by and comply with all provisions hereof; (ii) be solely responsible for any Material breach by Fidelity or any Vendor of any of Fidelity's obligations, covenants, duties, representations or warranties hereunder; (iii) pay the Vendors, if applicable. HSBC shall not be a party to any subcontracting agreement into which Fidelity may enter with a Vendor. HSBC shall not unreasonably withhold its approval to any such subcontracting arrangement; *provided, however,* that HSBC may, in its sole discretion, withhold approval of any subcontracting arrangement or agreement: (A) to which the OCC or any other governmental regulatory agency or GSE objects; or (B) that involves offshore or foreign Vendors. Upon the request of HSBC, Fidelity shall instruct Vendors to cooperate with HSBC as necessary to assist HSBC in meeting its reporting requirements under Regulation AB.

(b) **Performance of Services.** Fidelity shall ensure that its employees, its Vendors, its Subcontractors and their respective employees: (i) possesses the requisite skill, ability and knowledge to perform the Services contemplated under this Agreement; (ii) have no conflicting engagements, duties or conflicts of interest of any kind relevant to the performance of any Services contemplated herein or in *Schedule A* and holds no interest adverse to HSBC or HSBC's Affiliates or that would affect Fidelity's performance of its obligations, duties, covenants, representations or warranties under this Agreement; and (iii) performs all Services in a professional, competent and timely manner and in compliance with any and all Applicable Requirements and the terms and conditions of this Agreement. All attorneys or law firms participating in the Fidelity Network shall be duly licensed in the applicable jurisdictions to perform the Services herein required to be performed by a licensed attorney on behalf of HSBC. Fidelity shall provide HSBC with the names, firm names, street and e-mail address and phone and fax numbers of all Fidelity Network attorneys providing or expected to provide Services on behalf of HSBC. Any specific directions as to the manner in which local counsel should perform on any HSBC matters should be communicated directly by HSBC to the Fidelity Network Firms pursuant to the Attorney Expectation document forwarded to firms prior to implementation, or thereafter as required in the estimation of HSBC.

(c) **Independent Contractors of HSBC.** None of Fidelity, the Fidelity Network, the Vendors or any of their respective employees shall be deemed to be agents or employees of HSBC or HSBC's Affiliates in any manner or for any purpose.

(d) Salaries and Benefits. Fidelity shall: (i) be responsible for its employees' salaries, benefits, insurance and tax withholding, including making any employer-required payments; and (ii) cause the Fidelity Network and each Vendor to be responsible for such duties relating to their respective employees.

(e) No Authority to Enter Into Agreements on HSBC's Behalf. None of Fidelity, the Fidelity Network, the Vendors nor any of their respective employees shall have any right, power or authority to create any contract or agreement for or on behalf of HSBC or HSBC's Affiliates, and Fidelity shall prevent such Persons from holding themselves out as having such authority.

(f) Performance Evaluation. Fidelity shall evaluate the performance of its employees, the Fidelity Network, the Vendors and their respective employees at least annually, and more often if indicated, and take appropriate action in connection therewith. HSBC shall provide Fidelity with periodic input concerning the performance of such Persons.

(g) Mortgage Loans Not Originally Referred to Fidelity. With respect to Mortgage Loans that: (i) are purchased by HSBC while in default or Bankruptcy status; and/or (ii) were not originally referred to Fidelity for the initial Foreclosure or Bankruptcy action and where the Fidelity Network Firm assigned such matter is not a member of the Fidelity Network, Fidelity shall employ a "best efforts" management approach to the Services provided for such Mortgage Loans. HSBC acknowledges that Fidelity shall: (A) download all applicable Mortgage Loan data into Fidelity's EDP for the ongoing monitoring thereof; (B) identify any prior work product or processing deficiencies or related problems, if any, that can be reasonably ascertained with respect to such Mortgage Loans; (C) shall work with HSBC and/or the Fidelity Network Firm to resolve each such deficiency or related problem on a going forward basis; (D) recommend to HSBC, on a case by case basis, that a Mortgage Loan be transferred to a member of the Fidelity Network because of a prior or current deficiency or related problem with such Mortgage Loan and/or Fidelity Network Firm; (E) exert only a best efforts management approach under the circumstances described in this *Section 2.10(g)*; (F) not be held liable or responsible for, nor indemnify HSBC for the prior performance, acts, errors, or omissions resulting from such non-Fidelity Network firms' and/or their Vendors' work product, services, or related efforts. Fidelity shall, however, be responsible on a going forward basis for the timely and proper performance of all of Fidelity's obligations, covenants, duties, representations and warranties hereunder, within Fidelity's control, with respect to the monitoring of such Mortgage Loans to the requisite conclusion for such matters. Any work product or other related deficiencies relating to a Mortgage Loan under this *Section 2.9(g)* that are solely attributable to a non-Fidelity Network firm and cause Liability or Damages to HSBC shall not be considered a Liability or Damages, Indemnification event, or Action otherwise attributable to Fidelity hereunder.

(h) Except as otherwise provided in this Agreement or any other separate agreement between the parties, HSBC shall not be: (i) a Party to any agreement between Fidelity, any Fidelity Network Attorney or Vendor; (ii) responsible for the obligations of Fidelity, any Fidelity Network attorney or any Vendor one to other, including the payment of any fees agreed to between such parties; or (iii) responsible for the acts, omissions or breaches of any contracts between or among Fidelity, the Fidelity Network attorneys or the Vendors.

(i) Outsourcing to Foreign or Offshore Persons. With the exception of technology, Fidelity shall not perform any part of the Services in any offshore or foreign location without the: (a) prior written consent of HSBC; and (b) HSBC's receipt of prior written consent from the OCC, if required.

(j) Fidelity Network Firms. Fidelity shall manage directly all non-legal functions and Services provided by Fidelity Network Firms hereunder. Fidelity shall not participate in any manner whatsoever in managing any legal functions or providing legal services associated with a matter that is deemed to constitute the practice of law under Applicable Requirements.

