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ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Form 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2012

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number: 001-32136

Arbor Realty Trust, Inc.

(Exact name of registrant as specified in its charter)

Maryland	**20-0057959**
(State or other jurisdiction of incorporation)	(I.R.S. Employer Identification No.)
333 Earle Ovington Boulevard, Suite 900 Uniondale, NY	**11553**
(Address of principal executive offices)	(Zip Code)

(516) 506-4200

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	**Name of Each Exchange on Which Registered**
Common Stock, par value $0.01 per share	New York Stock Exchange
Preferred Stock, 8.25% Series A Cumulative Redeemable, par value $0.01 per share	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in the definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐	Accelerated filer ☒	Non-accelerated filer ☐ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's common stock, all of which is voting, held by non-affiliates of the registrant as of June 30, 2012 (computed based on the closing price on such date as reported on the NYSE) was $105.0 million. As of February 15, 2013, the registrant had 32,036,925 shares of common stock outstanding (excluding 2,650,767 shares held in treasury).

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive proxy statement for the registrant's 2013 Annual Meeting of Stockholders (the "2013 Proxy Statement"), to be filed within 120 days after the end of the registrant's fiscal year ended December 31, 2012, are incorporated by reference into Part III of this Annual Report on Form 10-K.

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FORWARD LOOKING STATEMENTS

This report contains certain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements relate to, among other things, the operating performance of our investments and financing needs. Forward-looking statements are generally identifiable by use of forward-looking terminology such as "may," "will," "should," "potential," "intend," "expect," "endeavor," "seek," "anticipate," "estimate," "overestimate," "underestimate," "believe," "could," "project," "predict," "continue" or other similar words or expressions. Forward-looking statements are based on certain assumptions, discuss future expectations, describe future plans and strategies, contain projections of results of operations or of financial condition or state other forward-looking information. Our ability to predict results or the actual effect of future plans or strategies is inherently uncertain. Although we believe that the expectations reflected in such forward-looking statements are based on reasonable assumptions, our actual results and performance could differ materially from those set forth in the forward-looking statements. These forward-looking statements involve risks, uncertainties and other factors that may cause our actual results in future periods to differ materially from forecasted results. Factors that could have a material adverse effect on our operations and future prospects include, but are not limited to, changes in economic conditions generally and the real estate market specifically; adverse changes in the financing markets we access affecting our ability to finance our loan and investment portfolio; changes in interest rates; the quality and size of the investment pipeline and the rate at which we can invest our cash; impairments in the value of the collateral underlying our loans and investments; changes in the markets; legislative/regulatory changes; completion of pending investments; the availability and cost of capital for future investments; competition within the finance and real estate industries; and other risks detailed from time to time in our SEC reports. Readers are cautioned not to place undue reliance on any of these forward-looking statements, which reflect our management's views as of the date of this report. The factors noted above could cause our actual results to differ significantly from those contained in any forward-looking statement. For a discussion of our critical accounting policies, see "Management's Discussion and Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries—Significant Accounting Estimates and Critical Accounting Policies" under Item 7 of this report.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. We are under no duty to update any of the forward-looking statements after the date of this report to conform these statements to actual results.

PART I

ITEM 1. BUSINESS

Overview

Arbor Realty Trust, Inc. is a specialized real estate finance company that invests in a diversified portfolio of structured finance assets in the multi-family and commercial real estate markets. We invest primarily in real estate-related bridge and mezzanine loans, including junior participating interests in first mortgages, preferred and direct equity, and in limited cases, discounted mortgage notes and other real estate-related assets, which we refer to collectively as structured finance investments. We also hold investments in mortgage-related securities and real estate property. Our principal business objective is to maximize the difference between the yield on our investments and the cost of financing these investments to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders.

We are organized to qualify as a real estate investment trust ("REIT") for federal income tax purposes. A REIT is generally not subject to federal income tax on that portion of its REIT taxable income ("Taxable Income") that is distributed to its stockholders, provided that at least 90% of Taxable Income is distributed and provided that certain other requirements are met. Certain of our assets that produce non-qualifying income are held in taxable REIT subsidiaries. Unlike other subsidiaries of a REIT, the income of a taxable REIT subsidiary is subject to federal and state income taxes.

We commenced operations in July 2003 and conduct substantially all of our operations and investing activities through our operating partnership, Arbor Realty Limited Partnership, and its subsidiaries. We serve as the general partner of our operating partnership, and own a 100% partnership interest in our operating partnership as of December 31, 2012.

We are externally managed and advised by Arbor Commercial Mortgage, LLC ("ACM"), a national commercial real estate finance company that specializes in debt and equity financing for multi-family and commercial real estate, pursuant to the terms of a management agreement described below. ACM provides us with all of the services vital to our operations other than asset management, securitization and certain credit functions, and our executive officers and other staff are all employed by our manager, ACM, pursuant to the management agreement. The management agreement requires ACM to manage our business affairs in conformity with the policies and investment guidelines that are approved and monitored by our Board of Directors.

We believe ACM's experience and reputation positions it to originate attractive investment opportunities for us. Our management agreement with ACM was developed to capitalize on synergies with ACM's origination infrastructure, existing business relationships and management expertise. ACM has granted us a right of first refusal to pursue all structured finance investment opportunities in the multi-family or commercial real estate markets that are identified by ACM or its affiliates. ACM continues to originate and service multi-family and commercial mortgage loans under Fannie Mae, Federal Housing Administration and conduit commercial lending programs. We believe that the customer relationships established from these lines of business may generate additional real estate investment opportunities for our business.

Current Market Conditions

Global deleveraging by most financial institutions over the past several years has severely limited the availability of capital for most businesses, including those involved in the commercial real estate sector. As a result, we, along with most institutions in our industry, significantly reduced investment activity during the downturn. While there continue to be some effects from the past economic downturn, we have seen improvements in the market and investment opportunities are becoming available to us. As a result, we completed two public offering in 2012 in which we sold 7,000,000 shares

of our common stock for net proceeds of approximately $36.7 million. We also entered into an "At-The-Market" ("ATM") equity offering sales agreement in the fourth quarter of 2012 whereby, in accordance with the terms of the agreement, from time to time we may issue and sell up to 6,000,000 shares of our common stock. In February 2013, we completed an underwritten public offering of 1.6 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $37.3 million after deducting underwriting fees and estimated offering costs.

Further, we also completed a collateralized loan obligation ("CLO") in 2012 in which we issued $87.5 million of investment grade notes, and a second CLO in January 2013 in which we issued $177.0 million of investment grade notes. While there can be no assurance that we will continue to have access to the equity and debt markets, we will continue to pursue these and other available market opportunities as a means to increase our liquidity and capital base and if market conditions continue to stabilize, we will rely on these credit and equity markets to generate capital for financing the growth of our business. Additionally, in this current environment, we remain focused on managing our portfolio to preserve capital, generating and recycling liquidity from existing assets and actively managing our financing facilities.

Global stock and credit markets have experienced prolonged price volatility, dislocations and liquidity disruptions over the past several years, which have caused market prices of many stocks to fluctuate substantially. Commercial real estate has been particularly adversely affected by the prolonged economic downturn. Although we have seen improvements, the overall market recovery still remains uncertain. Should the market regress, the commercial real estate sector may experience additional losses, challenges in complying with the terms of financing agreements, difficulties in raising capital, and challenges in obtaining investment financing on attractive terms.

During the downturn, market conditions also resulted in the scarcity of certain types of financing, and, in certain cases, making terms for certain financings less attractive. We have seen improvements in the global debt and securitization market both in availability and pricing, however if conditions deteriorate in the future, lending institutions may be forced to exit markets such as repurchase lending, become insolvent, further tighten their lending standards or increase the amount of equity capital required to obtain financing. In addition, further deterioration would make it more difficult for borrowers to repay our loans as they may experience difficulties in selling assets, increased costs of financing or obtaining financing at all. It would also make it more difficult or unlikely for us to raise capital through the issuance of our common or preferred stock.

The financial downturn that occurred has had a significant impact on our business, our borrowers and real estate values throughout all asset classes and geographic locations. If real estate values decline further, it may limit our new mortgage loan originations since borrowers often use increases in the value of their existing properties to support the purchase or investment in additional properties. Borrowers may also be less able to pay principal and interest on our loans. If real estate values decline further, this may also significantly increase the likelihood that we will continue to incur losses on our loans in the event of default because the value of our collateral may be insufficient to cover our investment in the loan. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect both our net interest income from loans in our portfolio as well as our ability to originate, sell and securitize loans, which would significantly impact our revenues, results of operations, financial condition, business prospects and our ability to make distributions to our stockholders. We have made, and continue to make modifications and extensions to loans when it is economically feasible to do so. In some cases, a modification is a more viable alternative to foreclosure proceedings when a borrower cannot comply with loan terms. In doing so, lower borrower interest rates, combined with non-performing loans, will lower our net interest margins when comparing interest income to our costs of financing.

Our Corporate History

On July 1, 2003, ACM contributed a portfolio of structured finance investments to our operating partnership. Concurrently with this contribution, we and our operating partnership entered into a management agreement with ACM pursuant to which ACM manages our investments for a base management fee and incentive compensation, and the nine person asset management group of ACM became our employees.

In exchange for ACM's contribution of structured finance investments, our operating partnership issued approximately 3.1 million units of limited partnership interest, or operating partnership units, and approximately 0.6 million warrants to purchase additional operating partnership units at an initial exercise price of $15.00 per operating partnership unit to ACM. Concurrently, we, our operating partnership and ACM entered into a pairing agreement. Pursuant to the pairing agreement, each operating partnership unit issued to ACM and issuable to ACM upon exercise of its warrants for additional operating partnership units in connection with the contribution of initial assets was paired with one share of the Company's special voting preferred stock. In October 2004, ACM exercised these warrants and held approximately 3.8 million operating partnership units, constituting an approximately 16% limited partnership interest in our operating partnership. ACM had the ability to redeem each of these operating partnership units for cash or, at our election, one share of our common stock. We granted ACM certain demand and other registration rights with respect to the shares of common stock that could be issued upon redemption of these operating partnership units. Each of these operating partnership units were also paired with one share of our special voting preferred stock entitling ACM to one vote on all matters submitted to a vote of our stockholders. Upon redemption of these operating partnership units, an equivalent number of shares of our special voting preferred stock would be redeemed and cancelled.

Concurrently with ACM's contribution of investments to our operating partnership, we sold approximately 1.6 million of our units, each consisting of five shares of our common stock and one warrant to purchase an additional share of common stock at an initial exercise price of $15.00 per share, for $75.00 per unit in a private placement and agreed to register the shares of common stock underlying these units and warrants for resale under the Securities Act of 1933, as amended (the "1933 Act"). In July 2004, we registered approximately 9.6 million shares of common stock underlying these units and warrants. At December 31, 2005, approximately 1.6 million warrants were exercised, of which 0.5 million were exercised "cashless", for a total of 1.3 million common shares issued pursuant to their exercise.

In April 2004, we closed our initial public offering in which we issued and sold 6.3 million shares of common stock and a selling stockholder sold 22,500 shares of common stock, each at $20.00 per share. Concurrently with the initial public offering, we sold 0.5 million shares of common stock at the initial public offering price directly to an entity wholly-owned by one of our directors. The underwriters of our initial public offering exercised their overallotment option and, in May 2004, we issued and sold an additional 0.5 million shares of our common stock pursuant to such exercise.

Since January 2005, we completed three non-recourse collateralized debt obligation ("CDO") transactions, whereby $1.44 billion of real estate-related and other assets were contributed to three newly-formed consolidated subsidiaries, which issued $1.21 billion of investment grade-rated floating-rate notes in three separate private placements. These proceeds were used to repay outstanding debt and resulted in a decreased cost of borrowed funds relating to the CDO assets.

Since March 2005, we issued a total of $290.0 million of junior subordinated notes in private placements. The junior subordinated notes are unsecured, have a maturity of 25 to 28 years, and pay interest quarterly at a fixed rate or floating rate of interest based on three-month LIBOR. In February 2010, we retired $114.1 million of our junior subordinated notes in exchange for the re-issuance of certain of our own CDO bonds, as well as other assets.

In June 2007, we completed a public offering in which we sold 2,700,000 shares of our common stock registered for $27.65 per share, and received net proceeds of approximately $73.6 million after deducting the underwriting discount and the other estimated offering expenses. We used the proceeds to pay down debt and finance our loan and investment portfolio.

In June 2008, our external manager exercised its right to redeem its approximate 3.8 million operating partnership units in our operating partnership for shares of our common stock on a one-for-one basis. In addition, the special voting preferred shares paired with each operating partnership unit, pursuant to the pairing agreement, were redeemed simultaneously and cancelled. ACM currently holds approximately 17% of the voting power of our outstanding common stock.

In June 2010, we filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission ("SEC") under the 1933 Act with respect to an aggregate of $500.0 million of debt securities, common stock, preferred stock, depositary shares and warrants that may be sold by us from time to time pursuant to Rule 415 of the 1933 Act. On June 23, 2010, the SEC declared this shelf registration statement effective.

In June 2012, we completed a public offering in which we sold 3,500,000 shares of our common stock for $5.40 per share, and received net proceeds of approximately $17.5 million after deducting the underwriting discount and other offering expenses. We used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

In September 2012, we completed a non-recourse collateralized loan obligation ("CLO") transaction, whereby $125.1 million of real estate-related assets were contributed to a newly-formed consolidated subsidiary, which issued $87.5 million of investment grade-rated floating-rate notes. These proceeds were used to fund investments and repay borrowings under our credit facilities which resulted in a decreased cost of borrowed funds relating to the CLO assets.

In October 2012, we completed another public offering in which we sold 3,500,000 shares of our common stock for $5.80 per share, and received net proceeds of approximately $19.2 million after deducting the underwriting discount and other offering expenses. We used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

In December 2012, we entered into an "At-The-Market" ("ATM") equity offering sales agreement with JMP Securities LLC ("JMP") whereby, in accordance with the terms of the agreement, from time to time we may issue and sell through JMP up to 6,000,000 shares of our common stock. Sales of the shares, if any, will be made by means of ordinary brokers' transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million. We currently have 32,036,925 shares of common stock outstanding.

On January 28, 2013 we completed a second CLO in which we issued $177.0 million of investment grade notes and on February 1, 2013, we completed an underwritten public offering of 1.4 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million. We currently have $416.4 million available under our shelf registration.

Our Investment Strategy

Our principal business objectives are to invest in bridge and mezzanine loans, including junior participating interests in first mortgages, preferred and direct equity, mortgage-backed securities and other real estate-related assets predominantly in the multifamily and commercial real estate markets

and actively manage our investment portfolio in order to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders. We believe the financing of multi-family and commercial real estate offers opportunities that demand customized financing solutions. We believe we can achieve these objectives through the following business and growth strategies:

Provide Customized Financing. We provide financing customized to the needs of our borrowers. We target borrowers who have demonstrated a history of enhancing the value of the properties they operate, but whose options may be limited by conventional bank financing and who may benefit from the sophisticated structured finance products we offer.

Execute Transactions Rapidly. We act quickly and decisively on proposals, provide commitments and close transactions within a few weeks and sometimes days, if required. We believe that rapid execution attracts opportunities from both borrowers and other lenders that would not otherwise be available. We believe our ability to structure flexible terms and close loans in a timely manner gives us a competitive advantage.

Manage Credit Quality. A critical component of our strategy in the real estate finance sector is our ability to manage the real estate risk that is underwritten by our manager and us. We actively manage the credit quality of our portfolio by using the expertise of our asset management group, which has a proven track record of structuring and repositioning structured finance investments to improve credit quality and yield.

Use Arbor Commercial Mortgage's Relationships with Existing Borrowers. We capitalize on ACM's reputation in the commercial real estate finance industry. ACM has relationships with a large borrower base nationwide. Since ACM's originators offer senior mortgage loans as well as our structured finance products, we are able to benefit from its existing customer base and use its senior lending business as a potential refinance vehicle for our structured finance assets.

Offer Broader Products and Expand Customer Base. We have the ability to offer a larger number of financing alternatives than ACM has been able to offer to its customers in the past. Our potential borrowers are able to choose from products offering various lengths of maturity, rate types and larger principal amounts than ACM could offer.

Leverage the Experience of Executive Officers, Arbor Commercial Mortgage and Our Employees. Our executive officers and employees, and those of ACM, have extensive experience originating and managing structured commercial real estate investments. Our senior management team has, on average, over 20 years of experience in the financial services industry.

Our Targeted Investments

We pursue lending and investment opportunities with property owners and developers who need interim financing until permanent financing can be obtained. We primarily target transactions where we believe we have competitive advantages, particularly our lower cost structure and in-house underwriting capabilities. Our structured finance investments generally have maturities of two to five years depending on type, have extension options when appropriate, and generally require a balloon payment of principal at maturity. Borrowers in the market for these types of loans include, but are not limited to, owners or developers seeking either to acquire or refurbish real estate or to pay down debt and reposition a property for permanent financing.

Our investment program emphasizes the following general categories of real estate-related activities:

Bridge Financing. We offer bridge financing products to borrowers who are typically seeking short-term capital to be used in an acquisition of property. The borrower has usually identified an undervalued asset that has been under managed and/or is located in a recovering market. From the borrower's perspective, shorter term bridge financing is advantageous because it allows for time to improve the property value through repositioning the property without encumbering it with restrictive long-term debt that may not reflect optimal leverage for non-stabilized property.

The bridge loans we currently make typically range in size from $5 million to $30 million and are predominantly secured by first mortgage liens on the property. At December 31, 2012, variable interest rates ranged from 1.50% to 10.34% over 30-day LIBOR, with fixed rates ranging from 6.30% to 15.00%. However, our current target range is generally 5.50% to 7.50% over 30-day LIBOR. Additional yield enhancements may include origination fees, deferred interest, yield look-backs, and participating interests, which are equity interests in the borrower that share in a percentage of the underlying cash flows of the property. Borrowers generally use the proceeds of a conventional mortgage to repay a bridge loan.

Junior Participation Financing. We offer junior participation financing in the form of a junior participating interest in the senior debt. Junior participation financings have the same obligations, collateral and borrower as the senior debt. The junior participation interest is subordinated to the senior debt by virtue of a contractual agreement between the senior debt lender and the junior participating interest lender.

Our junior participation loans typically range in size from $1 million to $60 million and have terms of up to ten years. At December 31, 2012, variable interest rates ranged from 1.00% to 5.71% over 30-day LIBOR, with fixed rates ranging from 4.00% to 10.07%. As in the case with our bridge loans, the yield on these investments may be enhanced by prepaid and deferred interest payments, yield look-backs and participating interests.

Mezzanine Financing. We offer mezzanine financing in the form of loans that are subordinate to a conventional first mortgage loan and senior to the borrower's equity in a transaction. Mezzanine financing may take the form of loans secured by pledges of ownership interests in entities that directly or indirectly control the real property or subordinated loans secured by second mortgage liens on the property. We may also require additional security such as personal guarantees, letters of credit and/or additional collateral unrelated to the property.

Our mezzanine loans typically range in size from $1 million to $50 million and have terms of up to ten years. At December 31, 2012, variable interest rates ranged from 2.50% to 12.00% over 30-day LIBOR, with fixed rates ranging from 4.00% to 12.00%. As in the case with our bridge loans, the yield on these investments may be enhanced by prepaid and deferred interest payments, yield look-backs and participating interests.

We hold a majority of our mezzanine loans through subsidiaries of our operating partnership that are pass-through entities for tax purposes or taxable subsidiary corporations.

Preferred Equity Investments. We provide financing by making preferred equity investments in entities that directly or indirectly own real property. In cases where the terms of a first mortgage prohibit additional liens on the ownership entity, investments structured as preferred equity in the entity owning the property serve as viable financing substitutes. With preferred equity investments, we typically become a member in the ownership entity.

Our preferred equity investments typically range in size from $1 million to $75 million, have terms up to ten years. At December 31, 2012, variable rates were 9.93% over 30-day LIBOR, with fixed rates ranging from 2.36% to 17.00%.

Real Property Acquisitions. We have, and may in the future, acquire real estate by foreclosure or through partial or full settlement of mortgage debt related to our loans. Our management team may identify such assets and initiate an asset-specific plan to maximize the value of the collateral, which can include appointing a third party property manager, completing the construction or renovation of the property, continuing the sale of condominium units, leasing or increasing the occupancy of the property, or selling the entire asset or a partial interest to a third party. As such, these transactions may require the use of additional capital prior to the completion of the specific plan. Additionally, we may identify real estate investment opportunities such as domestic real estate for repositioning and/or renovation and then disposition at an anticipated significant return. In these situations, we may act solely on our own behalf or in partnership with other investors. Typically, these transactions are analyzed with the expectation that we will have the ability to sell the property within a one to three year time period, achieving a significant return on invested capital. In connection with these transactions, speed of execution is often the most critical component to success. We may seek to finance a portion of the acquisition price through short-term financing, if available. Repayment of the short-term financing will either come from the sale of the property or conventional permanent debt.

Note Acquisitions. We may acquire real estate notes from lenders in situations where the borrower wishes to restructure and reposition its short-term debt and the lender wishes, for a variety of reasons (such as risk mitigation, portfolio diversification or other strategic reasons), to divest certain assets from its portfolio. These notes may be acquired at a discount. In such cases, we intend to use our management resources to resolve any disputes concerning the note or the property securing it and to identify and resolve any existing operational or any other problems at the property. We will then either restructure the debt obligation for immediate resale or sale at a later date, or reposition it for permanent financing. In some instances, we may take title to the property underlying the real estate note.

Equity Securities. We have, and may in the future, invest in equity securities such as the common stock of a commercial real estate specialty finance company. Investments in these securities have the risk of stock market fluctuations which may result in the loss of our principal investment.

Residential Mortgage-Backed Securities. We have, and may in the future, invest in residential mortgage-backed securities ("RMBS"). These securities may be purchased at a premium or discount to their face value which is amortized or accreted into interest income on an effective yield adjusted for actual prepayment activity over the expected remaining life of the related security as a yield adjustment. These securities may have underlying credit ratings assigned by the three leading nationally recognized rating agencies (Moody's Investor Service, Standard & Poor's and Fitch Ratings) and are generally not insured or otherwise guaranteed.

Commercial Real Estate Collateralized Debt Obligation Bonds. We have, and may in the future, invest in securities such as commercial real estate CDO bonds. These certificates are usually purchased at a discount to their face value which is accreted into interest income, if deemed to be collectable, on an effective yield adjusted for actual prepayment activity over the expected remaining life of the related security as a yield adjustment. These securities have underlying credit ratings assigned by the three leading nationally recognized rating agencies (Moody's Investor Service, Standard & Poor's and Fitch Ratings) and are generally not insured or otherwise guaranteed.

Commercial Mortgage-Backed Securities. We have, and may in the future, invest in commercial mortgage-backed securities ("CMBS"). These securities are usually purchased at a discount to their face value which is accreted into interest income, if deemed to be collectable, on an effective yield

adjusted for actual prepayment activity over the expected remaining life of the related security as a yield adjustment. These securities have underlying credit ratings assigned by the three leading nationally recognized rating agencies (Moody's Investor Service, Standard & Poor's and Fitch Ratings) and are generally not insured or otherwise guaranteed.

Our Structured Finance Investments

We own a diversified portfolio of structured finance investments consisting primarily of real estate-related bridge, junior participation interests in first mortgages, and mezzanine loans as well as preferred equity investments.

At December 31, 2012, we had 128 loans and investments in our portfolio, totaling $1.5 billion. These loans and investments were for 85 multi-family properties, 21 office properties, nine land properties, five hotel properties, three retail properties, three condominium properties and two commercial properties. We have an allowance for loan losses of $161.7 million at December 31, 2012 related to 20 loans in our portfolio with an aggregate carrying value, before loan loss reserves, of $240.2 million. The loan loss reserves were determined during our regular quarterly risk rating review process which is based on several factors including current market conditions, values and the operating status of these properties. We continue to actively manage all loans and investments in the portfolio in a manner consistent with our underwriting and asset management policy and procedures with the goal of maintaining the credit quality of our portfolio and limiting potential losses.

The overall yield on our loan and investments portfolio in 2012 was 4.97% on average assets of $1.6 billion. This yield was computed by dividing the interest income earned during the year by the average assets during the year. Our cost of funds in 2012 was 3.23% on average borrowings of $1.3 billion. This cost of funds was computed by dividing the interest expense incurred during the year by the average borrowings during the year.

Our average net investment (average assets less average borrowings) in 2012 was $339.4 million, resulting in average leverage (average borrowings divided by average assets) of 78.8%. Including average junior subordinated notes of $175.9 million as equity, our average leverage was 67.8%. The net interest income earned in 2012 yielded an 11.4% return on our average net investment during the year. This yield was computed by dividing net interest (interest income less interest expense) earned in 2012 by average equity (computed as average assets minus average borrowings) invested during the year.

Our business plan contemplates that our leverage ratio, including our junior subordinated notes as equity, will be around 70% to 80% of our assets in the aggregate. However, including our junior subordinated notes as equity, our leverage is generally not to exceed 80% of the value of our portfolio assets, before loan loss reserves, when considering additional financing sources unless approval to exceed the 80% limit is obtained from our Board of Directors. See "Operating Policies and Strategies" below for further details.

The following table sets forth information regarding our loan and investment portfolio as of December 31, 2012:

Type	Asset Class	Number	Unpaid Principal (Dollars in Thousands)	Weighted Average Pay Rate(1)	Weighted Average Remaining Maturity (months)
Bridge Loans	Multi Family	56	$ 582,606	5.42%	24.8
	Office	12	183,093	5.95%	34.2
	Land	8	131,413	0.09%	5.3
	Hotel	3	66,942	6.59%	29.4
	Commercial	1	23,323	3.47%	55.0
	Retail	3	19,350	6.64%	28.1
		83	1,006,727	4.87%	25.0
Mezzanine Loans	Multi Family	18	70,960	4.82%	88.5
	Office	3	22,079	9.65%	29.7
	Land	1	9,333	—	6.0
	Condo	1	10,000	—	5.0
	Commercial	1	472	4.47%	55.0
		24	112,844	4.94%	62.6
Junior Participations	Multi Family	1	32,000	1.13%	15.0
	Office	6	209,991	4.71%	33.2
	Hotel	2	38,671	1.81%	18.4
		9	280,662	3.90%	29.1
Preferred Equity	Multi Family	10	85,574	4.09%	82.6
	Condo	2	15,250	17.00%	14.0
		12	100,824	6.04%	72.2
Total		128	$ 1,501,057	4.77%	31.8

(1) "Weighted Average Pay Rate" is a weighted average, based on the unpaid principal balances of each loan in the Company's portfolio, of the interest rate that is required to be paid monthly as stated in the individual loan agreements. Certain loans and investments that require an additional rate of interest "Accrual Rate" to be paid at the maturity are not included in the weighted average pay rate as shown in the table.

The following table sets forth geographic and asset class information regarding our loan and investment portfolio as of December 31, 2012:

Geographic Location	Unpaid Principal (Dollars in Thousands)	Percentage(1)	Asset Class	Unpaid Principal (Dollars in Thousands)	Percentage(1)
New York	$ 508,025	33.8%	Multi Family	$ 771,140	51.4%
California	155,615	10.5%	Office	415,162	27.6%
Texas	146,603	9.8%	Land	140,746	9.4%
Florida	113,060	7.5%	Hotel	105,614	7.0%
Maryland	46,900	3.1%	Condo	25,250	1.7%
Tennessee	38,986	2.6%	Commercial	23,795	1.6%
Illinois	35,843	2.4%	Retail	19,350	1.3%
Georgia	35,180	2.3%			
New Jersey	33,850	2.3%			
Michigan	33,497	2.2%			
Missouri	32,007	2.1%			
Diversified	164,254	10.9%			
Other(2)	157,237	10.5%			
Total	$1,501,057	100.0%	Total	$1,501,057	100.0%

(1) Based on a percentage of the total unpaid principal balance of the underlying loans.

(2) No other individual state makes up more than 2% of the total.

Our Investments in Securities

We also own a diversified portfolio of mortgage-related securities.

Equity Securities. During 2007, we purchased 2,939,465 shares of common stock of Realty Finance Corporation, formerly CBRE Realty Finance, Inc., a commercial real estate specialty finance company for $16.7 million, which had a fair value of $0.3 million and are classified as available-for-sale at December 31, 2012.

Commercial Real Estate Collateralized Debt Obligation Bonds. One commercial real estate CDO bond with a fair value of $1.1 million is classified as an available-for-sale security at December 31, 2012. The CDO bond security bears interest at a spread of 30 basis points over LIBOR, has a stated maturity of 39.3 years, but has an estimated remaining life of 3.3 years due to the maturities of the underlying assets.

Commercial Mortgage-Backed Securities. A CMBS rake bond with a fair value of $2.1 million, collateralized by a portfolio of hotel properties, is classified as an available-for-sale security at December 31, 2012. The CMBS investment bears interest at a spread of 89 basis points over LIBOR, has a stated maturity of 7.5 years, but has an estimated remaining life of 1.5 years due to the maturity of the underlying asset.

Residential Mortgage-Backed Securities. 16 RMBS investments, which are collateralized by portfolios of residential properties, were classified as securities held-to-maturity at December 31, 2012. The RMBS investments are reduced by principal paydowns, bear interest at a weighted average rate of 5.75%, have a weighted average stated maturity of 29.7 years but have average estimated lives of 4.0 years based on the estimated maturity of the RMBS investments, and a total carrying value of $43.0 million at December 31, 2012. The RMBS investments were financed with repurchase agreements with two financial institutions which generally finance 60% to 90% of the value of each individual

RMBS investment and are also reduced by principal paydowns. The total financing amount was $35.8 million at December 31, 2012. We intend to hold the investments to maturity.

For the year ended December 31, 2012, the total average yield on the above securities based on their face values was 4.51%, including the amortization of premium.

Regulatory Aspects of Our Investment Strategy

Real Estate Exemption from Investment Company Act. We believe that we conduct, and we intend to conduct, our business at all times in a manner that avoids registration as an investment company under the Investment Company Act of 1940, as amended, or the Investment Company Act. Entities that are primarily engaged in the business of purchasing or otherwise acquiring "mortgages and other liens on and interests in real estate," are currently exempt from registration under the Investment Company Act if they maintain at least 55% of their assets directly in qualifying real estate assets and meet certain other requirements. Assets that qualify for purposes of this 55% test include, among other things, direct investments in real estate and mortgage loans. Our bridge loans, which are secured by first mortgage liens on the underlying properties, and our loans that are secured by second mortgage liens on the underlying properties generally qualify for purposes of this 55% test. These two types of loans constituted more than 55% of our assets as of December 31, 2012. The regulatory authorities are currently reviewing the interpretive guidance under the above exemption. Refer to Item 1A "Risk Factors—Risks Related to Our Business—Failure to maintain an exemption from regulation as an investment company under the Investment Company Act would adversely affect our results of operations" for more information.

Investment Advisors Act. Our manager is required to register under the Investment Advisors Act of 1940, or the Investment Advisors Act, and is thereby subject to the extensive regulation prescribed by the statute and the regulations thereunder.

Our investment guidelines provide that no more than 15% of our assets may consist of any type of mortgage-related securities and that the percentage of our investments in mortgage-related securities as compared to our structured finance investments be monitored on a regular basis.

Management Agreement

On July 1, 2003, we and our operating partnership entered into a management agreement with ACM. On January 19, 2005, we, our operating partnership, Arbor Realty SR, Inc., one of our subsidiaries and ACM entered into an amended and restated management agreement with substantially the same terms as the original management agreement in order to add Arbor Realty SR, Inc. as a beneficiary of ACM's services. The management agreement was further amended in August 2009. Pursuant to the terms of the management agreement, our manager has agreed to service and manage our investments and to provide us with multi-family and commercial real estate-related structured finance investment opportunities, finance and other services necessary to operate our business. Our manager is required to provide a dedicated management team to provide these services to us, the members of which will devote such of their time to our management as our independent directors reasonably deem necessary and appropriate, commensurate with our level of activity from time to time. We rely to a significant extent on the facilities and resources of our manager to conduct our operations. For performing services under the management agreement, ACM receives a base management fee, incentive compensation and "success-based" compensation as described in "Management's Discussion and Analysis of Financial Condition and Results of Operations" under Item 7 of this report.

Operations

Our Manager's Investment Services. Under the management agreement, ACM is responsible for sourcing originations, providing underwriting services and processing approvals for all loans and other

investments in our portfolio. ACM also provides certain administrative loan servicing functions with respect to our loans and investments. We are able to capitalize on ACM's well established operations and services in each area described below.

Origination. Our manager originates most of our investments. ACM has a network of sales offices located in Birmingham, Alabama; Bloomfield Hills, Michigan; Boston, Massachusetts; Dallas, Texas; Los Angeles, California; New York, New York; Philadelphia, Pennsylvania; and Uniondale, New York. These offices are staffed by over 20 loan originators who solicit property owners, developers and mortgage loan brokers. In some instances, the originators accept loan applications meeting our underwriting criteria from a select group of mortgage loan brokers. While a large portion of ACM's marketing effort occurs at the branch level, ACM also markets its products in national industry publications and targeted direct mailings. ACM markets structured finance products and our product offerings using the same methods. Once potential borrowers have been identified, ACM determines which financing products best meet the borrower's needs. Loan originators in every branch office are able to offer borrowers the full array of ACM's and our structured finance products. After identifying a suitable product, ACM works with the borrower to prepare a loan application. Upon completion by the borrower, the application is forwarded to ACM's underwriters for due diligence.

Underwriting. ACM's loan originators work in conjunction with its underwriters who perform due diligence on all proposed transactions prior to loan approval and commitment. The underwriters analyze each loan application in accordance with the guidelines set forth below in order to determine the loan's conformity with respect to such guidelines. In general, ACM's underwriting guidelines require it to evaluate the following: the historic and current property revenues and expenses; the potential for near-term revenue growth and opportunity for expense reduction and increased operating efficiencies; the property's location, its attributes and competitive position within its market; the proposed ownership structure, financial strength and real estate experience of the borrower and property management; third party appraisal, environmental and engineering studies; market assessment, including property inspection, review of tenant lease files, surveys of property comparables and an analysis of area economic and demographic trends; review of an acceptable mortgagee's title policy and an "as built" survey; construction quality of the property to determine future maintenance and capital expenditure requirements; and the requirements for any reserves, including those for immediate repairs or rehabilitation, replacement reserves, tenant improvement and leasing commission costs, real estate taxes and property casualty and liability insurance. Key factors considered in credit decisions include, but are not limited to, debt service coverage, loan to value ratios and property, financial and operating performance. Consideration is also given to other factors, such as additional forms of security and identifying likely strategies to affect repayment. ACM continuously refines its underwriting criteria based upon actual loan portfolio experience and as market conditions and investor requirements evolve.

Investment Approval Process. ACM applies its established investment approval process to all loans and other investments proposed for our portfolio before submitting each proposal to us for final approval. A written report is generated for every loan or other investment that is submitted to ACM's credit committee for approval. The report includes a description of the prospective borrower and any guarantors, the collateral and the proposed use of investment proceeds, as well as borrower and property consolidated financial statements and analysis. In addition, the report includes an analysis of borrower liquidity, net worth, cash investment, income, credit history and operating experience. If the transaction is approved by a majority of ACM's credit committee, it is presented for approval to our credit committee, which consists of our chief executive officer, chief credit officer, and executive vice president of structured finance. All transactions require the approval of a majority of the members of our credit committee. Following the approval of any such transaction, ACM's underwriting and servicing departments, together with our asset management group, assure that all loan approval terms have been satisfied and conform with lending requirements established for that particular transaction. If

our credit committee rejects the loan and our independent directors allow ACM or one of its affiliates to pursue it, ACM will have the opportunity to execute the transaction.

Servicing. ACM services our loans and investments through its internal servicing operations. Our manager currently services an expanding portfolio, consisting of 1,912 loans with outstanding balances of approximately $10.0 billion through its loan administration department in Buffalo, New York. ACM's loan servicing operations are designed to provide prompt customer service and accurate and timely information for account follow up, financial reporting and management review. Following the funding of an approved loan, all pertinent loan data is entered into ACM's data processing system, which provides monthly billing statements, tracks payment performance and processes contractual interest rate adjustments on variable rate loans. Our manager utilizes the operations of its loan administration department to service our portfolio with the same efficiency, accuracy and promptness. ACM also works closely with our asset management group to ensure the appropriate level of customer service and monitoring of these loans.

Our Asset Management Operations. Our asset management group is comprised of over 20 employees. Effective asset and portfolio management is essential to maximize the performance and value of a real estate investment. The asset management group customizes an asset management plan with the loan originators and underwriters to track each investment from origination through disposition. This group monitors each investment's operating history, local economic trends and rental and occupancy rates and evaluates the underlying property's competitiveness within its market. This group assesses ongoing and potential operational and financial performance of each investment in order to evaluate and ultimately improve its operations and financial viability. The asset management group performs frequent onsite inspections, conducts meetings with borrowers and evaluates and participates in the budgeting process, financial and operational review and renovation plans of each of the underlying properties. As an asset and portfolio manager, the asset management group focuses on increasing the productivity of onsite property managers and leasing brokers. This group communicates the status of each transaction against its established asset management plan to senior management, in order to enhance and preserve capital, as well as to avoid litigation and potential exposure.

Timely and accurate identification of an investment's operational and financial issues and each borrower's objectives is essential to implementing an executable loan workout and restructuring process, if required. Since existing property management may not have the requisite expertise to manage the workout process effectively, our internal asset management group determines the current operating and financial status of an asset or portfolio and performs a liquidity analysis of the property and ownership entity and then, if appropriate, identifies and evaluates alternatives in order to maximize the value of an investment.

Our asset management group continues to provide its services to ACM on a limited basis pursuant to an asset management services agreement between ACM and us. The asset management services agreement will be effective throughout the term of our management agreement and during the origination period described in the management agreement. In the event the services provided by our asset management group, pursuant to this agreement, exceed more than 15% per quarter, the level anticipated by our Board of Directors, we will negotiate in good faith with our manager an adjustment to our manager's base management fee under the management agreement, to reduce the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group.

Operating Policies and Strategies

Investment Guidelines. Our Board of Directors has adopted general guidelines for our investments and borrowings to the effect that: (1) no investment will be made that would cause us to fail to qualify as a REIT; (2) no investment will be made that would cause us to be regulated as an

investment company under the Investment Company Act; (3) no more than 25% of our equity (including junior subordinated notes as equity), determined as of the date of such investment, will be invested in any single asset; (4) no single mezzanine loan or preferred equity investment will exceed $75 million; (5) our leverage (including junior subordinated notes as equity) will generally not exceed 80% of the unpaid principal balance of our assets, in the aggregate; (6) we will not co-invest with our manager or any of its affiliates unless such co-investment is otherwise in accordance with these guidelines and its terms are at least as favorable to us as to our manager or the affiliate making such co-investment; (7) no more than 15% of our gross assets may consist of mortgage-related securities. Any exceptions to the above general guidelines require the approval of our Board of Directors.

Financing Policies. We finance the acquisition of our structured finance investments primarily by borrowing against or "leveraging" our existing portfolio and using the proceeds to acquire additional mortgage assets. We expect to incur debt such that we will maintain an equity to assets ratio no less than 20% (including junior subordinated notes as equity), although the actual ratio may be lower from time to time depending on market conditions and other factors deemed relevant by our manager. Our charter and bylaws do not limit the amount of indebtedness we can incur, and the Board of Directors has discretion to deviate from or change our indebtedness policy at any time, provided that we are in compliance with our bank covenants. However, we intend to maintain an adequate capital base to protect against various business environments in which our financing and hedging costs might exceed the interest income from our investments.

Our investments are financed primarily by collateralized debt obligations, collateralized loan obligations, junior subordinate notes, and through repurchase agreements and other financing facilities with institutional lenders. Although we expect that these will be the principal means of leveraging our investments, we may issue common stock, preferred stock or secured or unsecured notes of any maturity if it appears advantageous to do so.

Credit Risk Management Policy. We are exposed to various levels of credit risk depending on the nature of our underlying assets and the nature and level of credit enhancements supporting our assets. We originate or purchase mortgage loans that meet our minimum debt service coverage standards. ACM, as our manager, our chief credit officer, and our asset management group, reviews and monitors credit risk and other risks of loss associated with each investment. In addition, ACM seeks to diversify our portfolio of assets to avoid undue geographic, issuer, industry and certain other types of concentrations. Our Board of Directors monitors the overall portfolio risk and reviews levels of provision for loss.

Interest Rate Risk Management Policy. To the extent that it is consistent with our election to qualify as a REIT, we generally follow an interest rate risk management policy intended to mitigate the negative effects of major interest rate changes. We minimize our interest rate risk from borrowings by attempting to structure the key terms of our borrowings to generally correspond to the interest rate terms of our assets.

We may enter into hedging transactions to protect our investment portfolio from interest rate fluctuations and other changes in market conditions. These transactions may include interest rate swaps, the purchase or sale of interest rate collars, caps or floors, options, mortgage derivatives and other hedging instruments. These instruments may be used to hedge as much of the interest rate risk as ACM determines is in the best interest of our stockholders, given the cost of such hedges and the need to maintain our status as a REIT. In general, income from hedging transactions does not constitute qualifying income for purposes of the REIT gross income requirements. To the extent, however, that a hedging contract reduces interest rate risk on indebtedness incurred to acquire or carry real estate assets, any income that is derived from the hedging contract, would not give rise to non-qualifying income for purposes of the 75% or 95% gross income tests. ACM may elect to have us bear a level of

interest rate risk that could otherwise be hedged when it believes, based on all relevant facts, that bearing such risk is advisable.

To date, we have entered into various interest rate swaps in connection with the issuance of floating rate secured notes, the issuance of variable rate junior subordinate notes and to hedge the interest risk on forecasted outstanding LIBOR based debt. The notional amount of each interest rate swap agreement and the related terms have been designed to protect our investment portfolio from interest rate risk and to match the payment and receipts of interest on the underlying debt instruments, where applicable.

Disposition Policies. ACM evaluates our asset portfolio on a regular basis to determine if it continues to satisfy our investment criteria. Subject to certain restrictions applicable to REITs, ACM may cause us to sell our investments opportunistically and use the proceeds of any such sale for debt reduction, additional acquisitions, or working capital purposes.

Equity Capital Policies. Subject to applicable law, our Board of Directors has the authority, without further stockholder approval, to issue additional authorized common stock and preferred stock or otherwise raise capital, including through the issuance of senior securities, in any manner and on the terms and for the consideration it deems appropriate, including in exchange for property. We may in the future issue common stock in connection with acquisitions. We also may issue units of partnership interest in our operating partnership in connection with acquisitions of property. We may, under certain circumstances, repurchase our common stock in private transactions with our stockholders, if those purchases are approved by our Board of Directors.

Conflicts of Interest Policies. We, our executive officers, and ACM face conflicts of interests because of our relationships with each other. ACM currently has approximately 17% of the voting interest in our common stock. Mr. Kaufman, our chairman and chief executive officer, is the chief executive officer of ACM and beneficially owns approximately 92% of the outstanding membership interests of ACM. Mr. Martello, one of our directors, is the chief operating officer of Arbor Management, LLC (the managing member of ACM) and a trustee of two trusts which own minority membership interests in ACM. Mr. Bishar, our secretary, who was a director until January 27, 2012, is general counsel to ACM. Mr. Elenio, our chief financial officer and treasurer, is the chief financial officer of ACM. Each of Messrs. Kaufman, Martello, Bishar, and Elenio, as well as Mr. Weber, our executive vice president of structured finance and Mr. Kilgore, our executive vice president of structured securitization are members of ACM's executive committee and, excluding Mr. Kaufman, own minority membership interests in ACM.

We have implemented several policies, through board action and through the terms of our charter and our agreements with ACM, to help address these conflicts of interest, including the following:

- Our charter requires that a majority of our Board of Directors be independent directors and that only our independent directors make any determination on our behalf with respect to the relationships or transactions that present a conflict of interest for our directors or officers.

- Our Board of Directors has adopted a policy that decisions concerning our management agreement with ACM, including termination, renewal and enforcement thereof or our participation in any transactions with ACM or its affiliates outside of the management agreement, including our ability to purchase securities and mortgages or other assets from ACM, or our ability to sell securities and assets to ACM, must be reviewed and approved by a majority of our independent directors.

- Our management agreement provides that our determination to terminate the management agreement for cause or because the management fees are unfair to us or because of a change in control of our manager, will be made by a majority vote of our independent directors.

- Our independent directors will periodically review the general investment standards established by ACM under the management agreement.

- Our management agreement with ACM provides that ACM may not assign duties under the management agreement, except to certain affiliates of ACM, without the approval of a majority of our independent directors.

- Our management agreement provides that decisions to approve or reject investment opportunities rejected by our credit committee that ACM or Mr. Kaufman wish to pursue will be made by a majority of our independent directors.

Our Board of Directors has approved the operating policies and the strategies set forth above. Our Board of Directors has the power to modify or waive these policies and strategies, or amend our agreements with ACM, without the consent of our stockholders to the extent that the Board of Directors (including a majority of our independent directors) determines that such modification or waiver is in the best interest of our stockholders. Among other factors, developments in the market that either affect the policies and strategies mentioned herein or that change our assessment of the market may cause our Board of Directors to revise its policies and strategies. However, if such modification or waiver involves the relationship of, or any transaction between, us and our manager or any affiliate of our manager, the approval of a majority of our independent directors is also required. We may not, however, amend our charter to change the requirement that a majority of our board consists of independent directors or the requirement that our independent directors approve related party transactions without the approval of two thirds of the votes entitled to be cast by our stockholders.

Compliance with Federal, State and Local Environmental Laws

Properties that we may acquire directly or indirectly through partnerships, and the properties underlying our structured finance investments and mortgage-related securities, are subject to various federal, state and local environmental laws, ordinances and regulations. Under these laws, ordinances and regulations, a current or previous owner of real estate (including, in certain circumstances, a secured lender that acquires ownership or control of a property) may become liable for the costs of removal or remediation of certain hazardous or toxic substances or petroleum product releases at, on, under or in its property. These laws typically impose cleanup responsibility and liability without regard to whether the owner or control party knew of or was responsible for the release or presence of the hazardous or toxic substances. The costs of investigation, remediation or removal of these substances may be substantial and could exceed the value of the property. An owner or control party of a site may be subject to common law claims by third parties based on damages and costs resulting from environmental contamination emanating from a site. Certain environmental laws also impose liability in connection with the handling of or exposure to materials containing asbestos. These laws allow third parties to seek recovery from owners of real properties for personal injuries associated with materials containing asbestos. Our operating costs and the values of these assets may be adversely affected by the obligation to pay for the cost of complying with existing environmental laws, ordinances and regulations, as well as the cost of complying with future legislation, and our income and ability to make distributions to our stockholders could be affected adversely by the existence of an environmental liability with respect to properties we may acquire. We will endeavor to ensure that these properties are in compliance in all material respects with all federal, state and local laws, ordinances and regulations regarding hazardous or toxic substances or petroleum products.

Competition

Our net income depends, in large part, on our manager's ability to originate structured finance investments with spreads over our borrowing costs. In originating these investments, our manager

competes with other mortgage REITs, specialty finance companies, savings and loan associations, banks, mortgage bankers, insurance companies, mutual funds, institutional investors, investment banking firms, other lenders, governmental bodies and other entities, some of which may have greater financial resources and lower costs of capital available to them. In addition, there are numerous mortgage REITs with asset acquisition objectives similar to ours, and others may be organized in the future. The existence of additional REITs may increase competition for the available supply of structured finance assets suitable for purchase by us. Competitive variables include market presence and visibility, size of loans offered and underwriting standards. To the extent that a competitor is willing to risk larger amounts of capital in a particular transaction or to employ more liberal underwriting standards when evaluating potential loans, our origination volume and profit margins for our investment portfolio could be impacted. Our competitors may also be willing to accept lower returns on their investments and may succeed in buying the assets that we have targeted for acquisition. Although management believes that we are well positioned to continue to compete effectively in each facet of our business, there can be no assurance that we will do so or that we will not encounter further increased competition in the future that could limit our ability to compete effectively.

Employees

We have 30 employees, including Messrs. Weber and Kilgore, Mr. Felletter, our senior vice president of asset management, Mr. Guziewicz, our chief credit officer, and a 23 person asset management group. Mr. Kaufman, our chief executive officer and Mr. Elenio, our chief financial officer are full time employees of ACM and are not directly compensated by us (other than pursuant to our equity incentive plans), however, a portion of their compensation is reimbursed by the management fee that we pay to ACM, as well as a cash performance plan for Mr. Kaufman as discussed in our Proxy Statement.

Corporate Governance and Internet Address

We have adopted corporate governance guidelines and a code of business conduct and ethics, which delineate our standards for our directors, officers and employees, and the employees of our manager who provide services to us. We emphasize the importance of professional business conduct and ethics through our corporate governance initiatives.

Our internet address is www.arborrealtytrust.com. We make available, free of charge through a link on our site, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to such reports, if any, as filed with the SEC as soon as reasonably practicable after such filing. Our site also contains our code of business conduct and ethics, code of ethics for chief executive and senior financial officers, corporate governance guidelines, stockholder communications with the Board of Directors, and the charters of the audit committee, nominating/corporate governance committee, and compensation committee of our Board of Directors. No information contained in or linked to our website is incorporated by reference in this report.

ITEM 1A. *RISK FACTORS*

Our business is subject to various risks, including the risks listed below. If any of these risks actually occur, our business, financial condition and results of operations could be materially adversely affected and the value of our common stock could decline.

Risks Related to Our Business

A prolonged economic slowdown, a lengthy or severe recession, or declining real estate values could harm our operations.

Over the last several years, global stock and credit markets have experienced prolonged price volatility, dislocations and liquidity disruptions, which have caused market prices of many stocks to fluctuate substantially. We believe the risks associated with our business are more severe during periods of economic downturn if these periods are accompanied by declining real estate values. Declining real estate values would likely limit our new mortgage loan originations, since borrowers often use increases in the value of their existing properties to support the purchase or investment in additional properties. Borrowers may also be less able to pay principal and interest on our loans if the real estate economy weakens. Declining real estate values also significantly increase the likelihood that we will incur losses on our loans in the event of default because the value of our collateral may be insufficient to cover our cost on the loan. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect both our net interest income from loans in our portfolio as well as our ability to originate, sell and securitize loans, which would significantly harm our revenues, results of operations, financial condition, business prospects and our ability to make distributions to the stockholders.

Prolonged disruptions in the financial markets could affect our ability to obtain financing on reasonable terms and have other adverse effects on us and the market price of our common stock.

Commercial real estate is particularly adversely affected by a prolonged economic downturn and liquidity crisis. These circumstances materially impacted liquidity in the financial markets and resulted in the scarcity of certain types of financing, and, in certain cases, made certain financing terms less attractive. If these conditions persist, lending institutions may be forced to exit markets such as repurchase lending, become insolvent, further tighten their lending standards or increase the amount of equity capital required to obtain financing, and in such event, could make it more difficult for us to obtain financing on favorable terms or at all. Our profitability will be adversely affected if we are unable to obtain cost-effective financing for our investments. A prolonged downturn in the stock or credit markets may cause us to seek alternative sources of potentially less attractive financing, and may require us to adjust our business plan accordingly. In addition, these factors may make it more difficult for our borrowers to repay our loans as they may experience difficulties in selling assets, increased costs of financing or obtaining financing at all. These events in the stock and credit markets may also make it more difficult or unlikely for us to raise capital through the issuance of our common stock or preferred stock. These disruptions in the financial markets also may have a material adverse effect on the market value of our common stock and other adverse effects on us or the economy in general.

Increases in loan loss reserves and other impairments are likely if economic conditions deteriorate.

A further decline in economic conditions could negatively impact the credit quality of our loans and investments portfolio. If we do not see a continued stabilization of the financial markets and such market conditions decline further, we will likely experience increases in loan loss reserves, potential defaults and other asset impairment charges.

Loan loss reserves are particularly difficult to estimate in a turbulent economic environment.

We perform an evaluation of our loans on a quarterly basis to determine whether an impairment is necessary and adequate to absorb probable losses. The valuation process for our loans and investments

portfolio requires us to make certain estimates and judgments, which are particularly difficult to determine during a period in which the availability of commercial real estate credit is limited and commercial real estate transactions have decreased. Our estimates and judgments are based on a number of factors, including projected cash flows from the collateral securing our commercial real estate loans, loan structure, including the availability of reserves and recourse guarantees, likelihood of repayment in full at the maturity of a loan, potential for a refinancing market coming back to commercial real estate in the future and expected market discount rates for varying property types. If our estimates and judgments are not correct, our results of operations and financial condition could be severely impacted.

Loan repayments are less likely in a volatile market environment.

In a market in which liquidity is essential to our business, loan repayments have been a significant source of liquidity for us. However, many financial institutions have drastically curtailed new lending activity and real estate owners are having difficulty refinancing their assets at maturity. If borrowers are not able to refinance loans at their maturity, the loans could go into default and the liquidity that we would receive from such repayments will not be available. Furthermore, without a functioning commercial real estate finance market, borrowers that are performing on their loans will most likely extend such loans if they have that right, which will further delay our ability to access liquidity through repayments.

We may not be able to access the debt or equity capital markets on favorable terms, or at all, for additional liquidity, which could adversely affect our business, financial condition and operating results.

Additional liquidity, future equity or debt financing may not be available on terms that are favorable to us, or at all. Our ability to access additional debt and equity capital depends on various conditions in these markets, which are beyond our control. If we are able to complete future equity offerings, they could be dilutive to our existing shareholders or could result in the issuance of securities that have rights, preferences and privileges that are senior to those of our other securities. Our inability to obtain adequate capital could have a material adverse effect on our business, financial condition, liquidity and operating results.

We may be unable to invest excess equity capital on acceptable terms or at all, which would adversely affect our operating results.

We may not be able to identify investments that meet our investment criteria and we may not be successful in closing the investments that we identify. In addition, the investments that we acquire with our equity capital may not produce a return on capital. There can be no assurance that we will be able to identify attractive opportunities to invest our equity capital, which would adversely affect our results of operations.

Changes in market conditions could adversely affect the market price of our common stock.

As with other publicly traded equity securities, the value of our common stock depends on various market conditions which may change from time to time. Among the market conditions that may affect the value of our common stock are the following:

- the general reputation of REITs and the attractiveness of our equity securities in comparison to other equity securities, including securities issued by other real estate-based companies;
- our financial performance; and
- general stock and bond market conditions.

The market value of our common stock is based primarily upon the market's perception of our growth potential and our current and potential future earnings and dividends. Consequently, our

common stock may trade at prices that are higher or lower than our book value per share of common stock. If our future earnings or dividends are less than expected, it is likely that the market price of our common stock will diminish.

A declining portfolio could adversely affect the returns from our investments.

Dislocations in the market could lead to a reduction in our loans and investments portfolio. If we do not have the opportunity to originate quality investments to replace the reductions in our portfolio, this reduction will likely result in reduced returns from our investments.

Our investments in commercial mortgage-related securities are subject to risks relating to the particular REIT issuer of the securities, which may result in losses to us.

Our investments in commercial mortgage-related securities involve special risks relating to the particular issuer of the securities, including the financial condition and business outlook of the issuer. The issuers of these securities are experiencing many of the same risks of disruptions in the financial markets and economic conditions. In addition, our investments are also subject to the risks described above with respect to commercial real estate loans and mortgage-backed securities and similar risks, including risks of delinquency and foreclosure, the dependence upon the successful operation of, and net income from, real property, risks generally related to interests in real property, and risks that may be presented by the type and use of a particular commercial property. REITs have been severely impacted by the economic environment and have had very little access to the capital markets or the debt markets in order to meet their existing obligations or to refinance maturing debt.

Our investments in residential mortgage-related securities are subject to risks relating to the particular issuer of the securities, which may result in losses to us.

Our investments in residential mortgage-related securities involve special risks relating to the particular issuer of the securities, including the financial condition of the individual borrowers and the value of the individual assets. The issuers of these securities are experiencing many of the same risks resulting from continued disruptions in the financial markets and deteriorating economic conditions. In addition, our investments are also subject to the risks with respect to residential real estate loans and mortgage-backed securities and similar risks, including risks of delinquency and foreclosure, and risks generally related to interests in real property.

We depend on key personnel with long standing business relationships, the loss of whom could threaten our ability to operate our business successfully.

Our future success depends, to a significant extent, upon the continued services of ACM as our manager and ACM's officers and employees. In particular, the mortgage lending experience of Mr. Kaufman and Mr. Weber and the extent and nature of the relationships they have developed with developers and owners of multi-family and commercial properties and other financial institutions are critical to the success of our business. We cannot assure their continued employment with ACM or service as our officers. The loss of services of one or more members of our or ACM's management team could harm our business and our prospects.

The real estate investment business is highly competitive. Our success depends on our ability to compete with other providers of capital for real estate investments.

Our business is highly competitive. Competition may cause us to accept economic or structural features in our investments that we would not have otherwise accepted and it may cause us to search for investments in markets outside of our traditional product expertise. We compete for attractive investments with traditional lending sources, such as insurance companies and banks, as well as other REITs, specialty finance companies and private equity vehicles with similar investment objectives, which

may make it more difficult for us to consummate our target investments. Many of our competitors have greater financial resources and lower costs of capital than we do, which provides them with greater operating flexibility and a competitive advantage relative to us.

We may not achieve our targeted rate of return on our investments.

We originate or acquire investments based on our estimates or projections of overall rates of return on such investments, which in turn are based upon, among other considerations, assumptions regarding the performance of assets, the amount and terms of available financing to obtain desired leverage and the manner and timing of dispositions, including possible asset recovery and remediation strategies, all of which are subject to significant uncertainty. In addition, events or conditions that we have not anticipated may occur and may have a significant effect on the actual rate of return received on an investment.

As we acquire or originate investments for our balance sheet portfolio, whether as new additions or as replacements for maturing investments, there can be no assurance that we will be able to originate or acquire investments that produce rates of return comparable to returns on our previous or existing investments.

Our due diligence may not reveal all of a borrower's liabilities and may not reveal other weaknesses in its business.

Before investing in a company or making a loan to a borrower, we will assess the strength and skills of such entity's management and other factors that we believe are material to the performance of the investment. In making the assessment and otherwise conducting customary due diligence, we will rely on the resources available to us and, in some cases, an investigation by third parties. This process is particularly important and subjective with respect to newly organized entities because there may be little or no information publicly available about the entities. There can be no assurance that our due diligence processes will uncover all relevant facts or that any investment will be successful.

We invest in junior participation loans which may be subject to additional risks relating to the privately negotiated structure and terms of the transaction, which may result in losses to us.

We invest in junior participation loans which is a mortgage loan typically (i) secured by a first mortgage on a single commercial property or group of related properties and (ii) subordinated to a senior note secured by the same first mortgage on the same collateral. As a result, if a borrower defaults, there may not be sufficient funds remaining for the junior participation loan after payment is made to the senior note holder. Since each transaction is privately negotiated, junior participation loans can vary in their structural characteristics and risks. For example, the rights of holders of junior participation loans to control the process following a borrower default may be limited in certain investments. We cannot predict the terms of each junior participation investment. A junior participation may not be liquid and, consequently, we may be unable to dispose of underperforming or non-performing investments. The higher risks associated with a subordinate position in any investments we make could subject us to increased risk of losses.

We invest in mezzanine loans which are subject to a greater risk of loss than loans with a first priority lien on the underlying real estate.

We invest in mezzanine loans that take the form of subordinated loans secured by second mortgages on the underlying property or loans secured by a pledge of the ownership interests of either the entity owning the property or a pledge of the ownership interests of the entity that owns the interest in the entity owning the property. These types of investments involve a higher degree of risk than long-term senior mortgage lending secured by income producing real property because the investment may become unsecured as a result of foreclosure by the senior lender. In the event of a

bankruptcy of the entity providing the pledge of its ownership interests as security, we may not have full recourse to the assets of such entity, or the assets of the entity may not be sufficient to satisfy our mezzanine loan. If a borrower defaults on our mezzanine loan or debt senior to our loan, or in the event of a borrower bankruptcy, our mezzanine loan will be satisfied only after the senior debt. As a result, we may not recover some or all of our investment. In addition, mezzanine loans may have higher loan to value ratios than conventional mortgage loans, resulting in less equity in the property and increasing the risk of loss of principal.

Preferred equity investments involve a greater risk of loss than traditional debt financing.

We invest in preferred equity investments, which involve a higher degree of risk than traditional debt financing due to a variety of factors, including that such investments are subordinate to other loans and are not secured by property underlying the investment. Furthermore, should the issuer default on our investment, we would only be able to proceed against the partnership in which we have an interest, and not the property underlying our investment. As a result, we may not recover some or all of our investment.

We invest in multi-family and commercial real estate loans, which may involve a greater risk of loss than single family real estate loans.

Our investments include multi-family and commercial real estate loans that are considered to involve a higher degree of risk than single family residential lending because of a variety of factors, including generally larger loan balances, dependency for repayment on successful operation of the mortgaged property and tenant businesses operating therein, and loan terms that include amortization schedules longer than the stated maturity and provide for balloon payments at stated maturity rather than periodic principal payments. In addition, the value of commercial real estate can be affected significantly by the supply and demand in the market for that type of property.

Volatility of values of multi-family and commercial properties may adversely affect our loans and investments.

Multi-family and commercial property values and net operating income derived from such properties are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, events such as natural disasters, including hurricanes and earthquakes, acts of war and/or terrorism and others that may cause unanticipated and uninsured performance declines and/or losses to us or the owners and operators of the real estate securing our investment; national, regional and local economic conditions, such as what we have experienced over the past several years (which may be adversely affected by industry slowdowns and other factors); local real estate conditions (such as an oversupply of housing, retail, industrial, office or other commercial space); changes or continued weakness in specific industry segments; construction quality, construction cost, age and design; demographic factors; retroactive changes to building or similar codes; and increases in operating expenses (such as energy costs). In the event a property's net operating income decreases, a borrower may have difficulty repaying our loan, which could result in losses to us. In addition, decreases in property values reduce the value of the collateral and the potential proceeds available to a borrower to repay our loans, which could also cause us to suffer losses.

Many of our commercial real estate loans are funded with interest reserves and our borrowers may be unable to replenish those interest reserves once they run out.

Given the transitional nature of many of our commercial real estate loans, we often require borrowers to post reserves to cover interest and operating expenses until the property cash flows are projected to increase sufficiently to cover debt service costs. We also generally required the borrower to replenish reserves if they become depleted due to underperformance or if the borrower wants to exercise extension options under the loan. Despite low interest rates, revenues on the properties underlying any commercial real estate loan investments would decrease in an economic downturn,

making it more difficult for borrowers to meet their payment obligations to us. In the future some of our borrowers may continue to have difficulty servicing our debt and will not have sufficient capital to replenish reserves, which could have a significant impact on our operating results and cash flows.

We may not have control over certain of our loans and investments.

Our ability to manage our portfolio of loans and investments may be limited by the form in which they are made. In certain situations, we may acquire investments subject to rights of senior classes and servicers under inter-creditor or servicing agreements; acquire only a participation in an underlying investment; co-invest with third parties through partnerships, joint ventures or other entities, thereby acquiring non-controlling interests; or rely on independent third party management or strategic partners with respect to the management of an asset. Therefore, we may not be able to exercise control over the loan or investment. Such financial assets may involve risks not present in investments where senior creditors, servicers or third party controlling investors are not involved. Our rights to control the process following a borrower default may be subject to the rights of senior creditors or servicers whose interests may not be aligned with ours. A third party partner or co-venturer may have financial difficulties resulting in a negative impact on such assets and may have economic or business interests or goals which are inconsistent with ours. In addition, we may, in certain circumstances, be liable for the actions of our third party partners or co-venturers.

Real estate property acquisitions may fail to perform as expected.

We may acquire new real estate properties through foreclosure proceedings or investment. Such newly acquired properties may not perform as expected and may subject us to unknown liabilities relating to such properties for clean-up of undisclosed environmental contamination or claims by tenants, vendors or other persons against the former owners of the properties. Inaccurate assumptions regarding future rental or occupancy rates could result in overly optimistic estimates of future revenues. In addition, future operating expenses or the costs necessary to bring an acquired property up to standards established for its intended market position may be underestimated.

The adverse resolution of a lawsuit could have a material adverse effect on our financial condition and results of operations.

The adverse resolution of litigation for which we have been named as a defendant could have a material adverse effect on our financial condition and results of operations.

The impact of any future terrorist attacks and the availability of terrorism insurance expose us to certain risks.

The terrorist attacks on September 11, 2001 disrupted the U.S. financial markets, including the real estate capital markets, and negatively impacted the U.S. economy in general. Any future terrorist attacks, the anticipation of any such attacks, and the consequences of any military or other response by the United States and its allies may have a further adverse impact on the U.S. financial markets and the economy in general. We cannot predict the severity of the effect that any such future events would have on the U.S. financial markets, the economy or our business. Any future terrorist attacks could adversely affect the credit quality of some of our loans and investments. Some of our loans and investments will be more susceptible to such adverse effects than others. We may suffer losses as a result of the adverse impact of any future terrorist attacks and these losses may adversely impact our results of operations.

In addition, the enactment of the Terrorism Risk Insurance Act of 2002, or the TRIA, and the subsequent enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007, which extended TRIA through the end of 2014, requires insurers to make terrorism insurance available under their property and casualty insurance policies in order to receive federal compensation under TRIA for

insured losses. However, this legislation does not regulate the pricing of such insurance. The absence of affordable insurance coverage may adversely affect the general real estate lending market, lending volume and the market's overall liquidity and may reduce the number of suitable investment opportunities available to us and the pace at which we are able to make investments. If the properties that we invest in are unable to obtain affordable insurance coverage, the value of those investments could decline and in the event of an uninsured loss, we could lose all or a portion of our investment.

We are required to comply with Section 404 of the Sarbanes-Oxley Act of 2002 and furnish a report on our internal control over financial reporting.

We are required to comply with Section 404 of the Sarbanes-Oxley Act of 2002. Section 404 requires us to assess and attest to the effectiveness of our internal control over financial reporting and requires our independent registered public accounting firm to opine as to the adequacy of our assessment and effectiveness of our internal control over financial reporting. In the future, we may not receive an unqualified opinion from our independent registered public accounting firm with regard to our internal control over financial reporting.

Failure to maintain an exemption from regulation as an investment company under the Investment Company Act would adversely affect our results of operations.

We believe that we conduct, and we intend to conduct our business in a manner that allows us to avoid being regulated as an investment company under the Investment Company Act. Pursuant to Section 3(c)(5)(C) of the Investment Company Act, entities that are primarily engaged in the business of purchasing or otherwise acquiring "mortgages and other liens on and interests in real estate" are currently exempted from regulation thereunder. The staff of the SEC has provided guidance on the availability of this exemption. Specifically, the staff's position generally requires us to maintain at least 55% of our assets directly in "qualifying real estate interests." To constitute as a qualifying real estate interest under this 55% test, an interest in real estate must meet various criteria. Loans that are secured by equity interests in entities that directly or indirectly own the underlying real property, rather than a mortgage on the underlying property itself, and ownership of equity interests in real property owners may not qualify for purposes of the 55% test depending on the type of entity. Mortgage-related securities that do not represent all of the certificates issued with respect to an underlying pool of mortgages may also not qualify for purposes of the 55% test. Therefore, our ownership of these types of loans and equity interests may be limited by the provisions of the Investment Company Act. There can be no assurance that the laws and regulations governing the Investment Company Act status of REITs, including the guidance of the Division of Investment Management of the SEC regarding this exemption, will not change in a manner that adversely affects our operations. To the extent that we do not comply with the SEC staff's 55% test, another exemption or exclusion from registration as an investment company under the Investment Company Act or other interpretations under the Investment Company Act, or if the SEC no longer permits our exemption, we may be deemed to be an investment company. If we fail to maintain an exemption or other exclusion from registration as an investment company we could, among other things, be required either (a) to substantially change the manner in which we conduct our operations to avoid being required to register as an investment company or (b) to register as an investment company, either of which could have an adverse effect on us and the market price of our common stock. If we were required to register as an investment company under the Investment Company Act, we would become subject to substantial regulation with respect to our capital structure (including our ability to use leverage), management, operations, transactions with affiliated persons (as defined in the Investment Company Act), portfolio composition, including restrictions with respect to diversification and industry concentration and other matters.

Our manager is required to register under the Investment Advisors Act, and is subject to regulation under that Act.

Following registration under the Investment Advisers Act of 1940, or the Investment Advisors Act, our manager is subject to the extensive regulation prescribed by that statute and the regulations thereunder. The SEC will oversee activities as a registered investment adviser under this regulatory regime. A failure to comply with the obligations imposed by the Investment Advisers Act, including record-keeping, advertising and operating requirements, disclosure obligations and prohibitions on fraudulent activities, could result in fines, censure, suspensions of personnel or investing activities or other sanctions, including revocation of our registration as an investment adviser. The regulations under the Investment Advisers Act are designed primarily to protect investors in our funds and other clients, and are not designed to protect holders of our publicly traded common stock. Even if a sanction imposed against our manager or its personnel involves a small monetary amount, the adverse publicity related to such sanction could harm our reputation and our relationship with our fund investors and impede our ability to raise additional capital or new funds. In addition, compliance with the Investment Advisors Act may require us to incur additional costs, and these costs may be material.

The Dodd-Frank Act may place restrictions on our business.

In July 2010, the Dodd-Frank Act was signed into law. The Dodd-Frank Act represents a comprehensive overhaul of the financial services industry within the United States and, among other things, requires various federal agencies, including the Securities and Exchange Commission, to adopt a broad range of new rules and regulations. These rules and regulations are intended to impose significant investment restrictions and capital requirements on banking entities and other organizations that are significant to U.S. financial markets. For instance, the Dodd-Frank Act will impose significant restrictions on the proprietary trading activities of certain banking entities and subject other systemically significant organizations regulated by the U.S. Federal Reserve to increased capital requirements and quantitative limits for engaging in such activities. The Dodd-Frank Act also seeks to reform the asset-backed securitization market (including the mortgage-backed securities market) by requiring the retention of a portion of the credit risk inherent in the pool of securitized assets and by imposing additional registration and disclosure requirements. Certain of the new requirements and restrictions exempt agency securities, other government issued or guaranteed securities, or other securities. Nonetheless, the Dodd-Frank Act also imposes significant regulatory restrictions on the origination of residential mortgage loans. Provisions of the Dodd-Frank Act relating to the regulation of derivatives may also result in a comprehensive reform of the derivatives market. While the full impact of the Dodd-Frank Act cannot be assessed until implementing regulations are finalized and ultimately adopted, the Dodd-Frank Act's extensive requirements may have a significant effect on the financial markets, and may affect the availability or terms of financing from our lender counterparties and the availability or terms of mortgage-backed securities, both of which could have an adverse effect on our business.

The impact of any future laws, as well as amendments to current laws, may place restrictions on our business.

Additional legislation could impose additional financial obligations or restrictions with respect to our business. The continued difficult economic environment has placed an increased level of scrutiny on the financial services sector, which has already expedited, to some degree, the signing of the Dodd-Frank Act as noted above. While the Dodd-Frank Act does represent a comprehensive overhaul of the financial services industry, it is possible that additional legislation could be deemed necessary and signed into law. At this time, it is difficult to predict the exact nature of any future legislation and the extent to which such legislation, if any, will impact our business, financial condition, or results of operations.

The effects of government regulation could negatively impact the market value of loans related to development projects.

Loans related to development projects bear additional risk in that government regulation could impact the value of the project by limiting the development of the property. If the proper approvals for the completion of the project are not granted, the value of the collateral may be adversely affected which may negatively impact the value of the loan.

Risks Related to Our Financing and Hedging Activities

We may not be able to access financing sources on favorable terms, or at all, which could adversely affect our ability to execute our business plan.

We generally finance our assets over the short and long-term through a variety of means, including repurchase agreements, credit facilities, junior subordinated notes, CDOs, CLOs and other structured financings. Our ability to execute this strategy depends on various conditions in the markets for financing in this manner that are beyond our control, including lack of liquidity and wider credit spreads, which we have seen over the past several years. If conditions deteriorate, we cannot assure that these sources are feasible as a means of financing our assets, as there can be no assurance that any existing agreements will be renewed or extended at expiration. If our strategy is not viable, we will have to find alternative forms of long-term financing for our assets, as credit facilities and repurchase facilities may not accommodate long-term financing. This could subject us to more recourse indebtedness and the risk that debt service on less efficient forms of financing would require a larger portion of our cash flows, thereby reducing cash available for distribution to our stockholders, funds available for operations as well as for future business opportunities.

Credit facilities may contain restrictive covenants relating to our operations.

Credit facilities may contain various financial covenants and restrictions, including minimum net worth, minimum liquidity and debt-to-equity ratios. Other restrictive covenants contained in credit facility agreements may include covenants that prohibit affecting a change in control, disposing of or encumbering assets being financed, maximum debt balance requirements, and restrictions from making material amendments to underwriting guidelines without approval of the lender. While we remain focused on actively managing our loans and investments portfolio, a continued weak environment will make maintaining compliance with future credit facilities' covenants more difficult. If we are not in compliance with any of these covenants, there can be no assurance that our lenders would waive or amend such non-compliance in the future and any such non-compliance could have a material adverse effect on us.

We may not be able to obtain the level of leverage necessary to optimize our return on investment.

Our return on investment depends, in part, upon our ability to grow our balance sheet portfolio of invested assets through the use of leverage at a cost of debt that is lower than the yield earned on our investments. We typically obtain leverage through the issuance of CDOs, CLOs, credit agreements, repurchase agreements and other borrowings. Our future ability to obtain the necessary leverage on beneficial terms ultimately depends upon the quality of the portfolio assets that collateralize our indebtedness. Our failure to obtain and/or maintain leverage at desired levels, or to obtain leverage on attractive terms, would have a material adverse effect on our performance. Moreover, we may be dependent upon a few lenders to provide financing under credit agreements and repurchase agreements for our origination or acquisition of loans and investments and there can be no assurance that these agreements will be renewed or extended at expiration. Our ability to obtain financing through CDOs and CLOs is subject to conditions in the debt capital markets which are impacted by factors beyond our control that may at times be adverse and reduce the level of investor demand for such securities.

The credit facilities and repurchase agreements that we may use to finance our investments may require us to provide additional collateral.

We may use credit facilities and repurchase agreements to finance some of our investments in the future. If the market value of the loans or RMBS investments pledged or sold by us to a funding source decline in value, we may be required by the lending institution to provide additional collateral or pay down a portion of the funds advanced. We may not have the funds available to pay down such future debt, which could result in defaults. Posting additional collateral to support these potential repurchase and credit facilities would reduce our liquidity and limit our ability to leverage our assets. In the event we do not have sufficient liquidity to meet such requirements, lending institutions can accelerate the indebtedness, increase interest rates and terminate our ability to borrow. Further, facility providers may require us to maintain a certain amount of uninvested cash or set aside unlevered assets sufficient to maintain a specified liquidity position which would allow us to satisfy our collateral obligations. As a result, we may not be able to leverage our assets as fully as we would choose, which could reduce our return on assets. In the event that we are unable to meet these collateral obligations, our financial condition could deteriorate rapidly.

The repurchase agreements we may use to finance our RMBS securities are generally short term agreements and may not be renewed by the counterparty throughout the life of the collateralized security.

The repurchase agreements we may use to finance the purchase of our RMBS securities are non-committed and expire every thirty days while the estimated life of these securities is significantly longer. While we fully expect these facilities to continually be renewed until our corresponding security position is liquidated, there is no guarantee or assurances that the counterparty will be willing or able to continue to extend the facility past the maturation date. If the counterparty does not renew the agreement, we would be required to repurchase the security immediately, or liquidate the securities in order to satisfy the amount owed under the facility. This could cause a forced liquidation of the securities which may result in a significant loss of value and may adversely affect our financial condition, liquidity and operating results.

Our use of leverage may create a mismatch with the duration and index of the investments that we are financing.

We attempt to structure our leverage such that we minimize the difference between the term of our investments and the leverage we use to finance such an investment. In the event that our leverage is for a shorter term than the financed investment, we may not be able to extend or find appropriate replacement leverage and that would have an adverse impact on our liquidity and our returns. In the event that our leverage is for a longer term than the financed investment, we may not be able to repay such leverage or replace the financed investment with an optimal substitute or at all, which will negatively impact our desired leveraged returns.

We attempt to structure our leverage such that we minimize the difference between the index of our investments and the index of our leverage —financing floating rate investments with floating rate leverage and fixed rate investments with fixed rate leverage. If such a product is not available to us from our lenders on reasonable terms, we may use hedging instruments to effectively create such a match. For example, in the case of fixed rate investments, we may finance such an investment with floating rate leverage, but effectively convert all or a portion of the attendant leverage to fixed rate using hedging strategies.

Our attempts to mitigate such risk are subject to factors outside of our control, such as the availability to us of favorable financing and hedging options, which is subject to a variety of factors, of which duration and term matching are only two such factors.

We utilize a significant amount of debt to finance our portfolio, which may subject us to an increased risk of loss, adversely affecting the return on our investments and reducing cash available for distribution.

We utilize a significant amount of debt to finance our operations, which may compound losses and reduce the cash available for distributions to our stockholders. We generally leverage our portfolio through the use of securitizations, including the issuance of CDOs, CLOs, bank credit facilities, repurchase agreements, and other borrowings. The leverage we employ varies depending on our availability of funds, ability to obtain credit facilities, the loan-to-value and debt service coverage ratios of our assets, the yield on our assets, the targeted leveraged return we expect from our portfolio and our ability to meet ongoing covenants related to our asset mix and financial performance. Substantially all of our assets are pledged as collateral for our borrowings. In addition, we may acquire real estate property subject to debt obligations. Our return on our investments and cash available for distribution to our stockholders may be reduced to the extent that changes in market conditions cause the cost of our financing to increase relative to the income that we can derive from the assets we acquire.

Our debt service payments, including payments in connection with any CDOs and CLOs, reduce the net income available for distributions. Moreover, we may not be able to meet our debt service obligations and, to the extent that we cannot, we risk the loss of some or all of our assets to foreclosure or sale to satisfy our debt obligations. Currently, neither our charter nor our bylaws impose any limitations on the extent to which we may leverage our assets.

We may guarantee some of our leverage and contingent obligations.

We may guarantee the performance of some of our obligations in the future, including but not limited to any repurchase agreements, derivative agreements, and unsecured indebtedness. Non-performance on such obligations may cause losses to us in excess of the capital we initially may invest/commit to under such obligations and there is no assurance that we will have sufficient capital to cover any such losses.

We may not be able to acquire suitable investments for a CDO or CLO issuance, or we may not be able to issue CDOs or CLOs on attractive terms, or at all, which may require us to utilize more costly financing for our investments.

We have financed, and, if the opportunities exist in the future, we may continue to finance certain of our investments through the issuance of CDOs and CLOs. During the period that we are acquiring investments for eventual long-term financing through CDOs and CLOs, we have typically financed these investments through repurchase and credit agreements. We use these agreements to finance our acquisition of investments until we have accumulated a sufficient quantity of investments, at which time we may refinance them through a securitization, such as a CDO or CLO issuance. As a result, we are subject to the risk that we will not be able to acquire a sufficient amount of eligible investments to maximize the efficiency of a CDO or CLO issuance. In addition, conditions in the debt capital markets may make the issuance of CDOs and CLOs less attractive to us even when we do have a sufficient pool of collateral, or we may not be able to execute a CDO or CLO transaction on terms favorable to us or at all. If we are unable to issue a CDO or CLO to finance these investments, we may be required to utilize other forms of potentially less attractive financing.

The use of CDO and CLO financings with over-collateralization and interest coverage requirements may have a negative impact on our cash flows.

The terms of CDOs and CLOs will generally provide that the principal amount of investments must exceed the principal balance of the related bonds by a certain amount and that interest income exceeds interest expense by a certain amount. Generally, CDO and CLO terms provide that, if certain delinquencies and/or losses or other factors cause a decline in collateral or cash flow levels, the cash

flow otherwise payable on subordinated classes may be redirected to repay senior classes of CDOs and CLOs until the issuer or the collateral is in compliance with the terms of the governing documents. Other tests (based on delinquency levels or other criteria) may restrict our ability to receive interest payments from assets pledged to secure CDOs and CLOs. We cannot assure that the performance tests will be satisfied. If our investments fail to perform as anticipated, our over-collateralization, interest coverage or other credit enhancement expense associated with our CDO and CLO financings will increase. With respect to future CDOs and CLOs we may issue, we cannot assure, in advance of completing negotiations with the rating agencies or other key transaction parties as to the actual terms of the delinquency tests, over-collateralization and interest coverage terms, cash flow release mechanisms or other significant factors upon which net income to us will be calculated. Failure to obtain favorable terms with regard to these matters may adversely affect the availability of net income to us.

We may not be able to find suitable replacement investments for CLO reinvestment periods.

CLOs have periods where principal proceeds received from assets securing the CLO can be reinvested for a defined period of time, commonly referred to as a reinvestment period. Our ability to find suitable investments during the reinvestment period that meet the criteria set forth in the CLO governing documents and by rating agencies may determine the success of our CLO investments. Our potential inability to find suitable investments may cause, among other things, lower returns, interest deficiencies, hyper-amortization of the senior CLO liabilities and may cause us to reduce the life of the CLO and accelerate the amortization of certain fees and expenses.

We may be required to repurchase loans that we have sold or to indemnify holders of our CDOs and CLOs.

If any of the loans we originate or acquire and sell or securitize through CDOs and CLOs do not comply with representations and warranties we make about certain characteristics of the loans, the borrowers and the underlying properties, we may be required to repurchase those loans or replace them with substitute loans. In addition, in the case of loans that we have sold instead of retained, we may be required to indemnify persons for losses or expenses incurred as a result of a breach of a representation or warranty. Repurchased loans typically require a significant allocation of working capital to carry on our books, and our ability to borrow against such assets is limited. Any significant repurchases or indemnification payments could adversely affect our financial condition and operating results.

Our loans and investments may be subject to fluctuations in interest rates which may not be adequately protected, or protected at all, by our hedging strategies.

Our current balance sheet investment program emphasizes loans with both floating interest rates and fixed interest rates. Floating rate investments earn interest at rates that adjust from time to time (typically monthly) based upon an index (typically LIBOR), allowing this portion of our portfolio to be insulated from changes in value due specifically to changes in interest rates. Fixed interest rate investments, however, do not have adjusting interest rates and, as prevailing interest rates change, the relative value of the fixed cash flows from these investments will cause potentially significant changes in value. Depending on market conditions, fixed rate assets may become a greater portion of our new loan originations. We may employ various hedging strategies to limit the effects of changes in interest rates (and in some cases credit spreads), including engaging in interest rate swaps, caps, floors and other interest rate derivative products. No strategy can completely insulate us from the risks associated with interest rate changes and there is a risk that they may provide no protection at all and potentially compound the impact of changes in interest rates. Hedging transactions involve certain additional risks such as counterparty risk, the legal enforceability of hedging contracts, the early repayment of hedged transactions and the risk that unanticipated and significant changes in interest rates may cause a

significant loss of basis in the contract and a change in current period expense. We cannot make assurances that we will be able to enter into hedging transactions or that such hedging transactions will adequately protect us against the foregoing risks. In addition, cash flow hedges which are not perfectly correlated (and appropriately designated and documented as such) with a variable rate financing will impact our reported income as gains and losses on the ineffective portion of such hedges will be recorded on our Statement of Operations.

Hedging instruments often are not guaranteed by an exchange or its clearing house and involve risks and costs.

The cost of using hedging instruments increases as the period covered by the instrument lengthens and during periods of rising and volatile interest rates. We may increase our hedging activity and thus increase our hedging costs during periods when interest rates are volatile or rising and hedging costs have increased.

In addition, hedging instruments involve risk since they currently are often not guaranteed by an exchange or its clearing house. The enforceability of agreements underlying derivative transactions may depend on compliance with applicable statutory, commodity and other regulatory requirements and, depending on the identity of the counterparty, applicable international requirements. The business failure of a hedging counterparty with whom we enter into a hedging transaction will most likely result in a default. Default by a party with whom we enter into a hedging transaction may result in the loss of unrealized profits and force us to cover our resale commitments, if any, at the then current market price. Although generally we will seek to reserve the right to terminate our hedging positions, it may not always be possible to dispose of or close out a hedging position without the consent of the hedging counterparty, and we may not be able to enter into an offsetting contract to cover our risk. We cannot assure that a liquid secondary market will exist for hedging instruments purchased or sold, and we may be required to maintain a position until exercise or expiration, which could result in losses.

We may enter into derivative contracts that could expose us to contingent liabilities in the future.

Subject to maintaining our qualification as a REIT, part of our investment strategy involves entering into derivative contracts that could require us to fund cash payments in the future under certain circumstances (e.g., the early termination of the derivative agreement caused by an event of default or other early termination event, or the decision by a counterparty to request margin securities it is contractually owed under the terms of the derivative contract). The amount due would be equal to the unrealized loss of the open swap positions with the respective counterparty and could also include other fees and charges. These economic losses will be reflected in our financial results of operations, and our ability to fund these obligations will depend on the liquidity of our assets and access to capital at the time, and the need to fund these obligations could adversely impact our financial condition.

Changes in values of our derivative contracts could adversely affect our liquidity and financial condition.

Certain of our derivative contracts, which are designed to hedge interest rate risk associated with a portion of our loans and investments, could require the funding of additional cash collateral for changes in the market value of these contracts. Due to the continued volatility in the financial markets, the value of these contracts have declined substantially. As a result, as of December 31, 2012, we funded approximately $20.0 million in cash related to these contracts. If we continue to experience significant changes in the outlook of interest rates, these contracts could continue to decline in value, which would require additional cash to be funded. However, at maturity, the value of these contracts return to par and all cash will be recovered. We may not have available cash to meet these requirements, which could result in the early termination of these derivatives, leaving us exposed to interest rate risk associated with these loans and investments, which could adversely impact our financial condition.

We are subject to certain counterparty risks related to our derivative contracts.

We periodically hedge a portion of our interest rate risk by entering into derivative financial instrument contracts. As a result of the continued global credit crisis, there is a risk that counterparties could fail, shut down, file for bankruptcy or be unable to pay out contracts. The failure of a counterparty that holds collateral that we post in connection with certain interest rate swap agreements could result in the loss of such collateral.

Risks Related to Our Corporate and Ownership Structure

We are substantially controlled by ACM and Mr. Kaufman.

Mr. Ivan Kaufman, our chairman, chief executive officer and president and the chief executive officer of ACM, beneficially owns approximately 92% of the outstanding membership interests of ACM. ACM currently has approximately 17% of the voting power of our outstanding stock. As a result of Mr. Kaufman's beneficial ownership of stock held by ACM as well as his beneficial ownership of additional shares of our common stock, Mr. Kaufman currently has approximately 18% of the voting power of our outstanding stock. Because of his position with us and our manager and his ability to effectively vote a substantial minority of our outstanding stock, Mr. Kaufman has significant influence over our policies and strategy.

Our charter as amended generally does not permit ownership in excess of 5% of our capital stock, and attempts to acquire our capital stock in excess of this limit are ineffective without prior approval from our Board of Directors.

For the purpose of preserving our REIT qualification, our charter as amended generally prohibits a direct or constructive ownership by any person of more than 5% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of our common stock or 5% (by value) of our outstanding shares of capital stock, unless an exemption is granted by the Board of Directors. For purposes of this calculation, warrants held by such person will be deemed to have been exercised if such exercise would result in a violation. Our charter's constructive ownership rules are complex and may cause the outstanding stock owned by a group of related individuals or entities to be deemed to be constructively owned by one individual or entity. As a result, the acquisition of less than these percentages of the outstanding stock by an individual or entity could cause that individual or entity to own constructively in excess of these percentages of the outstanding stock and thus be subject to our charter's ownership limit. Any attempt to own or transfer shares of our common or preferred stock in excess of the ownership limit without the consent of the Board of Directors will result in the shares being automatically transferred to a charitable trust or otherwise voided. Our Board of Directors have approved resolutions under our charter allowing Ivan Kaufman and ACM, in relation to Mr. Kaufman's controlling equity interest, C. Michael Kojaian, one of our independent directors, as well as an outside investor to own more than the ownership interest limit of our common stock stated in our charter as amended.

Our staggered board and other provisions of our charter and bylaws may prevent a change in our control.

Our Board of Directors is divided into three classes of directors. The current terms of the Class I, Class II and Class III directors will expire in 2013, 2014 and 2015, respectively. Directors of each class are chosen for three year terms upon the expiration of their current terms, and each year one class of directors is elected by the stockholders. The staggered terms of our directors may reduce the possibility of a tender offer or an attempt at a change in control, even though a tender offer or change in control might be in the best interest of our stockholders. In addition, our charter and bylaws also contain other provisions that may delay or prevent a transaction or a change in control that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders.

Risks Related to Conflicts of Interest with Our Manager

We are dependent on our manager with whom we have conflicts of interest.

We have only 30 employees, including Messrs. Weber, Kilgore, Felletter, and Guziewicz, and are dependent upon our manager to provide services to us that are vital to our operations. ACM, our manager, currently has approximately 17% of the voting power of the outstanding shares of our capital stock and Mr. Kaufman, our chairman and chief executive officer and the chief executive officer of ACM, beneficially owns these shares. Mr. Martello, one of our directors, is the chief operating officer of Arbor Management, LLC (the managing member of ACM) and a trustee of two trusts which own minority membership interests in ACM. Mr. Bishar, our secretary who was a director until January 27, 2012, is general counsel to ACM. Mr. Elenio, our chief financial officer and treasurer, is the chief financial officer of ACM. Each of Messrs. Kaufman, Martello, Bishar, Elenio, Weber and Kilgore are members of ACM's executive committee and all, including Mr. Felletter, but excluding Mr. Kaufman, own minority membership interests in ACM.

We may enter into transactions with ACM outside the terms of the management agreement with the approval of a majority vote of the independent members of our Board of Directors. Transactions required to be approved by a majority of our independent directors include, but are not limited to, our ability to purchase securities, mortgages and other assets from ACM or to sell securities and assets to ACM. ACM may from time to time provide permanent mortgage loan financing to clients of ours, which will be used to refinance bridge financing provided by us. We and ACM may also make loans to the same borrower or to borrowers that are under common control. Additionally, our policies and those of ACM may require us to enter into intercreditor agreements in situations where loans are made by us and ACM to the same borrower.

We have entered into a management agreement with our manager under which our manager provides us with all of the services vital to our operations other than asset management and securitization services. Certain matters relating to our organization were not approved at arm's length and the terms of the contribution of assets to us may not be as favorable to us as if the contribution was with an unaffiliated third party.

The results of our operations are dependent upon the availability of, and our manager's ability to identify and capitalize on, investment opportunities. Our manager's officers and employees are also responsible for providing the same services for ACM's portfolio of investments. As a result, they may not be able to devote sufficient time to the management of our business operations.

Our directors have approved very broad investment guidelines for our manager and do not approve each investment decision made by our manager.

Our manager is authorized to follow very broad investment guidelines. Our directors will periodically review our investment guidelines and our investment portfolio. However, our board does not review each proposed investment. In addition, in conducting periodic reviews, the directors rely primarily on information provided to them by our manager. Furthermore, transactions entered into by our manager may be difficult or impossible to unwind by the time they are reviewed by the directors. Our manager has great latitude within the broad investment guidelines in determining the types of assets it may decide are proper investments for us.

Our manager has broad discretion to invest funds and may acquire structured finance assets where the investment returns are substantially below expectations or that result in net operating losses.

Our manager has broad discretion, within the general investment criteria established by our Board of Directors, to allocate our capital and to determine the timing of investment of such capital. Such discretion could result in allocation of capital to assets where the investment returns are substantially

below expectations or that result in net operating losses, which would materially and adversely affect our business, operations and results.

The management compensation structure that we have agreed to with our manager may cause our manager to invest in high risk investments. Our manager is entitled to a base management fee, which is based on an agreed upon budget which represents the actual cost of managing the business. Our manager is also entitled to receive incentive compensation based in part upon our achievement of targeted levels of funds from operations. In evaluating investments and other management strategies, the opportunity to earn incentive compensation based on funds from operations may lead our manager to place undue emphasis on the maximization of funds from operations at the expense of other criteria, such as preservation of capital, in order to achieve higher incentive compensation. Investments with higher yield potential are generally riskier or more speculative. This could result in increased risk to the value of our invested portfolio.

Risk Related to Our Status as a REIT

If we fail to remain qualified as a REIT, we will be subject to tax as a regular corporation and could face a substantial tax liability.

We conduct our operations to qualify as a REIT under the Internal Revenue Code. However, qualification as a REIT involves the application of highly technical and complex Internal Revenue Code provisions for which only limited judicial and administrative authorities exist. Even a technical or inadvertent mistake could jeopardize our REIT status. Our continued qualification as a REIT will depend on our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis. In addition, our ability to satisfy the requirements to qualify as a REIT depends in part on the actions of third parties over which we have no control or only limited influence, including in cases where we own an equity interest in an entity that is classified as a partnership for U.S. federal income tax purposes.

Furthermore, new tax legislation, administrative guidance or court decisions, in each instance potentially with retroactive effect, could make it more difficult or impossible for us to qualify as a REIT. If we fail to qualify as a REIT in any tax year, then:

- we would be taxed as a regular domestic corporation, which, among other things, means we would be unable to deduct distributions to stockholders in computing taxable income and would be subject to federal income tax on our taxable income at regular corporate rates;
- any resulting tax liability could be substantial and would reduce the amount of cash available for distribution to stockholders; and
- unless we were entitled to relief under applicable statutory provisions, we would be disqualified from treatment as a REIT for the subsequent four taxable years following the year during which we lost our qualification, and thus, our cash available for distribution to stockholders would be reduced for each of the years during which we did not qualify as a REIT.

Even if we remain qualified as a REIT, we may face other tax liabilities that reduce our cash flow.

Even if we remain qualified for taxation as a REIT, we may be subject to certain federal, state and local taxes on our income and assets, including taxes on any undistributed income, tax on income from some activities conducted as a result of a foreclosure, and state or local income, property and transfer taxes, such as mortgage recording taxes. Any of these taxes would decrease cash available for distribution to our stockholders. In addition, in order to meet the REIT qualification requirements, or to avert the imposition of a 100% tax that applies to certain gains derived by a REIT from dealer property or inventory, we may hold some of our assets through taxable subsidiary corporations, the income of which would be subject to federal and state income tax. The income and any tax on or

distribution requirements attributable to certain debt extinguishment transactions realized in 2009 and 2010 have been deferred to future periods at our election.

The "taxable mortgage pool" rules may increase the taxes that we or our stockholders may incur, and may limit the manner in which we effect future securitizations.

Certain of our securitizations have resulted in the creation of taxable mortgage pools for federal income tax purposes. So long as 100% of the equity interests in a taxable mortgage pool are owned by an entity that qualifies as a REIT, including our subsidiary Arbor Realty SR, Inc., we would generally not be adversely affected by the characterization of the securitization as a taxable mortgage pool. Certain categories of stockholders, however, such as foreign stockholders eligible for treaty or other tax benefits, stockholders with net operating losses, and certain tax-exempt stockholders that are subject to unrelated business income tax, could be subject to increased taxes on a portion of their dividend income from us that is attributable to the taxable mortgage pool. In addition, to the extent that our stock is owned by tax-exempt "disqualified organizations," such as certain government-related entities that are not subject to tax on unrelated business income, we could incur a corporate level tax on a portion of our income from the taxable mortgage pool. In that case, we may reduce the amount of our distributions to any disqualified organization whose stock ownership gave rise to the tax. Moreover, we could be precluded from selling equity interests in these securitizations to outside investors, or selling any debt securities issued in connection with these securitizations that might be considered to be equity interests for tax purposes. These limitations may prevent us from using certain techniques to maximize our returns from securitization transactions.