2.10 Actions Relating To A Mortgage Loan. If an Action is brought in connection with a Mortgage Loan (including but not limited to Bankruptcy), the Party receiving notice of such Action shall promptly notify the other Party in writing pursuant to the provisions of this Agreement and the Escalation Policy and shall provide copies of the complaint or other initiating document, including counterclaims. Additionally, substantive counterclaims or cross-claims arising in the foreclosure or Bankruptcy context must be immediately brought to the attention of HSBC. HSBC, in its sole discretion, may require that such Action be directed to an attorney of HSBC's selection. If HSBC requires an Action to be referred to an attorney other than an attorney designated by Fidelity, Fidelity shall assist with the transfer of the Action to HSBC's designee in a timely and effective manner. Before any such transfer, the Parties shall mutually determine the accrued fees and costs to date and Fidelity shall invoice HSBC therefore upon such transfer.

2.11 Audits and Examination.

(a) In General. Fidelity shall maintain accurate records (written and/or electronic) with respect to the Services provided on all Mortgage Loans and the transactions related thereto and in connection therewith under this Agreement. Fidelity shall supply such information as it reasonably believes is necessary to demonstrate its compliance with this Agreement. Supplying such information shall include the provision of case histories/chronologies as requested on a case by case basis by HSBC and/or its Investors or servicers. In addition, each of HSBC, the OCC, other governmental or regulatory authorities, Agencies, Investors, ratings agencies and HSBC's Representatives shall have the right, at their sole expense, to inspect, investigate, examine, evaluate, and audit all activities, reports of audits, tests and/or other evaluations, and/or any additional documentation that may be required by HSBC, the OCC or other governmental or regulatory authorities, Agencies, Investors, ratings agencies and HSBC's Representatives of Fidelity relating to the Services for the purpose of examining and verifying: (i) the ongoing confidentiality of HSBC's Confidential Information; (ii) Fidelity's compliance with the Privacy Laws; (iii) Fidelity's controls with respect to organizational, input/output, system modification, processing, system design, access and other control-related matters; (iv) Fidelity's security, Disaster recovery and back-up practices and procedures with respect to Fidelity's controls and information management practices; (v) Fidelity's performance of the Services in accordance with the terms hereof; (vi) verifying the accuracy of amounts invoiced hereunder; and/or (vii) such other records relevant to the performance of Services and Fidelity's obligations hereunder.

(b) Time and Place of Audits and Examinations. Audits of Services shall be performed during normal business hours. HSBC shall provide Fidelity with notice of any such audit not less than ten (10) Business Days prior to the date thereof.

(c) Financial Audit. Fidelity shall provide annual audited financial statements of its parent corporation via the website locate at www.fnf.com. HSBC agrees that any external auditors or examiners shall, as a condition to being provided access to Fidelity's premises, books, and records, be bound by confidentiality standards as stringent as those detailed herein.

(d) Assistance by Fidelity. Fidelity shall make its personnel and its facilities (including computer servers and related technology facilities) reasonably available to all Persons performing such audits and otherwise cooperate fully in connection with any such audit or examination, including, but not limited to, providing to HSBC electronic copies of documents requested by an auditor or examiner no later than seven (7) Business Days after the date of such request and hard copy copies of such documents, if required, no later than ten (10) Business Days after the date of such request. If necessary in connection with the document requested, HSBC shall provide Fidelity with ready access to data, including reasonable ad hoc reports, necessary for Fidelity to satisfy the foregoing document procurement deadlines. HSBC shall be responsible for its own, and Fidelity's actual and reasonable, costs associated with any audit performed by or with respect to HSBC hereunder.

2.12. Insurance

Fidelity will provide, at the time this contract is entered into and annually thereafter at HSBC's request, evidence of insurance coverage as follows:

(a) **General Liability Coverage** in an amount not less than \$1 million per occurrence/\$2 million annual aggregate. HSBC Technology and Services (USA), Inc. and its subsidiaries and Affiliates will be listed as an additional insured on the insurance policy.

(b) **Umbrella Liability Coverage** in an amount not less than \$25 million in the aggregate.

(c) **Workers Compensation Insurance** providing the statutory benefits and not less than \$1 million of Employers Liability coverage.

(d) **Errors and Omissions Insurance** in an amount not less than \$3 million per occurrence and annual aggregate.

(e) **Fidelity Bond/Employee Dishonesty Coverage** in the amount of \$3 million each loss and aggregate.

(f) In the event of a bankruptcy filing by Fidelity, a complete copy of all insurance policies detailed in this section will be forwarded to HSBC. The amounts of insurance coverage required under this section do not limit the responsibility of Fidelity with respect to its indemnification of HSBC.

(g) In the event that Fidelity's Services are extended to an HSBC territory outside the United States, separate insurance requirements will be established agreed by the parties in writing and attached hereto in the appropriate territory's Attachment.

(h) Required Insurance Provisions. Each insurance policy required under this *Section 2.13* shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until the applicable Insurer has delivered written notice thereof to HSBC at least thirty (30) days prior to any such action, by certified mail, return receipt requested.

(i) Deductibles. Any deductibles or self-insured retentions shall be declared to, and amounts over \$100,000 approved by, HSBC. All insurance required under this *Section 2.12* shall be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved in writing by HSBC.

(j) Proof of Coverage. Fidelity shall furnish HSBC with original Insurance Documents, including endorsements and certificates of insurance evidencing coverage required by this *Section 2.12*. All Insurance Documents are to be signed by a Person authorized by the applicable insurer to bind coverage on its behalf. Fidelity shall not provide the Services hereunder until all original Insurance Documents or certified copies thereof have been provided to and approved by HSBC.

2.13 Disaster Recovery.

(a) In General. Fidelity shall provide Disaster recovery and backup capabilities and facilities, and shall maintain a written Disaster recovery plan through which Fidelity shall perform its obligations under this Agreement with minimal disruptions or delays from the occurrence of a Disaster.

(b) Copy of Disaster Recovery Plan to HSBC. Fidelity shall provide additional copies of its Disaster recovery plan, a copy of which is attached hereto as Exhibit A, to HSBC upon request.

(c) Testing. Fidelity shall test its Disaster recovery plan no less than annually, and shall provide HSBC upon its written request with any applicable written reports describing the effectiveness of such testing.

(d) Notification of Disaster. Fidelity shall notify HSBC immediately after the occurrence of any Disaster and provide HSBC with written reports setting forth the effectiveness of Fidelity's Disaster recovery plan.

(e) Failure to Resume Services. HSBC may, in its sole discretion, terminate this Agreement under *Section 11.3* if Fidelity fails to resume such services to HSBC within a reasonable time from the occurrence of a Disaster.

ARTICLE 3

SERVICES STAFFING; CONTRACT MANAGEMENT

3.1 Non-Solicitation of Employees. For a period of twelve (12) months following the termination or expiration date of this Agreement, no Party (the "Hiring Party") shall solicit or cause to be solicited for employment, directly or indirectly, any Person who performs Services hereunder and is employed by the other Party or any of its Affiliates (collectively, the "Employer Party") without the prior written consent of the Employer Party. Notwithstanding the foregoing, the Hiring Party may: (a) hire any such Person who has been terminated by the Employer Party before the commencement of employment discussions; (b) solicit and hire such Person through general public advertisements that are not primarily targeted at such Person; and/or (c) hire such Person with whom the Hiring Party is currently engaged in employment discussions as of the date of this Agreement. The Parties shall inform their officers, employees and agents of the terms of this *Section 3.1*.

3.2 Non-Solicitation of HSBC Customers. HSBC maintains Mortgage Loan Servicing and sub-servicing relationships with Investors, mortgage loan servicers and other Persons to facilitate the administration of such Mortgage Loans, default/Bankruptcy related or otherwise. Fidelity acknowledges that such Persons maintain their relationships solely with HSBC and not Fidelity. Fidelity shall not directly solicit business from any such Person, for a period of twelve (12) months following the termination or expiration of this Agreement without receipt of prior written consent thereto from an authorized representative of HSBC. Fidelity shall: (a) not establish direct contact with or entertain communications from such Person without HSBC's prior written consent; (b) notify HSBC immediately of any contact or other communication made by any such Persons unilaterally to Fidelity. From time to time during the Term, HSBC shall provide Fidelity with a written list of such Persons for the sole purpose of assisting Fidelity's compliance with the terms of this *Section 3.2*. This *Section 3.2* shall not apply to any product or service provided by Fidelity to any such Person prior to the Effective Date.

3.3 HSBC Contract Manager. From time to time, each HSBC SofW Affiliate shall appoint an HSBC SofW Contract Manager to manage the relationship between the Parties hereunder in regards to a particular SofW and HSBC shall appoint an HSBC Overall Contract Manager to manage the relationship between the Parties hereunder in regards to the terms and conditions of this Agreement. Fidelity understands and agrees that the HSBC Contract Manager may change at any time and may differ in each outstanding SofW. The HSBC Overall Contract Manager can be contacted by sending written notice to the following address: HSBC Technology & Services (USA), Inc., 1501 Feehanville Drive, Mount Prospect, IL, 60056, Attn: Contracts and Vendor Management Manager. The identity of the initial HSBC SofW Contract Manager shall be provided to Fidelity in writing as of the Effective Date and, thereafter, upon request, any subsequent HSBC Contract Manager shall be provided to Fidelity. HSBC shall provide notices or approvals required hereunder to Fidelity through the HSBC Contract Manager or another duly authorized officer or Representative of HSBC. HSBC shall provide Fidelity with a current list of HSBC's duly authorized officers and Representatives upon request. Fidelity shall not rely on the apparent or ostensible authority of any other Person to act on HSBC's behalf in connection with this Agreement. The HSBC Contract Manager shall have the authority and responsibility to

perform the tasks set forth in *Sections 3.5 and 10.2* hereof on behalf of HSBC.

~~3.4 **Fidelity Contract Manager.** From time to time, Fidelity shall appoint a Fidelity Contract Manager to manage the relationship between the Parties hereunder. The identity of the initial Fidelity Contract Manager shall be provided to HSBC in writing as of the Effective Date. Fidelity shall provide notices or approvals required hereunder to HSBC through the Fidelity Contract Manager or another duly authorized officer or Representative of Fidelity. Fidelity shall provide HSBC with a current list of Fidelity's duly authorized officers and Representatives upon request. HSBC shall not rely on the apparent or ostensible authority of any other Person to act on Fidelity's behalf in connection with this Agreement. The Fidelity Contract Manager shall be the single point of contact for HSBC for the purposes of this Agreement and shall have the authority and responsibility to perform the tasks set forth in *Sections 3.5 and 10.2* hereof on behalf of Fidelity.~~

3.5 Role of Contract Managers. The Contract Managers shall:

- (a) review and discuss reports submitted by Fidelity;
- (b) review and discuss proposed changes to the Services or any part of this Agreement;
- (c) review and discuss Fidelity's audit exercises and responses;
- (e) review and discuss financial performance overview of performance against budget;
- (d) prepare for the Parties a quarterly executive summary reviewing Fidelity's performance hereunder; and
- (e) work in good faith to resolve any Dispute in accordance with the provisions of *Section 10.2* hereof.

3.6 Designated Senior Officers. Upon a Party's request, the Parties' designated senior officers shall meet, by telephone or in person, to:

- (a) formally review the Agreement and discuss high level relationship and performance issues;
- (b) discuss the achievement of HSBC's objectives and how Fidelity is assisting HSBC to achieve those objectives; and
- (c) resolve any Dispute in accordance with the provisions of *Sections 10.3 and 10.4* hereof.