Complying with REIT requirements may cause us to forego otherwise attractive opportunities.

To qualify as a REIT for federal income tax purposes we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts we distribute to our stockholders and the ownership of our stock. We may be required to make distributions to stockholders at disadvantageous times or when we do not have funds readily available for distribution. Thus, compliance with the REIT requirements may hinder our ability to operate solely on the basis of maximizing profits.

Complying with REIT requirements may force us to liquidate otherwise attractive investments.

To qualify as a REIT we must ensure that at the end of each calendar quarter at least 75% of the value of our assets consists of cash, cash items, government securities and qualified REIT real estate assets. The remainder of our investment in securities generally cannot comprise more than 10% of the outstanding voting securities, or more than 10% of the total value of the outstanding securities, of any one issuer. In addition, in general, no more than 5% of the value of our assets (other than assets which qualify for purposes of the 75% asset test) may consist of the securities of any one issuer, and no more than 25% of the value of our total assets may be represented by securities of one or more taxable REIT subsidiaries. If we fail to comply with these requirements at the end of any calendar quarter, we must correct such failure within 30 days after the end of the calendar quarter to avoid losing our REIT status and suffering adverse tax consequences. As a result, we may be required to liquidate otherwise attractive investments.

Liquidation of collateral may jeopardize our REIT status.

To continue to qualify as a REIT, we must comply with requirements regarding our assets and our sources of income. If we are compelled to liquidate investments to satisfy our obligations to future lenders, we may be unable to comply with these requirements, ultimately jeopardizing our status as a REIT.

We may be unable to generate sufficient revenue from operations to pay our operating expenses and to pay dividends to our stockholders.

As a REIT, we are generally required to distribute at least 90% of our taxable income each year to our stockholders. In order to qualify for the tax benefits accorded to REITs, we intend to declare quarterly dividends and to make distributions to our stockholders in amounts such that we distribute all or substantially all of our taxable income each year, subject to certain adjustments. However, our ability to make distributions may be adversely affected by the risk factors described in this report. In the event of future investment opportunities, a downturn in our operating results and financial performance or unanticipated declines in the value of our asset portfolio, we may be unable to declare or pay quarterly dividends or make distributions to our stockholders. The timing and amount of dividends are in the sole discretion of our Board of Directors, which considers, among other factors, our earnings, financial condition, debt service obligations and applicable debt covenants, REIT qualification requirements and other tax considerations and capital expenditure requirements as our board may deem relevant from time to time.

Among the factors that could adversely affect our results of operations and impair our ability to make distributions to our stockholders are:

- use of funds and our ability to make profitable structured finance investments;
- defaults in our asset portfolio or decreases in the value of our portfolio;
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates; and
- increased debt service requirements, including those resulting from higher interest rates on variable rate indebtedness.

A change in any one of these factors could affect our ability to make distributions. If we are not able to comply with the restrictive covenants and financial ratios contained in future credit facilities, our ability to make distributions to our stockholders may also be impaired. We cannot assure that we will be able to make distributions to our stockholders in the future or that the level of any distributions we make will increase over time.

We may need to borrow funds in order to satisfy our REIT distribution requirements, and a portion of our distributions may constitute a return of capital. Debt service on any borrowings for this purpose will reduce our cash available for distribution.

In order to qualify as a REIT, we must generally, among other requirements, distribute at least 90% of our taxable income, subject to certain adjustments, to our stockholders each year. To the extent that we satisfy the distribution requirement, but distribute less than 100% of our taxable income, we will be subject to federal corporate income tax on our undistributed taxable income. In addition, we will be subject to a 4% nondeductible excise tax if the actual amount that we pay out to our stockholders in a calendar year is less than a minimum amount specified under federal tax laws.

From time to time, we may generate taxable income greater than our net income for financial reporting purposes, or our taxable income may be greater than our cash flow available for distribution to our stockholders. In addition, we have deferred the recognition of taxable income from certain debt extinguishment transactions that occurred in 2009 and 2010 and will give rise to taxable income, but no corresponding cash flow, in future years. If we do not have other funds available in these situations we could be required to borrow funds, issue stock or sell investments and our equity securities at disadvantageous prices or find another alternative source of funds to make distributions sufficient to enable us to satisfy the REIT distribution requirement and to avoid corporate income tax and the 4% excise tax in a particular year.

We may be subject to adverse legislative or regulatory tax changes that could reduce the market price of our common stock.

Recently enacted legislation resulted in an increase in the highest marginal tax rates applicable to individuals and other non-corporate taxpayers. As of January 1, 2013, capital gain income (including capital gain dividends that we pay) and ordinary income (including dividends that we pay which are not capital gain dividends) are generally taxable at top marginal rates of 20% and 39.6%, respectively. Certain U.S. stockholders who are individuals, trusts or estates and whose income exceeds certain thresholds are required to pay a 3.8% Medicare tax on our dividends and gain from the sale of our stock. The top tax rate on "qualified dividend income" received by U.S. stockholders taxed at individual rates is now 20% but, with limited exceptions, our dividends are generally not eligible for taxation at such preferential rate. At any time, the federal income tax laws governing REITs or the administrative interpretations of those laws may change. Any such changes may have a retroactive effect, and could adversely affect us or our stockholders.

Restrictions on share accumulation in REITs could discourage a change of control of us.

In order for us to qualify as a REIT, not more than 50% of the value of our outstanding shares of capital stock may be owned, directly or indirectly, by five or fewer individuals during the last half of a taxable year.

In order to prevent five or fewer individuals from acquiring more than 50% of our outstanding shares and a resulting failure to qualify as a REIT, our charter as amended provides that, subject to certain exceptions, no person, including entities, may own, or be deemed to own by virtue of the attribution provisions of the Internal Revenue Code, more than 5.0% of the aggregate value or number of shares (whichever is more restrictive) of our outstanding common stock, or more than 5.0%, by value, of our outstanding shares of capital stock of all classes, in the aggregate. For purposes of the ownership limitations, warrants held by a person will be deemed to have been exercised if such exercise would result in a violation of the charter provisions.

Shares of our stock that would otherwise be directly or indirectly acquired or held by a person in violation of the ownership limitations are, in general, automatically transferred to a trust for the benefit of a charitable beneficiary, and the purported owner's interest in such shares is void. In addition, any person who acquires shares in excess of these limits is obliged to immediately give written notice to us and provide us with any information we may request in order to determine the effect of the acquisition on our status as a REIT.

While these restrictions are designed to prevent any five individuals from owning more than 50% of our shares, they could also discourage a change in control of our company. These restrictions may also deter tender offers that may be attractive to stockholders or limit the opportunity for stockholders to receive a premium for their shares if an investor makes purchases of shares to acquire a block of shares.

Complying with REIT requirements may limit our ability to hedge effectively.

The REIT provisions of the Internal Revenue Code may limit our ability to hedge our operations. Under current law, income that we generate from derivatives or other transactions intended to hedge various risks may be treated as non-qualifying income for purposes of the REIT income tests, unless certain requirements are met, and our position in such a hedging or derivative transaction, to the extent that it has positive value, may be treated as a non-qualifying asset for purposes of the REIT asset tests. As a result of these rules, we may have to limit our use of hedging techniques that might otherwise be advantageous, which could result in greater risks associated with interest rate or other changes than we would otherwise incur.

ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 2. PROPERTIES

Arbor Commercial Mortgage, our manager, leases our shared principal executive and administrative offices, located at 333 Earle Ovington Boulevard in Uniondale, New York.

ITEM 3. LEGAL PROCEEDINGS

We are not involved in any material litigation nor, to our knowledge, is any material litigation threatened against us other than the following:

On June 15, 2011, three related lawsuits were filed by the Extended Stay Litigation Trust (the "Trust"), a post-bankruptcy litigation trust alleged to have standing to pursue claims that previously had been held by Extended Stay, Inc. and the Homestead Village L.L.C. family of companies (together "ESI") (formerly Chapter 11 debtors, together the "Debtors") that have emerged from bankruptcy. Two of the lawsuits were filed in the United States Bankruptcy Court for the Southern District of New York, and the third in the Supreme Court of the State of New York, New York County. (The New York State Court action has been removed to the Bankruptcy Court). There are 73 defendants in the three lawsuits, including 55 corporate and partnership entities and 18 individuals. A subsidiary of ours and certain other entities that are affiliates of ours are included as defendants.

The lawsuits all allege, as a factual basis and background, certain facts surrounding the June 2007 leveraged buyout of ESI from affiliates of Blackstone Capital. Our subsidiary, Arbor ESH II, LLC, had a $115.0 million investment in the Series A1 Preferred Units of a holding company of Extended Stay, Inc. The New York State Court action and one of the two federal court actions name as defendants, Arbor ESH II, LLC, Arbor Commercial Mortgage, LLC and ABT-ESI LLC, an entity in which we have a membership interest, among the broad group of defendants. These two actions were commenced by substantially identical complaints. The defendants are alleged in these complaints, among other things, to have breached fiduciary and contractual duties by causing or allowing the Debtors to pay illegal dividends or other improper distributions of value at a time when the Debtors were insolvent. These two complaints also allege that the defendants aided and abetted, induced, or participated in breaches of fiduciary duty, waste, and unjust enrichment ("Fiduciary Duty Claims") and name a director of ours, and a former general counsel of Arbor Commercial Mortgage, LLC, each of whom had served on the Board of Directors of ESI for a period of time. We are defending these two defendants and paying the costs of such defense. On the basis of the foregoing allegations, the Trust has asserted claims under a number of common law theories, seeking the return of assets transferred by the Debtors prior to the Debtors' bankruptcy filing.

In the third action, filed in Bankruptcy Court, the same plaintiff, the Trust, has named Arbor Commercial Mortgage, LLC and ABT-ESI LLC, together with a number of other defendants and asserts claims, including constructive and fraudulent conveyance claims under state and federal statutes, as well as a claim under the Federal Debt Collection Procedure Act.

The complaints seek among other things, damages of not less than $2.1 billion, plus punitive damages, on a joint and several basis, from each defendant in connection with the Fiduciary Duty Claims and the return of in excess of $50.0 million which is alleged to have been wrongfully received by the holders of the Series A1 Preferred Units, including Arbor ESH II, LLC. We have moved to dismiss the referenced actions and intend to vigorously defend against the claims asserted therein.

We have not made a loss accrual for this litigation because we believe that it is not probable that a loss has been incurred and an amount cannot be reasonably estimated.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock has been listed on the New York Stock Exchange under the symbol "ABR" since our initial public offering in April 2004. The following table sets forth for the indicated periods the high and low sales prices for our common stock, as reported on the New York Stock Exchange, and the dividends declared and paid with respect to such periods.

	High	Low	Dividends Declared
2011			
First Quarter(1)	$ 7.50	$ 5.50	$ —
Second Quarter(1)	$ 5.71	$ 3.91	$ —
Third Quarter(1)	$ 4.98	$ 3.57	$ —
Fourth Quarter(1)	$ 4.03	$ 3.19	$ —
2012			
First Quarter	$ 5.94	$ 3.35	$ 0.075
Second Quarter	$ 6.67	$ 4.99	$ 0.10
Third Quarter	$ 6.55	$ 5.16	$ 0.11
Fourth Quarter(2)	$ 6.24	$ 4.72	$ 0.12

(1) Our Board of Directors elected not to pay a common stock distribution for the calendar year ended December 31, 2011.

(2) On February 12, 2013, our Board of Directors declared a dividend of $0.12 per common share for the fourth quarter of 2012.

We are organized and conduct our operations to qualify as a real estate investment trust, or a REIT, which requires that we distribute at least 90% of taxable income. No assurance, however, can be given as to the amounts or timing of future distributions as such distributions are subject to our taxable earnings, financial condition, capital requirements and such other factors as our Board of Directors deems relevant.

On February 14, 2013, the closing sale price for our common stock, as reported on the NYSE, was $7.41. As of February 14, 2013, there were 6,112 record holders of our common stock, including persons holding shares in broker accounts under street names.

Equity Compensation Plan Information

The following table presents information as of December 31, 2012 regarding the Stock Incentive Plan and the incentive compensation provisions of our management agreement with Arbor Commercial Mortgage, which are our only equity compensation plans:

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance
Equity compensation plans approved by security holders:			
2003 Omnibus Stock Incentive Plan(1)	0	N/A	815,588
Incentive Compensation pursuant to Management Agreement(2)	0	N/A	See Note 3
Equity compensation plans not approved by security holders	N/A	N/A	N/A
Total	0	N/A	815,588(3)

(1) On June 18, 2009, the shareholders authorized the issuance of an additional 1,250,000 shares of the Company's common stock to be used for grants under the Stock Incentive Plan.

(2) Pursuant to the terms of our management agreement with Arbor Commercial Mortgage, at least 25% of the incentive compensation earned by our manager is payable in shares of our common stock having a value equal to the average closing price per share for the last twenty days of the fiscal quarter for which the incentive compensation is being paid. Arbor Commercial Mortgage has the right to elect to receive 100% of the incentive compensation in shares of our common stock. See Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations—Contractual Commitments —Management Agreement" for information regarding the terms of our management agreement and the incentive compensation payable to Arbor Commercial Mortgage thereunder. Our sole stockholder immediately prior to the date we entered into the management agreement with Arbor Commercial Mortgage approved the issuance of shares of our common stock to Arbor Commercial Mortgage pursuant to the incentive compensation provisions of the management agreement.

(3) The number of securities remaining available for future issuance to Arbor Commercial Mortgage as incentive compensation pursuant to the management agreement depends on the amount of incentive compensation earned by Arbor Commercial Mortgage in the future and therefore is not yet determinable.

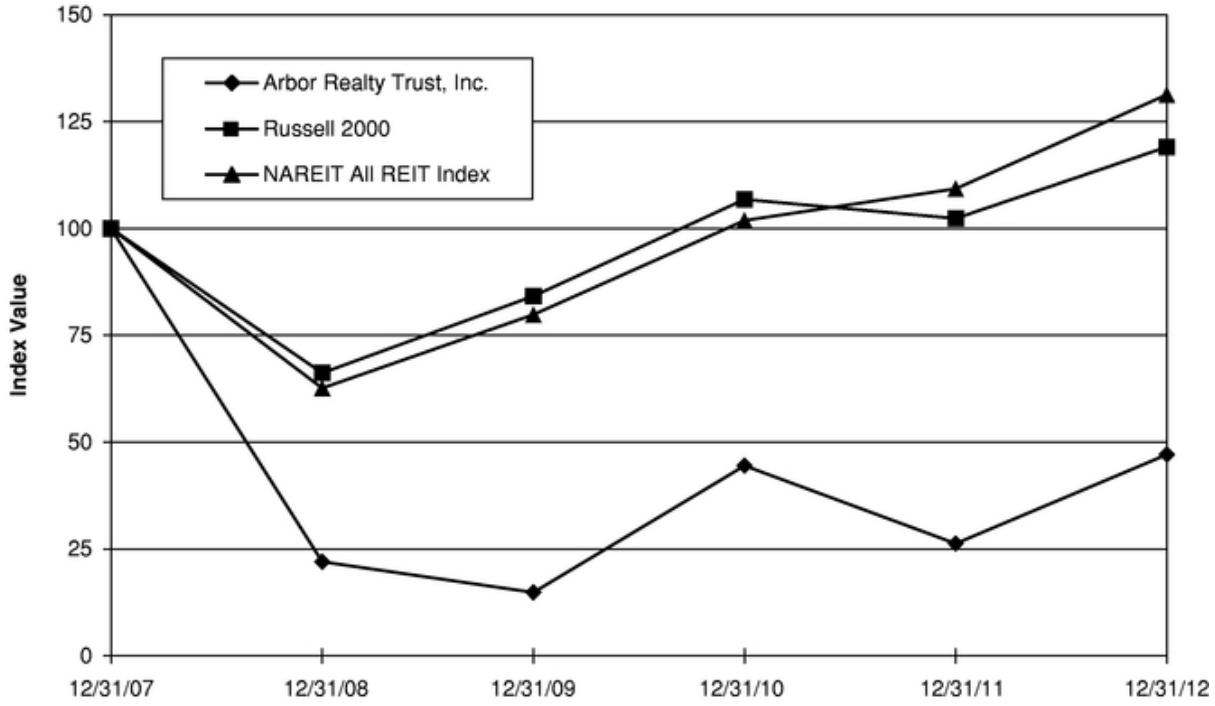
In February 2013, the Board of Directors authorized the issuance of approximately 200,000 shares of restricted common stock under the Plan to certain employees of ours and ACM. The effective date of the grant will be February 28, 2013 and will vest over a two year period. One third of the shares will vest as of the date of grant, one third will vest in February 2014, and the remaining third will vest in February 2015. Consistent with its historical practice of granting annual stock based awards to independent directors, certain executive officers of the Company, certain employees of the Company and the Manager with respect to their service to the Company in the most recently completed fiscal year, in 2013, the Compensation Committee may, in its sole discretion, grant independent directors, certain executives and certain employees stock-based awards, consisting of shares of our common stock that vest immediately or over a multi-year vesting schedule and/or stock options with a multi-year vesting schedule under our Stock Incentive Plan with respect to their service to the Company in 2012.

Performance Graph

Set forth below is a line graph comparing the cumulative total stockholder return on shares of our common stock with the cumulative total return of the NAREIT All REIT Index and the Russell 2000 Index. The five year period commences on December 31, 2007 and ends on December 31, 2012, the end of our most recently completed fiscal year. The graph assumes an investment of $100 on January 1, 2008 and the reinvestment of any dividends. This graph is not necessarily indicative of future price performance. The information included in the graph and table below was obtained from SNL Financial LC, Charlottesville, VA.© 2013.

Arbor Realty Trust, Inc.

Total Return Performance



	Period Ending					
Index	**12/31/07**	**12/31/08**	**12/31/09**	**12/31/10**	**12/31/11**	**12/31/12**
Arbor Realty Trust, Inc.	100.00	22.04	14.87	44.52	26.30	47.13
Russell 2000	100.00	66.21	84.20	106.82	102.36	119.09
NAREIT All REIT Index	100.00	62.66	79.86	101.89	109.31	131.32

In accordance with SEC rules, this section entitled "Performance Graph" shall not be incorporated by reference into any of our future filings under the Securities Act or the Exchange Act, and shall not be deemed to be soliciting material or to be filed under the Securities Act or the Exchange Act.

Recent Issuances of Unregistered Securities; Use of Proceeds from Registered Securities

In connection with a debt restructuring with Wachovia Bank in the third quarter of 2009, we issued warrants that entitle Wachovia (now Wells Fargo) to purchase one million shares of our common stock at an average strike price of $4.00. The warrants were issued without registration in reliance on the exemption provided by Section 4(2) of the 1933 Act. Of such warrants, 500,000 warrants at a price of $3.50, 250,000 warrants at a price of $4.00 and 250,000 warrants at a price of $5.00. All of the warrants are currently exercisable, expire on July 23, 2015 and no warrants have been exercised to date.

In June 2010, our registration statement to permit the resale of the shares underlying the one million warrants was declared effective by the SEC and we paid all of the expenses related to the registration. The registration statement is currently effective.

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ITEM 6. SELECTED FINANCIAL DATA

SELECTED CONSOLIDATED FINANCIAL INFORMATION OF ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

The following tables present selected historical consolidated financial information for the periods indicated. The selected historical consolidated financial information presented below under the captions "Consolidated Statement of Operations Data" and "Consolidated Balance Sheet Data" have been derived from our audited consolidated financial statements and include all adjustments, consisting only of normal recurring accruals, which management considers necessary for a fair presentation of the historical consolidated financial statements for such period. Prior period amounts have been reclassified to conform to current period presentation. In addition, since the information presented below is only a summary and does not provide all of the information contained in our historical consolidated financial statements, including the related notes, you should read it in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our historical consolidated financial statements, including the related notes, included elsewhere in this report.

	Year ended December 31,				
	2012	2011	2010	2009	2008
Consolidated Statement of Operations Data					
Interest income	$79,998,762	$ 73,867,556	$ 95,487,325	$ 117,262,129	$204,135,097
Interest expense	40,866,832	51,651,933	62,979,036	80,102,075	108,656,702
Net interest income	39,131,930	22,215,623	32,508,289	37,160,054	95,478,395
Total other revenue	31,454,043	23,547,977	1,069,454	809,808	82,329
Other-than-temporary impairment	—	—	7,004,800	10,260,555	17,573,980
Provision for loan losses (net of recoveries)	22,946,396	38,542,888	82,811,753	241,328,039	132,000,000
Loss on sale and restructuring of loans	—	5,710,000	7,214,481	57,579,561	—
Management fee —related party	10,000,000	8,300,000	26,365,448	15,136,170	3,539,854
Other expenses	51,813,885	45,040,074	15,055,554	20,659,289	16,307,371
Gain on exchange of profits interest	—	—	—	55,988,411	—
Gain on extinguishment of debt	30,459,023	10,878,218	229,321,130	54,080,118	—
Loss on sale of securities, net	—	—	(6,989,583)	—	—
Loss on termination of swaps	—	—	—	(8,729,408)	—
(Loss) income from equity affiliates	(697,856)	3,671,386	(1,259,767)	(438,507)	(2,347,296)
Benefit (provision) for income taxes	801,558	—	(2,560,000)	—	—
Income (loss) from continuing operations	16,388,417	(37,279,758)	113,637,487	(206,093,138)	(76,207,777)
Income (loss) from discontinued operations	5,328,038	(2,816,299)	(511,533)	(5,865,163)	(582,294)
Net income (loss)	21,716,455	(40,096,057)	113,125,954	(211,958,301)	(76,790,071)

Net income attributable to noncontrolling interest	215,567	215,656	215,743	18,672,855	4,439,773
Net income (loss) attributable to Arbor Realty Trust, Inc.	21,500,888	(40,311,713)	112,910,211	(230,631,156)	(81,229,844)
Income (loss) from continuing operations per share, basic	0.60	(1.50)	4.46	(8.88)	(3.52)
Income (loss) from discontinued operations per share, basic	0.20	(0.11)	(0.02)	(0.23)	(0.02)
Income (loss) per share, basic	0.80	(1.61)	4.44	(9.11)	(3.54)
Income (loss) from continuing operations per share, diluted	0.59	(1.50)	4.41	(8.88)	(3.52)
Income (loss) from discontinued operations per share, diluted	0.20	(0.11)	(0.02)	(0.23)	(0.02)
Income (loss) per share, diluted(1)	0.79	(1.61)	4.39	(9.11)	(3.54)
Dividends declared per common share(2)(3)	0.285	—	—	—	2.10

	At December 31,				
	2012	2011	2010	2009	2008
Consolidated Balance Sheet Data					
Loans and investments, net	$1,325,667,053	$1,302,440,660	$1,414,225,388	$1,700,774,288	$2,181,683,619
Available-for-sale securities, at fair value	3,552,736	4,276,368	3,298,418	488,184	529,104
Securities held-to-maturity, net	42,986,980	29,942,108	—	60,562,808	58,244,348
Real estate owned, net	124,148,199	128,397,612	22,839,480	8,205,510	46,478,994
Real estate held-for-sale, net	—	62,084,412	41,440,000	41,440,000	—
Total assets	1,701,881,280	1,776,714,330	1,731,207,928	2,060,774,772	2,579,236,489
Repurchase agreements and credit facilities	130,661,619	76,105,000	990,997	321,418,830	524,363,226
Collateralized debt obligations	812,452,845	1,002,615,393	1,070,852,555	1,100,515,185	1,152,289,000
Collateralized loan obligation	87,500,000	—	—	—	—
Junior subordinated notes to subsidiary trust issuing preferred securities	158,767,145	158,261,468	157,806,238	259,487,421	276,055,000
Notes payable	51,457,708	85,457,708	51,457,708	56,457,708	54,800,000
Note payable —related party	—	—	—	—	4,200,000
Mortgage note payable—real estate owned	53,751,004	53,751,004	20,750,000	—	—
Mortgage notes payable—held-for-sale	—	62,190,000	41,440,000	41,440,000	41,440,000
Total liabilities	1,470,620,158	1,603,653,797	1,524,792,685	1,962,140,802	2,298,241,821
Total Arbor Realty Trust, Inc. stockholders' equity	229,329,349	171,126,405	204,415,381	96,693,606	281,005,649
Noncontrolling interest in operating					

partnership units	—	—	—	—	—
Noncontrolling interest in consolidated entity	1,931,773	1,934,128	1,999,862	1,940,364	(10,981)
Total equity	231,261,122	173,060,533	206,415,243	98,633,970	280,994,668

	Year ended December 31,				
	2012	2011	2010	2009	2008
Other Data					
Total loan originations	$274,516,550	$206,477,919	$24,749,342	$ 3,000,000	$290,565,879
Total mortgage-backed security and bond investments, net	157,687,589	36,464,627	6,603,769	12,412,500	58,062,500

(1) In 2009, the Company issued one million warrants as part of a debt restructuring which did not have a dilutive effect for the years ended December 31, 2009 and 2011 and had a dilutive effect for the years ended December 31, 2012 and 2010.

(2) On February 12, 2013, our Board of Directors declared a distribution to our stockholders of $0.12 per share of common stock, payable with respect to the quarter ended December 31, 2012, to stockholders of record at the close of business on March 5, 2013.

(3) Our Board of Directors elected not to pay a common stock distribution for the calendar years ended December 31, 2011, 2010 and 2009.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion in conjunction with the sections of this report entitled "Risk Factors", "Forward-Looking Statements", and "Selected Consolidated Financial Information of Arbor Realty Trust, Inc. and Subsidiaries" and the historical consolidated financial statements of Arbor Realty Trust, Inc. and Subsidiaries, including related notes, included elsewhere in this report.

Overview

We are a Maryland corporation formed in June 2003 to invest in multi-family and commercial real estate-related bridge loans, junior participating interests in first mortgages, mezzanine loans, preferred and direct equity and, in limited cases, discounted mortgage notes and other real estate-related assets, which we refer to collectively as structured finance investments. We have also invested in mortgage-related securities. We conduct substantially all of our operations through our operating partnership and its wholly-owned subsidiaries.

Our operating performance is primarily driven by the following factors:

- *Net interest income earned on our investments*—Net interest income represents the amount by which the interest income earned on our assets exceeds the interest expense incurred on our borrowings. If the yield earned on our assets decreases or the cost of borrowings increases, this will have a negative impact on earnings. However, if the yield earned on our assets increases or the cost of borrowings decreases, this will have a positive impact on earnings. Net interest income is also directly impacted by the size and performance of our asset portfolio. See "Current Market Conditions, Risks and Recent Trends" below for risks and trends of our net interest income.

- *Credit quality of our assets*—Effective asset and portfolio management is essential to maximize the performance and value of a real estate/mortgage investment. Maintaining the credit quality of our loans and investments is of critical importance. Loans that do not perform in accordance with their terms may have a negative impact on earnings and liquidity.

- *Cost control*—We seek to minimize our operating costs, which consist primarily of employee compensation and related costs, management fees and other general and administrative expenses. If there are increases in foreclosures and non-performing loans and investments, certain of these expenses, particularly employee compensation expenses and asset management related expenses, may increase.

We are organized and conduct our operations to qualify as a real estate investment trust ("REIT") and to comply with the provisions of the Internal Revenue Code with respect thereto. A REIT is generally not subject to federal income tax on its REIT—taxable income which is distributed to its stockholders, provided that at least 90% of its REIT—taxable income is distributed and provided that certain other requirements are met. As of December 31, 2012, 2011 and 2010, we were in compliance with all REIT requirements and, therefore, have not provided for income tax expense for the years ended December 31, 2012, 2011 and 2010, except for $0.4 million of federal alternative minimum tax and $0.2 million of estimated state income taxes incurred in those states that do not adopt the federal tax law that allows us to elect to defer income generated from certain debt extinguishment transactions, recorded in 2012. Under current federal tax law, the gain and the tax on the gain of certain debt extinguishment transactions realized in 2009 and 2010 have been deferred to future periods at our election. For the year ended December 31, 2010, we recorded $0.9 million of estimated state income taxes incurred in those states that do not adopt the federal tax law that allows us to elect to defer income generated from certain debt extinguishment transactions as well as a deferred tax provision of $1.7 million. Certain REIT income may be subject to state and local income taxes. Our assets or

operations that would not otherwise comply with the REIT requirements, are owned or conducted by our taxable REIT subsidiaries, the income of which is subject to federal and state income tax. For the year ended December 31, 2012, we recorded a $1.4 million receivable for the refund of federal income taxes paid by a taxable REIT subsidiary in a prior year, which was received in 2012. For the years ended December 31, 2012, 2011 and 2010, we did not record a provision for income taxes related to the assets that are held in taxable REIT subsidiaries.

Current Market Conditions, Risks and Recent Trends

Global stock and credit markets have experienced prolonged price volatility, dislocations and liquidity disruptions over the past several years, which have caused market prices of many stocks to fluctuate substantially. Commercial real estate has been particularly adversely affected by the past economic downturn. Although we have seen some improvements, the overall market recovery remains uncertain. Should the market regress, the commercial real estate sector may experience additional losses, challenges in complying with the terms of financing agreements, difficulty in raising capital, and challenges in obtaining investment financing with attractive terms or at all. If market conditions continue to stabilize, we will rely on the credit and equity markets to generate capital for financing the growth of our business.

These circumstances have materially impacted liquidity in the financial markets and have resulted in the scarcity of certain types of financing, and, in certain cases, making terms for certain financings less attractive. If these conditions persist, lending institutions may be forced to exit markets such as repurchase lending, become insolvent, further tighten their lending standards or increase the amount of equity capital required to obtain financing, and in such event, could make it more difficult for us to obtain financing on favorable terms or at all. Our profitability will be adversely affected if we are unable to obtain cost-effective financing for our investments. A prolonged downturn in the stock or credit markets may cause us to seek alternative sources of potentially less attractive financing, and may require us to adjust our business plan accordingly. In addition, these factors may make it more difficult for our borrowers to repay our loans as they may experience difficulties in selling assets, increased costs of financing or obtaining financing at all. These events in the stock and credit markets may also make it more difficult or unlikely for us to raise capital through the issuance of our common stock or preferred stock. These disruptions in the financial markets also may have a material adverse effect on the market value of our common stock and other adverse effects on us or the economy in general.

The past economic downturn has had a significant impact on our business, our borrowers and real estate values throughout all asset classes and geographic locations. If real estate values decline further, it may limit our new mortgage loan originations since borrowers often use increases in the value of their existing properties to support the purchase or investment in additional properties. Borrowers may also be less able to pay principal and interest on our loans. Declining real estate values may also significantly increase the likelihood that we will incur losses on our loans in the event of default because the value of our collateral may be insufficient to cover our cost on the loan. Any sustained period of increased payment delinquencies, foreclosures or losses could adversely affect both our net interest income from loans in our portfolio as well as our ability to originate, sell and securitize loans, which would significantly impact our revenues, results of operations, financial condition, business prospects and our ability to make distributions to our stockholders. In addition, our investments are also subject to the risks described above with respect to commercial real estate loans and mortgage-backed securities and similar risks, including risks of delinquency and foreclosure, the dependence upon the successful operation of, and net income from, real property, risks generally related to interests in real property, and risks that may be presented by the type and use of a particular commercial property.

During fiscal year 2012, we recorded $23.8 million of new provisions for loan losses, due to declining collateral values, and $0.9 million in net recoveries of reserves. During fiscal year 2011, we recorded $44.8 million of new provisions for loan losses, $6.3 million in net recoveries of reserves, and

$5.7 million of loss on sale and restructuring of loans. During fiscal year 2010, we recorded $100.9 million of new provisions for loan losses, due to declining collateral values, $18.1 million in net recoveries of reserves, and a $7.2 million loss on sale and restructuring of loans. In addition, we acquired two new real estate owned properties through a transfer from a creditor trust and a purchase out of bankruptcy, respectively, in the first quarter of 2011. We have made, and continue to make modifications and extensions to loans when it is economically feasible to do so. In some cases, a modification is a more viable alternative to foreclosure proceedings when a borrower cannot comply with loan terms. In doing so, lower borrower interest rates, combined with non-performing loans, will lower our net interest margins when comparing interest income to our costs of financing. These trends may persist with a prolonged economic downturn and we feel if they do, there will be continued modifications and delinquencies in the foreseeable future, which may result in reduced net interest margins and additional losses throughout our sector.

While there continue to be effects from the economic downturn, we have seen market opportunities becoming available to us based on our strategic positioning. As a result, we completed a public offering in the second quarter of 2012 in which we sold 3,500,000 shares of our common stock for net proceeds of approximately $17.5 million and another public offering in the fourth quarter of 2012 in which we sold 3,500,000 shares of our common stock for net proceeds of approximately $19.2 million. We used the net proceeds from these offerings to make investments, to repurchase or pay liabilities and for general corporate purposes. We also entered into an "At-The-Market" ("ATM") equity offering sales agreement in the fourth quarter of 2012 whereby, in accordance with the terms of the agreement, from time to time we may issue and sell up to 6,000,000 shares of our common stock. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million.

Further, we also completed our first collateralized loan obligation ("CLO") in the third quarter of 2012 in which we issued $87.5 million of investment grade notes and a second CLO in January 2013 in which we issued $177.0 million of investment grade notes. While there can be no assurance that we will continue to have access to the equity and debt markets, we will continue to pursue these and other available market opportunities as means to increase our liquidity and capital base.

On February 1, 2013, we completed an underwritten public offering of 1.4 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million.

Refer to Item 1A "Risk Factors" above and Item 7A. "Quantitative and Qualitative Disclosures About Market Risk" below for additional risk factors.

Sources of Operating Revenues

We derive our operating revenues primarily through interest received from making real estate-related bridge, mezzanine and junior participation loans and preferred equity investments. Interest income earned on these loans and investments represented approximately 69%, 75% and 97% of our total revenues in 2012, 2011 and 2010,respectively.

Interest income may also be derived from profits on equity participation interests. No such interest income was recognized in 2012, 2011 and 2010.

We also derive interest income from our investments in residential mortgage-backed securities ("RMBS"), commercial mortgage-backed securities ("CMBS") and commercial real estate collateralized debt obligation ("CDO") bond securities. Interest on these investments represented approximately 3%, 1% and 2% of our total revenues in 2012, 2011 and 2010, respectively.

Property operating income is derived from our hotel and multifamily real estate owned assets. In 2012 and 2011, property operating income represented approximately 27% and 24% of our total revenues, respectively. The operation of a portfolio of hotel properties that we own is seasonal with the majority of revenues earned in the first two quarters of the calendar year. No such income was recognized in 2010.

Additionally, we derive operating revenues from other income that represents net interest income and gains and losses recorded on our linked transactions, as well as loan structuring and defeasance fees, and miscellaneous asset management fees associated with our loans and investments portfolio. Revenue from other income represented approximately 1% of our total revenues in 2012, 2011 and 2010.

Income or Loss from Equity Affiliates and Gain or Loss on Sale of Loans and Real Estate

We derive income or loss from equity affiliates relating to joint ventures that were formed with equity partners to acquire, develop and/or sell real estate assets. These joint ventures are not majority owned or controlled by us, and are not consolidated in our financial statements. These investments are recorded under either the equity or cost method of accounting as appropriate. We record our share of net income and losses from the underlying properties of our equity method investments and any other-than-temporary impairment of these investments on a single line item in the Consolidated Statement of Operations as income or loss from equity affiliates. In 2012 and 2010, loss from equity affiliates totaled $0.7 million and $1.3 million, respectively, while in 2011, income from equity affiliates was $3.7 million.

We also may derive income or loss from the sale of loans and real estate. We may acquire real estate by foreclosure or through partial or full settlement of mortgage debt or for investment in order to stabilize the property and dispose of it for a future anticipated return. We may also acquire real estate notes generally at a discount from lenders in situations where the borrower wishes to restructure and reposition its short-term debt and the lender wishes to divest certain assets from its portfolio. In 2012, we sold a real estate property that was part of a portfolio of hotel assets to a third party for a gain of $0.5 million as well as two real estate held-for-sale properties acquired by deed-in-lieu of foreclosure to third parties for a total gain of $3.5 million. In 2010, we sold a real estate held-for-sale property acquired by a foreclosure sale to a third party for a gain of $1.3 million. No such gain or loss was recorded in 2011.

Significant Accounting Estimates and Critical Accounting Policies

Management's discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with the Financial Accounting Standards Board ("FASB") Accounting Standards Codification™, the authoritative reference for accounting principles generally accepted in the United States ("GAAP"). The preparation of financial statements in conformity with GAAP requires the use of estimates and assumptions that could affect the reported amounts in our consolidated financial statements. Actual results could differ from these estimates. A summary of our significant accounting policies is presented in Note 2 of the "Notes to Consolidated Financial Statements" set forth in Item 8 hereof. Set forth below is a summary of the accounting policies that management believes are critical to the preparation of the consolidated financial statements included in this report. Certain of the accounting policies used in the preparation of these consolidated financial statements are particularly important for an understanding of the financial position and results of operations presented in the historical consolidated financial statements included in this report and require the application of significant judgment by management and, as a result, are subject to a degree of uncertainty.

Loans, Investments and Securities

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, loan purchase discounts, and net of the allowance for loan losses when such loan or investment is deemed to be impaired. We invest in preferred equity interests that, in some cases, allow us to participate in a percentage of the underlying property's cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

At the time of purchase, we designate a security as available-for-sale, held-to-maturity, or trading depending on our ability and intent to hold it to maturity. We do not have any securities designated as trading as of December 31, 2012. Securities available-for-sale are reported at fair value with the net unrealized gains or losses reported as a component of accumulated other comprehensive loss, while securities held-to-maturity are reported at amortized cost. Unrealized losses that are determined to be other-than-temporary are recognized in earnings up to their credit component. The determination of other-than-temporary impairment is a subjective process requiring judgments and assumptions. The process may include, but is not limited to, assessment of recent market events and prospects for near-term recovery, assessment of cash flows, internal review of the underlying assets securing the investments, credit of the issuer and the rating of the security, as well as our ability and intent to hold the investment to maturity. Management closely monitors market conditions on which it bases such decisions.

We also assess certain of our securities, other than those of high credit quality, to determine whether significant changes in estimated cash flows or unrealized losses on these securities, if any, reflect a decline in value which is other-than-temporary and, accordingly, should be written down to their fair value against earnings. On a quarterly basis, we review these changes in estimated cash flows, which could occur due to actual prepayment and credit loss experience, to determine if an other-than-temporary impairment is deemed to have occurred. The determination of other-than-temporary impairment is a subjective process requiring judgments and assumptions and is not necessarily intended to indicate a permanent decline in value. We calculate a revised yield based on the current amortized cost of the investment, including any other-than-temporary impairments recognized to date, and the revised yield is then applied prospectively to recognize interest income.

From time to time, we may enter into an agreement to sell a loan. These loans are considered held-for-sale and are valued at the lower of the loan's carrying amount or fair value less costs to sell. For the sale of loans, recognition occurs when ownership passes to the buyer.

Impaired Loans, Allowance for Loan Losses, Loss on Sale and Restructuring of Loans and Charge-offs

Loans are considered impaired when, based upon current information and events, it is probable that we will be unable to collect all amounts due for both principal and interest according to the contractual terms of the loan agreement. We evaluate each loan in our portfolio on a quarterly basis. Our loans are individually specific and unique as it relates to product type, geographic location, and collateral type, as well as to the rights and remedies and the position in the capital structure our loans and investments have in relation to the underlying collateral. We evaluate all of this information as well as general market trends related to specific classes of assets, collateral type and geographic locations, when determining the appropriate assumptions such as capitalization and market discount rates, as well as the asset's operating income and cash flows, in estimating the value of the underlying collateral when determining if a loan is impaired. We utilize internally developed valuation models and techniques primarily consisting of discounted cash flow and direct capitalization models in determining the fair value of the underlying collateral on an individual loan. We may also obtain a third party appraisal,

which may value the collateral through an "as-is" or "stabilized value" methodology. Such appraisals may be used as an additional source of valuation information only and no adjustments are made to appraisals. Included in the evaluation of the capitalization and market discount rates, we consider not only assumptions specific to the collateral but also geographical and industry trends that could impact the collateral's value.

If upon completion of the valuation, the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level that is believed to be adequate by management to absorb probable losses. We had a $161.7 million allowance for loan losses at December 31, 2012 related to 20 loans in our portfolio with an aggregate carrying value of approximately $240.2 million, before loan loss reserves. At December 31, 2011, we had a $185.4 million allowance for loan losses related to 24 loans in our portfolio with an aggregate carrying value of approximately $285.0 million, before loan loss reserves.

Loan terms may be modified if we determine that based on the individual circumstances of a loan and the underlying collateral, a modification would more likely increase the total recovery of the combined principal and interest from the loan. Any loan modification is predicated upon a goal of maximizing the collection of the loan. Typical triggers for a modification would include situations where the projected cash flow is insufficient to cover required debt service, when asset performance is lagging the initial projections, where there is a requirement for rebalancing, where there is an impending maturity of the loan, and where there is an actual loan default. Loan terms that have been modified have included, but are not limited to interest rate, maturity date and in certain cases, principal amount. Length and amounts of each modification have varied based on individual circumstances and are determined on a case by case basis. If the loan modification constitutes a concession whereas we do not receive ample consideration in return for the modification, and the borrower is experiencing financial difficulties and cannot repay the loan under the current terms, then the modification is considered by us to be a troubled debt restructuring. If we receive a benefit, either monetary or strategic, and the above criteria are not met, the modification is not considered to be a troubled debt restructuring. We record interest on modified loans on an accrual basis to the extent that the modified loan is contractually current.

Loss on restructured loans is recorded when we grant a concession to a borrower in the form of principal forgiveness related to a payoff or the substitution or addition of a new debtor for the original borrower or when we incur costs on behalf of the borrower related to the modification, payoff or the substitution or addition of a new debtor for the original borrower. When a loan is restructured, we record the investment at net realizable value, taking into account the cost of all concessions at the date of restructuring. The reduction in the recorded investment is recorded as a charge to the Consolidated Statement of Operations in the period in which the loan is restructured. In addition, a gain or loss may be recorded upon the sale of a loan to a third party as a charge to the Consolidated Statement of Operations in the period in which the loan was sold. No loss on sale and restructuring of loans was recorded for the year ended December 31, 2012. During the years ended December 31, 2011 and 2010, we recorded loss on sale and restructuring of loans of $5.7 million and $7.2 million, respectively.

Charge-offs to the allowance for loan losses occur when losses are confirmed through the receipt of cash or other consideration from the completion of a sale; when a modification or restructuring takes place in which we grant a concession to a borrower or agree to a discount in full or partial satisfaction of the loan; when we take ownership and control of the underlying collateral in full satisfaction of the loan; when loans are reclassified as other investments; or when significant collection efforts have ceased and it is highly likely that a loss has been realized. For the years ended December 31, 2012, 2011 and 2010, we recorded charge-offs to the allowance for loan losses of $46.6 million, $58.8 million and$194.9 million, respectively.

Real Estate Owned and Held-For-Sale

Real estate owned, shown net of accumulated depreciation and impairment charges, is comprised of real property acquired by foreclosure or through partial or full settlement of mortgage debt. The real estate acquired is recorded at the estimated fair value at the time of acquisition.

Costs incurred in connection with the foreclosure of the properties collateralizing the real estate loans are expensed as incurred and costs subsequently incurred to extend the life or improve the assets subsequent to foreclosure are capitalized.

We allocate the purchase price of operating properties to land, building, tenant improvements, deferred lease cost for the origination costs of the in-place leases, intangibles for the value of the above or below market leases at fair value and to any other identified intangible assets or liabilities. We finalize the purchase price allocation on these assets within one year of the acquisition date. We amortize the value allocated to the in-place leases over the remaining lease term. The value allocated to the above or below market leases are amortized over the remaining lease term as an adjustment to rental income.

Real estate assets, including assets acquired by foreclosure or through partial or full settlement of mortgage debt, that are operated for the production of income are depreciated using the straight-line method over their estimated useful lives. Ordinary repairs and maintenance which are not reimbursed by the tenants are expensed as incurred. Major replacements and betterments which improve or extend the life of the asset are capitalized and depreciated over their estimated useful life.

Our properties are individually reviewed for impairment each quarter, if events or circumstances change indicating that the carrying amount of the assets may not be recoverable. We recognize impairment if the undiscounted estimated cash flows to be generated by the assets are less than the carrying amount of those assets. Measurement of impairment is based upon the estimated fair value of the assets. Upon evaluating a property for impairment, many factors are considered, including estimated current and expected operating cash flows from the property during the projected holding period, costs necessary to extend the life or improve the asset, expected capitalization rates, projected stabilized net operating income, selling costs, and the ability to hold and dispose of such real estate owned in the ordinary course of business. Valuation adjustments may be necessary in the event that effective interest rates, rent-up periods, future economic conditions, and other relevant factors vary significantly from those assumed in valuing the property. If future evaluations result in a diminution in the value of the property, the reduction will be recognized as an impairment charge at that time.

Real estate is classified as held-for-sale when management commits to a plan of sale, the asset is available for immediate sale, there is an active program to locate a buyer, and it is probable the sale will be complete within one year. Properties classified as held-for-sale are not depreciated and the results of their operations are shown in discontinued operations. Real estate assets that are expected to be disposed of are valued, on an individual asset basis, at the lower of their carrying amount or their fair value less costs to sell.

We recognize sales of real estate properties upon closing. Payments received from purchasers prior to closing are recorded as deposits. Profit on real estate sold is recognized upon closing using the full accrual method when the collectability of the sale price is reasonably assured and we are not obligated to perform significant activities after the sale. Profit may be deferred in whole or in part until collectability of the sales price is reasonably assured and the earnings process is complete.

Revenue Recognition

Interest income. Interest income is recognized on the accrual basis as it is earned from loans, investments and securities. In certain instances, the borrower pays an additional amount of interest at the time the loan is closed, an origination fee, a prepayment fee and/or deferred interest upon

maturity. In some cases, interest income may also include the amortization or accretion of premiums and discounts arising from the purchase or origination of the loan or security. This additional income, net of any direct loan origination costs incurred, is deferred and accreted into interest income on an effective yield or "interest" method adjusted for actual prepayment activity over the life of the related loan or security as a yield adjustment. Income recognition is suspended for loans when, in the opinion of management a full recovery of all contractual principal is not probable. Income recognition is resumed when the loan becomes contractually current and performance is resumed. We record interest income on certain impaired loans to the extent cash is received, in which a loan loss reserve has been recorded, as the borrower continues to make interest payments. We recorded loan loss reserves related to these loans as it was deemed that full recovery of principal and interest was not probable.

Several of our loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the asset. If management cannot make this determination, interest income above the current pay rate is recognized only upon actual receipt.

Given the transitional nature of some of our real estate loans, we may require funds to be placed into an interest reserve, based on contractual requirements, to cover debt service costs. We will analyze these interest reserves on a periodic basis and determine if any additional interest reserves are needed. Recognition of income on loans with funded interest reserves are accounted for in the same manner as loans without funded interest reserves. We will not recognize any interest income on loans in which the borrower has failed to make the contractual interest payment due or has not replenished the interest reserve account. As of December 31, 2012, we had total interest reserves of $8.3 million on 40 loans with an aggregate unpaid principal balance of $475.6 million and had three non-performing loans with an aggregate unpaid principal balance of $38.4 million with a funded interest reserve of $0.1 million. Income from non-performing loans is generally recognized on a cash basis only to the extent it is received. Full income recognition will resume when the loan becomes contractually current and performance has recommenced.

Additionally, interest income is recorded when earned from equity participation interests, referred to as equity kickers. These equity kickers have the potential to generate additional revenues to us as a result of excess cash flow distributions and/or as appreciated properties are sold or refinanced. We did not record interest income on such investments for the years ended December 31, 2012, 2011 or2010.