3.7 Continuity of Services. The Parties understand and acknowledge that the timely and complete performance of their respective duties and obligations hereunder are critical to HSBC's business and success of the Services hereunder. Accordingly, in the event of a Dispute between the Parties, each Party shall continue to perform its obligations under this Agreement in good

faith during the resolution of such Dispute unless and until this Agreement is terminated in accordance with its terms.

ARTICLE 4 SYSTEMS

4.1 HSBC EDP. As of the Effective Date, HSBC grants to Fidelity a nonexclusive, terminable license to use HSBC's EDP to the extent that HSBC, in its sole discretion, determines that such use is necessary or appropriate for Fidelity to perform the Services hereunder. HSBC's EDP shall remain the exclusive property of HSBC. Fidelity shall comply with any and all license obligations under all software licenses applicable to HSBC's EDP, including, but not limited to, nondisclosure and scope of use obligations, to the extent that HSBC has notified Fidelity thereof. Fidelity shall not modify any HSBC related software, reverse engineer, disassemble or decompile such software, remove any proprietary notices appearing in any such software, or transfer, lease, assign, sublicense, or distribute any such software. HSBC shall administer access to HSBC's EDP through HSBC's information security policies and procedures in effect from time to time. Upon an event of discontinued use of the software or termination of this Agreement for any reason, Fidelity shall immediately return all software and any copies, together with all related documentation, to HSBC, as applicable.

4.2 Access and Security. Subject to any limitations set forth herein or as otherwise deemed necessary by either Party, Fidelity and HSBC shall be given limited access to each other's databases or related computer systems as in the Parties' mutual judgment are necessary for the performance of the Services. The Parties shall cooperate in administering security procedures regarding such access. Each Party shall: (a) comply with all Applicable Requirements relating to privacy and data protection; and (b) access information relating only to those Mortgage Loans or matters assigned under the Services.

4.3 Information System Support From HSBC to Fidelity. HSBC acknowledges that Fidelity is dependent and reliant upon the ongoing functionality and integrity of HSBC's loan tracking system and all other EDP in providing the Services, including, but not limited to, all Investor reporting and Insurance Claim filings. If any such EDP malfunctions for any reason at any time, HSBC shall use its best commercially reasonable efforts to cure such malfunction as soon as practicable. If Fidelity's ability to perform any Service is adversely affected by such malfunction, HSBC shall release Fidelity from Liability hereunder for any Damages incurred by HSBC that are directly attributable to such malfunction; *provided, however*, that HSBC shall not release Fidelity for any Liability relating to a malfunction in HSBC's EDP that is attributable to Fidelity, the Fidelity Network or any Vendor or other agent or contractor of Fidelity. HSBC acknowledges that time is of the essence for its informational systems and EDP support to Fidelity for the Services.

4.4 Fidelity's EDP. As of the Effective Date, Fidelity grants to HSBC a nonexclusive, terminable license to use NewTrak and NewImage Express ("Fidelity's EDP") to the extent that Fidelity, in its sole discretion, determines that such use is necessary or appropriate for the Parties to perform the Services hereunder. Fidelity's EDP shall be available for HSBC's use 24 hours per day, 7 days per week, except for scheduled outages and non-emergency enhancements. In

addition, Fidelity shall update ("scrape") to HSBC's EDP every two to three hours, including Saturdays, provided HSBC's EDP is available 24 hours per day, 7 days per week. Fidelity's "Help Desk" support is delineated in Section IV of *Schedule A*. Fidelity's EDP shall remain the exclusive property of Fidelity (subject to its licensor's agreement, as applicable). HSBC shall comply with any and all license obligations under all software licenses applicable to Fidelity's EDP, including, but not limited to, nondisclosure and scope of use obligations, to the extent that Fidelity has notified HSBC thereof in writing. HSBC shall not modify any Fidelity related software, reverse engineer, disassemble or decompile such software, remove any proprietary notices appearing in any such software, or transfer, lease, assign, sublicense, or distribute any such software. Fidelity shall administer access to the Fidelity's EDP Computer System through Fidelity's information security policies and procedures in effect from time to time. Upon an event of discontinued use of such software or termination of this Agreement for any reason, HSBC shall immediately return all software and any copies, together with all related documentation, to Fidelity, as applicable.

ARTICLE 5 CONFIDENTIALITY AND PRIVACY

5.1 Confidentiality.

(a) In General. Neither HSBC nor Fidelity shall make use of, disseminate or in any way disclose any Confidential Information of the other Party or its Affiliates, except as necessary to perform its obligations under this Agreement (in which event such use, dissemination or disclosure shall be made to the fewest people possible, and only to those people who need to know the information to perform the Services) or as may be required by Applicable Requirements or with the express written authorization of the Disclosing Party or its Affiliates, and each shall keep Confidential Information confidential and will ensure that its Affiliates, employees, agents, and Representatives who have access to such Confidential Information comply with this non-disclosure obligation. To the extent that Fidelity contracts with any Vendors or other agents to perform some or all of the Services, Fidelity shall enter into a confidentiality agreement with such Person, reasonably acceptable to HSBC, under which such Person and its employees, agents and Representatives are restricted from disclosing, using or duplicating such Confidential Information, except as consistent with this *Article 5*. The Parties shall maintain appropriate physical, electronic, technical, and procedural safeguards to receive, store, dispose of (if applicable), and secure all Confidential Information to protect it from unauthorized access, use, disclosure, alteration, loss, and destruction, and to protect against any anticipated threats or hazards to the security or integrity of such records or information which could result in substantial harm or inconvenience to any Mortgagor or other customer of a Party. The safeguards used by each Party to protect Confidential Information of the other Party shall be no less than those used by such Party to protect its own Confidential Information. In all events, these safeguards and standards shall, at a minimum be: (i) commercially reasonable; (ii) in keeping with generally accepted standards in the mortgage industry; and (iii) consistent with Applicable Requirements, including, but not limited to, regulations and requirements of the OCC or of other governmental regulatory agencies or GSE's. Fidelity shall notify HSBC if at any time during the term of this Agreement, Fidelity intends to materially modify its physical,

electronic, technical, and procedural safeguards or standards.

~~(b) This Agreement. The Parties shall keep the terms and conditions of this Agreement strictly confidential. Each Party shall take the precautions necessary to prevent this Agreement or any portion of this Agreement from being disclosed or made available to any other Person, in any form or medium, without the written consent of the other Party. Notwithstanding this provision, a Party may share this Agreement with: (i) such Party's Affiliates; (ii) such Party's officers, directors, employees, auditors, accountants, attorneys and other Representatives; (iii) such Party's, examiners, regulatory agencies, including the OCC, and other governmental regulatory agencies that may have examination, enforcement or other jurisdiction over such Party; (iv) such Party's Agencies, Investors, Insurers and ratings agencies; (v) Due Diligence Personnel in connection with a due diligence review of a Party; (vi) the Fidelity Network or any Vendor to the extent necessary for the Fidelity Network's or Vendors' performance of any obligations hereunder; and (vii) any other Person as may be required pursuant to Applicable Requirements. A Party shall cause each such Person to whom such Party has shared this Agreement to agree to the confidentiality provisions herein.~~

(c) Fidelity shall promptly notify HSBC if any breach of confidentiality by Fidelity or any of its agents, breach of HSBC's customer information by Fidelity or one of its agents or a breach of Fidelity's information security policies or procedures has occurred. Notice shall be provided to HSBC no later than twenty-four (24) hours after discovery of any such breach. If required by any country, state, province or generally recognized law making entity, Fidelity shall bear the expense of notifying HSBC's customers of any security breach as required under the provisions established by the law making entity. In addition, Fidelity shall cooperate with HSBC, and shall pay all related expenses, to provide any notices and information regarding such unauthorized access to appropriate law enforcement agencies and government regulatory authorities, and affected customers. At Fidelity's expense and in consultation with HSBC, Fidelity shall provide such affected customers with access to credit monitoring services, credit protection services, credit fraud alerts, or similar services.

5.2. Privacy Laws.

(a) In General. Without limiting the foregoing, Fidelity shall: (i) comply with all Privacy Laws in the jurisdictions in which Fidelity operates; (ii) maintain and employ at all times an Information Security Program (as provided in Section 5.2(d) below); (iii) communicate to the Fidelity Network and Fidelity's Affiliates, Vendors, agents, contractors and other Persons that receive any Confidential Information from HSBC in connection with the Services that HSBC requires that they maintain and employ effective Information Security Programs designed to protect such information from unauthorized disclosure or use; (iv) employ measures to mask Customer Information when loading, copying or transferring such information outside of authorized production environments made available to Fidelity, including into any development, testing or training platforms; (v) encrypt Customer Information during any data transmissions; (vi) not unmask Customer Information being sent into any development, testing or training platforms or in the clear over the Internet; and (vii) upon request by HSBC, certify in writing to HSBC that Customer Information has been returned to HSBC, or destroyed (if requested by HSBC), after its use and upon expiration of this Agreement.

(b) Gramm-Leach-Bliley and Data Protection. Neither party shall make any unauthorized disclosure of or use any personal information of individual consumers that it receives from the other party or on the other party's behalf other than to carry out the purposes for which such information is received. The parties shall comply, to the extent applicable, with the requirements of the implementing regulations of Title V of the Gramm-Leach-Bliley Act of 1999. Fidelity shall fully comply with the data protection legislation in all relevant countries and shall ensure that its employees, agents and contractors shall observe the provisions of that legislation.

(c) Information Security. As more thoroughly described in the Fidelity National Foreclosure & Bankruptcy Solutions Security Policies & Procedures Version 1.1 dated January 13, 2005, Fidelity agrees: (i) to implement information security measures to ensure that it and any Subcontractor used by the party will protect HSBC's customer information, and (ii) that it has developed, implemented and will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to 1) ensure the security and confidentiality of Confidential Information provided hereunder, 2) protect against anticipated threats or hazards to the security or integrity of such Confidential Information, 3) protect against unauthorized access or use of such Confidential Information, and 4) ensure the proper disposal of Confidential Information. All Fidelity and/or HSBC personnel handling such Confidential Information have been appropriately trained in the implementation of the party's information security policies and procedures. Each party regularly audits and reviews its information security policies and procedures to ensure their continued effectiveness and determine whether adjustments are necessary in light of circumstances including, without limitation, changes in technology, customer information systems or threats or hazards to Confidential Information. Fidelity further agrees that, upon the reasonable request by HSBC, Fidelity will provide HSBC with copies of audits, test result information or other measures that will enable Fidelity to assess whether Fidelity is in compliance with these contract provisions.

(d) Copy of Information Security Program. Upon written request, Fidelity shall provide to HSBC an updated executive summary of Fidelity's Information Security Program and/or overview that: (i) describes the technology security employed in connection with the Services; (ii) describes the use of information in test and deployment; and (iii) documents the security controls in place (e.g., network security, firewall, web security, email protection, intrusion detection, incident response process, virus protection, and physical security as applicable to Services rendered to HSBC).

5.3 Breach. Each Party acknowledges that a breach of the obligations under this *Article 5* may cause the other Party to suffer irreparable harm in an amount not easily ascertained. Any breach of this *Article 5*, whether threatened or actual, shall give the other Party the right to obtain equitable relief without posting bond therefore, including, but not limited to, an injunction to restrain such disclosure or use, and pursue all other remedies that Party may have at law or in equity.