Property operating income. Property operating income represents income associated with the operation of commercial real estate properties classified as real estate owned. We recognize revenue for these activities when the fees are fixed or determinable, or are evidenced by an arrangement, collection is reasonably assured and the services under the arrangement have been provided. For the years ended December 31, 2012 and 2011, we recorded approximately $30.2 million and $23.4 million, respectively, of property operating income relating to real estate owned properties. We did not have property operating income in 2010. As of December 31, 2012, we had two real estate owned properties, a portfolio of multifamily assets that was purchased by us out of bankruptcy and a portfolio of hotel assets that was transferred to us by the owner, a creditor trust. Both of these portfolios were acquired in the first quarter of 2011. Additionally, a real estate investment that was part of the portfolio of hotel properties was sold in 2012, and two real estate investments were reclassified from real estate owned to real estate held-for-sale in 2011, resulting in the reclassification of all of the operating activity from these properties from property operating income and expenses into discontinued operations for all prior periods. For more details see Note 6 of the "Notes to Consolidated Financial Statements" set forth in Item 8 hereof.

Other income. Other income represents net interest income and gains and losses recorded on our linked transactions, as well as loan structuring, defeasance, and miscellaneous asset management fees

associated with our loans and investments portfolio. We recognize these forms of income when the fees are fixed or determinable, are evidenced by an arrangement, collection is reasonably assured and the services under the arrangement have been provided.

Stock-Based Compensation

We have granted certain of our employees, directors, and employees of ACM, stock awards consisting of shares of our common stock that vest immediately or annually over a multi-year period, subject to the recipient's continued service to us. We record stock-based compensation expense at the grant date fair value of the related stock-based award with subsequent remeasurement for any unvested shares granted to non-employees. Such amounts are expensed against earnings, at the grant date (for the portion that vests immediately) or ratably over the respective vesting periods. Dividends are paid on restricted stock as dividends are paid on shares of our common stock whether or not they are vested. Stock-based compensation is disclosed in our Consolidated Statement of Operations under "employee compensation and benefits" for employees and under "selling and administrative" expense for non-employees.

Income Taxes

We are organized and conduct our operations to qualify as a REIT and to comply with the provisions of the Internal Revenue Code with respect thereto. A REIT is generally not subject to federal income tax on taxable income which is distributed to its stockholders, provided that at least 90% of its taxable income is distributed and provided that certain other requirements are met. Certain REIT income may be subject to state and local income taxes. Our assets or operations that would not otherwise comply with the REIT requirements, are owned or conducted by our taxable REIT subsidiaries, the income of which is subject to federal and state income tax. Under current federal tax law, the income and the tax on such income attributable to certain debt extinguishment transactions realized in 2009 and 2010 have been deferred to future periods at our election.

Current accounting guidance clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements. This guidance prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This guidance also provides clarity on derecognition, classification, interest and penalties, accounting in interim periods and disclosure.

Hedging Activities and Derivatives

Hedging Activities

We recognize all derivatives as either assets or liabilities at fair value and these amounts are recorded in other assets or other liabilities in the Consolidated Balance Sheets. Additionally, the fair value adjustments will affect either accumulated other comprehensive income (loss) until the hedged item is recognized in earnings, or net income (loss) depending on whether the derivative instrument qualifies as a hedge for accounting purposes and, if so, the nature of the hedging activity. We use derivatives for hedging purposes rather than speculation. Fair values are approximated based on current market data received from financial sources that trade such instruments and are based on prevailing market data and derived from third party proprietary models based on well recognized financial principles and reasonable estimates about relevant future market conditions.

Derivatives

We record all derivatives in the Consolidated Balance Sheets at fair value. Additionally, the accounting for changes in the fair value of derivatives depends on the intended use of the derivative, whether a company has elected to designate a derivative in a hedging relationship and apply hedge

accounting and whether the hedging relationship has satisfied the criteria necessary to apply hedge accounting. Derivatives designated and qualifying as a hedge of the exposure to changes in the fair value of an asset, liability, or firm commitment attributable to a particular risk, such as interest rate risk, are considered fair value hedges. Derivatives designated and qualifying as a hedge of the exposure to variability in expected future cash flows, or other types of forecasted transactions, are considered cash flow hedges. Hedge accounting generally provides for the matching of the timing of gain or loss recognition on the hedging instrument with the recognition of the changes in the fair value of the hedged asset or liability that are attributable to the hedged risk in a fair value hedge or the earnings effect of the hedged forecasted transactions in a cash flow hedge. We may enter into derivative contracts that are intended to economically hedge certain of our risks, even though hedge accounting does not apply or we elect not to apply hedge accounting.

In the normal course of business, we may use a variety of derivative financial instruments to manage, or hedge, interest rate risk. These derivative financial instruments must be effective in reducing its interest rate risk exposure in order to qualify for hedge accounting. When the terms of an underlying transaction are modified, or when the underlying hedged item ceases to exist, all changes in the fair value of the instrument are marked-to-market with changes in value included in net income (loss) for each period until the derivative instrument matures or is settled. Any derivative instrument used for risk management that does not meet the hedging criteria is marked-to-market with the changes in value included in net income (loss). In cases where a derivative financial instrument is terminated early, any gain or loss is generally amortized over the remaining life of the hedged item.

During the year ended December 31, 2012, one basis swap matured with a notional value of approximately $110.1 million, ten interest rate swaps matured with a combined notional value of approximately $196.4 million and one interest rate cap matured with a notional value of approximately $7.0 million. In addition, the notional value on four basis swaps decreased by approximately $140.4 million pursuant to the contractual terms of the respective swap agreements and the notional value on an interest rate swap decreased by approximately $6.4 million pursuant to the contractual terms of the respective swap agreement. In certain circumstances, we may finance the purchase of RMBS investments through a repurchase agreement with the same counterparty which may qualify as a linked transaction. If both transactions are entered into contemporaneously or in contemplation of each other, the transactions are presumed to be linked transactions and we account for the purchase of such securities and the repurchase agreement on a combined basis as a forward contract derivative at fair value which is reported in other assets on the Consolidated Balance Sheet with changes in the fair value of the assets and liabilities underlying linked transactions and associated interest income and expense reported in other income on the Consolidated Statement of Operations. The analysis of transactions under these rules requires management's judgment and experience. During year ended December 31, 2012, we purchased 12 RMBS investments which qualified as linked transactions. The RMBS investments, net of their respective financing, had a total fair value at December 31, 2012 of $10.8 million which is recorded in other assets on the Consolidated Balance Sheet. During the year ended December 31, 2011, we entered into a LIBOR Cap with a notional value of approximately $73.3 million that was designated as a cash flow hedge and a LIBOR Cap with a notional value of approximately $6.0 million that was not designated as a cash flow hedge. In addition, the notional value on four basis swaps decreased by approximately $202.8 million pursuant to the contractual terms of the respective swap agreements, the notional value on two interest rate swaps decreased by approximately $14.2 million pursuant to the contractual terms of the respective swap agreements, and six interest rate swaps matured with a combined notional value of approximately $111.3 million. Gains and losses on terminated swaps are deferred and recognized in interest expense over the original life of the hedged item. The fair value of our qualifying hedge portfolio has increased by approximately $8.1 million from December 31, 2011 as a result of the maturities and the amortized notional value of swaps, combined with a change in the projected LIBOR rates and credit spreads of both parties.

Because the valuations of our derivatives are based on estimates, the fair value may change if our estimates are inaccurate. For the effect of hypothetical changes in market interest rates on our interest rate swaps, see "Interest Rate Risk" in "Quantitative and Qualitative Disclosures About Market Risk", set forth in Item 7A hereof.

Variable Interest Entities

We have evaluated our loans and investments, mortgage related securities, investments in equity affiliates, junior subordinated notes, CDOs and CLO, in order to determine if they qualify as Variable Interest Entities ("VIEs") or as variable interests in VIEs. This evaluation resulted in our determination that our bridge loans, junior participation loans, mezzanine loans, preferred equity investments, investments in equity affiliates, junior subordinated notes, CDOs, CLO and investments in debt securities were potential VIEs or variable interests in VIEs. A VIE is defined as an entity in which equity investors (i) do not have the characteristics of a controlling financial interest, and/or (ii) do not have sufficient equity at risk for the entity to finance its activities without additional financial support from other parties. A VIE is required to be consolidated by its primary beneficiary, which is defined as the party that (i) has the power to control the activities that most significantly impact the VIE's economic performance and (ii) has the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE.

We consolidate our CDO and CLO subsidiaries, which qualify as VIEs, of which we are the primary beneficiary. These CDOs and CLOs invest in real estate and real estate-related securities and are financed by the issuance of CDO and CLO debt securities. We, or one of our affiliates, is named collateral manager, servicer, and special servicer for all CDO and CLO collateral assets which we believes gives us the power to direct the most significant economic activities of the entity. We also have exposure to CDO and CLO losses to the extent of our equity interests and also have rights to waterfall payments in excess of required payments to CDO and CLO bond investors. As a result of consolidation, equity interests in these CDOs and CLOs have been eliminated, and the Consolidated Balance Sheet reflects both the assets held and debt issued by the CDOs and CLOs to third parties. Our operating results and cash flows include the gross amounts related to CDO and CLO assets and liabilities as opposed to our net economic interests in the CDO and CLO entities.

As of December 31, 2012, we have determined that we are not the primary beneficiary of 54 VIEs in which we have a variable interest. These VIEs had an aggregate carrying amount of $655.0 million and exposure to real estate debt of approximately $4.6 billion at December 31, 2012. For all other investments, we have determined they are not VIEs or variable interests in VIEs. As such, we have continued to account for these loans and investments as a loan or joint venture, as appropriate. A summary of our identified VIEs or variable interests in VIEs is presented in Note 9 of the "Notes to Consolidated Financial Statements" set forth in Item 8 hereof.

Fair Value Measurements

Fair value is defined as the price at which an asset could be exchanged in a current transaction between knowledgeable, willing parties. A liability's fair value is defined as the amount that would be paid to transfer the liability to a new obligor, not the amount that would be paid to settle the liability with the creditor. Where available, fair value is based on observable market prices or parameters or derived from such prices or parameters. Where observable prices or inputs are not available, valuation models are applied. These valuation techniques involve some level of management estimation and judgment, the degree of which is dependent on the price transparency for the instruments or market and the instruments' complexity.

Assets and liabilities disclosed at fair value are categorized based upon the level of judgment associated with the inputs used to measure their fair value. Hierarchical levels directly related to the amount of subjectivity associated with the inputs to fair valuation of these assets and liabilities, are as follows:

- Level 1—Inputs are unadjusted and quoted prices exist in active markets for identical assets or liabilities at the measurement date. The types of assets and liabilities carried at Level 1 fair value generally are government and agency securities, equities listed in active markets, investments in publicly traded mutual funds with quoted market prices and listed derivatives.

- Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability through correlation with market data at the measurement date and for the duration of the instrument's anticipated life. Level 2 inputs include quoted market prices in markets that are not active for an identical or similar asset or liability, and quoted market prices in active markets for a similar asset or liability. Fair valued assets and liabilities that are generally included in this category are non-government securities, municipal bonds, certain hybrid financial instruments, certain mortgage and asset-backed securities, certain corporate debt, certain commitments and guarantees, certain private equity investments and certain derivatives.

- Level 3—Inputs reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date. These valuations are based on significant unobservable inputs that require a considerable amount of judgment and assumptions. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model. Generally, assets and liabilities carried at fair value and included in this category are certain mortgage and asset-backed securities, certain corporate debt, certain private equity investments, certain municipal bonds, certain commitments and guarantees and certain derivatives.

Determining which category an asset or liability falls within the hierarchy requires significant judgment and we evaluate our hierarchy disclosures each quarter.

At December 31, 2012, we measured certain financial assets and financial liabilities at fair value on a recurring basis, including available-for-sale securities and derivative financial instruments. The fair values of certain available-for-sale securities are approximated based on current market quotes received from financial sources that trade such securities. The fair values of available-for-sale equity securities traded in active markets are approximated using Level 1 inputs, while the fair values of certain available-for-sale debt securities that are approximated using current, non-binding market quotes received from financial sources that trade such investments are valued using Level 3 inputs. The fair values of certain CMBS and CDO securities are estimated by us using Level 3 inputs that require significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management. In addition, fair values of interest rate swap derivatives are approximated using Level 2 inputs based on current market data received from financial sources that trade such instruments and are based on prevailing market data and derived from third party proprietary models based on well recognized financial principles including counterparty risks, credit spreads and interest rate projections, as well as reasonable estimates about relevant future market conditions. These items are included in other assets and other liabilities on the Consolidated Balance Sheets. We incorporate credit valuation adjustments in the fair values of our derivative financial instruments to reflect counterparty nonperformance risk. The fair values of forward contract derivatives are approximated using Level 3 inputs in internally developed valuation models, which are compared to current non-binding market quotes for the underlying RMBS received from pricing services and financial sources that trade such investments.

At December 31, 2012, we measured certain financial assets and financial liabilities at fair value on a nonrecurring basis. Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, loan purchase discounts, and net of the allowance for loan losses when such loan or investment is deemed to be impaired. We consider a loan impaired when, based upon current information and events, it is probable that we will be unable to collect all amounts due for both principal and interest according to the contractual terms of the loan agreement. We perform evaluations of our loans to determine if the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, which may result in an allowance and corresponding charge to the provision for loan losses. These valuations require significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management. In addition, real estate investments held-for-sale are carried at the lower of cost or fair value, less costs to sell. Measurement of fair value requires significant judgments, which include assumptions regarding cash flows, capitalization rates, occupancy rates, availability of financing, exit plan, and other factors deemed necessary by management as well as discussions with active market participants.

Recently Issued Accounting Pronouncements

In December 2011, the FASB issued updated guidance on disclosure about offsetting assets and liabilities which amends U.S. GAAP to conform more to the disclosure requirements of International Financial Reporting Standards ("IFRS"). Under the updated guidance, an entity is required to disclose both gross information and net information about both instruments and transactions eligible for offset in the statement of financial position and instruments and transactions subject to an agreement similar to a master netting arrangement. The scope would include certain derivatives (including bifurcated embedded derivatives,) repurchase agreements and reverse repurchase agreements, and securities borrowing and securities lending transactions. This guidance is effective as of the first quarter of 2013 and we are currently evaluating the impact it may have on our financial disclosure.

In June 2011, the FASB issued updated guidance on comprehensive income which amends U.S. GAAP to conform to IFRS disclosure requirements. The amendment eliminates the option to present components of other comprehensive income as part of the Statement of Changes in Stockholders' Equity and requires a separate Statement of Comprehensive Income or two consecutive statements in the Statement of Operations and in a separate Statement of Comprehensive Income. This guidance was effective as of the first quarter of 2012, except for guidance on the disclosure of reclassification adjustments which was postponed for re-deliberation by the FASB, and early adoption was permitted. We early adopted the guidance in the fourth quarter of 2011, with the exception of the disclosure of reclassification adjustments postponed for re-deliberation by the FASB. As the guidance only amends existing disclosure requirements, its adoption did not have a material effect on our Consolidated Financial Statements. In February 2013, the FASB issued updated guidance on the disclosure of reclassification adjustments. The updated guidance requires us to disclose, either on the face of the financial statements or in the notes to the financial statements, the financial statement effects on earnings from items that are reclassified out of other comprehensive income, by component. This guidance is effective as of the first quarter of 2013 and we are currently evaluating the impact it may have on our financial disclosure.

In May 2011, the FASB issued updated guidance on fair value measurement which amends U.S. GAAP to conform to IFRS measurement and disclosure requirements. The guidance amends certain fair value measurement principles and enhances disclosure requirements by requiring a description of the process for valuing items categorized as Level 3 in the fair value hierarchy, quantitative disclosure of unobservable inputs used to make these measurements and, in certain cases, the sensitivity of the measurements to changes in these inputs. This guidance was effective as of the

first quarter of 2012, applied prospectively, and its adoption did not have a material effect on our Consolidated Financial Statements.

In April 2011, the FASB issued updated guidance on the transfer of financial assets which primarily removes certain criteria from the consideration of effective control over assets subject to repurchase agreements when determining the recognition of a sale. The removal of these criteria will generally result in the assets transferred pursuant to the repurchase agreement being accounted for as a secured borrowing, with both the transferred asset and repurchase liability recorded on the transferor's balance sheet. This guidance was effective as of the first quarter of 2012, applied prospectively to transactions which occur subsequent to the effective date, and its adoption did not have a material effect on our Consolidated Financial Statements.

Changes in Financial Condition

Our loan and investment portfolio balance, including our available-for-sale and held-to-maturity securities, at December 31, 2012 was $1.5 billion, with a weighted average current interest pay rate of 4.77%. Including certain fees and costs associated with the loan and investment portfolio, the weighted average current interest rate was 5.04%. This is compared to $1.5 billion at December 31, 2011, with a weighted averagecurrent interest pay rate of 4.59%. Including certain fees and costs associated with the loan and investment portfolio, the weighted average current interest rate was 4.82%. At December 31, 2012, advances on our financing facilities totaled $1.2 billion, with a weighted average funding cost of 2.82%, which excludes changes in the market value of certain interest rate swaps and financing costs. Including the financing costs, the weighted average funding rate was 3.12%. This is compared to $1.3 billion at December 31, 2011 with a weighted average funding cost of3.20%, which excludes changes in the market value of certain interest rate swaps and financing costs. Including the financing costs, the weighted average funding rate was 3.54%.

Cash and cash equivalents decreased $26.0 million, or 47%, to $29.2 million at December 31, 2012 compared to $55.2 million at December 31, 2011. Allhighly liquid investments with original maturities of three months or less are considered to be cash equivalents. The decrease was primarily due to funding new loan originations and investments, payment of dividends and purchasing our own CDO bonds, net of proceeds received from our two equity offerings in 2012, proceeds from new financing facilities, loan payoffs, paydowns and interest from our investments.

Restricted cash decreased $24.8 million, or 37%, to $42.5 million at December 31, 2012 compared to $67.3 million at December 31, 2011. Restricted cash is kept on deposit with the trustees for our CDOs, all three of which have reached their respective replenishment dates as of January 2012, and primarily represents proceeds from loan payoffs and paydowns net of principal repayments to the CDO bondholders, as well as unfunded loan commitments and interest payments received from loans. The decrease was primarily due to loan principal repayments net of payoffs and partial paydowns. Our real estate owned assets acquired in 2011 also have restricted cash balances totaling $1.0 million and $2.0 million as of December 31, 2012 and 2011, respectively, due to escrowrequirements.

Loans and investments increased $23.2 million, or 2%, to $1.33 billion at December 31, 2012 compared to $1.30 billion at December 31, 2011. During the year ended December 31, 2012, we originated 34 loans totaling $274.5 million that had an aggregate weighted average rate of interest of 7.35%, as well as received full satisfaction of 21 loans totaling $239.9 million that had an aggregate weighted average rate of interest of 5.47%. We also received partial repayment on four loans totaling $9.6 million. We also refinanced and/or modified eight loans totaling $202.3 million which increased the rate of interest on the modified loans from an aggregate weighted average rate of interest of 5.37% to 5.51%, and 26 loans totaling approximately $248.0 million were extended, $46.6 million of which was in accordance with an extension option of the corresponding loan agreement.

Since December 31, 2012, we have originated seven new loans for a total of $74.8 million as well as purchased two RMBS investments for a total of $24.8 million which were financed with $19.2 million of debt. We also received $28.2 million for the repayment in full of three loans.

Securities held-to-maturity increased $13.0 million, or 43.6%, to $43.0 million at December 31, 2012 compared to $29.9 million at December 31, 2011 as a result of purchasing 18 RMBS investments in 2012, net of paydowns received during the year ended December 31, 2012. See Note 4 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for a further description of these transactions.

Real estate held-for-sale decreased $62.1 million to $0 at December 31, 2012 compared to $62.1 million at December 31, 2011. In the third and fourth quarters of 2011, we entered into negotiations to sell two real estate investments with carrying values of $19.4 million and $1.2 million, respectively, to third parties. In the first quarter of 2012, the two investments were sold and a total gain on sale of real estate held-for-sale of $3.5 million was recorded in our Consolidated Statement of Operations. In the second quarter of 2012 we surrendered a property held-for-sale with a carrying value of $41.4 million to the first mortgage lender in full satisfaction of a $41.4 million mortgage note payable. See Note 6 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for a further description of these transactions.

Other assets increased $8.3 million, or 18%, to $55.2 million at December 31, 2012 compared to $46.9 million at December 31, 2011. The increase was primarily due to 12 RMBS investments recorded on a combined basis with the related repurchase financing as linked transactions at a total fair value of $10.8 million, net of a $2.0 million decrease in cash collateral posted against our interest rate swaps and a $0.5 million net decrease in various other receivables and prepaid expenses. See Item 7A "Quantitative and Qualitative Disclosures About Market Risk" for further information relating to our derivatives.

Repurchase agreements and credit facilities increased $54.6 million, or 72%, to $130.7 million at December 31, 2012 compared to $76.1 million at December 31, 2011 due to financing the purchase of 18 RMBS investments classified as securities held-to-maturity, net of paydowns, with two repurchase agreements during the year ended December 31, 2012, which had a combined total net increase of $9.7 million. Also, in 2012, we entered into a $15.0 million committed revolving line of credit which had an outstanding balance of $15.0 million at December 31, 2012, a $12.6 million warehousing facility which had an outstanding balance of $12.6 million at December 31, 2012 and a $17.3 million warehousing facility which had an outstanding balance of $17.3 million at December 31, 2012. See "Sources of Liquidity—Repurchase Agreements and Credit Facilities" below.

Collateralized debt obligations decreased $190.2 million, or 19%, to $812.5 million at December 31, 2012 compared to approximately $1.0 billion at December 31, 2011 primarily due to $107.8 million of payments to investors due to runoff and amortization, as well as repurchases of Class B, C, D, E, F, G and H notes originally issued by our CDO II and CDO III issuing entities with an aggregate face value of $66.2 million, and a $15.4 million decrease in the revolving note facility of one of our CDOs. See "Sources of Liquidity—CDOs" below.

Collateralized loan obligation was $87.5 million at December 31, 2012 due to the completion of a collateralized loan obligation in the third quarter of 2012 in which we securitized $125.1 million of assets and issued $87.5 million of investment grade notes. See "Sources of Liquidity—CLO" below

Notes payable decreased $34.0 million, or 40%, to $51.5 million at December 31, 2012 compared to $85.5 million at December 31, 2011 due to the sale of a $50.0 million mezzanine loan which relieved a $32.0 million junior loan participation liability in the second quarter of 2012 and the payoff of an $11.8 million mezzanine loan which relieved a $2.0 million junior loan participation liability in the third quarter of 2012. See "Sources of Liquidity —Notes Payable" below.

Mortgage notes payable—held-for-sale decreased $62.2 million to $0 at December 31, 2012 compared to $62.2 million at December 31, 2011 primarily due to the satisfaction of a $20.8 million first lien mortgage upon the sale to a third party of a property held-for-sale in the first quarter of 2012 as well as the surrender of a property held-for-sale to the first mortgage lender in full satisfaction of a $41.4 million mortgage note payable in the second quarter of 2012. See "Sources of Liquidity—Mortgage Notes Payable—Held-For-Sale" below for further details.

Due to borrowers increased $20.2 million to $23.1 million at December 31, 2012 compared to $2.8 million at December 31, 2011 due to an increase in unfunded commitments on the loans originated during the year ended December 31, 2012.

Other liabilities decreased $9.8 million, or 12%, to $72.8 million at December 31, 2012 compared to $82.6 million at December 31, 2011. The decrease was primarily due to an $8.0 million decrease in accrued interest payable as a result of an increase in the fair value of our interest rate swaps and a $3.2 million decrease in accrued expenses and payables, net of $1.4 million of effective yield amortization on our junior subordinated notes.

On October 31, 2012, the Board of Directors declared a cash dividend of $0.11 per share of common stock with respect to the three months ended September 30, 2012. The dividend was paid on November 28, 2012 to common shareholders of record at the close of business on November 20, 2012 and the ex-dividend date was November 16, 2012. On August 3, 2012, the Board of Directors declared a cash dividend of $0.10 per share of common stock with respect to the three months ended June 30, 2012. The dividend was paid on August 28, 2012 to common shareholders of record at the close of business on August 21, 2012 and the ex-dividend date was August 17, 2012. On May 4, 2012, the Board of Directors declared a cash dividend of $0.075 per share of common stock with respect to the three months ended March 31, 2012. The dividend was paid on May 29, 2012 to common shareholders of record at the close of business on May 22, 2012 and the ex-dividend date was May 18, 2012. On February 12, 2013, the Board of Directors declared a cash dividend of $0.12 per share of common stock with respect to the three months ended December 31, 2012. The dividend is payable on March 12, 2013 to common shareholders of record at the close of business on March 5, 2013 and the ex-dividend date is March 1, 2013. No dividends were declared in 2011.

In June 2012, we completed a public offering in which we sold 3,500,000 shares of our common stock for $5.40 per share, and received net proceeds of approximately $17.5 million after deducting the underwriting discount and other offering expenses. In October 2012, we completed another public offering in which we sold 3,500,000 shares of our common stock for $5.80 per share, and received net proceeds of approximately $19.2 million after deducting the underwriting discount and other offering expenses. We used the net proceeds from the offerings to make investments, to repurchase or pay liabilities and for general corporate purposes. On December 31, 2012, we entered into an ATM equity offering sales agreement with JMP Securities LLC ("JMP") whereby, in accordance with the terms of the agreement, from time to time we may issue and sell through JMP up to 6,000,000 shares of our common stock. Sales of the shares, if any, will be made by means of ordinary brokers' transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million. We currently have 32,036,925 shares of common stock outstanding.

On February 1, 2013, we completed an underwritten public offering of 1.4 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million. We currently have $416.4 million available under the shelf registration.

On April 3, 2012, we issued an aggregate of 90,000 shares of fully vested common stock to the non-management members of the Board of Directors, as well as 6,255 shares of fully vested common stock to a former director who was also the corporate secretary, under the 2003 Stock Incentive Plan, as amended and restated in 2009 (the "Plan"), and recorded approximately $0.5 million to selling and administrative expense in our Consolidated Statement of Operations in 2012. On March 19, 2012, we issued 10,000 shares of fully vested common stock under the Plan to a director who is also an officer of the managing member of ACM, and accrued approximately $0.1 million to selling and administrative expense in our Consolidated Statement of Operations in 2012. On January 22, 2012, we issued 15,000 shares of fully vested common stock under the Plan to a director who was re-appointed to the Board of Directors on December 19, 2011, and accrued approximately $0.1 million to selling and administrative expense in our Consolidated Statement of Operations in 2011. In February 2013, the Board of Directors authorized the issuance of approximately 200,000 shares of restricted common stock under the Plan to certain employees of ours and ACM. The effective date of the grant will be February 28, 2013 and will vest over a two year period. One third of the shares will vest as of the date of grant, one third will vest in February 2014, and the remaining third will vest in February 2015.

In December 2011, the Board of Directors authorized a stock repurchase plan that enabled us to buy up to 0.5 million shares of our common stock beginning January 3, 2012. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. A Rule 10b5-1 plan permits us to repurchase shares at times when we might otherwise be prevented from doing so. The program expired on July 3, 2012, as of which date we had repurchased a total 170,170 shares of our common stock under this stock repurchase plan at a total cost of $0.7 million and an average cost of $4.02 per share. In June 2011, the Board of Directors authorized a stock repurchase plan that enabled us to buy up to 1.5 million shares of our common stock. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. As of December 31, 2011, we repurchased all of the 1.5 million shares of our common stock under this stock repurchase plan at a total cost of $5.7 million and an average cost of $3.83 per share.

Comparison of Results of Operations for Year Ended 2012 and 2011

The following table sets forth our results of operations for the years ended December 31, 2012 and 2011:

	Year Ended December 31,		Increase/(Decrease)	
	2012	2011	Amount	Percent
Interest income	$ 79,998,762	$ 73,867,556	$ 6,131,206	8%
Interest expense	40,866,832	51,651,933	(10,785,101)	(21)%
Net interest income	39,131,930	22,215,623	16,916,307	76%
Other revenue:				
Property operating income	30,173,754	23,359,492	6,814,262	29%
Other income	1,280,289	188,485	1,091,804	nm
Total other revenue	31,454,043	23,547,977	7,906,066	34%
Other expenses:				
Employee compensation and benefits	10,173,572	11,195,663	(1,022,091)	(9)%
Selling and administrative	7,882,914	7,325,801	557,113	8%
Property operating expenses	27,963,386	21,428,112	6,535,274	30%
Depreciation and amortization	5,794,013	5,090,498	703,515	14%
Provision for loan losses (net of recoveries)	22,946,396	38,542,888	(15,596,492)	(40)%
Loss on sale and restructuring of loans	—	5,710,000	(5,710,000)	(100)%
Management fee—related party	10,000,000	8,300,000	1,700,000	20%
Total other expenses	84,760,281	97,592,962	(12,832,681)	(13)%
Loss from continuing operations before gain on extinguishment of debt, (loss) income from equity affiliates and benefit from income taxes	(14,174,308)	(51,829,362)	37,655,054	(73)%
Gain on extinguishment of debt	30,459,023	10,878,218	19,580,805	180%
(Loss) income from equity affiliates	(697,856)	3,671,386	(4,369,242)	nm
Income (loss) before benefit from income taxes	15,586,859	(37,279,758)	52,866,617	nm
Benefit from income taxes	801,558	—	801,558	nm
Income (loss) from continuing operations	16,388,417	(37,279,758)	53,668,175	nm
Loss on impairment of real estate held-for-sale	—	(1,450,000)	1,450,000	(100)%
Gain on sale of real estate held-for-sale	3,953,455	—	3,953,455	nm
Income (loss) from operations of real estate held-for-sale	1,374,583	(1,366,299)	2,740,882	nm
Income (loss) from discontinued operations	5,328,038	(2,816,299)	8,144,337	nm
Net income (loss)	21,716,455	(40,096,057)	61,812,512	nm
Net income attributable to noncontrolling interest	215,567	215,656	(89)	nm
Net income (loss) attributable to Arbor Realty Trust, Inc.	$ 21,500,888	$ (40,311,713)	$ 61,812,601	nm

nm — not meaningful

Net Interest Income

Interest income increased $6.1 million, or 8%, to $80.0 million in 2012 from $73.9 million in 2011. This increase was primarily due to an 8% increase in the average yield on assets from 4.60% in 2011 to 4.97% in 2012, due to higher interest rates on our net originations. Interest income from cash equivalents was $0.3 million in 2012 compared to $0.7 million in 2011.

Interest expense decreased $10.8 million, or 21%, to $40.9 million in 2012 from $51.7 million in 2011. The decrease was primarily due to a 19% decrease in the average cost of these borrowings from 3.97% for 2011 to 3.23% for 2012 primarily due to the maturity of certain of our interest rate swaps, resulting in a reduction of interest expense, as well as a $3.2 million non-cash charge recorded to interest expense in the second quarter of 2011 related to the amortization of a discount on a loan that was participated out to a subordinate lender. The decrease in interest expense was also due to a 3% decrease in the average balance of our debt facilities from $1.30 billion for 2011 to $1.26 billion for 2012. The decrease in the average balance was primarily due to a reduction in our CDO debt due to runoff and amortization and the repurchase of CDO notes, net of the addition of new financing facilities.

Other Revenue

Property operating income increased $6.8 million, or 29%, to $30.2 million in 2012 compared to $23.4 million in 2011. This was due to the operations of two real estate investments recorded as real estate owned during the first quarter of 2011, resulting in a partial first quarter of activity recorded in 2011 as compared to a full first quarter of activity recorded in 2012.

Other income increased $1.1 million to $1.3 million in 2012 from $0.2 million in 2011 primarily due to net interest income and the increase in fair value on our linked transactions as well as miscellaneous asset management fees on our loan and investment portfolio.

Other Expenses

Employee compensation and benefits expense decreased $1.0 million, or 9%, to $10.2 million in 2012 from $11.2 million in 2011. These expenses represent salaries and benefits for those employed by us during these periods. The decrease was primarily due to higher compensation expense related to the restructuring of certain of our loans and investments as well as stock-based compensation for certain of our employees in 2011.

Selling and administrative expense increased $0.6 million, or 8%, to $7.9 million in 2012 from $7.3 million in 2011. These costs include, but are not limited to, professional and consulting fees, marketing costs, insurance expense, travel and placement fees, director's fees, licensing fees, and stock-based compensation relating to our directors and certain employees of our manager. This increase was primarily due to a $1.0 million increase in professional fees and insurance, partially offset by $0.6 million of stock-based compensation recorded for the issuance of fully vested common stock to members of the Board of Directors during 2012 as compared to $1.0 million of stock-based compensation recorded for the issuance of fully vested common stock to certain employees of our manager and members of the Board of Directors during 2011.

Property operating expenses increased $6.5 million, or 30%, to $28.0 million in 2012 compared to $21.4 million in 2011. This was due to the operations of two real estate investments recorded as real estate owned during the first quarter of 2011, resulting in a partial first quarter of activity recorded in 2011 as compared to a full first quarter of activity recorded in 2012.

Depreciation and amortization expense increased $0.7 million, or 14%, to $5.8 million in 2012 compared to $5.1 million in 2011. This was due to depreciation expense associated with two real estate investments recorded as real estate owned during the first quarter of 2011, resulting in a partial first quarter of activity recorded in 2011 as compared to a full first quarter of activity recorded in 2012.

Provision for loan losses (net of recoveries) totaled $22.9 million for the year ended December 31, 2012, and $38.5 million for the year ended December 31, 2011. During the year ended December 31, 2012, we performed an evaluation of our loan portfolio and determined that the fair value of the underlying collateral securing eight impaired loans with an aggregate carrying value of $94.6 million

was less than the net carrying value of the loans, resulting in us recording an additional $23.8 million provision for loan losses. We also recorded net recoveries of $0.9 million related to eight loans in our portfolio in 2012, which were recorded in provision for loan losses on the Consolidated Statement of Operations netting the provision to $22.9 million. At December 31, 2012 we had a total of 20 loans with an aggregate carrying value of $240.2 million, before loan loss reserves, for which impairment reserves have been recorded. During the year ended December 31, 2011, we performed an evaluation of our loan portfolio and determined that the fair value of the underlying collateral securing 11 impaired loans with an aggregate carrying value of $109.5 million was less than the net carrying value of the loans, resulting in us recording an additional $44.8 million provision for loan losses. We also recorded net recoveries of $6.3 million related to 12 loans in our portfolio in 2011, which were recorded in provision for loan losses on the Consolidated Statement of Operations netting the provision to $38.5 million. At December 31, 2011 we had a total of 24 loans with an aggregate carrying value of $285.0 million, before loan loss reserves, for which impairment reserves were recorded.

Loss on sale and restructuring of loans was $5.7 million for the year ended December 31, 2011 which represents $4.7 million from the sale of a $30.0 million portion of a $67.0 million loan to a third party for $25.3 million, as well as $1.0 million from the execution of a forbearance agreement in the first quarter of 2011 for a loan modified in the second quarter of 2011. There was no loss on sale and restructuring of loans for the year ended December 31, 2012.

Management fees increased $1.7 million, or 20%, to $10.0 million in 2012 from $8.3 million in 2011. These amounts represent compensation in the form of base management fees, on a cost reimbursement basis. The management agreement also provides for incentive management fees and success-based payments to be paid to our manager upon the completion of specified corporate objectives in addition to the standard base management fee. No incentive or success-based management fees were earned for the years ended December 31, 2012 and 2011. Referto "Contractual Commitments—Management Agreement" below for further details including information related to our amended management agreement with ACM.

Gain on extinguishment of debt increased $19.6 million, or 180%, to $30.5 million in 2012 from $10.9 million in 2011. During the year ended December 31, 2012, we purchased, at a discount, $66.2 million of investment grade rated Class B, C, D, E, F, G and H notes originally issued by our CDO II and CDO III issuing entities from third party investors and recorded a net gain on early extinguishment of debt of $30.5 million. During the year ended December 31, 2011, we purchased, at a discount, $21.3 million ofinvestment grade rated Class B, C, D, E and F notes originally issued by our three CDO issuing entities from third party investors and recorded a net gain on early extinguishment of debt of $10.9 million.

Loss from equity affiliates was $0.7 million and income from equity affiliates was $3.7 million in 2012 and 2011, respectively, primarily due to a $3.9 million gain recognized on the sale of an interest in a property held by one of our equity affiliates, net of $0.3 million of losses from another of our equity affiliates recorded against the investment in 2011. (Loss) income from equity affiliates also reflects a portion of the loss and income from our equity affiliates.

Benefit from Income Taxes

We are organized and conduct our operations to qualify as a REIT for federal income tax purposes. As a REIT, we are generally not subject to federal income tax on our REIT—taxable income that we distribute to our stockholders, provided that we distribute at least 90% of our REIT—taxable income and meet certain other requirements. As of December 31, 2012 and 2011, we were in compliance with all REIT requirements and, therefore, have not recorded a provision for income taxes on our REIT—taxable income for the years ended December 31, 2012 and 2011 except for $0.4 millio of federal alternative minimum tax and $0.2 million of estimated state income taxes incurred in those

states that do not adopt the federal tax law that allows the Company to elect to defer income generated from certain debt extinguishment transactions, recorded in 2012.

Certain of our assets that produce non-qualifying income are owned by our taxable REIT subsidiaries, the income of which is subject to federal and state income taxes. During 2012, we recorded a $1.4 million refund of federal income taxes paid by a taxable REIT subsidiary in a prior year, which was received in 2012. During the years ended December 31, 2012 and 2011, we did not record any provision for income taxes from these taxable REIT subsidiaries.

Income (loss) from Discontinued Operations

During the fourth quarter of 2012, one of the real estate investments in a portfolio of hotel properties was sold to a third party for $2.4 million and we recorded a gain on sale of $0.5 million. As a result, property operating income and expenses, which netted to a loss of $0.1 million and income of less than $0.1 million for the years ended December 31, 2012 and 2011, respectively, were classified as discontinued operations.

During the fourth quarter of 2011, we entered into negotiations to sell one of our real estate owned investments to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, this investment was reclassified from real estate owned to real estate held-for-sale at a value of $19.4 million and property operating income and expenses, which netted to income of $0.1 million and a loss of $0.7 million for the years ended December 31, 2012 and 2011, respectively, were classified as discontinued operations. In the first quarter of 2012, we sold the property and recorded a gain of $3.5 million.

During the third quarter of 2011, we entered into negotiations to sell another of our real estate owned investments to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, this investment was reclassified from real estate owned to real estate held-for-sale at a value of $1.9 million, which was reduced to $1.2 million in the fourth quarter of 2011, and property operating income and expenses, which netted to income of $0.2 million and a loss of $0.7 million for the years ended December 31, 2012 and 2011, respectively, were classified as discontinued operations. We also recorded an impairment loss on real estate held-for-sale of $1.5 million for the year ended December 31, 2011 due to our determination of an impairment based on an analysis of indicators of value from the market participants. In the first quarter of 2012, we sold the property and recorded a gain of less than $0.1 million.

During the third quarter of 2009, we mutually agreed with a first mortgage lender to appoint a receiver to operate another of our real estate owned investments and we were working to assist in the transfer of title to the first mortgage lender. As a result we reclassified this investment from real estate owned to real estate held-for-sale at a fair value of $41.4 million. In the second quarter of 2012, we surrendered the property to the first mortgage lender in full satisfaction of a $41.4 million mortgage note payable and recorded income from discontinued operations of $1.2 million related to the reversal of accrued liabilities which were not incurred.

Net Income Attributable to Noncontrolling Interest

Net income attributable to noncontrolling interest totaled $0.2 million in 2012 and 2011, respectively, and represents the portion of income allocated to a third party's interest in a consolidated subsidiary, which holds an investment in operating partnership units that are accruing interest and dividend income, as well as a note payable that is accruing interest expense. See Note 8 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof.

Comparison of Results of Operations for Year Ended 2011 and 2010

The following table sets forth our results of operations for the years ended December 31, 2011 and 2010:

	Year Ended December 31,		Increase/(Decrease)	
	2011	2010	Amount	Percent
Interest income	$ 73,867,556	$ 95,487,325	$ (21,619,769)	(23)%
Interest expense	51,651,933	62,979,036	(11,327,103)	(18)%
Net interest income	22,215,623	32,508,289	(10,292,666)	(32)%
Other revenue:				
Property operating income	23,359,492	—	23,359,492	nm
Other income	188,485	1,069,454	(880,969)	(82)%
Total other revenue	23,547,977	1,069,454	22,478,523	nm
Other expenses:				
Employee compensation and benefits	11,195,663	8,059,364	3,136,299	39%
Selling and administrative	7,325,801	6,996,190	329,611	5%
Property operating expenses	21,428,112	—	21,428,112	nm
Depreciation and amortization	5,090,498	—	5,090,498	nm
Other-than-temporary impairment	—	7,004,800	(7,004,800)	(100)%
Provision for loan losses (net of recoveries)	38,542,888	82,811,753	(44,268,865)	(53)%
Loss on sale and restructuring of loans	5,710,000	7,214,481	(1,504,481)	(21)%
Management fee—related party	8,300,000	26,365,448	(18,065,448)	(69)%
Total other expenses	97,592,962	138,452,036	(40,859,074)	(30)%
Loss from continuing operations before gain on extinguishment of debt, loss on sale of securities, net, income (loss) from equity affiliates and provision for income taxes	(51,829,362)	(104,874,293)	53,044,931	(51)%
Gain on extinguishment of debt	10,878,218	229,321,130	(218,442,912)	(95)%
Loss on sale of securities, net	—	(6,989,583)	6,989,583	(100)%
Income (loss) from equity affiliates	3,671,386	(1,259,767)	4,931,153	nm
(Loss) income before provision for income taxes	(37,279,758)	116,197,487	(153,477,245)	nm
Provision for income taxes	—	(2,560,000)	2,560,000	(100)%
(Loss) income from continuing operations	(37,279,758)	113,637,487	(150,917,245)	nm
Loss on impairment of real estate held-for-sale	(1,450,000)	—	(1,450,000)	nm
Gain on sale of real estate held-for-sale	—	1,331,436	(1,331,436)	(100)%
Loss on operations of real estate held-for-sale	(1,366,299)	(1,842,969)	476,670	(26)%
Loss from discontinued operations	(2,816,299)	(511,533)	(2,304,766)	nm
Net (loss) income	(40,096,057)	113,125,954	(153,222,011)	nm
Net income attributable to noncontrolling interest	215,656	215,743	(87)	nm
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (40,311,713)	$ 112,910,211	$ (153,221,924)	nm

nm—not meaningful

Net Interest Income

Interest income decreased $21.6 million, or 23%, to $73.9 million in 2011 from $95.5 million in 2010. This decrease was primarily due to a 16% decrease in average loans and investments from $1.9 billion for 2010 to $1.6 billion for 2011 due to payoffs, paydowns, modifications and the reclassification of loans to real estate owned, as well as an 8% decrease in the average yield on assets from 4.98% in 2010 to 4.60% in 2011. This decrease in yield was the result of the suspension of interest on our non-performing loans and lower rates on refinanced and modified loans, along with a decrease in average LIBOR over the same period, partially offset by the reversal of $1.2 million of accrued exit fees in the first quarter of 2010. Interest income from cash equivalents decreased $0.1 million to $0.7 million in 2011 compared to $0.8 million in 2010 as a result of a decrease in interest rates from 2010 to 2011, net of an increase in average cash balances.

Interest expense decreased $11.3 million, or 18%, to $51.7 million in 2011 from $63.0 million in 2010. The decrease was primarily due to a 13% decrease in the average balance of our debt facilities from $1.5 billion for 2010 to $1.3 billion for 2011. The decrease in the average balance was primarily due to the closing on a discounted payoff agreement with Wachovia Bank in the second quarter of 2010 as well as the repayment of certain debt resulting from loan payoffs and paydowns and the transfer of assets into our CDO vehicles. The decrease in interest expense was also due to a 6% decrease in the average cost of these borrowings from 4.22% for 2010 to 3.97% for 2011 due to closing on the discounted payoff agreement with Wachovia Bank on June 30, 2010, which carried a higher rate of interest than our other debt financing. See "Liquidity and Capital Resources —Repurchase Agreements and Credit Facilities" below for further details. The decrease was also net of recording a $3.2 million non-cash charge in the second quarter of 2011 related to the amortization of a discount on a loan that was participated out to a subordinate lender.

Other Revenue

Property operating income was $23.4 million in 2011. This was due to the operations of two real estate investments recorded as real estate owned as of December 31, 2011. There was no such income in 2010.

Other income decreased $0.9 million, or 82%, to $0.2 million in 2011 from $1.1 million in 2010. This is primarily due to fees received in 2010 related to a loan that was classified as held-for-sale and was sold during the second quarter of 2010.

Other Expenses

Employee compensation and benefits expense increased $3.1 million, or 39%, to $11.2 million in 2011 from $8.1 million in 2010. These expenses represent salaries, benefits, incentive compensation, and stock-based compensation for those employed by us during these periods. The increase was primarily due to an increase in compensation expense as a result of the restructuring of certain of our loans and investments as well as stock-based compensation for certain of our employees in 2011.

Selling and administrative expense increased $0.3 million, or 5%, to $7.3 million in 2011 from $7.0 million in 2010. These costs include, but are not limited to, professional and consulting fees, marketing costs, insurance expense, travel and placement fees, director's fees, licensing fees, and stock-based compensation relating to our directors and certain employees of our manager. This increase was primarily due to grants of fully vested common stock awards to certain employees of our manager in the fourth quarter of 2011 and to our non-management directors in the third quarter of 2011, as compared to grants of fully vested common stock awards to our independent directors in the second quarter of 2010, net of a decrease in professional fees in 2011.

Property operating expenses were $21.4 million in 2011. This was due to the operations of two real estate investments recorded as real estate owned as of December 31, 2011.There were no such expenses in 2010.

Depreciation and amortization expense was $5.1 million in 2011. This was due to depreciation expense associated with two real estate investments recorded as real estate owned as of December 31, 2011. There was no such expense in 2010.

Other-than-temporary impairment charges of $7.0 million that were recorded during the year ended December 31, 2010 represent the recognition of additional impairments to the fair market value of our available-for-sale securities that were considered other-than-temporarily impaired. GAAP accounting guidance requires that investments are evaluated periodically to determine whether a decline in their value is other-than-temporary, though it is not intended to indicate a permanent decline in value. There were no other-than-temporary impairment charges for the year ended December 31, 2011. See Note 4 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for further details.

Provision for loan losses (net of recoveries) totaled $38.5 million for the year ended December 31, 2011, and $82.8 million for the year ended December 31, 2010. During the year ended December 31, 2011, we performed an evaluation of our loan portfolio and determined that the fair value of the underlying collateral securing 11 impaired loans with an aggregate carrying value of $109.5 million was less than the net carrying value of the loans, resulting in us recording an additional $44.8 million provision for loan losses. We also recorded net recoveries of $6.3 million related to 12 loans in our portfolio in 2011, which were recorded in provision for loan losses on the Consolidated Statement of Operations netting the provision to $38.5 million. At December 31, 2011 we had an allowance for loan losses of $185.4 million relating to 24 loans with an aggregate carrying value, before loan loss reserves, of approximately $285.0 million. During the year ended December 31, 2010, we performed an evaluation of our loan portfolio and determined that the fair value of the underlying collateral securing 27 impaired loans with an aggregate carrying value of $455.4 million was less than the net carrying value of the loans, resulting in us recording an additional $100.9 million provision for loan losses. During the year ended December 31, 2010, we received $15.2 million in cash recoveries related to three loans which were previously fully reserved, as well as $2.9 million of recoveries related to two loans in which the underlying properties were sold and we provided financing to the new operators. These recoveries were recorded in provision for loan losses on the Consolidated Statement of Operations netting the provision to $82.8 million for the year ended December 31, 2010. At December 31, 2010, we hadan allowance for loan losses of $205.5 million relating to 30 loans with an aggregate carrying value, before loan loss reserves, of approximately $530.6 million.

Loss on sale and restructuring of loans decreased $1.5 million, or 21%, to $5.7 million for the year ended December 31, 2011 from $7.2 million for the year ended December 31, 2010. The loss of $5.7 million for the year ended December 31, 2011 represents $4.7 million from the sale of a $30.0 million portion of a $67.0 million loan to a third party for $25.3 million, as well as $1.0 million from the execution of a forbearance agreement in the first quarter of 2011 for a loan modified in the second quarter of 2011. The loss of $7.2 million for the year ended December 31, 2010 represents $3.8 million for the write-down of four bridge loans, which includes $1.1 million of transaction costs incurred in modifying a loan and having it transferred to a new borrower, and $3.4 million for the settlement of six loans and investments.

Management fees decreased $18.1 million, or 69%, to $8.3 million in 2011 from $26.4 million in 2010 primarily due to an incentive management fee of $18.8 million incurred for the twelve month period ended December 31, 2010 as compared to no incentive management fee earned in 2011. As more fully described in "Liquidity and Capital Resources—Repurchase Agreements and Credit Facilities" below, on June 30, 2010, we closed on the discounted payoff agreement with Wachovia and

retired all of our debt with Wachovia at the discount described. The gain recognized as a result of the completion of the retirement of the Wachovia debt was a significant contributor to an incentive fee for our manager in 2010. Management fees represent compensation in the form of base management fees, on a cost reimbursement basis, and incentive management fees as provided for in the management agreement with our manager. Our base management fees amounted to $8.3 million and $7.6 million for the years ended December 31, 2011 and 2010, respectively. The managementagreement also provides for "success-based" payments to be paid to our manager upon the completion of specified corporate objectives in addition to the standard base management fee. No success-based management fees were earned for the years ended December 31, 2011 and 2010. Refer to "Contractual Commitments—Management Agreement" below for further details including informationrelated to our amended management agreement with ACM.

Gain on extinguishment of debt decreased $218.4 million, or 95%, to $10.9 million in 2011 from $229.3 million in 2010. During the year ended December 31, 2011, we purchased, at a discount, $21.3 million of investment grade rated Class B, C, D, E and F notes originally issued by our three CDO issuing entities from third party investors and recorded a net gain on early extinguishment of debt of $10.9 million related to these transactions. On June 30, 2010 we closed on a discounted payoff agreement with Wachovia and in doing so, recorded a $158.4 million gain to our Consolidated Statement of Operations, net of $0.4 million of warrant expense and $0.6 million of other various expenses and commissions. Estimated state income taxes were approximately $0.9 million and were recorded in provision for income taxes resulting in a net gain of approximately $157.5 million. See "Liquidity and Capital Resources—Repurchase Agreements and Credit Facilities" below for further details. During the year ended December 31, 2010 we also purchased, at a discount, $67.7 million of investment grade rated Class A2, B, C, D, E, F and G notes originally issued by our three CDO issuing entities for a price of $22.8 million and recorded a net gain on extinguishment of debt of approximately $44.8 million related to these transactions. We also recorded a $26.3 million gain on the partial settlement of our junior subordinated notes in February 2010. See "Liquidity and Capital Resources—Junior Subordinated Notes" below for further details.

Loss on sale of securities, net was $7.0 million in 2010 as a result of selling three investment grade CDO bonds, with an aggregate face value of $44.7 million and an amortized cost of $40.4 million, for $29.9 million, resulting in a realized loss of $10.5 million, and four CMBS investments, with an aggregate face value of $21.5 million and an amortized cost of $17.4 million, for $20.9 million, resulting in a realized gain of $3.5 million. See Note 4 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for a further description of these transactions. There were no gains or losses on sale of securities in 2011.

Income from equity affiliates was $3.7 million in 2011 and loss from equity affiliates was $1.3 million in 2010. Income from equity affiliates in 2011 includes a $3.9 million gain recognized on the sale of an interest in a property held by one of our equity affiliates, net of $0.3 million of losses from another of our equity affiliates recorded against the investment. Loss from equity affiliates in 2010 includes a $1.1 million impairment charge on an investment in an equity affiliate related to an office building that was considered other-than-temporarily impaired. GAAP accounting guidance requires that investments are evaluated periodically to determine whether a decline in their value is other-than-temporary, though it is not intended to indicate a permanent decline in value. Income and loss from equity affiliates also reflects a portion of the income and losses from our other equity affiliates. See Note 5 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for further details.

Provision for Income Taxes

We are organized and conduct our operations to qualify as a REIT for federal income tax purposes. As a REIT, we are generally not subject to federal income tax on our REIT—taxable income

that we distribute to our stockholders, provided that we distribute at least 90% of our REIT—taxable income and meet certain other requirements. As of December 31, 2011 and 2010, we were in compliance with all REIT requirements and, therefore, have not recorded a provision for federal income taxes on our REIT—taxable income for the years ended December 31, 2011 and 2010 with the exception of $0.9 million of estimated state taxes for the year ended December 31, 2010 incurred in those states that do not adopt the federal tax law that allows us to elect to defer income generated from certain debt extinguishment transactions, as well as recording a deferred tax provision of $1.7 million. While the gain on the Wachovia transaction results in taxable income, under current federal tax law, the gain and the tax on the gain have been deferred to future periods at our election. See Note 18 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof for further details.

Certain of our assets that produce non-qualifying income are owned by our taxable REIT subsidiaries, the income of which is subject to federal and state income taxes. During the years ended December 31, 2011 and 2010, we did not record any provision for income taxes from these taxable REIT subsidiaries.

Loss from Discontinued Operations

During the fourth quarter of 2012, one of the real estate investments in a portfolio of hotel properties was sold to a third party for $2.4 million and we recorded a gain on sale of $0.5 million. As a result, property operating income and expenses, which netted to a loss of $0.1 million and income of less than $0.1 million for the years ended December 31, 2012 and 2011, respectively, were classified as discontinued operations.

During the fourth quarter of 2011, we entered into negotiations to sell one of our real estate owned investments to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, this investment was reclassified from real estate owned to real estate held-for-sale at a value of $19.4 million and property operating income and expenses, which netted to a loss of $0.7 million and $0.9 million for the years ended December 31, 2011 and 2010, respectively, were reclassified to discontinued operations. During the third quarter of 2011, we entered into negotiations to sell another of our real estate owned investments to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, this investment was reclassified from real estate owned to real estate held-for-sale at a value of $1.9 million, which was reduced to $1.2 million in the fourth quarter of 2011, and property operating income and expenses, which netted to a loss of $0.7 million for the years ended December 31, 2011 and 2010, respectively, were reclassified to discontinued operations. Impairment loss on real estate held-for-sale of $1.5 million for the year ended December 31, 2011 resulted from our determination of impairment based on the analysis of one of our real estate owned investments in the second and fourth quarters of 2011. No such impairment loss was recorded for the year ended December 31, 2010. During the third quarter of 2010, we agreed to sell one of our real estate owned investments to a third party. As a result, this investment was reclassified from real estate owned to real estate held-for-sale at a fair value of $5.5 million and property operating income and expenses, which netted to a loss of $0.3 million for the year ended December 31, 2010, were reclassified to discontinued operations. In the fourth quarter of 2010, we sold the property and recorded a gain of $1.3 million.

Net Income Attributable to Noncontrolling Interest

Net income attributable to noncontrolling interest totaled $0.2 million in 2011 and 2010, respectively, representing the portion of income allocated to a third party's interest in a consolidated subsidiary, which holds an investment in operating partnership units that are accruing interest and dividend income, as well as a note payable that is accruing interest expense. See Note 8 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof.

Liquidity and Capital Resources

Sources of Liquidity

Liquidity is a measurement of the ability to meet potential cash requirements. Our short-term and long-term liquidity needs include ongoing commitments to repay borrowings, fund future loans and investments, fund additional cash collateral from potential declines in the value of a portion of our interest rate swaps, fund operating costs and distributions to our stockholders as well as other general business needs. Our primary sources of funds for liquidity consist of proceeds from equity offerings, debt facilities and cash flows from our operations. Our equity sources, depending on market conditions, consist of proceeds from capital market transactions including the issuance of common, convertible and/or preferred equity securities. Our debt facilities include the issuance of floating rate notes resulting from our CDOs and our new CLOs, the issuance of junior subordinated notes and borrowings under credit agreements. Net cash flows from operations include interest income from our loan and investment portfolio reduced by interest expense on our debt facilities, cash from other investments reduced by expenses, repayments of outstanding loans and investments and funds from junior loan participation arrangements.

We believe our existing sources of funds will be adequate for purposes of meeting our short-term and long-term liquidity needs. A majority of our loans and investments are financed under existing debt obligations and their credit status is continuously monitored; therefore, these loans and investments are expected to generate a generally stable return. Our ability to meet our long-term liquidity and capital resource requirements is subject to obtaining additional debt and equity financing. Any decision by our lenders and investors to enter into such transactions with us will depend upon a number of factors, such as our financial performance, compliance with the terms of our existing credit arrangements, industry or market trends, the general availability of and rates applicable to financing transactions, such lenders' and investors' resources and policies concerning the terms under which they make such capital commitments and the relative attractiveness of alternative investment or lending opportunities.

While we have been successful in obtaining proceeds from two equity offerings and an ATM offering, and from certain financing facilities to date, including our two CLOs, conditions in the capital and credit markets have and may continue to make certain forms of financing less attractive and, in certain cases, less available.

To maintain our status as a REIT under the Internal Revenue Code, we must distribute annually at least 90% of our REIT—taxable income. These distribution requirements limit our ability to retain earnings and thereby replenish or increase capital for operations. However, we believe that our capital resources and access to financing will provide us with financial flexibility and market responsiveness at levels sufficient to meet current and anticipated capital requirements.

Cash Flows

As of December 31, 2012 and 2011, we had cash and cash equivalents of $29.2 million and $55.2 million, respectively. The following table shows our cash flow components (in thousands):

	Twelve Months Ended December 31,	
	2012	2011
Net cash provided by / (used in) operating activities	$ 20,166	$ (390)
Net cash used in investing activities	(46,534)	(40,349)
Net cash provided by / (used in) financing activities	320	(5,149)
Net decrease in cash and cash equivalents	(26,048)	(45,888)
Cash and cash equivalents at beginning of period	55,237	101,125
Cash and cash equivalents at end of period	$ 29,189	$ 55,237

Our cash flows from operating activities increased by $20.6 million for the twelve months ended December 31, 2012 compared to the comparable period in 2011 primarily due to an $11.1 million cash payment of a related party payable in the first quarter of 2011, an $11.9 million increase in net income adjusted for noncash expenses, gains and losses and a $1.8 million increase in cash due to the change in other assets, net of a $5.0 million decrease in cash due to the change in other liabilities.

Cash flows from investing activities decreased by $6.2 million for the twelve months ended December 31, 2012 compared to the comparable period in 2011 primarily due to a $27.6 million decrease in the sale of loans, a $32.6 million increase in the purchase of investments, a $42.3 million increase in the origination of loans, a $4.2 million decrease in distributions from an equity affiliate, net of a $27.9 million increase in payoffs and paydowns, a $24.8 million increase in proceeds from the sale of real estate held-for-sale and a $49.4 million increase in principal collections on investments, as compared to 2011.

Cash flows from financing activities increased by $5.5 million for the twelve months ended December 31, 2012 compared to the comparable period in 2011 mainly due to $87.5 million in proceeds from the completion of a collateralized loan obligation, a $52.2 million increase in proceeds from repurchase agreements and credit facilities, net of paydowns, a $69.2 million increase in restricted cash, $36.7 million from the issuance of common stock and a $5.1 million decrease in the purchase of treasury stock, and is net of a $19.2 million increase in the repayment of a mortgage note payable—held-for-sale, a $94.5 million increase in the amortization of our CDO vehicles as well as the purchase of our own CDO bonds, an $103.5 million increase in the repayment of repurchase agreements and credit facilities, net payments of $10.7 million on financial instruments underlying linked transactions, the payment of common stock dividends of $8.0 million in 2012, a $7.8 million decrease in proceeds from collateralized debt obligations and a $2.1 million increase in the payment of deferred financing costs.

Equity Offerings

Our authorized capital provides for the issuance of up to 500 million shares of common stock, par value $0.01 per share, and 100 million shares of preferred stock, par value $0.01 per share.

In June 2010, we filed a shelf registration statement on Form S-3 with the SEC under the 1933 Act with respect to an aggregate of $500.0 million of debt securities, common stock, preferred stock, depositary shares and warrants, that may be sold by us from time to time pursuant to Rule 415 of the 1933 Act. On June 23, 2010, the SEC declared this shelf registration statement effective.

In June 2012, we completed a public offering in which we sold 3,500,000 shares of our common stock for $5.40 per share, and received net proceeds of approximately $17.5 million after deducting the underwriting discount and other offering expenses. In October 2012, we completed another public offering in which we sold 3,500,000 shares of our common stock for $5.80 per share, and received net proceeds of approximately $19.2 million after deducting the underwriting discount and other offering expenses. We used the net proceeds from the offerings to make investments, to repurchase or pay liabilities and for general corporate purposes.

In December 2012, we entered into an ATM equity offering sales agreement with JMP Securities LLC ("JMP") whereby, in accordance with the terms of the agreement, from time to time we may issue and sell through JMP up to 6,000,000 shares of our common stock. Sales of the shares, if any, will be made by means of ordinary brokers' transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million.

On February 1, 2013, we completed an underwritten public offering of 1.4 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million. We intend to use the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes. We currently have $416.4 million available under the shelf registration.

At December 31, 2012 and 2011, we had 31,249,225 and 24,298,140 common shares outstanding, respectively.

Debt Facilities

We also maintain liquidity through two repurchase agreements, three warehousing credit facilities, a revolving credit facility, a note payable and a junior loan participation with six different financial institutions or companies. In addition, we have issued three collateralized debt obligations or CDOs, one collateralized loan obligation or CLO and nine separate junior subordinated notes. London inter-bank offered rate, or LIBOR, refers to one-month LIBOR unless specifically stated. As of December 31, 2012, these facilities had aggregate borrowings of approximately $1.2 billion.

The following is a summary of our debt facilities as of December 31, 2012:

	At December 31, 2012			
Debt Facilities	Commitment	Debt Carrying Value	Available	Maturity Dates
Repurchase agreements and credit facilities. Interest is variable based on pricing over LIBOR and fixed	$ 130,661,619	$ 130,661,619	$ —	2013 - 2017
Collateralized debt obligations. Interest is variable based on pricing over three-month LIBOR(1)	812,452,845	812,452,845	—	2014
Collateralized loan obligation. Interest is variable based on pricing over three-month LIBOR(1)	87,500,000	87,500,000	—	2016
Junior subordinated notes. Interest is variable based on pricing over three-month LIBOR(2)	158,767,145	158,767,145	—	2034 - 2037
Notes payable. Interest is at a fixed rate and variable based on pricing over LIBOR	51,457,708	51,457,708	—	2013 - 2016
	$ 1,240,839,317	$ 1,240,839,317	$ —	

(1) Maturity dates represent the weighted average remaining maturity based on the underlying collateral as of December 31, 2012.

(2) Represents a total face amount of $175.9 million less a total deferred amount of $17.1 million.

These debt facilities are described in further detail in Note 7 of the "Notes to the Consolidated Financial Statements" set forth in Item 8 hereof.

Repurchase Agreements and Credit Facilities

During the year ended December 31, 2012, we financed the purchase of 17 RMBS investments with a repurchase agreement with a financial institution for a total of $54.7 million and paid down the total debt by $45.7 million due to principal paydowns received on the RMBS investments. During the year ended December 31, 2011, we financed the purchase of seven RMBS investments with this repurchase agreement for a total of $30.0 million and paid down the total debt by $3.9 million due to principal paydowns received on the RMBS investments. The total debt balance was $35.1 million and $26.1 million at December 31, 2012 and 2011, respectively. During the yearended December 31, 2012, we also financed the purchase of six RMBS investments with this repurchase agreement for $10.1 million, which qualified as linked transactions, and paid down the debt by $3.4 million due to the principal paydowns received on the RMBS investments. The linked transactions are presented on a combined basis and reported in other assets on the Consolidated Balance Sheet. The facility generally finances between 60% and 90% of the value of each individual investment, has a rolling monthly term, and bears interest at a rate of 125 to 200 basis points over LIBOR. The facility also includes a minimum net worth covenant of $100.0 million.

In the second quarter of 2012, we financed the purchase of an RMBS investment with another repurchase agreement with a financial institution for a total of $0.8 million and paid down the debt by $0.1 million due to principal paydowns received on the RMBS investment in the fourth quarter of 2012. The total outstanding debt balance was $0.7 million at December 31, 2012. During the year ended December 31, 2012, we also financed the purchase of six RMBS investments with this repurchase agreement for $61.2 million, which qualified as linked transactions, and paid down the debt by

$3.3 million due to the principal paydowns received on the RMBS investments. The facility generally finances between 75% and 90% of the value of each investment, has a rolling monthly term, and bears interest at a rate of 165 to 185 basis points over LIBOR.

In July 2011, we entered into a two year, $50.0 million warehouse facility with a financial institution to finance first mortgage loans on multifamily properties. The facility bears interest at a rate of 275 basis points over LIBOR, required a 1% commitment fee upon closing, matures in July 2013 with a one year extension option that requires two 5% paydowns and has warehousing and non-use fees. The facility also has a maximum advance rate of 75% and contains several restrictions including full repayment of an advance if a loan becomes 60 days past due, is in default or is written down by us. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. The facility also has a compensating balance requirement of $50.0 million to be maintained by us and our affiliates. At December 31, 2012, the outstanding balance of this facility was $50.0 million. In January 2013, we amended the facility, increasing the committed amount to $75.0 million and the facility was paid down to $0 as part of the issuance of a second CLO.

In December 2012, we entered into a $17.3 million warehouse facility with a financial institution to finance the first mortgage loan on a multifamily property. The facility bears interest at a rate of 275 basis points over LIBOR or Prime at our election, required a 1% commitment fee upon closing and matures in December 2017. The facility also has a maximum advance rate of 58%, which can be increased to 65% under certain specified conditions, and contains several restrictions including full repayment of an advance if the loan becomes 60 days past due, is in default or is written down by us. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. At December 31, 2012, the outstanding balance of this facility was $17.3 million. In January 2013, the facility was repaid in full as part of the issuance of a second CLO.

In June 2012, we entered into a $12.6 million warehouse facility with a financial institution to finance the first mortgage loan on a multifamily property. The facility bears interest at a rate of 275 basis points over LIBOR or Prime at our election, required a 1% commitment fee upon closing, matures in December 2013 and has a non-use fee. The facility also has a maximum advance rate of 70%, which can be increased to 75% under certain specified conditions, and contains several restrictions including full repayment of an advance if the loan becomes 60 days past due, is in default or is written down by us. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. At December 31, 2012, the outstanding balance of this facility was $12.6 million. In January 2013, the facility was repaid in full as part of the issuance of a second CLO.

In May 2012, we entered into a $15.0 million committed revolving line of credit with a one year term maturing in May 2013, which is secured by a portion of the bonds originally issued by our CDO entities that have been repurchased by us. This facility has a 1% commitment fee, a 1% non-use fee and pays interest at a fixed rate of 8% on any drawn portion of the line. The facility also includes a debt service coverage ratio requirement for the posting of collateral. At December 31, 2012, the outstanding balance of this facility was $15.0 million. In January 2013, we amended the facility, increasing the committed amount to $20.0 million and a fixed rate of interest of 8.5% on any drawn portion of the $20.0 million commitment. The amendment also includes a one year extension option

upon maturity in May 2013 and requires a 1% commitment fee, a 1% non-use fee and pays interest at a fixed rate of 8.5% on any drawn portion of the line.

In February 2013, we entered into a one year, $50.0 million warehouse facility with a financial institution to finance first mortgage loans on multifamily properties. The facility bears interest at a rate of 250 basis points over LIBOR, requires a 12.5 basis point commitment fee upon closing, matures in February 2014, has warehousing and non-use fees and allows for an original warehousing period of up to 24 months with a one year extension option from the initial advance on an asset, subject to certain conditions. The facility also has a maximum advance rate of 75% and contains certain restrictions including partial prepayment of an advance if a loan becomes 90 days past due or in the process of foreclosure, subject to certain conditions. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios.

In the first quarter of 2010, we entered into an agreement with Wachovia whereby we could retire all of our $335.6 million of debt outstanding at the time the parties began to negotiate the agreement for a discounted payoff amount of $176.2 million, representing 52.5% of the face amount of the debt. The $335.6 million of indebtedness was comprised of $286.1 million of term debt and a $49.5 million working capital facility. Upon closing on the discounted payoff agreement on June 30, 2010, we recorded a $158.4 million gain to our Consolidated Statement of Operations, net of $0.4 million of stock warrant expense and $0.6 million of other various expenses and commissions. Estimated state income taxes were approximately $0.9 million and recorded in provision for income taxes resulting in a net gain of approximately $157.5 million. In June 2010, we entered into a new $26.0 million term financing agreement with a different financial institution collateralized by two multi-family loans. The maturity date of the facility was in December 2010 and the facility bore an Interest rate of LIBOR plus 500 basis points or Prime plus 500 basis points. We paid a 1% commitment fee upon closing. In October 2010, we repaid the $26.0 million facility. In July 2009, we had amended and restructured our term credit agreements, revolving credit agreement and working capital facility (the "Amended Agreements") with Wachovia. Pursuant to the Amended Agreements, the interest rate for the term loan facility was changed to LIBOR plus 350 basis points from LIBOR plus approximately 200 basis points and the interest rate on the working capital facility was changed to LIBOR plus 800 basis points from LIBOR plus 500 basis points. We had also agreed to pay a commitment fee of 1.00% payable over three years and issued Wachovia 1.0 million warrants at an average strike price of $4.00. All of the warrants expire on July 23, 2015 and no warrants have been exercised to date. The warrants were valued at approximately $0.6 million upon issuance using the Black-Scholes method and were partially amortized into interest expense in the Company's Consolidated Statement of Operations as of the second quarter of 2010. The remaining portion totaling $0.4 million was expensed as part of the Wachovia discounted payoff gain described above.

CDOs

We completed the formation of three separate CDO entities since 2005 by issuing to third party investors, tranches of investment grade collateralized debt obligations through newly-formed wholly-owned subsidiaries (the "Issuers"). The Issuers hold assets, consisting primarily of real-estate related assets and cash which serve as collateral for the CDOs. The assets pledged as collateral for the CDOs were contributed from our portfolio of assets. By contributing these real estate assets to the various CDOs, these transactions resulted in a decreased cost of funds relating to the corresponding CDO assets and created capacity in our debt facilities.

The Issuers issued tranches of investment grade floating-rate notes of approximately $305.0 million, $356.0 million and $447.5 million for CDO I, CDO II and CDO III, respectively. CDO III also has a $100.0 million revolving note which was not drawn upon at the time of issuance. The revolving note

facility has a commitment fee of 0.22% per annum on the undrawn portion of the facility. The tranches were issued with floating rate coupons based on three-month LIBOR plus pricing of 0.44% - 0.77%. Proceeds from the sale of the investment grade tranches issued in CDO I, CDO II and CDO III of $267.0 million, $301.0 million and $317.1 million, respectively, were used to repay higher costing outstanding debt under our repurchase agreements and notes payable. The CDOs could be replenished with substitute collateral for loans that are repaid during the first four years for CDO I and the first five years for CDO II and CDO III, subject to certain customary provisions. Thereafter, the outstanding debt balance is reduced as loans are repaid. Proceeds from the repayment of assets which serve as collateral for the CDOs must be retained in its structure as restricted cash until such collateral can be replaced and therefore are not available to fund current cash needs. If such cash is not used to replenish collateral, it could have a negative impact on our anticipated returns. As of January 15, 2012, CDO III has reached the end of its replenishment period. Investor capital will be repaid quarterly from proceeds received from loan repayments held as collateral in accordance with the terms of the CDO. As of April 15, 2011, CDO II reached the end of its replenishment period and will no longer make quarterly amortization payments of $1.2 million to investors as a reduction of the CDO liability. As of April 15, 2009, CDO I reached the end of its replenishment period and will no longer make quarterly amortization payments of $2.0 million to investors. Investor capital will be repaid quarterly from proceeds received from loan repayments held as collateral in accordance with the terms of the CDO. Proceeds distributed will be recorded as a reduction of the CDO liability. Our CDO vehicles are VIEs for which we are the primary beneficiary and are consolidated in our Financial Statements.

During the year ended December 31, 2012, we purchased, at a discount, $66.2 million of investment grade rated Class B, C, D, E, F, G and H notes originally issued by our CDO II and CDO III issuing entities for a price of $35.8 million from third party investors and recorded a net gain on extinguishment of debt of $30.5 million from these transactions in our 2012 Consolidated Statement of Operations. In February 2013, we purchased, at a discount, a $7.1 million investment grade rated H note originally issued by our CDO III issuing entity for a price of $3.3 million from a third party investor and recorded a gain on extinguishment of debt of $3.8 million in the first quarter of 2013.

During the year ended December 31, 2011, we purchased, at a discount, $21.3 million of investment grade rated Class B, C, D, E and F notes originally issued by our three CDO issuing entities for a price of $10.4 million from third party investors and recorded a net gain on extinguishment of debt of $10.9 million from these transactions in our 2011 Consolidated Statement of Operations.

During the year ended December 31, 2010, we purchased, at a discount, $67.7 million of investment grade rated Class A2, B, C, D, E, F and G notes originally issued by our three CDO issuing entities for a price of $22.8 million from third party investors except for a $15.0 million Class B note which was purchased from our manager, ACM, for a price of approximately $6.2 million. In 2010, ACM purchased this note from a third party investor for approximately $6.2 million. We recorded a net gain on extinguishment of debt of $44.8 million from these transactions in our 2010 Consolidated Statements of Operations.

In 2010, we re-issued our own CDO bonds we had acquired throughout 2009 with an aggregate face amount of $42.8 million, as well as CDO bonds from other issuers acquired in the second quarter of 2008 with an aggregate face amount of $25.0 million and a carrying value of $0.4 million, and $10.5 million in cash, as part of an exchange for the retirement of $114.1 million of our junior subordinated notes. The transaction resulted in the recording of $65.2 million of additional CDO debt, of which $42.3 million represents the portion of our CDO bonds that were exchanged and $22.9 million represents the estimated interest due on the reissued bonds through their maturity, of which $20.8 million remains at December 31, 2012. See "Liquidity and Capital Resources—Junior Subordinated Notes" below.

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The following table sets forth the face amount and gain on extinguishment of our CDO bonds repurchased in the following periods by bond class:

	For the Year Ended December 31,					
	2012		2011		2010	
Class:	Face Amount	Gain	Face Amount	Gain	Face Amount	Gain
A2	$ —	$ —	$ —	$ —	$ 7,375,000	$ 4,683,125
B	13,000,000	4,615,000	5,654,540	2,086,799	35,500,000	20,182,344
C	3,329,509	1,200,182	7,005,291	3,502,815	12,350,132	9,823,405
D	13,350,000	5,819,066	2,433,912	1,428,950	822,216	680,384
E	13,765,276	6,445,033	2,291,855	1,403,761	1,636,457	1,374,624
F	9,708,556	5,048,417	3,918,343	2,455,892	5,936,662	4,828,921
G	8,672,039	4,777,138	—	—	4,030,552	3,254,671
H	4,403,771	2,554,187	—	—	—	—
Total	$66,229,151	$30,459,023	$21,303,941	$10,878,217	$67,651,019	$44,827,474

At December 31, 2012, the outstanding note balance under CDO I, CDO II and CDO III was $139.9 million, $237.2 million and $435.4 million, respectively.

The following table outlines borrowings and the corresponding collateral under our collateralized debt obligations as of December 31, 2012:

			Collateral						
	Debt		Loans		Securities			Cash	
	Face Value	Carrying Value	Unpaid Principal(1)	Carrying Value(1)	Face Value	Carrying Value	Fair Value(2)	Restricted Cash(3)	Collateral At-Risk(4)
CDO I—Issued four investment grade tranches January 19, 2005. Reinvestment period through April 2009. Stated maturity date of February 2040. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.28%	$133,994,136	$139,856,472	$ 299,881,599	$ 238,852,726	$ —	$ —	$ —	$ 1,036,155	$207,772,049
CDO II—Issued nine investment grade tranches January 11, 2006. Reinvestment period through April 2011. Stated maturity date of April 2038. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.24%	231,186,301	237,209,429	395,266,909	345,919,525	10,000,000	1,100,000	1,100,000	470,952	188,271,174
CDO III—Issued ten investment grade tranches December 14, 2006. Reinvestment period through January 2012. Stated maturity date of January 2042. Interest is variable based on three-month LIBOR; the weighted average note rate was 0.68%	426,458,233	435,386,944	515,403,735	485,235,214	—	—	—	24,819,361	244,697,945

Total CDOs	$791,638,670	$812,452,845	$1,210,552,243	$1,070,007,465	$10,000,000	$1,100,000	$1,100,000	$26,326,468	$640,741,168

The following table outlines borrowings and the corresponding collateral under our collateralized debt obligations as of December 31, 2011:

	Debt		Collateral						
			Loans		Securities			Cash	
	Face Value	Carrying Value	Unpaid Principal(1)	Carrying Value(1)	Face Value	Carrying Value	Fair Value(2)	Restricted Cash(3)	Collateral At-Risk(4)
CDO I—Issued four investment grade tranches January 19, 2005. Reinvestment period through April 2009. Stated maturity date of February 2040. Interest is variable based on three-month LIBOR; the weighted average note rate was 4.49%	$160,435,201	$ 166,513,982	$ 329,771,834	$ 267,636,713	$ 734,969	$ 742,602	$ 737,423	$ 22,136	$152,303,041
CDO II—Issued nine investment grade tranches January 11, 2006. Reinvestment period through April 2011. Stated maturity date of April 2038. Interest is variable based on three-month LIBOR; the weighted average note rate was 2.83%	285,827,267	292,073,302	443,418,527	380,782,546	10,000,000	2,000,000	2,000,000	17,136,397	131,932,659
CDO III—Issued ten investment grade tranches December 14, 2006. Reinvestment period through January 2012. Stated maturity date of January 2042. Interest is variable based on three-month LIBOR; the weighted average note rate was 1.24%	534,791,657	544,028,109	579,343,579	531,123,295	—	—	—	24,795,495	171,427,137
Total CDOs	$981,054,125	$1,002,615,393	$1,352,533,940	$1,179,542,554	$10,734,969	$2,742,602	$2,737,423	$41,954,028	$455,662,837

(1) Amounts include loans to real estate assets consolidated by us that were reclassified to real estate owned and held-for-sale, net on the Consolidated Financial Statements.

(2) The security with a fair value of $1,100,000 was rated CCC- at December 31, 2012 and 2011 by Standard & Poor's. The security with a fair value of $737,423 at December 31, 2011 was rated AAA at December 31, 2011 by Standard & Poor's.

(3) Represents restricted cash held for reinvestment and/or principal repayments in the CDOs. Does not include restricted cash related to interest payments, delayed fundings and expenses.

(4) Amounts represent the face value of collateral in default, as defined by the CDO indenture, as well as assets deemed to be "credit risk". Credit risk assets are reported by each of the CDOs and are generally defined as one that, in the CDO collateral manager's reasonable business judgment, has a significant risk of declining in credit quality or, with a passage of time, becoming a defaulted asset.

CLO

The following table outlines borrowings and the corresponding collateral under our collateralized loan obligation as of December 31, 2012:

	Debt		Collateral		
			Loans		Cash
	Face	Carrying	Unpaid	Carrying	Restricted

	Value	Value	Principal	Value	Cash
CLO—Issued two investment grade tranches September 24, 2012. Replacement period through September 2014. Stated maturity date of October 2022. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.65%	$87,500,000	$87,500,000	$125,086,650	$124,525,103	$ —

On September 24, 2012, we completed our first collateralized loan obligation, or CLO, issuing to third party investors two tranches of investment grade collateralized loan obligations through a newly-formed wholly-owned subsidiaries, Arbor Realty Collateralized Loan Obligation 2012-1, Ltd. (the "Issuer") and Arbor Realty Collateralized Loan Obligation 2012-1, LLC (the "Co-Issuer" and together

with the Issuer, the "Issuers"). Initially, the notes are secured by a portfolio of loan obligations with a face value of approximately $125.1 million, consisting primarily of bridge loans and a senior participation interest in a first mortgage loan that were contributed from our existing loan portfolio. The financing has a two-year replacement period that allows the principal proceeds and sale proceeds (if any) of the loan obligations to be reinvested in qualifying replacement loan obligations, subject to the satisfaction of certain conditions set forth in the indenture. Thereafter, the outstanding debt balance will be reduced as loans are repaid. The aggregate principal amounts of the two classes of notes were $75.0 million of Class A senior secured floating rate notes and $12.5 million of Class B secured floating rate notes. We retained a residual interest in the portfolio with a notional amount of $37.6 million. The notes have an initial weighted average interest rate of approximately 3.39% plus one-month LIBOR and interest payments on the notes are payable monthly, beginning on November 15, 2012, to and including October 15, 2022, the stated maturity date of the notes. We incurred approximately $2.3 million of issuance costs which is being amortized on a level yield basis over the average estimated life of the CLO. Including certain fees and costs, the weighted average note rate was 4.33% at December 31, 2012. We account for this transaction on our balance sheet as a financing facility. Our CLO is a VIE for which we are the primary beneficiary and is consolidated in our financial statements. The two investment grade tranches are treated as a secured financing, and are non-recourse to us.

On January 28, 2013, we completed our second CLO, issuing to third party investors two tranches of investment grade collateralized loan obligations through a newly-formed wholly-owned subsidiaries, Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. (the "Issuer") and Arbor Realty Collateralized Loan Obligation 2013-1, LLC (the "Co-Issuer" and together with the Issuer, the "Issuers"). As of the CLO closing date, the notes are secured by a portfolio of loan obligations with a face value of approximately $210.0 million, consisting primarily of bridge loans that were contributed from our existing loan portfolio. The financing has a two-year replacement period that allows the principal proceeds and sale proceeds (if any) of the loan obligations to be reinvested in qualifying replacement loan obligations, subject to the satisfaction of certain conditions set forth in the indenture. Thereafter, the outstanding debt balance will be reduced as loans are repaid. The proceeds of the issuance of the securities also includes $50.0 million for the purpose of acquiring additional loan obligations for a period of up to 90 days from the closing date of the CLO, at which point it is expected that the Issuer will own loan obligations with a face value of approximately $260.0 million. The aggregate principal amounts of the two classes of notes were $156.0 million of Class A senior secured floating rate notes and $21.0 million of Class B secured floating rate notes. We retained a residual interest in the portfolio with a notional amount of approximately $83.0 million. The notes have an initial weighted average interest rate of approximately 2.36% plus one-month LIBOR and interest payments on the notes are payable monthly, beginning on March 15, 2013, to and including February 15, 2023, the stated maturity date of the notes. We incurred approximately $3.4 million of issuance costs which is being amortized on a level yield basis over the average estimated life of the CLO. Including certain fees and costs, the weighted average note rate is expected to be 3.03%. We expect to account for this transaction on our balance sheet as a financing facility.

Junior Subordinated Notes

The aggregate carrying value under the junior subordinated note facilities was $158.8 million at December 31, 2012 and $158.3 million at December 31, 2011. The current weighted average note rate was 3.08% and 0.50% at December 31, 2012 and 2011, respectively, however, based upon the accounting treatment for the restructuring mentioned below, the effective rate was 3.12% and 3.85% at December 31, 2012 and 2011, respectively.

In 2010, we retired $114.1 million of our junior subordinated notes, with a carrying value of $102.1 million in exchange for the re-issuance of our own CDO bonds we had acquired throughout

2009 with an aggregate face amount of $42.8 million, CDO bonds from other issuers acquired in the second quarter of 2008 with an aggregate face amount of $25.0 million and a carrying value of $0.4 million, and $10.5 million in cash. This transaction resulted in recording $65.2 million of additional CDO debt, of which $42.3 million represents the portion of our CDO bonds that were exchanged and $22.9 million represents the estimated interest due on the bonds through their maturity, a reduction to securities available-for-sale of $0.4 million representing the fair value of CDO bonds of other issuers, and a gain on extinguishment of debt of approximately $26.3 million, or $1.03 per basic and diluted common share, in the first quarter of 2010.

In 2009, we retired $265.8 million of our then outstanding trust preferred securities, primarily consisting of $258.4 million of junior subordinated notes issued to third party investors and $7.4 million of common equity issued to us in exchange for $289.4 million of newly issued unsecured junior subordinated notes, representing 112% of the original face amount. The notes bore a fixed interest rate of 0.50% per annum until March 31, 2012 or April 30, 2012 (the "Modification Period"). Thereafter, interest is to be paid at the rates set forth in the existing trust agreements until maturity, equal to a weighted average three month LIBOR plus 2.90%, which was reduced to 2.77% after the exchange in 2010 mentioned above. The 12% increase to the face amount due upon maturity, which had a balance of $17.1 million at December 31, 2012, is being amortized into interest expense over the life of the notes. We also paid transaction fees of approximately $1.3 million to the issuers of the junior subordinated notes related to this restructuring which is being amortized over the life of the notes.

During the Modification Period, we were permitted to make distributions of up to 100% of taxable income to common shareholders. We had agreed that such distributions would be paid in the form of our stock to the maximum extent permissible under the Internal Revenue Service rules and regulations in effect at the time of such distribution, with the balance payable in cash. This requirement regarding distributions in stock could have been terminated by us at any time, provided that we paid the note holders the original rate of interest from the time of such termination. The terms of the Modification Period expired in April 2012.

The junior subordinated notes are unsecured, have maturities of 25 to 28 years, pay interest quarterly at a fixed rate or floating rate of interest based on three-month LIBOR and, absent the occurrence of special events, were not redeemable during the first two years.

Notes Payable

At December 31, 2012, notes payable consisted of a note payable and a junior loan participation. The aggregate outstanding balance under these facilities was $51.5 million.

We have a $50.2 million non-recourse note payable at December 31, 2012 related to a prior year exchange of profits interest transaction. During 2008, we recorded a $49.5 million note payable related to the exchange of our Prime Outlets Member, LLC ("POM") profits interest for operating partnership units in Lightstone Value Plus REIT, L.P. The note was initially secured by our interest in POM, matures in July 2016 and bears interest at a fixed rate of 4.06% with payment deferred until the closing of the transaction. Upon the closing of the POM transaction in March 2009, the note balance was increased to $50.2 million and is secured by our investment in common and preferred operating partnership units in Lightstone Value Plus REIT, L.P.

In April 2011, we entered into a non-recourse junior loan participation in the amount of $32.0 million on a $50.0 million mezzanine loan. The loan was participated out to a subordinate lender at a discount and we received $28.8 million of proceeds. The subordinate lender received its proportionate share of the interest received from the loan which had a variable rate of LIBOR plus 4.35% and a maturity of July 2012. We also had the right to sell our $18.0 million senior participation to the subordinate lender, at face value, in the event of default or if the loan was not repaid by July 9, 2012. In May 2012, we sold the $50.0 million mezzanine loan to the same third party which relieved our

$32.0 million junior loan participation liability. In June 2011, we entered into a non-recourse junior loan participation in the amount of $2.0 million on an $11.8 million mezzanine loan. The participation had a 0% rate of interest and a maturity of August 2012. Upon maturity in August 2012, we were relieved of our $2.0 million junior loan participation liability. We have a junior loan participation with an outstanding balance at December 31, 2012 of $1.3 million on a $1.3 million bridge loan. Participations have a maturity date equal to the corresponding mortgage loan and are secured by the participant's interest in the mortgage loan. Interest expense is based on the portion of the interest received from the loan that is paid to the junior participant. Our obligation to pay interest on participations is based on the performance of the related loan.

Mortgage Note Payable—Real Estate Owned

During 2011, we assumed a $55.4 million interest-only first lien mortgage in connection with the acquisition of real property pursuant to bankruptcy proceedings for an entity in which we had a $29.8 million loan secured by a portfolio of multifamily assets (the "Multifamily Portfolio"). The real estate investment was classified as real estate owned in our Consolidated Balance Sheet in March 2011. The mortgage bears interest at a variable rate of one-month LIBOR plus 1.23% and has a maturity date of March 2014 with a one year and three month extension option. In June 2011, one of the properties in the Multifamily Portfolio was sold to a third party for $1.6 million and the proceeds were used to pay down the first lien mortgage. The outstanding balance of this mortgage was $53.8 million at December 31, 2012.

Mortgage Notes Payable—Held-For-Sale

During 2010, we assumed a $20.8 million interest-only first lien mortgage related to a deed in lieu of foreclosure agreement for an entity in which we had a $5.6 million junior participation loan secured by an apartment building. The real estate investment was originally classified as real estate owned and was reclassified as real estate held-for-sale in December 2011. The mortgage bore interest at a fixed rate of 6.23% and had a maturity date of December 2013 with a five year extension option. In March 2012, we sold the property to a third party and the first lien mortgage was paid off.

During 2008, we assumed a $41.4 million first lien mortgage related to the foreclosure of an entity in which we had a $5.0 million mezzanine loan. The real estate investment was originally classified as real estate owned and was reclassified as real estate held-for-sale at September 30, 2009. The mortgage bore interest at a fixed rate of 6.13% and had a maturity date of June 2012. In May 2012, we surrendered the property to the first mortgage lender in full satisfaction of the first lien mortgage.

Restrictive Covenants

Our debt facilities contain various financial covenants and restrictions, including minimum net worth, minimum liquidity and maximum debt balance requirements, as well as certain other debt service coverage ratios and debt to equity ratios. We were in compliance with all financial covenants and restrictions at December 31, 2012.

Our CDO and CLO vehicles contain interest coverage and asset over collateralization covenants that must be met as of the waterfall distribution date in order for us to receive such payments. If we fail these covenants in any of our CDOs or CLO, all cash flows from the applicable CDO or CLO would be diverted to repay principal and interest on the outstanding CDO or CLO bonds and we would not receive any residual payments until that CDO or CLO regained compliance with such tests. Our CDOs and CLO were in compliance with all such covenants as of December 31, 2012 as well as on the most recent determination date in January 2013. In the event of a breach of the CDO or CLO covenants that could not be cured in the near-term, we would be required to fund our non-CDO or non-CLO expenses, including management fees and employee costs, distributions required to maintain

REIT status, debt costs, and other expenses with (i) cash on hand, (ii) income from any CDO or CLO not in breach of a covenant test, (iii) income from real property and loan assets, (iv) sale of assets, (v) or accessing the equity or debt capital markets, if available. We have the right to cure covenant breaches which would resume normal residual payments to us by purchasing non-performing loans out of the CDOs or CLO. However, we may not have sufficient liquidity available to do so at such time.

The chart below is a summary of our CDO and CLO compliance tests as of the most recent determination date in January 2013:

Cash Flow Triggers	CDO I	CDO II	CDO III	CLO I
Overcollateralization(1)				
Current	172.73%	138.89%	105.90%	142.96%
Limit	145.00%	127.30%	105.60%	137.86%
Pass / Fail	Pass	Pass	Pass	Pass
Interest Coverage(2)				
Current	476.34%	453.78%	620.84%	257.78%
Limit	160.00%	147.30%	105.60%	120.00%
Pass / Fail	Pass	Pass	Pass	Pass

(1) The overcollateralization ratio divides the total principal balance of all collateral in the CDO and CLO by the total principal balance of the bonds associated with the applicable ratio. To the extent an asset is considered a defaulted security, the asset's principal balance for purposes of the overcollateralization test, is the lesser of the asset's market value or the principal balance of the defaulted asset multiplied by the asset's recovery rate which is determined by the rating agencies. Rating downgrades of CDO and CLO collateral will generally not have a direct impact on the principal balance of a CDO and CLO asset for purposes of calculating the CDO's and CLO overcollateralization test unless the rating downgrade is below a significantly low threshold (e.g. CCC-) as defined in each CDO and CLO vehicle.

(2) The interest coverage ratio divides interest income by interest expense for the classes senior to those retained by us.

The chart below is a summary of the Company's CDO and CLO overcollateralization ratios as of the following determination dates:

Determination Date	CDO I	CDO II	CDO III	CLO I
January 2013	172.73%	138.89%	105.90%	142.96%
October 2012	171.36%	138.59%	105.64%	—
July 2012	168.66%	144.75%	106.96%	—
April 2012	167.82%	142.39%	107.59%	—
January 2012	167.80%	139.51%	107.59%	—

The ratio will fluctuate based on the performance of the underlying assets, transfers of assets into the CDOs prior to the expiration of their respective replenishment dates, purchase or disposal of other investments, and loan payoffs. No payment due under the Junior Subordinated Indentures may be paid if there is a default under any senior debt and the senior lender has sent notice to the trustee. The Junior Subordinated Indentures are also cross-defaulted with each other.

Cash Flow From Operations

We continually monitor our cash position to determine the best use of funds to both maximize our return on funds and maintain an appropriate level of liquidity. Historically, in order to maximize the return on our funds, cash generated from operations has generally been used to temporarily pay down borrowings under credit facilities whose primary purpose is to fund our new loans and investments. Consequently, when making distributions in the past, we have borrowed the required funds by drawing on credit capacity available under our credit facilities. Since we have substantially reduced our short-term debt, we may have to maintain adequate liquidity from operations to make any future distributions.

Share Repurchase Plan

In December 2011, the Board of Directors authorized a stock repurchase plan that enabled us to buy up to 0.5 million shares of our common stock beginning January 3, 2012. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. A Rule 10b5-1 plan permits us to repurchase shares at times when it might otherwise be prevented from doing so. The program expired on July 3, 2012, as of which date we repurchased a total of 170,170 shares of our common stock under this stock repurchase plan at a total cost of $0.7 million and an average cost of $4.02 per share. In June 2011, the Board of Directors authorized a stock repurchase plan that enabled us to buy up to 1.5 million shares of our common stock. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. As of December 31, 2011, we repurchased all of the 1.5 million shares of our common stock under this stock repurchase plan at a total cost of $5.7 million and an average cost of $3.83 per share.

Contractual Commitments

As of December 31, 2012, we had the following material contractual obligations (dollars in thousands):

	Payments Due by Period(1)						
Contractual Obligations	2013	2014	2015	2016	2017	Thereafter	Total
Repurchase agreements and credit facilities	$113,362	$ —	$ —	$ —	$17,300	$ —	$ 130,662
Collateralized debt obligations(2)	189,245	272,551	101,396	156,476	8,158	84,627	812,453
Collateralized loan obligation(3)	—	5,600	45,053	20,200	16,647	—	87,500
Junior subordinated notes(4)	—	—	—	—	—	175,858	175,858
Notes payable	1,300	—	—	50,158	—	—	51,458
Mortgage note payable—real estate owned(6)	—	53,751	—	—	—	—	53,751
Outstanding unfunded commitments(6)	6,621	1,643	1,308	219	—	22	9,813
Totals	$310,528	$333,545	$147,757	$227,053	$42,105	$260,507	$1,321,495

(1) Represents principal amounts due based on contractual maturities. Does not include total projected interest payments on our debt obligations of $27.6 million in 2013, $22.8 million in 2014, $16.6 million in 2015, $11.2 million in 2016, $7.0 million in 2017 and $97.4 million thereafter based on current LIBOR rates.

(2) Comprised of $139.9 million of CDO I debt, $237.2 million of CDO II debt and $435.4 million of CDO III debt with a weighted average contractual maturity of 1.53, 1.98 and 1.93 years, respectively, as of December 31, 2012. The balance of estimated interest due through maturity on CDO bonds reissued in 2010, which is included in the carrying values of the CDOs, totaled $20.8 million at December 31, 2012. During the year ended December 31, 2012, we repurchased, at a discount, $66.2 million of investment grade notes originally issued by our CDO II and CDO III issuers and recorded a reduction of the outstanding debt balance of $66.2 million.