5.4 Return of Confidential Information; Survival. The provisions of this *Article 5* shall survive any termination or expiration of this Agreement for any reason whatsoever. Upon termination or expiration of this Agreement, or within fifteen (15) days following the written

request of either Party, the other Party shall return to the requesting Party or, unless prohibited by Applicable Requirements, destroy (and certify the destruction of), all of its Confidential Information, provided that in the event access to such Disclosing Party's Confidential Information is required in order for the Receiving Party to perform its obligations under this Agreement, then such performance shall be excused for so long as the Disclosing Party prevents the Receiving Party from having access to the Confidential Information. If requested by the Disclosing Party, the Receiving Party shall certify its compliance with this provision and that it no longer has any of the Disclosing Party's Confidential Information in its possession.

5.5 Notification. If a Party becomes aware of a breach of these confidentiality and privacy provisions, or Materially fails to observe and perform its related obligations, it shall immediately notify the other Party of such breach. Notification for breach of Customer Information shall be in accordance with Section 5.2(e) above.

5.6 Security.

(a) In General. As amended from time to time, Fidelity shall implement and maintain security policies, procedures and practice, the most current copy of which is the Fidelity National Foreclosure & Bankruptcy Solutions Security Policies & Procedures Version 1.1 dated January 13, 2005, in compliance with Applicable Requirements, including but not limited to, OCC or other governmental regulatory agency or GSE rules; regulations and requirements, and commercially reasonable standards in the mortgage industry to protect the computer systems, network devices and EDP of HSBC and its Affiliates (and/or the data processed thereon) against the risk of penetration by, or exposure to, a third Person via any system or feature utilized by Fidelity in connection with Fidelity's: (i) performance of any testing; (ii) provision of support or other Services via any toolsets including electronic mail, web site, the Internet and/or any other electronic means; and/or (iii) access to HSBC's or its Affiliates' electronic mail, web site, and/or other Internet systems.

(b) Security Practices. Fidelity's security practices shall include, but not be limited to: (i) protecting against HSBC or server side intrusions; (ii) encrypting transmitted Confidential Information, including elements of Customer Information that are transmitted outside of the production systems made available to Fidelity by HSBC or upon Fidelity systems; (iii) securing the computer systems, network devices and EDP, and (iv) protecting against intrusions of operating systems or software.

(c) Security Measures. Fidelity's security measures shall include, but not be limited to: (i) requiring unique identification and authorization of all users in a manner consistent with HSBC's user account and password policies in effect from time to time; (ii) limiting administrator level control to only authorized Persons; (iii) implementing access controls on all data, software or other file system objects limiting access to only authorized users; (iv) allowing only the data protocols required for the function and management of the solution to be transmitted or utilized; (v) ensuring the integrity of all HSBC's data received, stored or processed; and (vi) preventing the compromising of HSBC's data received, processed or transferred.

5.7 Monitoring. Fidelity shall monitor all service, equipment, training and/or test environment, and communication links for security breaches, and shall promptly notify HSBC of any verifiable breaches. Fidelity shall maintain all logs, system records, test plans and test results for a mutually acceptable time period during which HSBC may review such records and information.

5.8 Non-applicability to HSBC Holdings. Further, it is acknowledged by Fidelity that the obligations set out herein do not apply to HSBC Holdings plc ("HSBC Holdings") nor any subsidiary or division thereof other than HSBC except to the extent that HSBC Holdings staff or staff within such other subsidiary or division receive Confidential Information from HSBC, in which such case the obligations set forth herein will upon and from the date of such receipt be taken to apply to HSBC Holdings or any such other subsidiary or division.

ARTICLE 6 FEES AND EXPENSES

6.1 Fees.

(a) **In General.** During the Term, HSBC shall pay the Fees set forth in *Schedule B* together with all other amounts as described in this *Article 6*. All costs of and charges by the Fidelity Network and Vendors shall conform with *Schedules B* and *E*.

(b) **Fees For Legal Services.** Subject to the foregoing, all legal services performed by the Fidelity Network Firms shall be performed for the flat fees or flat rates referenced in *Schedule B*.

(c) **Change in Fees.** Fidelity shall comply with the applicable GSE prescribed flat fees effective at the date of a referral. HSBC acknowledges that the Fees contained in *Schedule B* are subject to change at the discretion of the designated Government Sponsored Enterprise.

(d) **Converting Flat Fees to Hourly Fees.** Fidelity Network Firms may convert flat fees hereunder to hourly based fees only upon receipt of HSBC's prior written consent thereto. Fidelity shall utilize the Escalation Policy in order to receive said authorization.

(e) **Converting Fees on an Emergency Basis.** Notwithstanding the provisions of *Section 6.1(b)* hereof, Fidelity Network Firms may convert flat fees hereunder to hourly based fees with respect to any Mortgage Loan where the Fidelity Network Firm, in its reasonable discretion, believes that there is a high likelihood of immediate Material Damages to HSBC if immediate or emergency action is not taken. If a Fidelity Network Firm elects to proceed under this *Section 6.1(c)*, at the request of the Fidelity Network Firm, Fidelity shall seek approval from HSBC in connection with the foregoing fee conversion within two (2) Business Days immediately following such conversion; *provided, however*, that the Fidelity Network Firm may bill any Services performed with respect to a Mortgage Loan up to and through the date of any such request hereunder. From the point that HSBC gives notice of disallowing the hourly billing, however, the fees will revert to flat fee status.

6.2 Work-In-Progress Files (Transition Loans; Loan Acquisitions). From time to time, the Parties shall mutually agree in writing to the Services and Fees applicable to Transition Loans and Portfolio Acquisition Loans that are not directly identified and expressly set forth in *Schedules A or B* respectively.

6.3 Data Interchange; System-to-System Interfaces. Fidelity will utilize the DPIS extract referral file, MSP Web Services, and the Fidelity National Information Services, Inc. (FIS) Interchange to receive and submit Mortgage Loan level data and related information, on a daily basis, from and to HSBC's EDP, including, but not limited to, applicable default workstations. Fidelity will pay for Interchange charges related to referred loans under its Interchange Bundled Contract as defined and outlined in Schedule B. HSBC shall bear all reasonable costs related to installing the interfaces as outlined in Schedule B. Such reimbursable costs must be approved by HSBC in writing prior to HSBC's incurring of such costs. HSBC will provide Fidelity use of the FIS/HSBC test region to allow a successful test of the interfaces. The Parties shall mutually agree in writing as to the costs associated with any other system-to-system interface items including, but not limited to, billing activities such as items exclusive of default workstation data sharing.