(3) Represents $87.5 million of CLO debt with a weighted average contractual maturity of 3.09 years as of December 31, 2012.

(4) Represents the face amount due upon maturity. The carrying value is $158.8 million, which is net of a deferred amount of $17.1 million at December 31, 2012.

(5) Represents a $55.4 million mortgage note payable with a contractual maturity in 2014, related to a real estate investment purchased out of bankruptcy in March 2011, which was paid down in the second quarter of 2011 and had a balance of $53.8 million at December 31, 2012.

(6) In accordance with certain loans and investments, we have outstanding unfunded commitments of $9.8 million as of December 31, 2012, that we are obligated to fund as the borrowers meet certain requirements. Specific requirements include, but are not limited to, property renovations, building construction, and building conversions based on criteria met by the borrower in accordance with the loan agreements. In relation to the $9.8 million outstanding balance at December 31, 2012, our restricted cash balance and CDO III revolver capacity contained approximately $6.5 million available to fund the portion of the unfunded commitments for loans financed by our CDO vehicles.

Off-Balance-Sheet Arrangements

At December 31, 2012, we did not have any off-balance-sheet arrangements.

Management Agreement

We, ARLP and Arbor Realty SR, Inc. have a management agreement with ACM, pursuant to which ACM provides certain services and we pay ACM a base management fee and under certain circumstances, an annual incentive fee.

The base management fee is an arrangement whereby we reimburse ACM for its actual costs incurred in managing our business based on the parties' agreement in advance on an annual budget with subsequent quarterly true-ups to actual costs. The 2012, 2011 and 2010 base management fees were $10.0 million, $8.3 million and $7.6 million, respectively, and the 2013 base management fee is estimated to be approximately $10.8 million. All origination fees on investments are now retained by us.

The incentive fee is calculated as (1) 25% of the amount by which (a) our funds from operations per share, adjusted for certain gains and losses including gains from the retirement and restructuring of debt and 60% of any loan loss reserve recoveries (spread over a three year period), exceeds (b) the product of (x) 9.5% per annum or the Ten Year U.S. Treasury Rate plus 3.5%, whichever is greater, and (y) the greater of $10.00 or the weighted average of book value of the net assets contributed by ACM to ARLP per ARLP partnership unit, the offering price per share of our common equity in the private offering on July 1, 2003 and subsequent offerings and the issue price per ARLP partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of our outstanding shares.

The minimum return, or incentive fee hurdle, to be reached before an incentive fee is earned, is a percentage applied on a per share basis to the greater of $10.00 or the average gross proceeds per share. In addition, 60% of any loan loss and other reserve recoveries are eligible to be included in the incentive fee calculation, which recoveries are spread over a three year period.

The management agreement also allows us to consider, from time to time, the payment of additional "success-based" fees to ACM for accomplishing certain specified corporate objectives; has a termination fee of $10.0 million; and is renewable automatically for successive one-year terms, unless terminated with six months prior written notice.

We incurred $10.0 million, $8.3 million and $7.6 million of base management fees for services rendered in 2012, 2011 and 2010, respectively. No "success-based" payments were made for the years ended December 31, 2012, 2011 and 2010.

The incentive fee is measured on an annual basis. However, when applicable, we will pay the annual incentive fee in quarterly installments, each within 60 days of the end of each fiscal quarter. The calculation of each installment is based on results for the twelve months ending on the last day of the fiscal quarter for which the installment is payable. These installments of the annual incentive fee are deemed to be an advance subject to potential reconciliation at the end of such fiscal year, and any overpayments are required to be repaid in accordance with the amended management agreement. Subject to the ownership limitations in our charter, at least 25% of this incentive fee is payable to our manager in shares of our common stock having a value equal to the average closing price per share for the last 20 days of the fiscal quarter for which the incentive fee is being paid. For the twelve month period ending December 31, 2010, ACM earned an incentive management fee of $18.8 million, which was included in due to related party as of December 31, 2010. As provided for in the management agreement, we offset the balance of a 2008 prepaid management fee receivable of $3.6 million as of December 31, 2010, and ACM elected to be paid the remaining incentive management fee in 666,927 shares of our common stock and $11.1 million in cash, which was subsequently remitted in 2011. For the years ended December 31, 2012 and 2011, ACM did not earn an incentive management fee.

As more fully described in "Liquidity and Capital Resources—Repurchase Agreements and Credit Facilities" above, on June 30, 2010, we closed on the discounted payoff agreement with Wachovia and retired all of our debt with Wachovia at the discount described. The successful completion of the

retirement of the Wachovia debt was a significant contributor to an incentive fee for the manager in 2010 above. As indicated earlier, gains on the extinguishment of debt are included in the incentive fee calculation and the gain, net of fees, certain expenses, and taxes, attributable to the Wachovia transaction was $157.5 million.

Additionally, in 2007, ACM received an incentive fee installment totaling $19.0 million which was recorded as a prepaid management fee related to the incentive fee on $77.1 million of deferred revenue recognized on the transfer of control of the 450 West 33rd Street property, one of our equity affiliates.

The incentive fee is accrued as it is earned. The expense incurred for the incentive fee paid in common stock is determined using the valuation method described above and the quoted market price of our common stock on the last day of each quarter. At December 31 of each year, we remeasure the incentive fee paid to ACM in the form of common stock in accordance with current accounting guidance, which discusses how to determine the expense when certain terms are not known prior to the measurement date. Accordingly, any expense recorded for such common stock is adjusted to reflect the fair value of the common stock on the measurement date when the final calculation of the total incentive fee is determined. In the event that the incentive fee for the full year is an amount less than the total of the installment payments made to ACM for the year, ACM will refund the amount of such overpayment to us in cash regardless of whether such installments were paid in cash or common stock. In such a case, we would record a negative incentive fee expense in the quarter when such overpayment is determined.

Inflation

Changes in the general level of interest rates prevailing in the economy in response to changes in the rate of inflation generally have little effect on our income because the majority of our interest-earning assets and interest-bearing liabilities have floating rates of interest. However, the significant decline in interest rates in the past triggered LIBOR floors on certain of our variable rate interest-earning assets. This resulted in an increase in interest rate spreads on certain assets as the rates we pay on variable rate interest-bearing liabilities declined at a greater pace than the rates we earned on our variable rate interest-earning assets. The number of loans impacted by LIBOR floors have significantly decreased over this time as a majority of the loans with such floors were paid off, monetized, modified or restructured. Additionally, we have various fixed rate loans in our portfolio which are financed with variable rate LIBOR borrowings. In connection with these loans, we have entered into various interest swaps to hedge our exposure to the interest rate risk on our variable rate LIBOR borrowings as it relates to certain fixed rate loans in our portfolio. However, the value of our interest-earning assets, our ability to realize gains from the sale of assets, and the average life of our interest-earning assets, among other things, may be affected. See Item 7A—"Quantitative and Qualitative Disclosures about Market Risk."

Related Party Transactions

Due from related party was less than $0.1 million and $0.7 million at December 31, 2012 and 2011, respectively,and consisted primarily of escrows held by ACM and its affiliates related to real estate transactions.

At December 31, 2012, due to related party was $3.1 million and consisted primarily of base management fees due to ACM, which will be remitted by us in the first quarter of 2013. At December 31, 2011, due to related party was $2.7 million and consisted primarily of base management fees due to ACM, which were remitted by us in the first quarter of 2012.

In September 2012, we purchased, at par, a $5.1 million bridge loan from ACM. The loan was originated by ACM in May 2012 to a third party entity that acquired a multifamily property from

ACM. The loan bears interest at a rate of one-month LIBOR plus 5.25% with a LIBOR floor of 0.24% and has a maturity date of May 2015. Interest income recorded from this loan totaled approximately $0.1 million for the year ended December 31, 2012.

In December 2011, we completed a restructuring of a $67.6 million preferred equity loan on the Lexford Portfolio ("Lexford"), which is a portfolio of multi-family assets. We, along with a consortium of independent outside investors, made an additional preferred equity investment of $25.0 million in Lexford, of which we hold a $10.5 million interest, and Mr. Fred Weber, our Executive Vice President of Structured Finance, holds a $0.5 million interest, at December 31, 2012. The original preferred equity investment now bears a fixed rate of interest of 2.36%, revised from an original rate of LIBOR plus 5.00% (the loan was paying a modified rate of LIBOR plus 1.65% at the time of the new investment). The original preferred equity investment matures in June 2020. The new preferred equity investment has a fixed interest rate of 12% and also matures in June 2020. Interest income recorded from the preferred equity investment totaled approximately $1.3 million for the year ended December 31, 2012. We, along with the same outside investors, also made a $0.1 million equity investment into Lexford, of which we held a $44,000 noncontrolling interest, and do not have the power to control the significant activities of the entity. During the fourth quarter of 2011, we recorded losses from the entity against the equity investment, reducing the balance to zero. We record this investment under the equity method of accounting. In addition, under the terms of the restructuring, Lexford's first mortgage lender required a change of property manager for the underlying assets. The new management company is an affiliate of Mr. Ivan Kaufman, our chairman and chief executive officer, and has a contract with the new entity for 7.5 years and will be entitled to 4.75% of gross revenues of the underlying properties, along with the potential to share in the proceeds of a sale or refinancing of the debt should the management company remain engaged by the new entity at the time of such capital event. In the first quarter of 2012, Mr. Fred Weber invested $250,000 in the new management company and currently owns a 23.5% ownership interest. Mr. Ivan Kaufman and his affiliates currently own a 53.9% ownership interest.

During the second quarter of 2011, we originated a mortgage loan to a third party borrower secured by property purchased from ACM, our manager. The loan had an unpaid principal balance of $6.2 million, a maturity date of May 2014 and a variable interest rate of LIBOR plus 6.00%. Upon approving the transaction, the independent directors committee of the Board of Directors required us to sell the loan in 90 days and ACM agreed to guarantee the loan until it was sold. In the third quarter of 2011, the loan was sold to an affiliated entity of Mr. Ivan Kaufman for $6.2 million. Interest income recorded from this loan for the year ended December 31, 2011 was approximately $0.2 million.

During the second quarter of 2011, we originated a loan to a third party borrower for a portfolio of properties with an unpaid principal balance of $24.4 million as of December 31, 2012, of which, one property in the portfolio was previously financed with an $11.7 million loan that was purchased by ACM, our manager. The $11.7 million loan was repaid as part of the $24.4 million loan on the portfolio. The new loan had a variable interest rate of LIBOR plus 4.75% and was repaid in full in January 2013. Interest income recorded from this loan totaled approximately $1.7 million and $0.8 million for the years ended December 31, 2012 and 2011, respectively.

During the first quarter of 2011, we originated four mortgage loans totaling $28.4 million to borrowers which were secured by property purchased from ACM, our manager, or its affiliate. Two of the loans totaling $22.4 million have maturity dates of March 2014 and a combined weighted average variable interest rate of 6.20% as of December 31, 2012 and were secured by the same property. The third was a $2.0 million bridge loan with a maturity date of February 2013 and an interest rate of one-month LIBOR plus 6.00%, which was paid off in the third quarter of 2012. The fourth was a $4.0 million bridge loan with a maturity date in April 2013 and an interest rate of one-month LIBOR plus 6.00%. Interest income recorded from these loans totaled approximately $1.9 million and $1.5 million for the years ended December 31, 2012 and 2011, respectively.

In October 2010, we purchased, at par, a $4.7 million bridge loan from ACM. The loan was originated by ACM in June 2010 to a joint venture that acquired a condo development property in Brooklyn, New York. The loan bore interest at a rate of one-month LIBOR plus 8% with a LIBOR floor of 0.5% and a LIBOR cap of 1.5% and had a maturity date of June 2012. In the second quarter of 2012, the loan matured and was paid off. In addition, ACM contributed $0.9 million for a 50% non-controlling interest in an entity, which owns 28% of this joint venture. In the third quarter of 2011, ACM sold its investment in this joint venture to an affiliated entity of Mr. Ivan Kaufman for $0.9 million. Interest income recorded from this loan totaled approximately $0.1 million and $0.4 million for the years ended December 31, 2012 and 2011, respectively.

During the third quarter of 2010, we purchased a $15.0 million investment grade rated bond originally issued by our CDO II issuing entity for a price of $6.2 million from ACM who had purchased it from a third party investor in the third quarter of 2010 for $6.2 million, and recorded a gain on extinguishment of debt of approximately $8.9 million from this transaction.

In March 2010, an affiliated entity of Mr. Ivan Kaufman contributed $1.1 million for a 50% non-controlling interest in an entity, which owns 31% of a joint venture that acquired a condo development property in Brooklyn, New York. In addition, in March 2010, ACM originated a $3.0 million bridge loan to this joint venture. In May 2010, we purchased the loan at par. The loan was paid down $2.2 million in September 2010 and the remaining balance was paid off in October 2010. The loan bore interest at a rate of one-month LIBOR plus 10% and had a maturity date of March 2013. Interest income recorded from this loan for 2010 was approximately $0.1 million.

Other Related Party Transactions

We and our operating partnership have entered into a management agreement with ACM, as amended in August 2009, pursuant to which ACM has agreed to provide us with structured finance investment opportunities and loan servicing as well as other services necessary to operate our business. As discussed above in "Management Agreement," we have agreed to pay our manager a base management fee monthly, based on an annual budget, and an incentive management fee when earned.

Under the terms of the management agreement, ACM has also granted us a right of first refusal with respect to all structured finance investment opportunities in the multi-family and commercial real estate markets that are identified by ACM or its affiliates.

In addition, Mr. Kaufman has entered into a non-competition agreement with us pursuant to which he has agreed not to pursue structured finance investment opportunities in the multi-family and commercial real estate markets, except as approved by our Board of Directors.

We are dependent upon our manager, ACM, with whom we have a conflict of interest, to provide services to us that are vital to our operations. Our chairman, chief executive officer and president, Mr. Ivan Kaufman, is also the chief executive officer and president of our manager, and, our chief financial officer and treasurer, Mr. Paul Elenio, is the chief financial officer of our manager. In addition, Mr. Kaufman and his affiliated entities (the "Kaufman Entities") together beneficially own approximately 92% of the outstanding membership interests of ACM and certain of our employees and directors, also hold an ownership interest in ACM. Furthermore, one of our former directors is general counsel to ACM and another of our directors also serves as the trustee of one of the Kaufman Entities that holds a majority of the outstanding membership interests in ACM and co-trustee of another Kaufman Entity that owns an equity interest in our manager. ACM currently holds approximately 5.3 million of our common shares, representing approximately 17% of the voting power of our outstanding stock as of December 31, 2012. Our Board ofDirectors approved a resolution under our charter allowing Ivan Kaufman and ACM, (which Mr. Kaufman has a controlling equity interest in), to own more than the ownership interest limit of our common stock as stated in our charter as amended. In May 2012, our charter was amended to lower each of the general aggregate stock ownership limit and

the general common stock ownership limit from 7% to 5% unless an exemption is granted by our Board of Directors.

We and our operating partnership have also entered into a services agreement with ACM pursuant to which our asset management group provides asset management services to ACM. In the event the services provided by our asset management group pursuant to the agreement exceed by more than 15% per quarter the level of activity anticipated by our Board of Directors, we will negotiate in good faith with our manager an adjustment to our manager's base management fee under the management agreement, to reflect the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group. See "Management Agreement" above.

Non-GAAP Financial Measures

Funds from Operations

We are presenting funds from operations ("FFO") because we believe it to be an important supplemental measure of our operating performance in that it is frequently used by analysts, investors and other parties in the evaluation of real estate investment trusts (REITs). The revised White Paper on FFO approved by the Board of Governors of the National Association of Real Estate Investment Trusts, or NAREIT, in April 2002 defines FFO as net income (loss) attributable to Arbor Realty Trust, Inc. (computed in accordance with generally accepted accounting principles in the United States ("GAAP")), excluding gains (losses) from sales of depreciated real properties, plus impairments of depreciated properties and real estate related depreciation and amortization, and after adjustments for unconsolidated partnerships and joint ventures. We consider gains and losses on the sales of undepreciated real estate investments to be a normal part of our recurring operating activities in accordance with GAAP and should not be excluded when calculating FFO. In accordance with the revised white paper, losses from discontinued operations are not excluded when calculating FFO.

FFO is not intended to be an indication of our cash flow from operating activities (determined in accordance with GAAP) or a measure of our liquidity, nor is it entirely indicative of funding our cash needs, including our ability to make cash distributions. Our calculation of FFO may be different from the calculation used by other companies and, therefore, comparability may be limited.

FFO for the years ended December 31, 2012, 2011 and 2010 are as follows:

	For the Year Ended December 31,		
	2012	2011	2010
Net income (loss) attributable to Arbor Realty Trust, Inc.	$ 21,500,888	$ (40,311,713)	$ 112,910,211
Subtract:			
Gain on sale of real estate held-for-sale	(3,953,455)	—	(1,331,436)
Add:			
Loss on impairment of real estate held-for-sale	—	1,450,000	
Depreciation—real estate owned and held-for-sale(1)	5,904,089	5,951,525	570,154
Depreciation—investment in equity affiliates	90,396	331,544	—
Funds from operations ("FFO")	$ 23,541,918	$ (32,578,644)	$ 112,148,929
Diluted FFO per common share	$ 0.87	$ (1.30)	$ 4.36
Diluted weighted average shares outstanding	27,211,287	24,968,894	25,741,290

(1) Includes discontinued operations.

Adjusted Book Value

We believe that adjusted book value per share is an additional appropriate measure given the magnitude and the deferral structure of the 450 West 33rd Street transaction from 2007, as well as the changes in the fair value of certain derivative instruments. Adjusted book value per share currently reflects the future impact of the 450 West 33rd Street transaction on our financial condition as well as the evaluation of our operating results without the effects of unrealized losses from certain of our derivative instruments. We consider this non-GAAP financial measure to be an effective indicator of our financial performance for both us and our investors. We do not advocate that investors consider this non-GAAP financial measure in isolation from, or as a substitute for, financial measures prepared in accordance with GAAP. In addition, GAAP book value per share and adjusted book value per share calculations do not take into account any dilution from the potential exercise of the warrants issued to Wachovia as part of the 2009 debt restructuring.

GAAP book value per share and adjusted book value per share as of December 31, 2012, 2011 and 2010 is as follows:

	2012	2011	2010
GAAP Arbor Realty Trust, Inc. Stockholders' Equity	$ 229,329,349	$ 171,126,405	$ 204,415,381
Add: 450 West 33rd Street transaction—deferred revenue	77,123,133	77,123,133	77,123,133
Unrealized loss on derivative instruments	37,754,775	45,888,654	50,802,533
Subtract: 450 West 33rd Street transaction—prepaid management fee	(19,047,949)	(19,047,949)	(19,047,949)
Adjusted Arbor Realty Trust, Inc. Stockholders' Equity	$ 325,159,308	$ 275,090,243	$ 313,293,098
Adjusted book value per share	$ 10.41	$ 11.32	$ 12.64
GAAP book value per share	$ 7.34	$ 7.04	$ 8.25
Common shares outstanding	31,249,225	24,298,140	24,776,213

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk is the exposure to loss resulting from changes in interest rates, foreign currency exchange rates, commodity prices, equity prices and real estate values. The primary market risks that we are exposed to are real estate risk and interest rate risk.

Market Conditions

We are subject to market changes in the debt and secondary mortgage markets. These markets have experienced disruptions in the past, which have and may in the future have an adverse impact on our earnings and financial condition.

In general, credit markets have experienced difficulty over the past several years. However, of late, we have been able to access equity and debt markets through two equity offerings, an ATM offering, a preferred stock offering and the issuance of two CLOs. While there can be no assurance that we will continue to have access to the equity and debt markets, we will continue to pursue these and other available market opportunities as means to increase our liquidity and capital base.

Real Estate Risk

Commercial mortgage assets may be viewed as exposing an investor to greater risk of loss than residential mortgage assets since such assets are typically secured by larger loans to fewer obligors than residential mortgage assets. Multi-family and commercial property values and net operating income derived from such properties are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, events such as natural disasters including hurricanes and earthquakes, acts of war and/or terrorism (such as the events of September 11, 2001) and others that may cause unanticipated and uninsured performance declines and/or losses to us or the owners and operators of the real estate securing our investment; national, regional and local economic conditions (which may be adversely affected by industry slowdowns and other factors); local real estate conditions (such as an oversupply of housing, retail, industrial, office or other commercial space); changes or continued weakness in specific industry segments; construction quality, construction delays, construction cost, age and design; demographic factors; retroactive changes to building or similar codes; and increases in operating expenses (such as energy costs). In the event net operating income decreases, a borrower may have difficulty repaying our loans, which could result in losses to us. In addition, decreases in property values reducing the value of collateral, and a lack of liquidity in the market, could reduce the potential proceeds available to a borrower to repay our loans, which could also cause us to suffer losses. Even when the net operating income is sufficient to cover the related property's debt service, there can be no assurance that this will continue to be the case in the future.

Interest Rate Risk

Interest rate risk is highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control.

Our operating results will depend in large part on differences between the income from our loans and our borrowing costs. Most of our loans and borrowings are variable-rate instruments, based on LIBOR. The objective of this strategy is to minimize the impact of interest rate changes on our net interest income. In addition, we have various fixed rate loans in our portfolio, which are financed with variable rate LIBOR borrowings. We have entered into various interest swaps (as discussed below) to hedge our exposure to interest rate risk on our variable rate LIBOR borrowings as it relates to our fixed rate loans. Certain of these swaps are scheduled to mature on the original maturity dates of their corresponding loans. However, loans are sometimes extended and, consequently, do not pay off on their original maturity dates. If a loan is extended, whether it is through an existing extension option or

a modification, our exposure to interest rate risk may be increased. In these instances, we could have a fixed rate loan in our portfolio financed with variable debt and, since the corresponding interest swap already matured, a portion of our debt is no longer protected against interest rate risk. Some of our loans and borrowings are subject to various interest rate floors. As a result, the impact of a change in interest rates may be different on our interest income than it is on our interest expense.

We utilize interest rate swaps to limit interest rate risk. Derivatives are used for hedging purposes rather than speculation. Also, in certain circumstances, we may finance the purchase of RMBS investments through a repurchase agreement with the same counterparty which may qualify as a linked transaction. If both transactions are entered into contemporaneously or in contemplation of each other, the transactions are presumed to be linked transactions unless certain criteria are met, and we account for the purchase of such securities and the repurchase agreement on a combined basis as a forward contract derivative. We do not enter into financial instruments for trading purposes.

One month LIBOR approximated 0.21% at December 31, 2012 and 0.30% at December 31, 2011.

Based on our loans, securities available-for-sale, securities held-to-maturity and liabilities as of December 31, 2012, and assuming the balances of these loans, securities and liabilities remain unchanged for the subsequent twelve months, a 0.25% increase in LIBOR would decrease our annual net income and cash flows by approximately $0.4 million. This is primarily due to a substantial portion of our portfolio having variable interest rates, partially offset by various interest rate floors that are in effect at a rate that is above a 0.25% increase in LIBOR which would limit the effect of a 0.25% increase, and increased expense on variable rate debt, partially offset by our interest rate swaps that effectively convert a portion of the variable rate LIBOR based debt, as it relates to certain fixed rate assets, to a fixed basis that is not subject to a 0.25% increase. Based on the loans, securities available-for-sale, securities held-to-maturity and liabilities as of December 31, 2012, and assuming the balances of these loans, securities and liabilities remain unchanged for the subsequent twelve months, a 0.25% decrease in LIBOR would increase our annual net income and cash flows by approximately $0.9 million. This is primarily due to our interest rate swaps that effectively converted a portion of the variable rate LIBOR based debt, as it relates to certain fixed rate assets, to a fixed basis that is not subject to a 0.25% decrease, partially offset by various interest rate floors which limit the effect of a decrease on interest income and decreased expense on variable rate debt.

Based on our loans, securities available-for-sale, securities held-to-maturity and liabilities as of December 31, 2011, and assuming the balances of these loans, securities and liabilities remain unchanged for the subsequent twelve months, a 0.25% increase in LIBOR would increase our annual net income and cash flows by approximately $0.3 million. This is primarily due to a substantial portion of our portfolio having variable interest rates, partially offset by various interest rate floors that are in effect at a rate that is above a 0.25% increase in LIBOR which would limit the effect of a 0.25% increase, and increased expense on variable rate debt, partially offset by our interest rate swaps that effectively convert a portion of the variable rate LIBOR based debt, as it relates to certain fixed rate assets, to a fixed basis that is not subject to a 0.25% increase. Based on the loans, securities available-for-sale, securities held-to-maturity and liabilities as of December 31, 2011, and assuming the balances of these loans, securities and liabilities remain unchanged for the subsequent twelve months, a 0.25% decrease in LIBOR would increase our annual net income and cash flows by approximately $0.1 million. This is primarily due to various interest rate floors which limit the effect of a decrease on interest income and decreased expense on variable rate debt, partially offset by our interest rate swaps that effectively converted a portion of the variable rate LIBOR based debt, as it relates to certain fixed rate assets, to a fixed basis that is not subject to a 0.25% decrease.

In the event of a significant rising interest rate environment and/or economic downturn, defaults could increase and result in credit losses to us, which could adversely affect our liquidity and operating

results. Further, such delinquencies or defaults could have an adverse effect on the spreads between interest-earning assets and interest-bearing liabilities.

In connection with our CDOs described in "Management's Discussion and Analysis of Financial Condition and Results of Operations," we entered into interest rate swap agreements to hedge the exposure to the risk of changes in the difference between three-month LIBOR and one-month LIBOR interest rates. These interest rate swaps became necessary due to the investor's return being paid based on a three-month LIBOR index while the assets contributed to the CDOs are yielding interest based on a one-month LIBOR index.

We had eight of these interest rate swap agreements outstanding that had combined notional values of $603.5 million as of December 31, 2012 compared to nine of these interest rate swap agreements outstanding with combined notional values of $854.1 million as of December 31, 2011. The market value of these interest rate swaps is dependent upon existing market interest rates and swap spreads, which change over time. If there were a 25 basis point increase in forward interest rates as of December 31, 2012 and 2011, respectively, thevalue of these interest rate swaps would have decreased by approximately $0.1 million for both periods. If there were a 25 basis point decrease in forward interest rates as of December 31, 2012 and 2011, respectively, the value of these interest rate swaps would have increased by approximately $0.1 million for both periods.

We also have interest rate swap agreements outstanding to hedge current and outstanding LIBOR based debt relating to certain fixed rate loans within our portfolio. We had 14 of these interest rate swap agreements outstanding that had a combined notional value of $312.2 million as of December 31, 2012 compared to 24 interest rate swap agreements outstanding with combined notional values of $515.3 million as of December 31, 2011. The fair market value of these interest rate swaps is dependent upon existing market interest rates and swap spreads, which change over time. If there had been a 25 basis point increase in forward interest rates as of December 31, 2012 and 2011, respectively, the fair market value of these interest rate swaps would have increased by approximately $2.4 million and $3.3 million, respectively. If there were a 25 basis point decrease in forward interest rates as of December 31, 2012 and 2011, respectively, thefair market value of these interest rate swaps would have decreased by approximately $2.4 million and $3.3 million, respectively.

We also had two LIBOR Caps with a combined notional value of $79.3 million as of December 2012 and 2011. If there were a 25 basis point increase in forward interest rates as of December 31, 2012 and 2011, respectively, the value of the LIBOR Caps would have increased by less than $0.1 million for both periods. If there were a 25 basis point decrease in forward interest rates as of December 31, 2012 and 2011, respectively, the value of the LIBOR Caps would have decreased by less than $0.1 million for both periods.

We also had 12 forward contracts due to recording the purchase of 12 RMBS investments as linked transactions on a combined basis with the related repurchase financing, with a combined fair value of $10.8 million as of December 31, 2012. We had no forward contracts as of December 31, 2011. As of December 31, 2012, assuming the balances of the securities and liabilities remain unchanged for the subsequent twelve months, a 0.25% increase in LIBOR would decrease our annual net income and cash flows by approximately $0.2 million, and a 0.25% decrease in LIBOR would increase our annual net income and cash flows by approximately $0.1 million.

Certain of our interest rate swaps, which are designed to hedge interest rate risk associated with a portion of our loans and investments, could require the funding of additional cash collateral for changes in the market value of these swaps. Due to the prolonged volatility in the financial markets that began in 2007, the value of these interest rate swaps have declined substantially. As a result, at December 31, 2012 and 2011, we funded approximately $20.0 million and $21.9 million, respectively, in cash related to these swaps. If we continue to experience significant changes in the outlook of interest rates, these contracts could continue to decline in value, which would require additional cash to be

funded. However, at maturity the value of these contracts return to par and all cash will be recovered. If we do not have available cash to meet these requirements, this could result in the early termination of these interest rate swaps, leaving us exposed to interest rate risk associated with these loans and investments, which could adversely impact our financial condition.

Our hedging transactions using derivative instruments also involve certain additional risks such as counterparty credit risk, the enforceability of hedging contracts and the risk that unanticipated and significant changes in interest rates will cause a significant loss of basis in the contract. The counterparties to our derivative arrangements are major financial institutions with high credit ratings with which we and our affiliates may also have other financial relationships. As a result, we do not anticipate that any of these counterparties will fail to meet their obligations. There can be no assurance that we will be able to adequately protect against the foregoing risks and will ultimately realize an economic benefit that exceeds the related amounts incurred in connection with engaging in such hedging strategies.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

INDEX TO THE CONSOLIDATED FINANCIAL STATEMENTS OF ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

All other schedules are omitted because they are not applicable or the required information is shown in the consolidated financial statements or notes thereto.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of
Arbor Realty Trust, Inc. and Subsidiaries

We have audited the accompanying consolidated balance sheets of Arbor Realty Trust, Inc. and Subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of operations, comprehensive income (loss), changes in equity, and cash flows for each of the three years in the period ended December 31, 2012. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company at December 31, 2012 and 2011, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2012, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on criteria established in Internal Control—Integrated Framework issued by th Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 15, 2013 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

New York, New York
February 15, 2013

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	December 31, 2012	December 31, 2011
Assets:		
Cash and cash equivalents	$ 29,188,889	$ 55,236,479
Restricted cash (includes $41,537,212 and $65,357,993 from consolidated VIEs, respectively)	42,535,514	67,326,530
Loans and investments, net (includes $1,113,745,356 and $1,093,893,014 from consolidated VIEs, respectively)	1,325,667,053	1,302,440,660
Available-for-sale securities, at fair value (includes $1,100,000 and $2,000,000 from consolidated VIEs, respectively)	3,552,736	4,276,368
Securities held-to-maturity, net (includes $0 and $742,602 from consolidated VIEs, respectively)	42,986,980	29,942,108
Investment in equity affiliates	59,581,242	60,450,064
Real estate owned, net (includes $80,787,215 and $83,099,540 from consolidated VIEs, respectively)	124,148,199	128,397,612
Real estate held-for-sale, net (includes $0 and $2,550,000 from consolidated VIEs, respectively)	—	62,084,412
Due from related party (includes $0 and $1,217 from consolidated VIEs, respectively)	24,094	656,290
Prepaid management fee—related party	19,047,949	19,047,949
Other assets (includes $11,709,103 and $11,696,071 from consolidated VIEs, respectively)	55,148,624	46,855,858
Total assets	$1,701,881,280	$1,776,714,330
Liabilities and Equity:		
Repurchase agreements and credit facilities	$ 130,661,619	$ 76,105,000
Collateralized debt obligations (includes $812,452,845 and $1,002,615,393 from consolidated VIEs, respectively)	812,452,845	1,002,615,393
Collateralized loan obligation (includes $87,500,000 and $0 from consolidated VIEs, respectively)	87,500,000	—
Junior subordinated notes to subsidiary trust issuing preferred securities	158,767,145	158,261,468
Notes payable	51,457,708	85,457,708
Mortgage note payable—real estate owned	53,751,004	53,751,004
Mortgage notes payable—held-for-sale	—	62,190,000
Due to related party	3,084,627	2,728,819
Due to borrowers (includes $1,320,943 and $740,809 from consolidated VIEs, respectively)	23,056,640	2,825,636
Deferred revenue	77,123,133	77,123,133
Other liabilities (includes $22,013,896 and $27,839,757 from consolidated VIEs, respectively)	72,765,437	82,595,636
Total liabilities	1,470,620,158	1,603,653,797
Commitments and contingencies	—	—
Equity:		
Arbor Realty Trust, Inc. stockholders' equity:		
Preferred stock, $0.01 par value: 100,000,000 shares authorized; no shares issued or outstanding	—	—
Common stock, $0.01 par value: 500,000,000 shares authorized; 33,899,992 shares issued, 31,249,225 shares outstanding at December 31, 2012 and 26,778,737 shares issued, 24,298,140 shares outstanding at December 31, 2011	339,000	267,787

Additional paid-in capital	493,211,222	455,994,695
Treasury stock, at cost—2,650,767 shares at December 31, 2012 and 2,480,597 shares at December 31, 2011	(17,100,916)	(16,416,152)
Accumulated deficit	(207,558,257)	(221,015,880)
Accumulated other comprehensive loss	(39,561,700)	(47,704,045)
Total Arbor Realty Trust, Inc. stockholders' equity	229,329,349	171,126,405
Noncontrolling interest in consolidated entity	1,931,773	1,934,128
Total equity	231,261,122	173,060,533
Total liabilities and equity	$1,701,881,280	$1,776,714,330

See Notes to Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

	For the Year Ended December 31,		
	2012	2011	2010
Interest income	$ 79,998,762	$ 73,867,556	$ 95,487,325
Interest expense	40,866,832	51,651,933	62,979,036
Net interest income	39,131,930	22,215,623	32,508,289
Other revenue:			
Property operating income	30,173,754	23,359,492	—
Other income	1,280,289	188,485	1,069,454
Total other revenue	31,454,043	23,547,977	1,069,454
Other expenses:			
Employee compensation and benefits	10,173,572	11,195,663	8,059,364
Selling and administrative	7,882,914	7,325,801	6,996,190
Property operating expenses	27,963,386	21,428,112	—
Depreciation and amortization	5,794,013	5,090,498	—
Other-than-temporary impairment	—	—	7,004,800
Provision for loan losses (net of recoveries)	22,946,396	38,542,888	82,811,753
Loss on sale and restructuring of loans	—	5,710,000	7,214,481
Management fee—related party	10,000,000	8,300,000	26,365,448
Total other expenses	84,760,281	97,592,962	138,452,036
Loss from continuing operations before, gain on extinguishment of debt, loss on sale of securities, net, (loss) income from equity affiliates and benefit (provision) for income taxes	(14,174,308)	(51,829,362)	(104,874,293)
Gain on extinguishment of debt	30,459,023	10,878,218	229,321,130
Loss on sale of securities, net	—	—	(6,989,583)
(Loss) income from equity affiliates	(697,856)	3,671,386	(1,259,767)
Income (loss) before benefit (provision) for income taxes	15,586,859	(37,279,758)	116,197,487
Benefit (provision) for income taxes	801,558	—	(2,560,000)
Income (loss) from continuing operations	16,388,417	(37,279,758)	113,637,487
Loss on impairment of real estate held-for-sale	—	(1,450,000)	—
Gain on sale of real estate held-for-sale	3,953,455	—	1,331,436
Income (loss) from operations of real estate held-for-sale	1,374,583	(1,366,299)	(1,842,969)
Income (loss) from discontinued operations	5,328,038	(2,816,299)	(511,533)
Net income (loss)	21,716,455	(40,096,057)	113,125,954
Net income attributable to noncontrolling interest	215,567	215,656	215,743
Net income (loss) attributable to Arbor Realty Trust, Inc.	$ 21,500,888	$(40,311,713)	$ 112,910,211
Basic earnings (loss) per common share:			
Income (loss) from continuing operations, net of noncontrolling interest	$ 0.60	$ (1.50)	$ 4.46
Income (loss) from discontinued operations	0.20	(0.11)	(0.02)
Net income (loss) attributable to Arbor Realty Trust, Inc.	$ 0.80	$ (1.61)	$ 4.44
Diluted earnings (loss) per common share:			
Income (loss) from continuing operations, net of noncontrolling interest	$ 0.59	$ (1.50)	$ 4.41
Income (loss) from discontinued operations	0.20	(0.11)	(0.02)
Net income (loss) attributable to Arbor Realty Trust, Inc.	$ 0.79	$ (1.61)	$ 4.39

Weighted average number of shares of common stock outstanding:			
Basic	26,956,938	24,968,894	25,424,481
Diluted	27,211,287	24,968,894	25,741,290

See Notes to Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

	For the Year Ended December 31,		
	2012	2011	2010
Net income (loss)	$ 21,716,455	$ (40,096,057)	$ 113,125,954
Unrealized (loss) gain on securities available-for-sale, net	(723,632)	1,000,000	117,579
Unrealized loss on derivative financial instruments, net	(7,698,630)	(20,698,621)	(32,904,534)
Reclassification of net realized loss on derivatives designated as cash flow hedges into earnings	16,564,607	27,163,893	30,948,743
Comprehensive income (loss)	29,858,800	(32,630,785)	111,287,742
Less:			
Comprehensive income attributable to noncontrolling interest	215,567	215,656	215,743
Comprehensive income (loss) attributable to Arbor Realty Trust, Inc.	$ 29,643,233	$ (32,846,441)	$ 111,071,999

See Notes to Consolidated Financial Statements.

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ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY

FOR THE YEARS ENDED DECEMBER 31, 2012, 2011 AND 2010

	Common Stock Shares	Common Stock Par Value	Additional Paid-in Capital	Treasury Stock Shares	Treasury Stock	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Arbor Realty Trust, Inc. Stockholders' Equity	Non-controlling Interest	Total
Balance —December 31, 2009	25,666,810	$256,668	$450,376,782	(279,400)	$(7,023,361)	$(293,585,378)	$ (53,331,105)	$ 96,693,606	$ 1,940,364	$ 98,633,970
Acquisition of treasury stock				(701,197)	(3,646,224)			(3,646,224)		(3,646,224)
Stock-based compensation	90,000	900	309,600					310,500		310,500
Distributions —preferred stock of private REIT						(14,500)		(14,500)		(14,500)
Net income						112,910,211		112,910,211	215,743	113,125,954
Distribution to noncontrolling interest									(156,245)	(156,245)
Unrealized gain on securities available-for-sale							117,579	117,579		117,579
Unrealized loss on derivative financial instruments							(32,904,534)	(32,904,534)		(32,904,534)
Reclassification of net realized loss on derivatives designated as cash flow hedges into earnings							30,948,743	30,948,743		30,948,743
Balance —December 31, 2010	25,756,810	$257,568	$450,686,382	(980,597)	$(10,669,585)	$(180,689,667)	$ (55,169,317)	$204,415,381	$ 1,999,862	$206,415,243
Issuance of common stock for management fee	666,927	6,669	3,968,213					3,974,882		3,974,882
Purchase of treasury stock				(1,500,000)	(5,746,567)			(5,746,567)		(5,746,567)
Stock-based compensation	355,000	3,550	1,340,100					1,343,650		1,343,650
Distributions —preferred stock of private REIT						(14,500)		(14,500)		(14,500)
Net (loss) income						(40,311,713)		(40,311,713)	215,656	(40,096,057)
Distribution to non-controlling interest									(281,390)	(281,390)
Unrealized gain on securities available-for-sale							1,000,000	1,000,000		1,000,000
Unrealized loss on derivative financial instruments							(20,698,621)	(20,698,621)		(20,698,621)
Reclassification of net realized loss on derivatives designated as cash flow hedges into earnings							27,163,893	27,163,893		27,163,893
Balance —December 31, 2011	26,778,737	$267,787	$455,994,695	(2,480,597)	$(16,416,152)	$(221,015,880)	$ (47,704,045)	$171,126,405	$ 1,934,128	$173,060,533
Issuance of common stock	7,000,000	70,000	36,575,500					36,645,500		36,645,500
Purchase of treasury stock				(170,170)	(684,764)			(684,764)		(684,764)
Stock-based compensation	121,255	1,213	641,027					642,240		642,240
Distributions —common stock						(8,031,029)		(8,031,029)		(8,031,029)
Distributions —preferred stock of private REIT						(12,236)		(12,236)		(12,236)
Net income						21,500,888		21,500,888	215,567	21,716,455
Distribution to non-controlling interest									(217,922)	(217,922)
Unrealized loss on securities available-for-sale							(723,632)	(723,632)		(723,632)
Unrealized loss on derivative financial instruments, net							(7,698,630)	(7,698,630)		(7,698,630)
Reclassification of net realized loss on derivatives										

designated as cash flow hedges into earnings							16,564,607	16,564,607		16,564,607
Balance —December 31, 2012	33,899,992	$339,000	$493,211,222	(2,650,767)	$(17,100,916)	$(207,558,257)	$ (39,561,700)	$229,329,349	$ 1,931,773	$231,261,122

See Notes to Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Year Ended December 31,		
	2012	2011	2010
Operating activities:			
Net income (loss)	$ 21,716,455	$ (40,096,057)	$ 113,125,954
Adjustments to reconcile net income (loss) to net cash provided by / (used in) operating activities:			
Depreciation and amortization	5,904,089	5,951,525	570,154
Stock-based compensation	578,190	1,407,700	310,500
Other-than-temporary impairment	—	—	7,004,800
Gain on sale of real estate held-for-sale	(3,953,455)	—	(1,331,436)
Reversal of liabilities related to discontinued operations	(1,175,120)	—	—
Impairment loss on real estate held-for-sale	—	1,450,000	—
Gain on extinguishment of debt	(30,459,023)	(10,878,218)	(229,321,130)
Loss on sale of securities	—	—	6,989,583
Provision for loan losses (net of recoveries)	22,946,396	38,542,888	82,811,753
Loss on sale and restructuring of loans	—	4,710,000	7,214,481
Amortization and accretion of interest, fees and intangible asset, net	1,634,410	10,167,955	8,093,907
Change in fair value of non-qualifying swaps	1,334,189	(246,284)	684,368
Incentive compensation to manager—related party	—	—	18,765,448
Deferred tax asset	—	—	1,710,000
Loss (income) from equity affiliates	697,856	(3,671,386)	1,259,767
Changes in operating assets and liabilities:			
Other assets	835,678	(964,199)	491,761
Distributions of operations from equity affiliates	97,863	96,991	67,628
Other liabilities	(1,633,474)	3,324,496	985,871
Change in restricted cash	970,235	576,447	—
Due to/from related party	671,762	(10,761,480)	942,194
Net cash provided by / (used in) operating activities	$ 20,166,051	$ (389,622)	$ 20,375,603
Investing activities:			
Loans and investments funded, originated and purchased, net	(261,875,190)	(219,608,438)	(33,098,973)
Payoffs and paydowns of loans and investments	185,675,195	157,753,440	182,727,203
Proceeds from sale of loans	17,945,000	45,590,400	39,500,000
Due to borrowers and reserves	(505,093)	(1,397,413)	(217,974)
Change in restricted cash	—	(1,050,000)	—
Deferred fees	3,062,425	2,860,067	527,898
Purchases of available-for-sale securities	—	—	(2,122,050)
Purchases of securities held-to-maturity, net	(69,041,570)	(36,464,628)	(4,481,719)
Principal collection on available-for-sale securities	—	—	172,267
Principal collection on securities held-to-maturity, net	55,895,146	6,515,800	99,499
Proceeds from sale of available-for-sale securities	—	—	36,308,162
Proceeds from sale of securities held-to-maturity, net	—	—	14,370,469
Investment in real estate, net	(4,206,576)	(1,388,695)	12,070
Proceeds from investments in real estate, net	—	1,497,278	—
Proceeds from sale of real estate, net	26,443,882	1,600,000	6,826,992
Contributions to equity affiliates	(257,505)	(793,500)	(2,720,040)
Distributions from equity affiliates	330,608	4,536,716	435,939
Net cash (used in) / provided by investing activities	$ (46,533,678)	$ (40,348,973)	$ 238,339,743
Financing activities:			
Proceeds from repurchase agreements, loan participations, credit facilities and notes payable	162,922,840	110,763,000	26,000,000
Payoffs and paydowns of repurchase agreements, notes payable and credit facilities	(108,366,221)	(4,848,997)	(192,010,077)
Payoff and paydown of mortgage notes payable	(20,750,000)	(1,600,000)	—
Payoff of junior subordinated notes to subsidiary trust issuing preferred securities	—	—	(10,500,122)
Proceeds from collateralized debt obligations	—	7,800,000	5,500,000
Proceeds from collateralized loan obligation	87,500,000	—	—
Payoffs and paydowns of collateralized debt obligations	(158,956,432)	(64,413,892)	(55,040,288)
Change in restricted cash	23,820,781	(45,425,223)	6,849,806
Payments on financial instruments underlying linked transactions	(91,346,499)	—	—
Receipts on financial instruments underlying linked transactions	80,645,124	—	—
Payments on margin calls to counterparties	(61,541,697)	(15,930,000)	(24,350,000)
Receipts on margin calls to counterparties	61,478,418	15,280,000	21,960,000
Purchases of treasury stock	(684,764)	(5,746,567)	—
Proceeds from issuance of common stock	39,200,000	—	—
Expenses paid on issuance of common stock	(2,520,616)	—	—
Distributions paid to noncontrolling interest	(217,922)	(281,390)	(156,245)
Distributions paid on common stock	(8,031,029)	—	—
Distributions paid on preferred stock of private REIT	(12,236)	(14,500)	(14,500)
Payment of deferred financing costs	(2,819,710)	(731,921)	(453,631)

Net cash provided by / (used in) financing activities	$ 320,037	$ (5,149,490)	$ (222,215,057)

See Notes to Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS (Continued)

	For the Year Ended December 31,		
	2012	2011	2010
Net (decrease) increase in cash and cash equivalents	$ (26,047,590)	$ (45,888,085)	$ 36,500,289
Cash and cash equivalents at beginning of period	55,236,479	101,124,564	64,624,275
Cash and cash equivalents at end of period	$ 29,188,889	$ 55,236,479	$ 101,124,564
Supplemental cash flow information:			
Cash used to pay interest	$ 38,566,933	$ 41,559,813	$ 51,625,067
Cash used for taxes	$ 1,159,076	$ 161,185	$ 930,153
Supplemental schedule of non-cash investing and financing activities:			
Transfer of real estate held-for-sale to first lien holder	$ 41,440,000	$ —	$ —
Release of mortgage note payable held-for-sale	$ 41,440,000	$ —	$ —
Satisfaction of participation loans	$ 34,000,000	$ —	$ —
Retirement of participation liabilities	$ 34,000,000	$ —	$ —
Loans transferred to real estate owned, net	$ —	$ 83,099,540	$ —
Investment in real estate, net	$ —	$ 55,351,004	$ 20,750,000
Assumption of mortgage notes payable—real estate owned	$ —	$ 55,351,004	$ 20,750,000
Issuance of common stock for management incentive fee	$ —	$ 3,974,882	$ —
Investment transferred to real estate held-for-sale, net	$ —	$ 22,094,412	$ 5,537,501
Acquisition of tangible asset through restructure of loan	$ —	$ 1,885,284	$ —
Extinguishment of notes payable	$ —	$ —	$ 159,417,756
Extinguishment of trust preferred securities	$ —	$ —	$ 102,110,610
Re-issuance of CDO debt	$ —	$ —	$ 42,304,391
Accrual of interest on reissued collateralized debt obligations	$ —	$ —	$ 22,941,851
Available-for-sale securities exchanged	$ —	$ —	$ 400,000
Investments transferred to available-for-sale securities, at fair value	$ —	$ —	$ 35,814,344
Unearned discounts recorded on restructured loans	$ —	$ —	$ 7,658,598
Repayment of due from related party through acquisition of treasury stock	$ —	$ —	$ 3,646,224
Repayment of due from related party through reduction of due to related party	$ —	$ —	$ 3,646,224

See Notes to Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

December 31, 2012

Note 1—Description of Business / Form of Ownership

Arbor Realty Trust, Inc. (the "Company") is a Maryland corporation that was formed in June 2003 to invest in a diversified portfolio of multi-family and commercial real estate related assets, primarily consisting of bridge loans, mezzanine loans, junior participating interests in first mortgage loans, and preferred and direct equity. The Company may also directly acquire real property and invest in real estate-related notes and certain mortgage-related securities. The Company conducts substantially all of its operations through its operating partnership, Arbor Realty Limited Partnership ("ARLP"), and ARLP's wholly-owned subsidiaries. The Company is externally managed and advised by Arbor Commercial Mortgage, LLC ("ACM").