6.4 Payment of Fees.

(a) **In General.** Subject to subsection (d), below, HSBC shall pay all Fees due to the Fidelity Network under this *Article 6* no later than thirty (30) calendar days after the date on which HSBC receives the validated Invoice relating thereto, provided that no such Fee is the subject of a good faith Dispute; *provided however*, any Invoice payment by HSBC shall be subject to subsequent review and verification by HSBC and may be adjusted, modified, or revised and reimbursed to HSBC in accordance with subsection (d) below. Unless otherwise agreed, Invoices for Foreclosure and Bankruptcy matters or other Services shall be submitted to HSBC by the Fidelity Network Firm only upon the final completion of such matters and such Services in accordance with the terms of this Agreement or upon termination of Services on such Mortgage Loan by Fidelity at HSBC's request. Interim Costs (as defined below) that are reimbursable under this Agreement may be invoiced by a Fidelity Network Firm before the completion of a matter on a one-time basis as detailed below in subsection (e).

(b) **Disputes.** If HSBC Disputes any item in any such invoice, HSBC shall: (i) pay the undisputed items in such invoice; and (ii) negotiate in good faith with Fidelity or the Fidelity Network Firm with respect to any such fee items in Dispute.

(c) **Invoices.** A Bankruptcy or Foreclosure Firm's submission of an invoice via NewInvoice for Fees, costs and expenses to HSBC shall be deemed to be a representation by such firm that: (i) the particular Service described therein has been completed in accordance with this Agreement; (ii) the Fees, costs and expenses are in accordance with the Agreement; and (iii) the costs and expenses set forth therein are in accordance with the Agreement.

(d) **Invoice Payment, Additional Matters.** In the event that HSBC does not dispute an Invoice prior to it being paid and later discovers that the Invoice was incorrect because (i) the particular Service described therein was not completed in accordance with this Agreement; (ii) the

Fees assessed were not in accordance with this Agreement; or (iii) the Costs and expenses set forth therein were not in accordance with this Agreement or were not required to be performed, then HSBC shall be entitled to seek reimbursement of such fees for such paid Invoices directly from the party submitting the Invoice. While under no obligation to do so pursuant to the terms of this Agreement, Fidelity agrees that it may assist HSBC in seeking such reimbursement from the party submitting the Invoice, but shall not be liable to HSBC for any part of such disputed invoice.

(e) Interim Costs. A Foreclosure Firm may submit a one time interim cost ("Interim Cost") Invoice during the course of a Foreclosure. Interim Costs shall only include third party costs the Foreclosure Firm has incurred at the time the Invoice is submitted. The Invoice for Interim Costs shall be in addition to the Invoice described in subsection (a) above and shall be clearly designated and/or identified as an Interim Costs Invoice. Interim Costs will be reimbursed in accordance with this Agreement and *Schedule B*.

(f) Invoice Liability. Notwithstanding the foregoing, Fidelity agrees that HSBC shall have no liability in respect of any fees due and payable to Fidelity (specifically excluding invoices submitted to HSBC by a Fidelity Network Firm) hereunder, which are not invoiced to HSBC by Fidelity within ninety (90) days of the date when such fees becomes due.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES OF FIDELITY

7.1 Due Organization and Good Standing. Fidelity is duly organized, validly existing and in good standing under the laws and regulations of the state or jurisdiction of its incorporation or formation and is duly qualified and in good standing to do business in each jurisdiction in which the conduct of its business, the ownership of its assets and the performance of the Services so requires.

7.2 Authority and Capacity. Fidelity has the full power and authority to enter into and consummate all transactions and Services contemplated by this Agreement and has duly authorized the execution, delivery and performance of this Agreement.

7.3 Execution and Performance. Fidelity's execution, delivery and performance of this Agreement, its compliance with the terms and conditions of this Agreement, and the consummation of the transactions and Services contemplated by this Agreement shall not violate, conflict with, or result in a breach of any provisions of its organizational documents, any instrument relating to the conduct of its business, or any other agreement to which it may be a party.

7.4 Binding Obligations. This Agreement and any documents or instruments now or hereafter executed or delivered to HSBC by Fidelity pursuant to this Agreement, assuming due execution and delivery by HSBC, will constitute valid and legally binding obligations of Fidelity enforceable against Fidelity in accordance with their respective terms, except as may be limited

by or subject to: (a) any conservatorship, receivership, insolvency, reorganization, moratorium or other laws affecting creditors' rights; or (b) general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

7.5 Action. There is no Action existing or pending, or to Fidelity's Knowledge, threatened, or any order, injunction or decree outstanding, against or relating to Fidelity or its assets that could have a Material Adverse Effect upon Fidelity's ability to provide the Services or conduct its respective activities contemplated by, or to perform its obligations under, this Agreement.

7.6 Compliance With Applicable Requirements. Fidelity has complied with, has not violated and will continue to comply with any Applicable Requirement relating to: (a) the performance of the Services under this Agreement; and (b) Fidelity's business or assets, the violation of which reasonably could be expected to have a Material Adverse Effect on Fidelity's operations, financial condition, or ability to conduct the Services and activities contemplated by and perform its obligations under this Agreement.

7.7 Representations True and Correct. None of the representations, warranties or written statements Fidelity has made in this Agreement or in any document furnished or to be furnished by or on its behalf to the other Party pursuant to this Agreement contains or will contain any untrue statement of a Material fact or omits or will omit to state a Material fact necessary to make the representation, warranty or written statement not misleading.

7.8 No Conflicts. The consummation of the transactions and provision of the Services contemplated hereby will not result in the: (a) breach of any term or provision of Fidelity's articles of incorporation, bylaws, organizational or governance documents; or (b) breach of any term or provision of, or conflict with or constitute a default under or result in the acceleration of any obligation under, any Material agreement, indenture or loan or credit agreement or other instrument to which Fidelity or its property is subject; or (c) violation of any Applicable Requirements.

7.9 Intellectual Property. Fidelity owns all right, title, and interest in and to, or possesses adequate licenses or other rights to use any Intellectual Property used by Fidelity in connection with its business and/or the Services hereunder, and such rights are sufficient to conduct Fidelity's business as it has been conducted and is now being conducted. Fidelity's performance of its obligations, duties and covenants under this Agreement and the provision of the Services hereunder will not conflict with or infringe, and no one has asserted to Fidelity that such performance will conflict with or infringe, or might conflict with or infringe, any Intellectual Property Claimed, owned, possessed or used by any third Person. If Fidelity licenses to HSBC any Intellectual Property used by Fidelity in connection with its business and/or the Services hereunder, Fidelity has the right and authority to do so.

7.10 Prevention of Viruses. Fidelity shall use commercially reasonable efforts to prevent the introduction of viruses, disabling code, time bomb, trap door, or similarly destructive program information, command or code into HSBC's EDP, MIS or any software or systems

related thereto. Fidelity agrees to indemnify HSBC for any actual damages resulting from the introduction of a virus, disabling code, time bomb, trap door, or similarly destructive program information, command or code into HSBC's EDP, MIS or any software or systems related thereto, to the extent that such introduction relates solely to Fidelity.

7.11 Consents. Fidelity possesses all federal, state and local licenses, permits, registrations, approvals and other authorizations of governmental authorities required for the conduct of its business and the performance of the Services, or it qualifies for, and has taken all steps necessary to secure, exemptions from such license, permit, registration, approval and authorization requirements; it satisfies all requirements necessary to maintain each such license, permit, registration, approval, other authorization and exemption in good standing, and all such licenses, permits, registrations, approvals, other authorizations and exemptions are in good standing; and it has not received any notice that revocation is being considered with respect to any of such licenses, permits, registrations, approvals, other authorizations or exemptions.

7.12 Policies and Procedures. Fidelity has developed policies, systems and procedures that ensure its full compliance with all Applicable Requirements, standards and conventions applicable to its activities, and all Applicable Requirements, orders, standards and conventions relating to data privacy, international communications, communications decency and the importation and exportation of software and data. However, if Fidelity is on HSBC premises for any reason, Fidelity shall observe the business policies and procedures and security requirements of HSBC relating but not limited, to working conditions and business hours while on such premises.

7.13 No Liens. Fidelity has the right to provide the Services in accordance with the terms of this Agreement free of all liens, Claims, encumbrances and other restrictions.

7.14 Nature of Services. The Services shall be performed in a competent, timely, professional and workmanlike manner, and Fidelity, its agents or contractors hereunder and their respective employees shall have the requisite expertise and proper skill, training and background so as to be able to perform in such a manner with qualifications agreed upon by the Parties.

7.15 Resources. In recognition of the need for timely provision of the Services, Fidelity shall have and shall maintain sufficient resources, facilities, capacity and manpower to assure that all Services will be performed in accordance with the terms of this Agreement.

7.16 Background Check. Prior to the hiring of any person to perform the Services under this Agreement, Fidelity shall obtain a background/security check on each person who will be assigned to perform the Services under this Agreement as prescribed in the appropriate Attachment. HSBC shall have the right to reasonably request removal of personnel who support and are in direct contact with HSBC. In the event HSBC shall request a replacement person, Fidelity shall use commercially reasonable efforts to provide a replacement within five (5) business days.

7.17 HSBC Security. Fidelity shall not tamper with, compromise, or attempt to circumvent any physical or electronic security or audit measures or security programs employed by HSBC.

7.18 Service Interruptions. HSBC's permitted use of the Services and work product provided thereunder will not be Materially interrupted or Materially disturbed by any third Person asserting a Claim under or through Fidelity. If any part of the Services is or is threatened to be withdrawn from general availability for any reason whatsoever, Fidelity must give prior written notice to HSBC. HSBC shall be entitled to a refund of any pre-paid fees for Services which are no longer available and to terminate this Agreement pursuant to Article 11 below.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES OF HSBC

8.1 Due Organization and Good Standing. HSBC is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and, to the extent required by Applicable Requirements, is duly qualified and in good standing to do business in each jurisdiction in which the conduct of its business, the ownership of its assets and the performance of the Services so requires.

8.2 Authority and Capacity. HSBC has the full power and authority to enter into and consummate all transactions and Services contemplated by this Agreement and has duly authorized the execution, delivery and performance of this Agreement.

8.3 Execution and Performance. HSBC's execution, delivery and performance of this Agreement, its compliance with the terms and conditions of this Agreement, and the consummation of the transactions and Services contemplated by this Agreement shall not violate, conflict with, or result in a breach of any provisions of its organizational documents, any instrument relating to the conduct of its business, or any other agreement to which HSBC may be a party.

8.4 Binding Obligations. This Agreement and any documents or instruments now or hereafter executed or delivered to Fidelity by HSBC pursuant to this Agreement, assuming due execution and delivery by Fidelity, will constitute valid and legally binding obligations of HSBC enforceable against HSBC in accordance with their respective terms, except as may be limited by or subject to: (a) any conservatorship, receivership, insolvency, reorganization, moratorium or other laws affecting creditors' rights; or (b) general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

8.5 Action. There is no Action existing or pending, or to HSBC's Knowledge, threatened, or any order, injunction or decree outstanding, against or relating to HSBC or its assets that could have a Material Adverse Effect upon HSBC's ability to conduct its respective activities contemplated by, or to perform its obligations under, this Agreement.