The Company is organized and conducts its operations to qualify as a real estate investment trust ("REIT") for federal income tax purposes. A REIT is generally not subject to federal income tax on its REIT—taxable income that it distributes to its stockholders, provided that it distributes at least 90% of its REIT—taxable income and meets certain other requirements. Certain assets of the Company that produce non-qualifying income are owned by its taxable REIT subsidiaries, the income of which is subject to federal and state income taxes.

The Company's charter provides for the issuance of up to 500 million shares of common stock, with a par value of $0.01 per share, and 100 million shares of preferred stock, with a par value of $0.01 per share. The Company was incorporated in June 2003 and was initially capitalized through the sale of 67 shares of common stock for $1,005.

On July 1, 2003, ACM contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity in exchange for a commensurate equity ownership in ARLP. In addition, certain employees of ACM were transferred to ARLP. At that time, these assets, liabilities and employees represented a substantial portion of ACM's structured finance business. The Company is externally managed and advised by ACM and pays ACM a management fee in accordance with a management agreement. ACM also sources originations, provides underwriting services, and services all structured finance assets on behalf of ARLP and its wholly owned subsidiaries.

On July 1, 2003, the Company completed a private equity offering of 1,610,000 units (including an overallotment option), each consisting of five shares of common stock and one warrant to purchase one share of common stock at $75.00 per unit. The Company sold 8,050,000 shares of common stock in the offering. Gross proceeds from the private equity offering totaled $120.2 million. Gross proceeds from the private equity offering combined with the concurrent equity contribution by ACM totaled approximately $164.1 million in equity capital. The Company paid and accrued offering expenses of $10.1 million resulting in Arbor Realty Trust, Inc. stockholders' equity and noncontrolling interest of $154.0 million as a result of the private placement.

In April 2004, the Company sold 6,750,000 shares of its common stock in a public offering at a price of $20.00 per share, for net proceeds of approximately $124.4 million after deducting the underwriting discount and other offering expenses. The Company used the proceeds to pay down its indebtedness. In May 2004, the underwriters exercised a portion of their over-allotment option, which resulted in the issuance of 524,200 additional shares. The Company received net proceeds of approximately $9.8 million after deducting the underwriting discount. In October 2004, ARLP received proceeds of approximately $9.4 million from the exercise of warrants for 629,345 operating partnership units. Additionally, in 2004 and 2005, the Company issued 973,354 and 282,776 shares of common

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 1—Description of Business / Form of Ownership (Continued)

stock, respectively, from the exercise of warrants under its Warrant Agreement dated July 1, 2003 and received net proceeds of $12.9 million and $4.2 million, respectively.

In June 2007, the Company completed a public offering in which it sold 2,700,000 shares of its common stock registered for $27.65 per share, and received net proceeds of approximately $73.6 million after deducting the underwriting discount and the other offering expenses. The Company used the proceeds to pay down debt and finance its loan and investment portfolio.

In June 2008, the Company's external manager exercised its right to redeem its approximate 3.8 million operating partnership units in the Company's operating partnership for shares of the Company's common stock on a one-for-one basis. In addition, the special voting preferred shares paired with each operating partnership unit, pursuant to a pairing agreement, were redeemed simultaneously and cancelled by the Company.

In June 2010, the Company filed a shelf registration statement on Form S-3 with the Securities and Exchange Commission ("SEC") under the Securities Act of 1933, as amended (the "1933 Act") with respect to an aggregate of $500.0 million of debt securities, common stock, preferred stock, depositary shares and warrants that may be sold by the Company from time to time pursuant to Rule 415 of the 1933 Act. On June 23, 2010, the SEC declared this shelf registration statement effective.

In June 2012, the Company completed a public offering in which it sold 3,500,000 shares of its common stock for $5.40 per share, and received net proceeds of approximately $17.5 million after deducting the underwriting discount and other offering expenses. The Company used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

In October 2012, the Company completed another public offering in which it sold 3,500,000 shares of its common stock for $5.80 per share, and received net proceeds of approximately $19.2 million after deducting the underwriting discount and other offering expenses. The Company used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

In December 2012, we entered into an "At-The-Market" ("ATM") equity offering sales agreement with JMP Securities LLC ("JMP") whereby, in accordance with the terms of the agreement, from time to time we may issue and sell through JMP up to 6,000,000 shares of our common stock. Sales of the shares, if any, will be made by means of ordinary brokers' transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million.

On February 1, 2013, the Company completed an underwritten public offering of 1.4 million shares of 8.25% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million. The Company intends to use the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes. The Company currently has $416.4 million available under its shelf registration.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 1—Description of Business / Form of Ownership (Continued)

The Company had 31,249,225 shares of common stock outstanding at December 31, 2012 and 24,298,140 shares of common stock outstanding at December 31, 2011.

Note 2—Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The accompanying consolidated financial statements include the financial statements of the Company, its wholly owned subsidiaries, and partnerships or other joint ventures in which the Company owns a voting interest of greater than 50 percent, and Variable Interest Entities ("VIEs") of which the Company is the primary beneficiary. VIEs are defined as entities in which equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. A VIE is required to be consolidated by its primary beneficiary, which is the party that (i) has the power to control the activities that most significantly impact the VIE's economic performance and (ii) has the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE. Current accounting guidance requires the Company to present a) assets of a consolidated VIE that can be used only to settle obligations of the consolidated VIE, and b) liabilities of a consolidated VIE for which creditors (or beneficial interest holders) do not have recourse to the general credit of the primary beneficiary. As a result of this guidance, the Company has separately disclosed parenthetically the assets and liabilities of its collateralized debt obligation ("CDO") and collateralized loan obligation ("CLO") subsidiaries on its Consolidated Balance Sheets. Entities in which the Company owns a voting interest of 20 percent to 50 percent are accounted for primarily under the equity method. In the opinion of management, all adjustments considered necessary for a fair presentation have been included. All significant inter-company transactions and balances have been eliminated in consolidation.

The preparation of consolidated financial statements in conformity with the Financial Accounting Standards Board ("FASB") Accounting Standards Codification™, the authoritative reference for accounting principles generally acceptable in the United States ("GAAP"), requires management to make estimates and assumptions in determining the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates. Further, in connection with preparation of the Consolidated Financial Statements, the Company evaluated events subsequent to the balance sheet date of December 31, 2012 through the issuance of the Consolidated Financial Statements.

Certain prior year amounts have been reclassified to conform to current period presentation. During the fourth quarter of 2012, the Company sold a real estate investment that was part of a portfolio of hotel properties, resulting in a reclassification of the operating activity from property operating income and expenses to discontinued operations for all prior periods presented. During the third and fourth quarters of 2011, the Company reclassified two real estate investments from real estate owned to real estate held-for-sale, resulting in a reclassification of the operating activity from property operating income and expenses as well as impairment loss to discontinued operations for all prior periods presented. Also, comprehensive income (loss) has been presented in a separate Statement of

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

Comprehensive Income (Loss) and is no longer presented on the Statement of Changes in Stockholders' Equity.

Cash and Cash Equivalents

All highly liquid investments with original maturities of three months or less are considered to be cash equivalents. The Company places its cash and cash equivalents in high quality financial institutions. The consolidated account balances at each institution periodically exceed Federal Deposit Insurance Corporation (FDIC) insurance coverage and the Company believes that this risk is not significant.

Restricted Cash

At December 31, 2012 and 2011, the Company had restricted cash of $42.5 million and $67.3 million, respectively.Restricted cash primarily represents proceeds from loan repayments on deposit with the trustees for the Company's CDOs which will be used for principal repayments, unfunded loan commitments and interest payments received from loans. As of January 2012, all three of the CDOs have reached their replenishment dates and principal repayments are remitted quarterly to the bond holders and the Company in the month following the quarter. See Note 7—"Debt Obligations." The Company's real estate owned assets also had restricted cash balances totaling $1.0 million and $2.0 million as of December 31, 2012 and 2011, respectively, due to escrow requirements. See Note 6—"Real Estate Owned and Held-For-Sale."

Loans, Investments and Securities

At the time of purchase, the Company designates a security as available-for-sale, held-to-maturity, or trading depending on the Company's ability and intent to hold it to maturity. The Company does not have any securities designated as trading as of December 31, 2012. Securities available-for-sale are reported at fair value with the net unrealized gains or losses reported as a component of accumulated other comprehensive loss, while securities held-to-maturity are reported at amortized cost. Unrealized losses that are determined to be other-than-temporary are recognized in earnings up to their credit component. The determination of other-than-temporary impairment is a subjective process requiring judgments and assumptions. The process may include, but is not limited to, assessment of recent market events and prospects for near-term recovery, assessment of cash flows, internal review of the underlying assets securing the investments, credit of the issuer and the rating of the security, as well as the Company's ability and intent to hold the investment to maturity. Management closely monitors market conditions on which it bases such decisions.

The Company also assesses certain of its securities, other than those of high credit quality, to determine whether significant changes in estimated cash flows or unrealized losses on these securities, if any, reflect a decline in value which is other-than-temporary and, accordingly, should be written down to their fair value against earnings. On a quarterly basis, the Company reviews these changes in estimated cash flows, which could occur due to actual prepayment and credit loss experience, to determine if an other-than-temporary impairment is deemed to have occurred. The determination of other-than-temporary impairment is a subjective process requiring judgments and assumptions and is not necessarily intended to indicate a permanent decline in value. The Company calculates a revised

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

yield based on the current amortized cost of the investment, including any other-than-temporary impairments recognized to date, and the revised yield is then applied prospectively to recognize interest income.

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, loan purchase discounts, and net of the allowance for loan losses when such loan or investment is deemed to be impaired. The Company invests in preferred equity interests that, in some cases, allow the Company to participate in a percentage of the underlying property's cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

From time to time, the Company may enter into an agreement to sell a loan. These loans are considered held-for-sale and are valued at the lower of the loan's carrying amount or fair value less costs to sell. For the sale of loans, recognition occurs when ownership passes to the buyer.

Impaired Loans, Allowance for Loan Losses, Loss on Sale and Restructuring of Loans and Charge-offs

The Company considers a loan impaired when, based upon current information and events, it is probable that it will be unable to collect all amounts due for both principal and interest according to the contractual terms of the loan agreement. The Company evaluates each loan in its portfolio on a quarterly basis. The Company's loans are individually specific and unique as it relates to product type, geographic location, and collateral type, as well as to the rights and remedies and the position in the capital structure the Company's loans and investments have in relation to the underlying collateral. The Company evaluates all of this information as well as general market trends related to specific classes of assets, collateral type and geographic locations, when determining the appropriate assumptions such as capitalization and market discount rates, as well as the borrower's operating income and cash flows, in estimating the value of the underlying collateral when determining if a loan is impaired. The Company utilizes internally developed valuation models and techniques primarily consisting of discounted cash flow and direct capitalization models in determining the fair value of the underlying collateral on an individual loan. The Company may also obtain a third party appraisal, which may value the collateral through an "as-is" or "stabilized value" methodology. Such appraisals may be used as an additional source of valuation information only and no adjustments are made to appraisals. Included in the evaluation of the capitalization and market discount rates, the Company considers not only assumptions specific to the collateral but also considers geographical and industry trends that could impact the collateral's value.

If upon completion of the valuation, the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level that is believed to be adequate by management to absorb probable losses. The Company had an allowance for loan losses of $161.7 million at December 31, 2012 relating to 20 loans with an aggregate carrying value, before loan loss reserves, of approximately $240.2 million. At December 31, 2011, the Company had an allowance for loan losses of $185.4 million relating to 24 loans with an aggregate carrying value, before loan loss reserves, of approximately $285.0 million and at December 31, 2010, the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

Company had an allowance for loan losses of $205.5 million relating to 30 loans with an aggregate carrying value, before loan loss reserves, of approximately $530.6 million.

Loan terms may be modified if the Company determines that based on the individual circumstances of a loan and the underlying collateral, a modification would more likely increase the total recovery of the combined principal and interest from the loan. Any loan modification is predicated upon a goal of maximizing the collection of the loan. Typical triggers for a modification would include situations where the projected cash flow is insufficient to cover required debt service, when asset performance is lagging the initial projections, where there is a requirement for rebalancing, where there is an impending maturity of the loan, and where there is an actual loan default. Loan terms that have been modified have included, but are not limited to interest rate, maturity date and in certain cases, principal amount. Length and amounts of each modification have varied based on individual circumstances and are determined on a case by case basis. If the loan modification constitutes a concession whereas the Company does not receive ample consideration in return for the modification, and the borrower is experiencing financial difficulties and cannot repay the loan under the current terms, then the modification is considered by the Company to be a troubled debt restructuring. If the Company receives a benefit, either monetary or strategic, and the above criteria are not met, the modification is not considered to be a troubled debt restructuring. The Company records interest on modified loans on an accrual basis to the extent that the modified loan is contractually current.

Loss on restructured loans is recorded when the Company has granted a concession to the borrower in the form of principal forgiveness related to the payoff or the substitution or addition of a new debtor for the original borrower or when the Company incurs costs on behalf of the borrower related to the modification, payoff or the substitution or addition of a new debtor for the original borrower. When a loan is restructured, the Company records its investment at net realizable value, taking into account the cost of all concessions at the date of restructuring. The reduction in the recorded investment is recorded as a charge to the Consolidated Statement of Operations in the period in which the loan is restructured. In addition, a gain or loss may be recorded upon the sale of a loan to a third party as a charge to the Consolidated Statement of Operations in the period in which the loan was sold. No loss on sale and restructuring of loans was recorded during the year ended December 31, 2012. During the years ended December 31, 2011 and 2010, the Company recorded loss on sale and restructuring of loans of $5.7 million and $7.2 million, respectively.

Charge-offs to the allowance for loan losses occur when losses are confirmed through the receipt of cash or other consideration from the completion of a sale; when a modification or restructuring takes place in which the Company grants a concession to a borrower or agrees to a discount in full or partial satisfaction of the loan; when the Company takes ownership and control of the underlying collateral in full satisfaction of the loan; when loans are reclassified as other investments; or when significant collection efforts have ceased and it is highly likely that a loss has been realized. For the years ended December 31, 2012, 2011 and 2010, the Company recorded charge-offs to the allowance for loan losses of $46.6 million,$58.8 million and $194.9 million, respectively.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

Real Estate Owned and Held-For-Sale

Real estate owned, shown net of accumulated depreciation and impairment charges, is comprised of real property acquired by foreclosure or through partial or full settlement of mortgage debt. The real estate acquired is recorded at the estimated fair value at the time of acquisition.

Costs incurred in connection with the foreclosure of the properties collateralizing the real estate loans are expensed as incurred and costs subsequently incurred to extend the life or improve the assets subsequent to foreclosure are capitalized.

The Company allocates the purchase price of its operating properties to land, building, tenant improvements, deferred lease costs for the origination costs of the in-place leases, intangibles for the value of the above or below market leases at fair value and to any other identified intangible assets or liabilities. The Company finalizes its purchase price allocation on these assets within one year of the acquisition date. The Company amortizes the value allocated to the in-place leases over the remaining lease term. The value allocated to the above or below market leases are amortized over the remaining lease term as an adjustment to rental income.

Real estate assets, including assets acquired by foreclosure or through partial or full settlement of mortgage debt, that are operated for the production of income are depreciated using the straight-line method over their estimated useful lives. Ordinary repairs and maintenance which are not reimbursed by the tenants are expensed as incurred. Major replacements and betterments which improve or extend the life of the asset are capitalized and depreciated over their estimated useful life.

The Company's properties are individually reviewed for impairment each quarter, if events or circumstances change indicating that the carrying amount of the assets may not be recoverable. The Company recognizes impairment if the undiscounted estimated cash flows to be generated by the assets are less than the carrying amount of those assets. Measurement of impairment is based upon the estimated fair value of the asset. Upon evaluating a property for impairment, many factors are considered, including estimated current and expected operating cash flows from the property during the projected holding period, costs necessary to extend the life or improve the asset, expected capitalization rates, projected stabilized net operating income, selling costs, and the ability to hold and dispose of such real estate owned in the ordinary course of business. Valuation adjustments may be necessary in the event that effective interest rates, rent-up periods, future economic conditions, and other relevant factors vary significantly from those assumed in valuing the property. If future evaluations result in a diminution in the value of the property, the reduction will be recognized as an impairment charge at that time.

Real estate is classified as held-for-sale when management commits to a plan of sale, the asset is available for immediate sale, there is an active program to locate a buyer, and it is probable the sale will be completed within one year. Properties classified as held-for-sale are not depreciated and the results of their operations are shown in discontinued operations. Real estate assets that are expected to be disposed of are valued, on an individual asset basis, at the lower of their carrying amount or their fair value less costs to sell.

The Company recognizes sales of real estate properties upon closing. Payments received from purchasers prior to closing are recorded as deposits. Profit on real estate sold is recognized upon

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

closing using the full accrual method when the collectability of the sale price is reasonably assured and the Company is not obligated to perform significant activities after the sale. Profit may be deferred in whole or in part until collectability of the sales price is reasonably assured and the earnings process is complete.

Revenue Recognition

Interest income—Interest income is recognized on the accrual basis as it is earned from loans, investments and securities. In certain instances, the borrower pays an additional amount of interest at the time the loan is closed, an origination fee, a prepayment fee and/or deferred interest upon maturity. In some cases, interest income may also include the amortization or accretion of premiums and discounts arising from the purchase or origination of the loan or security. This additional income, net of any direct loan origination costs incurred, is deferred and accreted into interest income on an effective yield or "interest" method adjusted for actual prepayment activity over the life of the related loan or security as a yield adjustment. Income recognition is suspended for loans when, in the opinion of management, a full recovery of all contractual principal is not probable. Income recognition is resumed when the loan becomes contractually current and performance is resumed. The Company records interest income on certain impaired loans to the extent cash is received, in which a loan loss reserve has been recorded, as the borrower continues to make interest payments. The Company recorded loan loss reserves related to these loans as it was deemed that full recovery of principal and interest was not probable.

Several of the Company's loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the asset. If management cannot make this determination, interest income above the current pay rate is recognized only upon actual receipt.

Given the transitional nature of some of the Company's real estate loans, the Company may require funds to be placed into an interest reserve, based on contractual requirements, to cover debt service costs. The Company will analyze these interest reserves on a periodic basis and determine if any additional interest reserves are needed. Recognition of income on loans with funded interest reserves are accounted for in the same manner as loans without funded interest reserves. The Company will not recognize any interest income on loans in which the borrower has failed to make the contractual interest payment due or has not replenished the interest reserve account. As of December 31, 2012, the Company had total interest reserves of $8.3 million on 40 loans with an aggregate unpaid principal balance of $475.6 million and had three non-performing loans with an aggregate unpaid principal balance of $38.4 million with a funded interest reserve of $0.1 million. Income from non-performing loans is generally recognized on a cash basis only to the extent it is received. Full income recognition will resume when the loan becomes contractually current and performance has recommenced.

Additionally, interest income is recorded when earned from equity participation interests, referred to as equity kickers. These equity kickers have the potential to generate additional revenues to the Company as a result of excess cash flow distributions and/or as appreciated properties are sold or refinanced. The Company did not record interest income from such investments for the years ended December 31, 2012, 2011 and 2010.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

Property operating income—Property operating income represents income associated with the operations of commercial real estate properties classified as real estate owned. The Company recognizes revenue for these activities when the fees are fixed or determinable, or are evidenced by an arrangement, collection is reasonably assured and the services under the arrangement have been provided. For the years ended December 31, 2012 and 2011, the Company recorded approximately $30.2 million and $23.4 million, respectively, of property operating income relating to its real estate owned properties. The Company did not have property operating income in 2010. As of December 31, 2012, the Company had two real estate owned properties, a portfolio of multifamily assets that was purchased by the Company out of bankruptcy and a portfolio of hotel assets that was transferred to the Company by the owner, a creditor trust. Both of these portfolios were acquired in the first quarter of 2011. Additionally, a real estate investment that was part of the portfolio of hotel properties was sold in 2012, and two real estate investments were reclassified from real estate owned to real estate held-for-sale in 2011, resulting in the reclassification of all of the operating activity from these properties from property operating income and expenses into discontinued operations for all prior periods. See Note 6—"Real Estate Owned and Held-For-Sale" for further details.

Other income—Other income represents net interest income and gains and losses recorded on the Company's linked transactions, as well as loan structuring, defeasance, and miscellaneous asset management fees associated with the Company's loans and investments portfolio. The Company recognizes these forms of income when the fees are fixed or determinable, are evidenced by an arrangement, collection is reasonably assured and the services under the arrangement have been provided.

Investment in Equity Affiliates

The Company invests in joint ventures that are formed to acquire, develop and/or sell real estate assets. These joint ventures are not majority owned or controlled by the Company, or are VIEs for which the Company is not the primary beneficiary, and are not consolidated in its financial statements. These investments are recorded under either the equity or cost method of accounting as deemed appropriate. The Company records its share of the net income and losses from the underlying properties of its equity method investments and any other-than-temporary impairment on these investments on a single line item in the Consolidated Statement of Operations as income or losses from equity affiliates.

Stock-Based Compensation

The Company has granted certain of its employees, directors, and employees of ACM, stock awards consisting of shares of the Company's common stock that vest immediately or annually over a multi-year period, subject to the recipient's continued service to the Company. The Company records stock-based compensation expense at the grant date fair value of the related stock-based award with subsequent remeasurement for any unvested shares granted to non-employees of the Company with such amounts expensed against earnings, at the grant date (for the portion that vests immediately) or ratably over the respective vesting periods. Dividends are paid on restricted stock as dividends are paid on shares of the Company's common stock whether or not they are vested. Stock-based compensation

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

is disclosed in the Company's Consolidated Statements of Operations under "employee compensation and benefits" for employees and under "selling and administrative" expense for non-employees.

Income Taxes

The Company is organized and conducts its operations to qualify as a REIT and to comply with the provisions of the Internal Revenue Code with respect thereto. A REIT is generally not subject to federal income tax on taxable income which is distributed to its stockholders, provided that the Company distributes at least 90% of its taxable income and meets certain other requirements. Certain REIT income may be subject to state and local income taxes. The Company's assets or operations that would not otherwise comply with the REIT requirements, are owned or conducted by the Company's taxable REIT subsidiaries, the income of which is subject to federal and state income tax. Under current federal tax law, the income and any tax on or distribution requirements attributable to certain debt extinguishment transactions realized in 2009 and 2010 have been deferred to future periods at the Company's election.

Current accounting guidance clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements. This guidance prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. This guidance also provides clarity on derecognition, classification, interest and penalties, accounting in interim periods and disclosure.

Other Comprehensive Income / (Loss)

The Company divides comprehensive income or loss into net income (loss) and other comprehensive income (loss), which includes unrealized gains and losses on available-for-sale securities. In addition, to the extent the Company's derivative instruments qualify as hedges, net unrealized gains or losses are reported as a component of accumulated other comprehensive income (loss). See "Derivatives and Hedging Activities" below. At December 31, 2012, accumulated other comprehensive loss was $39.6 million and consisted of $40.0 million of net unrealized losses on derivatives designated as cash flow hedges and a $0.4 million unrealized gain related to available-for-sale securities. At December 31, 2011, accumulated other comprehensive loss was $47.7 million and consisted of $48.8 million of net unrealized losses on derivatives designated as cash flow hedges and a $1.1 million unrealized gain related to available-for-sale securities.

Earnings (Loss) Per Share

The Company presents both basic and diluted earnings (loss) per share. Basic earnings (loss) per share excludes dilution and is computed by dividing net income (loss) available to common stockholders by the weighted average number of shares outstanding for the period. Diluted earnings (loss) per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock, where such exercise or conversion would result in a lower per share amount.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

Hedging Activities and Derivatives

Hedging Activities

The Company recognizes all derivatives as either assets or liabilities at fair value and these amounts are recorded in other assets or other liabilities in the Consolidated Balance Sheets. Additionally, the fair value adjustments will affect either accumulated other comprehensive income (loss) until the hedged item is recognized in earnings, or net income (loss) depending on whether the derivative instrument qualifies as a hedge for accounting purposes and, if so, the nature of the hedging activity. The Company uses derivatives for hedging purposes rather than speculation. Fair values are approximated based on current market data received from financial sources that trade such instruments and are based on prevailing market data and derived from third party proprietary models based on well recognized financial principles and reasonable estimates about relevant future market conditions.

Derivatives

The Company records all derivatives in the Consolidated Balance Sheets at fair value. The accounting for changes in the fair value of derivatives depends on the intended use of the derivative, whether the Company has elected to designate a derivative in a hedging relationship and apply hedge accounting and whether the hedging relationship has satisfied the criteria necessary to apply hedge accounting. Derivatives designated and qualifying as a hedge of the exposure to changes in the fair value of an asset, liability, or firm commitment attributable to a particular risk, such as interest rate risk, are considered fair value hedges. Derivatives designated and qualifying as a hedge of the exposure to variability in expected future cash flows, or other types of forecasted transactions, are considered cash flow hedges. Hedge accounting generally provides for the matching of the timing of gain or loss recognition on the hedging instrument with the recognition of the changes in the fair value of the hedged asset or liability that are attributable to the hedged risk in a fair value hedge or the earnings effect of the hedged forecasted transactions in a cash flow hedge. The Company may enter into derivative contracts that are intended to economically hedge certain of its risks, even though hedge accounting does not apply or the Company elects not to apply hedge accounting.

In the normal course of business, the Company may use a variety of derivative financial instruments to manage, or hedge, interest rate risk. These derivative financial instruments must be effective in reducing its interest rate risk exposure in order to qualify for hedge accounting. When the terms of an underlying transaction are modified, or when the underlying hedged item ceases to exist, all changes in the fair value of the instrument are marked-to-market with changes in value included in net income (loss) for each period until the derivative instrument matures or is settled. Any derivative instrument used for risk management that does not meet the hedging criteria is marked-to-market with the changes in value included in net income (loss). In cases where a derivative financial instrument is terminated early, any gain or loss is generally amortized over the remaining life of the hedged item.

In certain circumstances, the Company may finance the purchase of Residential Mortgage Backed Securities ("RMBS") investments through a repurchase agreement with the same counterparty which may qualify as a linked transaction. If both transactions are entered into contemporaneously or in contemplation of each other, the transactions are presumed to be linked transactions unless certain criteria are met, and the Company accounts for the purchase of such securities and the repurchase

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

agreement on a combined basis as a forward contract derivative at fair value which is reported in other assets on the Consolidated Balance Sheet with changes in the fair value of the assets and liabilities underlying linked transactions and associated interest income and expense reported in other income on the Consolidated Statement of Operations. The analysis of transactions under these rules requires management's judgment and experience. See Note 10—"Derivative Financial Instruments" for further details.

Variable Interest Entities

The Company has evaluated its loans and investments, mortgage related securities, investments in equity affiliates, junior subordinated notes, CDOs and its CLO, in order to determine if they qualify as VIEs or as variable interests in VIEs. This evaluation resulted in the Company determining that its bridge loans, junior participation loans, mezzanine loans, preferred equity investments, investments in equity affiliates, junior subordinated notes, CDOs, CLO, and investments in debt securities were potential VIEs or variable interests in VIEs. A VIE is defined as an entity in which equity investors (i) do not have the characteristics of a controlling financial interest, and/or (ii) do not have sufficient equity at risk for the entity to finance its activities without additional financial support from other parties. A VIE is required to be consolidated by its primary beneficiary, which is defined as the party that (i) has the power to control the activities that most significantly impact the VIE's economic performance and (ii) has the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE. See Note 9—"Variable Interest Entitiesfor further details.

Recently Issued Accounting Pronouncements

In December 2011, the FASB issued updated guidance on disclosure about offsetting assets and liabilities which amends U.S. GAAP to conform more to the disclosure requirements of International Financial Reporting Standards ("IFRS"). Under the updated guidance, an entity is required to disclose both gross information and net information about both instruments and transactions eligible for offset in the statement of financial position and instruments and transactions subject to an agreement similar to a master netting arrangement. The scope would include certain derivatives (including bifurcated embedded derivatives,) repurchase agreements and reverse repurchase agreements, and securities borrowing and securities lending transactions. This guidance is effective as of the first quarter of 2013 and the Company is currently evaluating the impact it may have on its financial disclosure.

In June 2011, the FASB issued updated guidance on comprehensive income which amends U.S. GAAP to conform to IFRS disclosure requirements. The amendment eliminates the option to present components of other comprehensive income as part of the Statement of Changes in Stockholders' Equity and requires a separate Statement of Comprehensive Income or two consecutive statements in the Statement of Operations and in a separate Statement of Comprehensive Income. This guidance was effective as of the first quarter of 2012, except for guidance on the disclosure of reclassification adjustments which was postponed for re-deliberation by the FASB, and early adoption was permitted. The Company early adopted the guidance in the fourth quarter of 2011, with the exception of the disclosure of reclassification adjustments postponed for re-deliberation by the FASB. As the guidance only amends existing disclosure requirements, its adoption did not have a material

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 2—Summary of Significant Accounting Policies (Continued)

effect on the Company's Consolidated Financial Statements. In February 2013, the FASB issued updated guidance on the disclosure of reclassification adjustments. The updated guidance requires the Company to disclose, either on the face of the financial statements or in the notes to the financial statements, the financial statement effects on earnings from items that are reclassified out of other comprehensive income, by component. This guidance is effective as of the first quarter of 2013 and the Company is currently evaluating the impact it may have on its financial disclosure.

In May 2011, the FASB issued updated guidance on fair value measurement which amends U.S. GAAP to conform to IFRS measurement and disclosure requirements. The guidance amends certain fair value measurement principles and enhances disclosure requirements by requiring a description of the process for valuing items categorized as Level 3 in the fair value hierarchy, quantitative disclosure of unobservable inputs used to make these measurements and, in certain cases, the sensitivity of the measurements to changes in these inputs. This guidance was effective as of the first quarter of 2012, applied prospectively, and its adoption did not have a material effect on the Company's Consolidated Financial Statements.

In April 2011, the FASB issued updated guidance on the transfer of financial assets which primarily removes certain criteria from the consideration of effective control over assets subject to repurchase agreements when determining the recognition of a sale. The removal of these criteria will generally result in the assets transferred pursuant to the repurchase agreement being accounted for as a secured borrowing, with both the transferred asset and repurchase liability recorded on the transferor's balance sheet. This guidance was effective as of the first quarter of 2012, applied prospectively to transactions which occur subsequent to the effective date, and its adoption did not have a material effect on the Company's Consolidated Financial Statements.

Note 3—Loans and Investments

The following table sets forth the composition of the Company's loan and investment portfolio at December 31, 2012 and December 31, 2011:

	December 31, 2012	Percent of Total	Loan Count	Wtd. Avg. Pay Rate(1)	Wtd. Avg. Remaining Months to Maturity	First Dollar LTV Ratio(2)	Last Dollar LTV Ratio(3)
Bridge loans	$1,006,726,838	67%	83	4.87%	25.0	0%	75%
Mezzanine loans	112,843,639	7%	24	4.94%	62.6	59%	88%
Junior participation loans	280,662,498	19%	9	3.90%	29.1	59%	79%
Preferred equity investments	100,823,672	7%	12	6.04%	72.2	77%	97%
	1,501,056,647	100%	128	4.77%	31.8	21%	80%
Unearned revenue	(13,683,281)						
Allowance for loan losses	(161,706,313)						
Loans and investments, net	$1,325,667,053						

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

	December 31, 2011	Percent of Total	Loan Count	Wtd. Avg. Pay Rate(1)	Wtd. Avg. Remaining Months to Maturity	First Dollar LTV Ratio(2)	Last Dollar LTV Ratio(3)
Bridge loans	$ 933,033,598	62%	66	4.88%	29.6	0%	80%
Mezzanine loans	187,663,976	12%	27	4.25%	31.7	79%	96%
Junior participation loans	280,945,639	19%	9	3.99%	36.3	60%	81%
Preferred equity investments	100,751,231	7%	17	4.18%	89.0	89%	97%
	1,502,394,444	100%	119	4.59%	35.1	27%	84%
Unearned revenue	(14,571,929)						
Allowance for loan losses	(185,381,855)						
Loans and investments, net	$1,302,440,660						

(1) "Weighted Average Pay Rate" is a weighted average, based on the unpaid principal balances of each loan in the Company's portfolio, of the interest rate that is required to be paid monthly as stated in the individual loan agreements. Certain loans and investments that require an additional rate of interest "Accrual Rate" to be paid at the maturity are not included in the weighted average pay rate as shown in the table.

(2) The "First Dollar LTV Ratio" is calculated by comparing the total of the Company's senior most dollar and all senior lien positions within the capital stack to the fair value of the underlying collateral to determine the point at which the Company will absorb a total loss of its position.

(3) The "Last Dollar LTV Ratio" is calculated by comparing the total of the carrying value of the Company's loan and all senior lien positions within the capital stack to the fair value of the underlying collateral to determine the point at which the Company will initially absorb a loss.

Bridge loans are loans to borrowers who are typically seeking short-term capital to be used in an acquisition of a property and are predominantly secured by first mortgage liens on the property.

Mezzanine loans and junior participating interests in senior debt are loans that are subordinate to a conventional first mortgage loan and senior to the borrower's equity in a transaction. Mezzanine financing may take the form of loans secured by pledges of ownership interests in entities that directly or indirectly control the real property or subordinated loans secured by second mortgage liens on the property.

A preferred equity investment is another method of financing in which preferred equity investments in entities that directly or indirectly own real property are formed. In cases where the terms of a first mortgage prohibit additional liens on the ownership entity, investments structured as preferred

equity in the entity owning the property serve as viable financing substitutes. With preferred equity investments, the Company typically becomes a member in the ownership entity.

Concentration of Credit Risk

The Company operates in one portfolio segment, commercial mortgage loans and investments. Commercial mortgage loans and investments can potentially subject the Company to concentrations of

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

credit risk. The Company is subject to concentration risk in that the unpaid principal balance related to 23 loans with five different borrowers represented approximately 31% of total assets as of December 31, 2012. At December 31, 2011, the unpaid principal balance related to 21 loans with five different borrowers represented approximately 26% of total assets. As of December 31, 2012 and 2011, the Company had 128 and 119 loans and investments, respectively.

In addition, in 2012 and 2011, no single loan or investment represented 10% of the Company's total assets. In 2012, 2011 and 2010, the Company generated approximately 9%, 7% and 7%, respectively, of revenue from the Chetrit Group L.L.C.

As a result of the loan review process, the Company identified loans and investments that it considers higher-risk loans that had a carrying value, before loan loss reserves, of approximately $231.1 million and a weighted average loan-to-value ("LTV") ratio of 90%, compared to lower-risk loans with a carrying value, before loan loss reserves, of $1.2 billion and a weighted average LTV ratio of 78% at December 31, 2012.

The Company measures its relative loss position for its mezzanine loans, junior participation loans, and preferred equity investments by determining the point where the Company will be exposed to losses based on its position in the capital stack as compared to the fair value of the underlying collateral. The Company determines its loss position on both a first dollar LTV and a last dollar LTV basis. First dollar LTV is calculated by comparing the total of the Company's senior most dollar and all senior lien positions within the capital stack to the fair value of the underlying collateral to determine the point at which the Company will absorb a total loss of its position. Last dollar LTV is calculated by comparing the total of the carrying value of the Company's loan and all senior lien positions within the capital stack to the fair value of the underlying collateral to determine the point at which the Company will initially absorb a loss.

As a component of the Company's policies and procedures for loan valuation and risk assessment, each loan and investment is assigned a credit risk rating. Individual ratings range from one to five, with one being the lowest risk and five being the highest. Each credit risk rating has benchmark guidelines which pertain to debt-service coverage ratios, LTV ratios, borrower strength, asset quality, and funded cash reserves. Other factors such as guarantees, market strength, remaining loan term, and borrower equity are also reviewed and factored into determining the credit risk rating assigned to each loan. This metric provides a helpful snapshot of portfolio quality and credit risk. Given the Company's asset management approach, however, the risk rating process does not result in differing levels of diligence contingent upon credit rating. That is because all portfolio assets are subject to the level of scrutiny and ongoing analysis consistent with that of a 'high-risk" loan. All assets are subject to, at minimum, a thorough quarterly financial evaluation in which historical operating performance is reviewed, and forward-looking projections are created. Generally speaking, given the Company's typical loan and investment profile, a risk rating of three suggests that the Company expects the loan to make both principal and interest payments according to the contractual terms of the loan agreement, and is not considered impaired. A risk rating of four indicates the Company anticipates that the loan will require a modification of some kind. A risk rating of five indicates the Company expects the loan to underperform over its term, and that there could be loss of interest and/or principal. Ratings of 3.5 and 4.5 generally indicate loans that have characteristics of both the immediately higher and lower classifications. Further, while the above are the primary guidelines used in determining a certain risk

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

rating, subjective items such as borrower strength, condition of the market of the underlying collateral, additional collateral or other credit enhancements, or loan terms, may result in a rating that is higher or lower than might be indicated by any risk rating matrix.

A summary of the loan portfolio's weighted average internal risk ratings and LTV ratios by asset class as of December 31, 2012 and 2011 is as follows:

	As of December 31, 2012				
Asset Class	Unpaid Principal Balance	Percentage of Portfolio	Wtd. Avg. Internal Risk Rating	First Dollar LTV Ratio	Last Dollar LTV Ratio
Multi-family	$ 776,640,021	51.7%	3.4	19%	79%
Office	415,162,338	27.6%	3.2	31%	81%
Land	140,745,980	9.4%	4.2	0%	86%
Hotel	100,113,791	6.7%	3.6	22%	78%
Commercial	23,794,517	1.6%	3.0	0%	50%
Retail	19,350,000	1.3%	2.9	0%	61%
Condo	25,250,000	1.7%	4.2	58%	90%
Total	$ 1,501,056,647	100.0%	3.4	21%	80%

	As of December 31, 2011				
Asset Class	Unpaid Principal Balance	Percentage of Portfolio	Wtd. Avg. Internal Risk Rating	First Dollar LTV Ratio	Last Dollar LTV Ratio
Multi-family	$ 673,570,720	44.8%	3.4	21%	82%
Office	497,422,786	33.1%	3.2	39%	83%
Land	136,110,014	9.1%	4.2	0%	96%
Hotel	135,839,357	9.0%	3.8	46%	87%
Commercial	23,751,567	1.6%	3.0	0%	95%
Retail	21,050,000	1.4%	2.9	0%	66%
Condo	14,650,000	1.0%	3.9	64%	87%
Total	$ 1,502,394,444	100.0%	3.4	27%	84%

Geographic Concentration Risk

As of December 31, 2012, 34%, 11%, 10%, and 8% of the outstanding balance of the Company's loans and investments portfolio had underlying properties in New York, California, Texas and Florida, respectively. As of December 31, 2011, 37%, 14%, and 7% of the outstanding balance of the Company's loans and investments portfolio had underlying properties in New York, California and Florida, respectively.

Impaired Loans and Allowance for Loan Losses

The Company performs an evaluation of the loan portfolio quarterly to assess the performance of its loans and whether a reserve for impairment should be recorded. The Company considers a loan

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

impaired when, based upon current information and events, it is probable that it will be unable to collect all amounts due for both principal and interest according to the contractual terms of the loan agreement.

During the year ended December 31, 2012, the Company determined that the fair value of the underlying collateral securing eight impaired loans with an aggregate carrying value of $94.6 million was less than the net carrying value of the loans, resulting in a $23.8 million provision for loan losses. In addition, during the year ended December 31, 2012, the Company recorded $0.9 million of net recoveries of previously recorded loan loss reserves. These recoveries were recorded in provision for loan losses on the Consolidated Statement of Operations. The effect of the recoveries resulted in a provision for loan losses, net of recoveries, of $22.9 million for the year ended December 31, 2012. Of the $23.8 million of loan loss reserves recorded during the year ended December 31, 2012, $18.9 million was attributable to loans on which the Company had previously recorded reserves, while $4.9 million of reserves related to other loans in the Company's portfolio. The Company recorded a $44.8 million provision for loan losses during the year ended December 31, 2011 when it performed an evaluation of its loan portfolio and determined that the fair value of the underlying collateral securing 11 impaired loans with an aggregate carrying value of $109.5 million were less than the net carrying value of the loans. In addition, the Company recorded $6.3 million in net recoveries of previously recorded loan loss reserves. The effect of these recoveries resulted in a provision for loan losses, net of recoveries, of $38.5 million for the year ended December 31, 2011. The Company recorded a $100.9 million provision for loan losses during the year ended December 31, 2010 when it performed an evaluation of its loan portfolio and determined that the fair value of the underlying collateral securing 27 impaired loans with an aggregate carrying value of $455.4 million were less than the net carrying value of the loans. In addition, the Company recorded $18.1 million in net recoveries of previously recorded loan loss reserves, of which $2.9 million was related to two loans in which the underlying properties were sold and the Company provided financing to the new operators. The effect of these recoveries resulted in a provision for loan losses, net of recoveries, of $82.8 million for the year ended December 31, 2010. There were no loans for which the collateral securing the loan was less than the carrying value of the loan for which the Company had not recorded a provision for loan loss as of December 31, 2012, 2011 and 2010.

At December 31, 2012, the Company had a total of 20 loans with an aggregate carrying value, before loan loss reserves, of $240.2 million for which impairment reserves have been recorded. At December 31, 2011, the Company had a total of 24 loans with an aggregate carrying value, before loan loss reserves, of $285.0 million for which impairment reserves have been recorded. At December 31, 2010, the Company had a total of 30 loans with an aggregate carrying value, before loan loss reserves, of $530.6 million for which impairment reserves have been recorded.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

A summary of the changes in the allowance for loan losses is as follows:

	For the Year Ended December 31, 2012	For the Year Ended December 31, 2011
Allowance at beginning of the period	$ 185,381,855	$ 205,470,302
Provision for loan losses	23,828,224	44,810,000
Charge-offs	(46,585,800)	(27,062,564)
Charge-offs on loans reclassified to real estate owned, net	—	(31,710,929)
Recoveries of reserves	(917,966)	(6,124,954)
Allowance at end of the period	$ 161,706,313	$ 185,381,855

A summary of charge-offs and recoveries is as follows:

	For the Year Ended	
	December 31, 2012	December 31, 2011
Charge-offs:		
Multi-family	$ (10,773,141)	$ (38,308,816)
Office	(5,812,659)	(7,114,677)
Hotel	(30,000,000)	(13,350,000)
Total	$ (46,585,800)	$ (58,773,493)
Recoveries:		
Multi-family	$ (121,898)	$ (2,243,197)
Office	(796,068)	(3,881,757)
Total	$ (917,966)	$ (6,124,954)
Net Charge-offs	$ (45,667,834)	$ (52,648,539)
Ratio of net charge-offs during the period to average loans and investments outstanding during the period	3.0%	3.4%

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

A summary of the Company's impaired loans by asset class is as follows:

	For the Year Ended December 31, 2012				
Asset Class	Unpaid Principal Balance	Carrying Value(1)	Allowance for Loan Losses	Average Recorded Investment(2)	Interest Income Recognized
Multi-family	$ 59,468,463	$ 59,277,872	$ 53,587,461	$ 63,331,880	$ 794,633
Office	38,362,808	30,545,156	28,929,067	41,732,535	1,419,615
Land	139,036,505	136,716,617	65,518,270	136,185,941	—
Hotel	3,671,507	3,671,507	3,671,515	18,671,507	596,643
Condo	10,000,000	10,000,000	10,000,000	10,000,000	173,920
Total	$250,539,283	$240,211,152	$161,706,313	$269,921,863	$2,984,811

	For the Year Ended December 31, 2011				
Asset Class	Unpaid Principal Balance	Carrying Value(1)	Allowance for Loan Losses	Average Recorded Investment(2)	Interest Income Recognized
Multi-family	$ 67,195,296	$ 67,149,845	$ 57,379,670	$128,883,743	$ 1,665,703
Office	45,102,262	39,972,420	26,560,000	68,153,802	2,698,846
Land	133,335,376	132,142,122	58,700,000	131,795,519	16,978
Hotel	33,671,507	33,771,507	33,671,515	76,171,507	979,647
Condo	10,000,000	10,000,000	9,070,670	10,000,000	310,142
Total	$289,304,441	$285,035,894	$185,381,855	$415,004,571	$5,671,316

(1) Represents the unpaid principal balance of impaired loans less unearned revenue and other holdbacks and adjustments by asset class.

(2) Represents an average of the beginning and ending unpaid principal balance of each asset class.

During the year ended December 31, 2012, the Company received principal payoffs of $1.6 million on a bridge loan and a preferred equity loan with a total carrying value of $5.5 million and recorded a charge-off to previously recorded reserves of $3.8 million as well as a cash recovery of $0.1 million. Also during the year ended December 31, 2012, the Company wrote off four preferred equity investments with a total carrying value of $7.0 million and two mezzanine loans with a total carrying value of $36.5 million and recorded charge-offs to previously recorded reserves totaling $42.8 million as well as a cash recovery of $0.7 million.

During the year ended December 31, 2011, the Company received $9.4 million in principal payoffs on five loans with a total carrying value of $19.8 million, wrote down four loans with an aggregate carrying value of $61.2 million to $11.3 million, after principal paydowns of $40.3 million and sold a loan to a third party with a carrying value of $7.0 million, which had been fully reserved in a prior period, for $0.2 million. The Company also entered into a $32.0 million non-recourse junior loan participation for $28.8 million on a loan with an unpaid principal balance of $50.0 million and recorded a $2.9 million net non-cash recovery of a previously recorded reserve as well as a $3.2 million charge to interest expense as a result of the amortization of discount on the participation. In the second quarter of 2012, the Company sold the $50.0 million mezzanine loan at par to the same third party for the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

remaining $18.0 million, which relieved the Company's $32.0 million junior loan participation liability. See Note 7—"Debt Obligations—Notes Payable." The Company recorded charge-offs to reserves of $27.1 million related to these transactions. The Company also charged-off $31.7 million of loan loss reserves related to two loans with carrying values totaling approximately $77.2 million, net of reserves and assumed debt, on properties that were transferred to the Company by the owner, a creditor trust as well as purchased by the Company out of bankruptcy and recorded to real estate owned, net on the Company's Consolidated Balance Sheet in the first quarter of 2011. See Note 6—"Real Estate Owned and Held-For-Sale" for further details. Loss on sale and restructuring of loans of $5.7 million during the year ended December 31, 2011 represents $4.7 million from the sale of a $30.0 million portion of a $67.0 million loan to a third party for $25.3 million as well as $1.0 million from the execution of a forbearance agreement in the first quarter of 2011 on a loan modified in the second quarter of 2011.

As of December 31, 2012, 9 loans with an aggregate carrying value of approximately $14.9 million, net of related loan loss reserves of $45.1 million, were classified as non-performing, of which one loan with a carrying value of $5.0 million did not have a loan loss reserve. Income from non-performing loans is recognized on a cash basis only to the extent it is received. Full income recognition will resume when the loan becomes contractually current and performance has recommenced. As of December 31, 2011, 12 loans with an aggregate carrying value of approximately $15.3 million, net of related loan loss reserves of $42.6 million, were classified as non-performing, of which one loan with a carrying value of $1.4 million did not have a loan loss reserve. As of December 31, 2010, nine loans with a net carrying value of approximately $25.6 million, net of related loan loss reserves of $54.2 million, were classified as non-performing for which income recognition had been suspended and all nine loans had loan loss reserves. Additionally, the Company has five loans with an unpaid principal balance totaling approximately $111.2 million at December 31, 2012, which mature in July 2013, that are collateralized by a land development project. The loans do not contain a pay rate of interest, but four of the loans with an unpaid principal balance totaling approximately $101.9 million entitle the Company to a weighted average accrual rate of interest of approximately 9.60%. During the fourth quarter of 2010, the Company suspended the recording of the accrual rate of interest on these loans, as these loans were impaired and management deemed the collection of this interest to be doubtful. The Company has recorded cumulative allowances for loan losses of $43.7 million related to these loans as of December 31, 2012. The loans are subject to certain risks associated with a development project including, but not limited to, availability of construction financing, increases in projected construction costs, demand for the development's outputs upon completion of the project, and litigation risk. Additionally, these loans were not classified as non-performing as the borrower is in compliance with all of the terms and conditions of the loans.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

A summary of the Company's non-performing loans by asset class as of December 31, 2012 and 2011 is as follows:

	As of December 31, 2012			As of December 31, 2011		
Asset Class	Carrying Value	Less Than 90 Days Past Due	Greater Than 90 Days Past Due	Carrying Value	Less Than 90 Days Past Due	Greater Than 90 Days Past Due
Multi-family	$10,951,549	$ —	$10,951,549	$14,328,862	$1,392,325	$12,936,537
Office	10,373,229	—	10,373,229	14,948,138	6,506,663	8,441,475
Land	24,999,972	—	24,999,972	24,999,972	—	24,999,972
Hotel	3,671,507	—	3,671,507	3,671,507	—	3,671,507
Condo	10,000,000	—	10,000,000	—	—	—
Total	$59,996,257	$ —	$59,996,257	$57,948,479	$7,898,988	$50,049,491

At December 31, 2012, the Company did not have any loans contractually past due 90 days or more that are still accruing interest. During the year ended December 31, 2012, the Company refinanced and/or modified two loans with a combined unpaid principal balance of $57.4 million which were considered by the Company to be troubled debt restructurings and six loans with a combined unpaid principal balance of $144.9 million which were not considered by the Company to be troubled debt restructurings. In addition, the Company had two loans with a combined unpaid principal balance of $37.8 million that were extended during the period which were considered troubled debt restructurings. During the year ended December 31, 2011, the Company refinanced and/or modified 12 loans totaling $228.6 million, of which five loans totaling $37.1 million were considered by the Company to be troubled debt restructurings. In addition, the Company had unfunded commitment of $0.1 million on a modified loan which was considered a troubled debt restructuring as of December 31, 2011. The Company had no unfunded commitments on the modified and extended loans which were considered troubled debt restructurings as of December 31, 2012.

A summary of loan modifications and extensions by asset class that the Company considered to be troubled debt restructurings during the year ended December 31, 2012 and 2011 wereas follows:

	For the Twelve Months Ended December 31, 2012				
Asset Class	Number of Loans	Original Unpaid Principal Balance	Original Weighted Average Rate of Interest	Modified Unpaid Principal Balance	Modified Weighted Average Rate of Interest
Multi-family	1	$ 32,000,000	2.00%	$ 32,000,000	1.13%
Office	1	25,361,932	5.32%	25,332,451	4.00%
Land	1	2,818,270	—	2,818,270	—
Hotel	1	35,000,000	2.00%	35,000,000	2.00%
Total	4	$ 95,180,202	2.83%	$ 95,150,721	2.18%

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 3—Loans and Investments (Continued)

	For the Twelve Months Ended December 31, 2011				
Asset Class	Number of Loans	Original Unpaid Principal Balance	Original Weighted Average Rate of Interest	Modified Unpaid Principal Balance	Modified Weighted Average Rate of Interest
Multi-family	5	$ 37,063,749	5.91%	$ 29,222,682	5.63%
Land	6	108,335,376	8.78%	108,335,376	8.78%
Total	11	$ 145,399,125	8.05%	$ 137,558,058	8.11%

There were no loans which the Company considered the modifications to be troubled debt restructurings that were subsequently considered non-performing as of December 31, 2012 and 2011and no additional loans were considered to be impaired due to the Company's troubled debt restructuring analysis for the twelve months ended December 31, 2012and 2011. These loans were modified to increase the total recovery of the combined principal and interest from the loan. Any loan modification is predicated upon a goal of maximizing the collection of the loan. Loan terms that have been modified have included, but are not limited to interest rate, maturity date and in certain cases, principal amount.

Note 4—Securities

The following is a summary of the Company's securities classified as available-for-sale at December 31, 2012:

	Face Value	Amortized Cost	Cumulative Unrealized Gain	Carrying Value / Estimated Fair Value
Common equity securities	$ —	$ 58,789	$ 293,947	$ 352,736
Collateralized debt obligation (CDO) bond	10,000,000	1,000,000	100,000	1,100,000
Commercial mortgage-backed security (CMBS)	2,100,000	2,100,000	—	2,100,000
Total available-for-sale securities	$ 12,100,000	$ 3,158,789	$ 393,947	$ 3,552,736

The following is a summary of the Company's securities classified as available-for-sale at December 31, 2011:

	Face Value	Amortized Cost	Cumulative Unrealized Gain	Carrying Value / Estimated Fair Value
Common equity securities	$ —	$ 58,789	$ 117,579	$ 176,368
Collateralized debt obligation (CDO) bond	10,000,000	1,000,000	1,000,000	2,000,000
Commercial mortgage-backed security (CMBS)	2,100,000	2,100,000	—	2,100,000
Total available-for-sale securities	$ 12,100,000	$ 3,158,789	$ 1,117,579	$ 4,276,368

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 4—Securities (Continued)

The following is a summary of the underlying credit rating of the Company's CDO bond and CMBS investments available-for-sale at December 31, 2012 and 2011:

	At December 31, 2012			At December 31, 2011		
Rating(1)	#	Amortized Cost	Percent of Total	#	Amortized Cost	Percent of Total
CCC-	2	$ 3,100,000	100%	2	$ 3,100,000	100%

(1) Based on the rating published by Standard & Poor's for each security.

The Company owns 2,939,465 shares of common stock of Realty Finance Corporation, formerly CBRE Realty Finance, Inc., a commercial real estate specialty finance company, which it purchased in 2007 for $16.7 million, and which had a fair value of $0.4 million at December 31, 2012. As of December 31, 2012, a net unrealized gain of $0.3 million was recorded in accumulated other comprehensive loss related to these securities.

The Company owns a CDO bond security, purchased at a discount in 2008 for $7.5 million, which bears interest at a spread of 30 basis points over LIBOR, has a stated maturity of 39.3 years, but has an estimated remaining life of 3.3 years based on the maturities of the underlying assets. As of the second quarter of 2010, the Company is no longer accreting income on this security which had $2.0 million of original discount and a fair value of $1.1 million at December 31, 2012. As of December 31, 2012, an unrealized gain of$0.1 million was recorded in accumulated other comprehensive loss related to this security.

The Company owns a CMBS investment, purchased at a premium in 2010 for $2.1 million, which is collateralized by a portfolio of hotel properties. The Company had two fully reserved mezzanine loans with a total carrying value before loan loss reserves of $30.0 million related to this portfolio which were charged off in the fourth quarter of 2012. The CMBS investment bears interest at a spread of 89 basis points over LIBOR, has a stated maturity of 7.5 years, but has an estimated life of 1.5 years based on the extended maturity of the underlying asset and a fair value of $2.1 million at December 31, 2012.

Available-for-sale securities are carried at their estimated fair value with unrealized gains and losses reported in accumulated other comprehensive loss. The Company does not intend to sell its investments and it is not more likely than not that the Company will be required to sell the investments before recovery of its amortized cost basis, which may be at maturity. The Company evaluates these securities periodically to determine whether a decline in their value is other-than-temporary, though such a determination is not intended to indicate a permanent decline in value. The Company's evaluation is based on its assessment of cash flows which is supplemented by third-party research reports, internal review of the underlying assets securing the investments, levels of subordination and the ratings of the securities and the underlying collateral. The Company's estimation of cash flows expected to be generated by the securities portfolio is based upon an internal review of the underlying mortgage loans securing the investments both on an absolute basis and compared to the Company's initial underwriting for each investment and efforts are supplemented by third party research reports, third party market assessments and dialogue with market participants. Management closely monitors market conditions on which it bases such decisions. Based on the Company's analysis in 2010, the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 4—Securities (Continued)

Company concluded that this CDO bond investment was other-than-temporarily impaired and recorded a $7.0 million impairment charge in 2010 to the Company's Consolidated Statement of Operations which was reclassified from an unrealized loss recorded in accumulated other comprehensive loss due to a reclassification of the security from held-to-maturity to available-for-sale in 2010. During 2009, an other-than-temporary impairment of $9.8 million was recognized upon the reclassification of two securities from held-to-maturity to available-for-sale. During 2010 and 2009, the Company also concluded that the common equity securities were other-than-temporarily impaired based on a market price decrease for more than twelve months and recorded a less than $0.1 million and $0.4 million impairment charge to the 2010 and 2009 Consolidated Statements of Operations, respectively. No impairment was recorded on the Company's available-for-sale securities for the years ended December 31, 2012 and 2011.

In 2010, the Company sold three investment grade commercial real estate CDO bonds with an aggregate face value of $44.7 million and an amortized cost of $40.4 million, for $29.9 million, and four CMBS investments, with an aggregate face value of $21.5 million and an amortized cost of $17.3 million, for $20.8 million, and recorded a net loss on sale of securities of $7.0 million in its 2010 Consolidated Statement of Operations.

For the years ended December 31, 2012 and 2011, no discount was accreted from the CDO bond investment. For the year ended December 31, 2011, the Company amortized less than $0.1 million of premium into interest income from its CMBS investment and the premium was fully amortized as of December 31, 2011. For the year ended December 31, 2010, the Company accreted approximately $0.8 million of discount into interest income from its CDO bond investments, representing accretion on approximately $7.5 million of total original discount, and approximately $0.1 million of discounts into interest income from its CMBS investments.

The following is a summary of the Company's securities classified as held-to-maturity at December 31, 2012:

	Face Value	Amortized Cost	Carrying Value	Unrealized Gain	Unrealized Loss	Estimated Fair Value
Residential mortgage-backed securities (RMBS)	$44,431,768	$42,986,980	$42,986,980	$169,450	$ (3,306)	$43,153,124
Total securities held-to-maturity	$44,431,768	$42,986,980	$42,986,980	$169,450	$ (3,306)	$43,153,124

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 4—Securities (Continued)

The following is a summary of the Company's securities classified as held-to-maturity at December 31, 2011:

	Face Value	Amortized Cost	Carrying Value	Unrealized Gain	Unrealized Loss	Estimated Fair Value
Residential mortgage-backed securities (RMBS)	$29,192,262	$29,199,506	$29,199,506	$ 57,704	$ (419)	$29,256,791
Commercial mortgage-backed security (CMBS)	734,969	742,602	742,602	—	(5,179)	737,423
Total securities held-to-maturity	$29,927,231	$29,942,108	$29,942,108	$ 57,704	$ (5,598)	$29,994,214

The following is a summary of the underlying credit ratings of the Company's RMBS and CMBS investments held-to-maturity at December 31, 2012 and 2011:

	At December 31, 2012			At December 31, 2011		
Rating(1)	#	Amortized Cost	Percent of Total	#	Amortized Cost	Percent of Total
AAA	2	$ 407,514	1%	2	$ 817,810	3%
AA	1	167,196	1%	—	—	—
BB	3	8,742,011	20%	—	—	—
BB-	—	—	—	2	1,462,483	5%
D	1	9,496,933	22%	—	—	—
NR	9	24,173,326	56%	4	27,661,815	92%
	16	$ 42,986,980	100%	8	$ 29,942,108	100%

(1) Based on the rating published by Standard & Poor's for each security. NR stands for "not rated".

In 2012, the Company purchased eight RMBS investments, at par, for a total of $31.8 million, eight RMBS investments, at a combined premium of $0.2 million, for a total of $22.9 million, and two RMBS investments, at a combined discount of $1.5 million, for $14.4 million, and received total principal paydowns of $55.2 million on the portfolio. In 2011, the Company purchased four RMBS investments, at par, for a total of $33.0 million and three RMBS investments, at a combined premium of less than $0.1 million, for a total of $2.7 million, and received total principal paydowns of $6.5 million on the portfolio. The total carrying value of the RMBS investments was $43.0 million and $29.2 million at December 31, 2012 and 2011, respectively. The RMBS investments are collateralized by portfolios of residential properties, bear interest at a weighted average fixed rate of 5.75%, have a weighted average stated maturity of 29.7 years, but have weighted average estimated lives of 4.0 years based on the estimated maturity of the RMBS investments, and had a total fair value of $43.2 million at December 31, 2012. Approximately $12.0 million is estimated to mature within one year, $18.0 million is estimated to mature after one year through five years, $3.5 million is estimated to mature

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 4—Securities (Continued)

after five years through ten years, and $9.5 million is estimated to mature after ten years. The RMBS investments were financed with two repurchase agreements with financial institutions which generally finance between 60% to 90% of the value of each individual investment. During the year ended December 31, 2012, the Company financed $55.5 million of the RMBS investments and paid down the total debt by $45.9 million due to the principal paydowns received on the RMBS investments. During the year ended December 31, 2011, the Company financed $30.0 million of the RMBS investments and paid down the total debt by $3.9 million due to the principal paydowns received on the RMBS investments. The total repurchase agreement debt balance was $35.8 million and $26.1 million at December 31, 2012 and 2011, respectively. See Note 7—"Debt Obligations" for furthe details.

The Company purchased a CMBS investment, at par, in the fourth quarter of 2011 for $0.7 million, which was collateralized by a portfolio of commercial properties. The CMBS investment bore interest at a fixed rate of 2.95% and paid off in December 2012.

Securities held-to-maturity are carried at cost, net of unamortized premiums and discounts. The Company does not intend to sell its investments and it is not more likely than not that the Company will be required to sell the investments before recovery of its cost basis, which may be at maturity. The Company evaluates these securities periodically to determine whether a decline in their value is other-than-temporary, though such a determination is not intended to indicate a permanent decline in value. The Company's evaluation is based on its assessment of cash flows which is supplemented by third-party research reports, internal review of the underlying assets securing the investments, levels of subordination and the ratings of the securities and the underlying collateral. The Company's estimation of cash flows expected to be generated by the securities portfolio is based upon an internal review of the underlying mortgage loans securing the investments both on an absolute basis and compared to the Company's initial underwriting for each investment and efforts are supplemented by third party research reports, third party market assessments and dialogue with market participants. Management closely monitors market conditions on which it bases such decisions. No impairment was recorded on the Company's securities held-to-maturity for the years ended December 31, 2012 and 2011.

For the years ended December 31, 2012 and 2011, approximately $0.1 million of premium was amortized and approximately $0.1 million of discount was accreted from the Company's held-to-maturity investments.

The weighted average yield on the Company's CDO bond, CMBS and RMBS investments available-for-sale and held-to-maturity based on their face values was 4.51% and 2.47%, including the amortization of premium and the accretion of discount, for the years ended December 31, 2012 and 2011, respectively.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates

The following is a summary of the Company's investment in equity affiliates at December 31, 2012 and 2011:

	Investment in Equity Affiliates at		Unpaid Principal Balance to Equity Affiliates at
Equity Affiliates	December 31, 2012	December 31, 2011	December 31, 2012
930 Flushing & 80 Evergreen	$ 342,197	$ 229,476	$ 23,794,517
450 West 33rd Street	—	—	—
St. John's Development	—	—	25,000,000
Lightstone Value Plus REIT L.P	55,988,409	55,988,409	—
JT Prime	851,000	851,000	—
West Shore Café	1,821,536	2,053,079	5,500,000
Ritz-Carlton Club	—	750,000	—
Lexford Portfolio	100	100	78,190,000
Issuers of Junior Subordinated Notes	578,000	578,000	—
Total	$ 59,581,242	$ 60,450,064	$ 132,484,517

The Company accounts for the 450 West 33rd Street and Lightstone Value Plus REIT L.P. investments under the cost method of accounting and the remaining investments under the equity method.

930 Flushing & 80 Evergreen

In June 2003, ACM invested approximately $0.8 million in exchange for a 12.5% preferred interest in a joint venture that owns and operates two commercial properties. The Company purchased this investment from ACM in August 2003. In 2007, the Company had contributed an additional $1.2 million to this joint venture. The Company had a $4.8 million bridge loan and a $3.5 million mezzanine loan outstanding to affiliated entities of the joint venture. The loans required monthly interest payments based on one month LIBOR and matured in November 2006 and June 2006, respectively. The bridge loan was extended for two one-year periods and during the second quarter of 2008, the Company was repaid in full. In addition, in August 2005, the joint venture refinanced one of these properties with a $25.0 million amortizing bridge loan provided by the Company. The loan originally was to mature in April 2016 and had a fixed rate of 6.45%. However, the loan was modified in the third quarter of 2012 and now matures in August 2017, has a variable rate of LIBOR plus 3.23%, and has an outstanding principal balance of $23.3 million at December 31, 2012. Proceeds from this loan were used to pay off senior debt as well as the Company's $3.5 million mezzanine loan. Excess proceeds were distributed to each of the members in accordance with the operating agreement of which the Company received $1.3 million, which was recorded as a return of capital in 2005. In the third quarter of 2012, the Company also originated a mezzanine loan to the joint venture for $0.5 million which matures in August 2017, has a variable rate of LIBOR plus 4.23% with a LIBOR floor of 0.24%, and has an outstanding principal balance of $0.5 million at December 31, 2012. During 2008, the Company received a $0.2 million return of capital from contribution made in 2007. In addition, during 2010, the Company contributed an additional $0.1 million of capital. In the fourth quarter of

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

2011, the Company recorded $0.3 million of losses from the entity against the equity investment, which was also recorded in loss from equity affiliates in the Company's 2011 Consolidated Statement of Operations, reducing the balance of the investment to $0.2 million at December 31, 2011. In the second quarter of 2012, the Company contributed an additional $0.2 million of capital and during the year ended December 31, 2012, the Company recorded approximately $0.1 million of losses from the entity against the equity investment, which was also recorded in loss from equity affiliates in the Company's 2012 Consolidated Statement of Operations. The balance of the investment was $0.3 million at December 31, 2012.

450 West 33rd Street

In May 2007, the Company, as part of an investor group for the 450 West 33rd Street partnership, transferred control of the underlying property (an office building) to Broadway Partners for a value of approximately $664.0 million. The investor group, on a pro-rata basis, retained an approximate 2% ownership interest in the property and 50% of the property's air rights which resulted in the Company retaining an investment in equity affiliates of approximately $1.1 million related to its 29% interest in the 2% retained ownership. In accordance with this transaction, the joint venture members agreed to guarantee $258.1 million of the $517.0 million of new debt outstanding on the property. The guarantee expires at the earlier of maturity or prepayment of the debt and was allocated to the members in accordance with their ownership percentages. The guarantee is callable, on a pro-rata basis, if the market value of the property declines below the $258.1 million of guaranteed debt. The Company's portion of the guarantee is $76.3 million. The transaction was structured to provide for a tax deferral for an estimated period of seven years. The Company recorded deferred revenue of approximately $77.1 million as a result of the guarantee on a portion of the new debt, and $19.0 million as prepaid management fees related to the incentive compensation management fee on the deferred revenue recognized on the transfer of control of the 450 West 33rd Street property. See Note 17—"Management Agreement" for further details. Additionally, current accounting guidance requires these investments to be evaluated periodically to determine whether a decline in their value is other-than-temporary, though it is not intended to indicate a permanent decline in value. In the fourth quarter of 2010, the Company recorded an other-than-temporary impairment of $1.1 million for the remaining amount of this investment in loss from equity affiliates in the Company's Consolidated Statements of Operations, reducing the balance of the investment to $0 as of December 31, 2010. In July 2007, the Company purchased a $50.0 million mezzanine loan secured by this property which had a maturity of July 2012 and bore interest at LIBOR plus 4.35%. In April 2011, the Company entered into a non-recourse junior loan participation in the amount of $32.0 million on the $50.0 million mezzanine loan. The loan was participated out to a subordinate lender at a discount and the Company received $28.8 million of proceeds. The Company also had the right to sell its $18.0 million senior participation to the subordinate lender, at face value, in the event of default or if the loan was not repaid by July 9, 2012. In May 2012, the Company sold the $50.0 million mezzanine loan to the same third party which relieved the Company's $32.0 million junior loan participation liability. See Note 7—"Debt Obligations" for further details.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

St. John's Development

In December 2006, the Company originated a $25.0 million bridge loan with a maturity date in September 2007 with two three-month extensions that bore interest at a fixed rate of 12%. The loan is secured by 20.5 acres of usable land and 2.3 acres of submerged land located on the banks of the St. John's River in downtown Jacksonville, Florida and is currently zoned for the development of up to 60 dwellings per acre. In October 2007, the borrower sold the property to an investor group, in which the Company has a 50% non-controlling interest, for $25.0 million. The investor group assumed the $25.0 million mortgage with a new maturity date of October 2009 and had a change in interest rate to LIBOR plus 6.48%, with a LIBOR floor of 4.50%. In connection with this transaction, the Company contributed $0.5 million to cover other operational costs of acquiring and maintaining the property. During the fourth quarter of 2009, the mortgage loan was modified to extend the maturity date to January 2010 and modified to change the interest rate to LIBOR plus 6.48% with no LIBOR floor. During the first quarter of 2010, the mortgage loan was modified to an interest rate of LIBOR plus 2.00% and, as of June 2010, was in default.

The managing member of the investor group is an experienced real estate developer who retains a 50% controlling interest in the partnership and funded a $2.9 million interest reserve for the first year. The Company was required to contribute $2.9 million to fund the interest reserve for the second year and made an additional capital contribution of $0.1 million during 2008. Interest received on the $25.0 million loan was recorded as a return of capital and reduction of the Company's equity investment and the loan has a $19.0 million allowance for loan loss reserve as of December 31, 2012. During the year ended December 31, 2009, the Company received $1.6 million of such interest, reducing the Company's investment to $1.9 million. Current accounting guidance requires the Company's investments in equity affiliates to be evaluated periodically to determine whether a decline in their value is other-than-temporary, though it is not intended to indicate a permanent decline in value. In the third quarter of 2009, the Company recorded an other-than-temporary impairment of $1.9 million for the remaining amount of the investment which was recorded in loss from equity affiliates in the Company's 2009 Consolidated Statement of Operations. In the fourth quarter of 2009, the Company was able to recover $0.6 million of the loss reducing the balance to $0.1 million at December 31, 2009. In the first quarter of 2010, the Company contributed $0.4 million to this investment and recovered $0.5 million reducing the balance of the investment to $0 at December 31, 2012. The Company is not required to make additional capital contributions or fund the losses of the entity and accounts for this investment under the equity method.

Lightstone Value Plus REIT L.P. / Prime Outlets / JT Prime

In December 2003, the Company invested approximately $2.1 million in exchange for a 50% non-controlling interest in an unconsolidated joint venture, JT Prime, which owned 15% of Prime Outlets Member, LLC ("POM"), a real estate holding company that owns and operates a portfolio of factory outlet shopping centers. The Company accounted for this investment under the equity method. Additionally, the Company owned a 16.67% carried profits interest through a consolidated entity which had a 25% interest in POM with a third party member owning the remaining 8.33%.

In 2007, the Company received distributions from POM of $16.2 million as a result of excess proceeds from refinancing and sales activities on certain assets in the POM portfolio. The excess

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

proceeds were distributed to each of the partners in accordance with POM's operating agreement. The Company recorded $11.2 million as interest income, representing the portion attributable to the 16.7% carried profits interest, and $5.0 million as income from equity affiliates, representing the portion attributable to the 7.5% equity interest.

In June 2008, the Company entered into an agreement ("the agreement") to transfer its 16.67% interest in POM, at a value of approximately $36.7 million, in exchange for preferred and common operating partnership units of Lightstone Value Plus REIT L.P.

In connection with the agreement, the Company borrowed from Lightstone Value Plus Real Estate Investment Trust, Inc. approximately $33.0 million, which was initially secured by its 16.67% interest in POM, has an eight year term, and bears interest at a fixed rate of 4.00% with payment of the interest deferred until the closing of the transaction. As a result, during the second quarter of 2008, the Company recorded approximately $33.0 million of cash, $49.5 million of debt related to the proceeds received from the loan secured by the consolidated entity's 25% interest in POM, which was recorded in notes payable, a $16.5 million receivable from the third party member share of the consolidated entity's 25% interest, which was recorded in other assets, and a deferred expense related to the incentive management fee of approximately $7.3 million.

In addition, the Company prepaid the $7.3 million in incentive management fees to its manager in 2008 related to this transaction, which was paid in 355,903 shares of Arbor Realty Trust, Inc. common stock and $4.1 million in cash. In accordance with the amended management agreement, installments of the annual incentive fee are subject to potential reconciliation at the end of the fiscal year. Since no incentive fee was earned for 2009, the prepaid management fee was to be paid back in installments of 25% due by December 31, 2010 and 75% due by June 30, 2012, with an option to make payment in both cash and Arbor Realty Trust, Inc. common stock provided that at least 50% of the total payment was made in cash, and was to be offset against any future incentive management fees or success-based payments earned by the Company's manager prior to June 30, 2012. On December 16, 2010, ACM surrendered 701,197 shares of the Company'scommon stock in payment of $3.6 million, or a 50% portion of the $7.3 million related party receivable. The remaining $3.6 million was offset against the 2010 incentive management fee as of December 31, 2010. See Note 17—"Management Agreement" for further details.

In the fourth quarter 2008, the Company received a $1.0 million distribution from POM related to its 24.17% equity and profits interest, the result of excess proceeds from the operation of the business. Of the distribution received by the Company, $1.0 million was recorded as interest income, representing the distribution received from the 25% profits interest, $0.3 million was recorded as net income attributable to noncontrolling interest relating to a third party member's 8.33% minority interest share of the profits interest and $0.3 million was recorded as income netted in loss from equity affiliates, representing the portion received from the Company's 7.5% equity interest. In accordance with the agreement, $0.7 million of the distribution relating to the 16.67% profits interest was used to pay down a portion of the $33.0 million debt and reduced the value of the Company's interest when exchanged for preferred and common operating partnership units at closing, thereby reducing the Company's gain.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

In March 2009, the Company exchanged its 16.67% interest in POM for approximately $37.3 million of preferred and common operating partnership units in Lightstone Value Plus REIT L.P. and the $33.4 million loan is now secured by these preferred and common operating partnership units. The Company accounts for its Lightstone Value Plus REIT L.P. investment under the cost method. In June 2013, the preferred units may be redeemed by Lightstone Value Plus REIT L.P. for cash and the loan would become due upon such redemption. The preferred operating partnership units yield 4.63% and the loan bears interest at a rate of 4.00%. The Company retained its 7.5% equity interest in POM. During each of the years ended December 31, 2012, 2011 and 2010, the Company recorded $2.7 million,respectively, of dividends from the preferred and common operating partnership units which were reflected in interest income in the Company's Consolidated Statement of Operations.

Through the consolidated entity that owned the 16.67% interest, the Company recorded in its first quarter 2009 Consolidated Financial Statements an investment of approximately $56.0 million for the preferred and common operating partnership units, gain on exchange of profits interest of approximately $56.0 million, net income attributable to noncontrolling interest of approximately $18.7 million related to the third party member's portion of income recorded, noncontrolling interest due to the third party member of approximately $2.1 million and a reduction of a $16.5 million receivable from the third party member which was previously recorded in other assets. The gain of $56.0 million reflects the fair value of the investment in preferred and operating partnership units received in exchange for the 16.67% profits interest. The Company's profits interest had no cost basis at the time of the exchange.

The Company recorded a less than $0.1 million noncontrolling interest in consolidated entity on its Consolidated Balance Sheet at December 31, 2008. Due to the POM transaction in March 2009, the Company recorded an additional $18.7 million of net income attributable to the noncontrolling interest holder and a distribution to the noncontrolling interest of $16.6 million, resulting in a balance of noncontrolling interest in consolidated entity of $1.9 million on its Consolidated Balance Sheet at December 31, 2009. Noncontrolling interest in consolidated entity was $1.9 million on the Company's Consolidated Balance Sheet at December 31, 2012 and 2011.

In August 2009, the Company exchanged its remaining 7.5% equity interest in POM for preferred and common operating partnership units of Lightstone Value Plus REIT L.P. JT Prime received preferred and common operating units valued at approximately $17.0 million, as well as additional cash consideration of approximately $4.4 million. As there was no remaining basis in the interest in POM held by the unconsolidated joint venture, the unconsolidated joint venture recorded a gain of $21.4 million equal to the value of the operating partnership units and cash received. In connection with this transaction, JT Prime borrowed approximately $15.3 million from Lightstone Value Plus Real Estate Investment Trust, Inc., which is secured by the preferred and common operating partnership units and has an eight-year term. In August 2014, the preferred units may be redeemed by Lightstone Value Plus REIT L.P. for cash and the loan would become due upon such redemption. The preferred operating partnership units yield 4.63% and the loan bears interest at a rate of 4.00%. The unconsolidated joint venture recorded a nominal amount of dividends from the preferred and common operating partnership units and interest expense related to the note. The Company accounts for its investment in JT Prime under the equity method. As a result of this transaction, the Company recorded income from equity affiliates of $10.7 million, representing the Company's share of the net income recorded by the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

unconsolidated joint venture, in its 2009 Consolidated Financial Statements. The Company received distributions totaling $9.9 million, representing its share of the proceeds from the note and additional consideration received from Lightstone by the unconsolidated joint venture. As of December 31, 2012, the carrying value of the Company's investment in JT Prime was $0.9 million. The Company has no continuing involvement with POM after the exchange.

West Shore Café

In August 2010, the Company invested approximately $2.1 million in exchange for a 50% non-controlling interest with a 20% preferred return subject to certain conditions in the West Shore Café, a restaurant / inn on an approximate 12,463 square foot lakefront property in Lake Tahoe, California. The Company also provided a $5.5 million first mortgage loan, $5.5 million of which was funded as of December 31, 2012, that matures in August 2013 and bears interest at a yield of 10.5%. In 2011 and 2012,the Company received distributions totaling approximately $0.2 million related to the preferred return, which were recorded as a return of investment. During the year ended December 31, 2012, the Company recorded $0.1 million of losses from the entity against the equity investment, which was also recorded in loss from equity affiliates in the Company's 2012 Consolidated Statement of Operations, reducing the balance of the investment to $1.8 million at December 31, 2012.

Ritz-Carlton Club

In October 2011, the Company invested approximately $0.8 million in exchange for a 19.41% non-controlling interest with a10.00% return subject to certain conditions in the Ritz-Carlton Club, a condominium project in Lake Tahoe, California. In the second and third quarters of 2012, the Company contributed an additional $0.1 million of capital. During the year ended December 31, 2012, the Company recorded $0.8 million of losses from the entity against the equity investment, which was also recorded in loss from equity affiliates in the Company's 2012 Consolidated Statement of Operations, reducing the balance of the investment to $0 at December 31, 2012.

Lexford Portfolio

In December 2011, the Company completed a restructuring of a $67.6 million preferred equity loan on the Lexford Portfolio ("Lexford"), which is a portfolio of multi-family assets. The Company, along with a consortium of independent outside investors, made an additional preferred equity investment of $25.0 million in Lexford, of which the Company holds a $10.5 million interest, and Mr. Fred Weber, the Company's Executive Vice President of Structured Finance, holds a $0.5 million interest, as of December 31, 2012. The original preferred equity investment now bears a fixed rate of interest of 2.36%, revised from an original rate of LIBOR plus 5.00% (the loan was paying a modified rate of LIBOR plus 1.65% at the time of the new investment). The original preferred equity investment matures in June 2020. The new preferred equity investment has a fixed interest rate of 12% and also matures in June 2020. The Company, along with the same outside investors, also made a $0.1 million equity investment into Lexford, of which the Company held a $44,000 noncontrolling interest, and does not have the power to control the significant activities of the entity. During the fourth quarter of 2011, the Company recorded losses from the entity against the equity investment, reducing the balance to zero. The Company records this investment under the equity method of accounting. In addition, under

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

the terms of the restructuring, Lexford's first mortgage lender required a change of property manager for the underlying assets. The new management company is an affiliate of Mr. Ivan Kaufman, the Company's chairman and chief executive officer, and has a contract with the new entity for 7.5 years and will be entitled to 4.75% of gross revenues of the underlying properties, along with the potential to share in the proceeds of a sale or refinancing of the debt should the management company remain engaged by the new entity at the time of such capital event. In the first quarter of 2012, Mr. Fred Weber invested $250,000 in the new management company and currently owns a 23.5% ownership interest. Mr. Ivan Kaufman and his affiliates currently own a 53.9% ownership interest.

Issuance of Junior Subordinated Notes

At December 31, 2008, the Company had invested a total of $8.3 million for 100% of the common shares of nine affiliate entities of the Company, which were formed to facilitate the issuance of $276.1 million of junior subordinated notes. These entities pay dividends on both the common shares and preferred securities on a quarterly basis at fixed and variable rates based on three-month LIBOR.

In March 2009, the Company purchased from its manager, ACM, approximately $9.4 million of junior subordinated notes originally issued by a wholly-owned subsidiary of the Company's operating partnership for $1.3 million. In addition, in May 2009, the Company exchanged $247.1 million of its outstanding trust preferred securities, consisting of $239.7 million of junior subordinated notes issued to third party investors and $7.4 million of common equity issued to the Company, which were recorded in investment in equity affiliates, in exchange for $268.4 million of newly issued unsecured junior subordinated notes. As a result of these transactions, the Company retired its $7.7 million of common equity and corresponding trust preferred securities reducing its investment in these entities to $0.6 million during the second quarter of 2009. In July 2009, the Company restructured its remaining $18.7 million of trust preferred securities that were not previously exchanged, however, the transaction did not retire the remaining common equity of $0.6 million, which remains as of December 31, 2012. See Note 7—"Debt Obligations" for further information relating to these transactions.

1107 Broadway

In 2005, the Company invested $10.0 million in exchange for a 20% ownership interest in 200 Fifth LLC, which owned two properties in New York City. In May 2007, the Company, as part of an investor group in the 200 Fifth LLC holding partnership, sold the 200 Fifth Avenue property for net proceeds of approximately $450.0 million and the investor group, on a pro-rata basis, retained an adjacent building located at 1107 Broadway. The partnership used the net proceeds from the sale to repay the $402.5 million outstanding debt on both the 200 Fifth Avenue and the 1107 Broadway properties, and used the remaining proceeds as a return of invested capital to the partners. As a result of the transaction, the Company received $9.5 million in proceeds as a return on invested capital and was repaid in full on its $137.0 million mezzanine debt, including all applicable interest.

In October 2007, the partnership sold 50% of its economic interest in the 1107 Broadway property. The partnership was recapitalized with financing of approximately $343.0 million, of which approximately $203.0 million was funded with the unfunded portion to be used to develop the property. The Company received net proceeds of approximately $39.0 million from this transaction as a return on invested capital. The investor group, on a pro-rata basis, retained a 50% economic interest in the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

property, representing approximately $29.0 million of capital. The Company recorded a $5.7 million investment in equity affiliate, a deferred gain of $5.7 million and a $2.2 million deferred tax asset, related to its 10% retained interest in the 1107 Broadway property. In 2010, the Company received a tax refund of $0.3 million and recorded a $1.9 million valuation allowance against the remaining deferred tax asset.

In September 2011, the partnership's interest in the property was sold by the partnership and the Company received $4.5 million related to its interest. As a result, the Company eliminated the investment of $5.7 million as well as the $5.7 million deferred gain related to this asset, and recorded a gain in income from equity affiliates of $3.9 million as well as other liabilities of $0.5 million for estimated additional costs to be incurred in connection with the closing of the transaction. As a result of the recognition of the deferred gain on the sale, the deferred tax asset was recognized and the related valuation allowance was reversed.

Summarized Financial Information

The condensed combined balance sheets for the Company's unconsolidated investments in equity affiliates accounted for under the equity method at December 31, 2012 and 2011 are as follows (amounts in thousands):

	December 31,	
Condensed Combined Balance Sheets	**2012**	**2011**
Assets:		
Cash and cash equivalents	$ 4,727	$ 1,832
Real estate assets	699,474	706,130
Other assets	22,473	39,807
Total assets	$ 726,674	$ 747,769
Liabilities:		
Notes payable	$ 737,350	$ 734,140
Other liabilities	23,796	25,437
Total liabilities	761,146	759,577
Shareholders' equity Arbor(1)	3,015	3,884
Shareholders' (deficit) equity	(37,487)	(15,692)
Total shareholders' (deficit) equity	(34,472)	(11,808)
Total liabilities and deficit	$ 726,674	$ 747,769

(1) Combined with $56.0 million of cost method investments and $0.6 million of equity relating to the issuance of junior subordinated notes, equals $59.6 million and $60.5 million of investment in equity affiliates, at December 31, 2012 and 2011, respectively.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 5—Investment in Equity Affiliates (Continued)

The condensed combined statements of operations for the Company's unconsolidated investments in equity affiliates accounted for under the equity method for the years ended December 31, 2012, 2011 and 2010, are as follows (amounts in thousands):

	For the Year Ended		
Statements of Operations:	**2012**	**2011**	**2010**
Revenue:			
Rental income	$ 80,472	$ 10,626	$ 3,843
Interest income	813	814	817
Operating income	8,619	13,299	17,249
Reimbursement income	5,427	461	47
Other income	6,436	3,268	—
Total revenues	101,767	28,468	21,956
Expenses:			
Operating expenses	60,257	16,749	15,335
Interest expense	36,315	6,944	4,118
Depreciation and amortization	22,283	2,725	3,697
Other expenses	27	619	418
Total expenses	118,882	27,037	23,568
Net (loss) income	$ (17,115)	$ 1,431	$ (1,612)
Arbor's Share of net (loss) income.	$ (698)(1)	$ (218)(2)	$ (123)(3)

(1) The increase in revenues, expenses and net loss was due to the Lexford investment discussed above.

(2) Combined with a $3.9 million gain on the sale of an equity method investment, equals $3.7 million of income from equity affiliates for the year ended December 31, 2011.

(3) Combined with a $1.1 million impairment of a cost method investment, equals $1.3 million of loss from equity affiliates for the year ended December 31, 2010.

Note 6—Real Estate Owned and Held-For-Sale

Real Estate Owned

The Company had a $29.8 million loan secured by a portfolio of multifamily assets in various locations of the United States that had a maturity date of June 2010 and a weighted average interest rate of approximately 4.26%. In prior years, the Company established an $18.4 million provision for loan loss related to this portfolio reducing its carrying value to $11.4 million as of December 31, 2010. In March 2011, the Company purchased the portfolio of multifamily assets (the "Multifamily Portfolio") securing this loan out of bankruptcy and assumed a $55.4 million first mortgage loan secured by the portfolio of assets. As of the date of this transaction, as well as at December 31, 2010, the loan was past due and non-performing. The Company recorded this transaction as real estate

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 6—Real Estate Owned and Held-For-Sale (Continued)

owned in its first quarter 2011 Consolidated Financial Statements at a fair value of $65.3 million and the carrying value of the loan represented the fair value of the underlying collateral at the time of the transfer. For the first quarter of 2011, the Company did not record any property operating income or expenses from this portfolio because ownership did not pass to the Company until the end of the quarter and the Company believed that any operating activity that occurred were immaterial to the Company's interim Consolidated Financial Statements. In the second quarter of 2011, one of the properties in the Multifamily Portfolio was sold to a third party for $1.6 million and the proceeds were used to pay down the first lien mortgage. No gain or loss was recorded on the transaction as the asset was sold for its historical cost basis. For the years ended December 31, 2012 and 2011, the Company recorded property operating income of $11.0 million and $7.2 million, respectively, property operating expense of $9.9 million and $7.1 million, respectively, which includes $0.8 million and $1.1 million, respectively, of interest expense, and depreciation of $2.6 million and $2.4 million, respectively. At December 31, 2012, this investment's balance sheet was comprised of land of $15.7 million, building and intangible asset of approximately $46.5 million, which is net of $6.2 million of accumulated depreciation and amortization, cash of $0.3 million, restricted cash of $0.5 million due to a first mortgage escrow requirement, other assets of $0.4 million, other liabilities of $1.2 million and a mortgage note payable of $53.8 million. The Company finalized the purchase price allocation in the first quarter of 2012.

The Company's seven multifamily properties classified as real estate owned had weighted average occupancy rates of approximately 85% as of December 31, 2012, and had weighted average occupancy rates of approximately 79% as of December 31, 2011.

The Company had an $85.0 million loan secured by a portfolio of six hotel assets in Florida that had a maturity date of July 2014 and a weighted average interest rate of approximately 3.75%. During 2010, the Company established a $13.4 million provision for loan loss related to this portfolio reducing its carrying value to $71.6 million as of December 31, 2010. In February 2011, the portfolio of hotel assets (the "Hotel Portfolio") securing this loan were transferred to the Company by the owner, a creditor trust. As of the date of this transaction, as well as at December 31, 2010, the loan was contractually current. The Company recorded this transaction as real estate owned in its first quarter 2011 Consolidated Financial Statements at a fair value of $67.3 million and the carrying value of the loan represented the fair value of the underlying collateral at the time of the transfer. In the fourth quarter of 2012, one of the properties in the Hotel Portfolio was sold to a third party for $2.4 million and the Company recorded a gain on sale of $0.5 million. For the years ended December 31, 2012 and 2011, the Company recorded property operating income of $19.1 million and $16.1 million, respectively, property operating expense of $18.1 million and $14.3 million, respectively, depreciation of $3.1 million and $2.7 million, respectively, and loss from discontinued operations of $0.1 million and income from discontinued operations of less than $0.1 million, respectively. The operating results of the Hotel Portfolio are seasonal with the majority of revenues earned in the first two quarters of the calendar year. At December 31, 2012, this investment's balance sheet was comprised of land of $10.9 million, building of approximately $51.1 million, which is net of $5.9 million of accumulated depreciation, cash of $0.4 million, restricted cash of $0.5 million, other assets of $1.6 million, receivable from related party of $0.1 million and other liabilities of $2.2 million. The Company finalized the purchase price allocation within in the first quarter of 2012.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 6—Real Estate Owned and Held-For-Sale (Continued)

The Company's five hotel properties classified as real estate owned had weighted average occupancy rates of approximately 48% for the year ended December 31, 2012, and the six hotel properties classified as real estate owned had weighted average occupancy rates of approximately 46% for the year ended December 31, 2011.

Real Estate Held-For-Sale

The Company had a $5.6 million junior participating interest in a first mortgage loan secured by an apartment building in Tucson, Arizona that had a maturity date of July 2012 and bore interest at a fixed rate of 10%. During 2009, the Company established a $5.6 million provision for loan loss related to this property equal to the carrying value of the loan and in the second quarter of 2010, the Company purchased the property securing this loan by deed-in-lieu of foreclosure and assumed the $20.8 million interest in a first mortgage loan. The Company recorded this transaction as real estate owned in its Consolidated Financial Statements at a fair value of $20.8 million and the carrying value of the loan represented the fair value of the underlying collateral at the time of the transfer. During the fourth quarter of 2011, the Company entered into negotiations to sell the property to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, the Company reclassified this investment from real estate owned to real estate held-for-sale at a value of $19.4 million and reclassified property operating income and expenses and impairment loss for current and prior periods to discontinued operations in the Company's Consolidated Financial Statements. In addition, discontinued operations have not been segregated in the Company's Consolidated Statements of Cash Flows. The Company sold the property in March 2012 and recorded a gain on sale of real estate held-for-sale of $3.5 million in its Consolidated Statement of Operations and the $20.8 million first mortgage loan was paid off. For the year ended December 31, 2012, income from discontinued operations consisted of property operating income of $0.6 million and property operating expense of $0.5 million, which includes $0.3 million of interest expense. For the years ended December 31, 2011 and 2010, loss from discontinued operations consisted of property operating income of $2.5 million and $1.7 million, respectively, property operating expense of $2.4 million and $2.0 million, respectively, which included $1.3 million and $1.0 million, respectively, of interest expense, and depreciation of $0.7 million and $0.6 million, respectively.

The Company had a $4.0 million bridge loan secured by a hotel located in St. Louis, Missouri that matured in 2009 and bore interest at a variable rate of LIBOR plus 5.00%. In April 2009, the borrower delivered a deed-in-lieu of foreclosure to the Company. As a result, during the second quarter of 2009 the Company recorded this investment on its Consolidated Balance Sheet as real estate owned at a fair value of $2.9 million. The carrying value represented the fair value of the underlying collateral at the time of the transfer. During the second quarter of 2011, through site visits and discussion with market participants, the Company determined that the asset exhibited indicators of impairment and performed an impairment analysis. As a result of the impairment analysis based on the indicators of value from the market participants, the Company recorded an impairment loss of $0.8 million in the Consolidated Statement of Operations. During the third quarter of 2011, the Company entered into negotiations to sell the property to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, the Company reclassified this investment from real estate owned to real estate held-for-sale at a value of $1.9 million and reclassified property operating income and expenses and impairment loss for current and prior periods

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 6—Real Estate Owned and Held-For-Sale (Continued)

to discontinued operations in the Company's Consolidated Financial Statements. In addition, discontinued operations have not been segregated in the Company's Consolidated Statements of Cash Flows. In the fourth quarter of 2011, the Company recorded an additional impairment loss of $0.7 million in the Consolidated Statement of Operations, reducing the carrying value of the investment to $1.2 million. The Company sold the property in March 2012 and recorded a gain on sale of real estate held-for-sale of less than $0.1 million in its Consolidated Statement of Operations. For the year ended December 31, 2012, income from discontinued operations consisted of net property operating income of $0.2 million. For the years ended December 31, 2011 and 2010, loss from discontinued operations consisted of property operating income of $0.3 million and $0.8 million, respectively, property operating expense of $1.0 million and $1.5 million, respectively, and depreciation of less than $0.1 million, respectively.

The Company had a $9.9 million bridge loan secured by a motel located in Long Beach, California that matured in 2008 and bore interest at a variable rate of LIBOR plus 4.00%. During 2008 and 2009, the Company recorded a $4.3 million provision for loan loss related to this property reducing the carrying amount to $5.6 million. In August 2009, the Company was the winning bidder at a foreclosure sale of the property securing this loan which was recorded as real estate owned. The carrying value represented the then fair value of the underlying collateral at the time of the sale. During the third quarter of 2010, the Company agreed to sell the property to a third party at which time it was determined that the property met the held-for-sale requirements pursuant to the accounting guidance. As a result, the Company reclassified this investment from real estate owned to real estate held-for-sale at a value of $5.5 million and reclassified property operating income and expenses for current and prior periods to discontinued operations in the Company's Consolidated Financial Statements. In addition, discontinued operations have not been segregated in the Company's Consolidated Statements of Cash Flows. For the year ended December 31, 2010, loss from discontinued operations consisted of property operating income of $0.5 million, property operating expense of $0.8 million and depreciation of less than $0.1 million. The Company sold the property to the third party receiving net proceeds of approximately $6.8 million and recording a gain of $1.3 million to income from discontinued operations in its Consolidated Statement of Operations in October 2010.

The Company had a $5.0 million mezzanine loan secured by an office building located in Indianapolis, Indiana that was scheduled to mature in June 2012 and bore interest at a fixed rate of 10.72%. During the first quarter of 2008, the Company established a $1.5 million provision for loan loss related to this property reducing the carrying value to $3.5 million at March 31, 2008. In April 2008, the Company was the winning bidder at a UCC foreclosure sale of the entity which owns the equity interest in the property securing this loan, subject to a $41.4 million first mortgage on the property. As a result, during the second quarter of 2008, the Company recorded this investment on its Consolidated Balance Sheet as real estate owned at fair value, which included the Company's $3.5 million carrying value of the mezzanine loan and the $41.4 million first lien mortgage note payable. During the third quarter of 2009, the Company mutually agreed with a first mortgage lender to appoint a receiver to operate the property and the Company was working to assist in the transfer of title to the first mortgage lender. As a result, the Company reclassified this investment from real estate owned to real estate held-for-sale at a fair value of $41.4 million, reclassified property operating income and expenses for current and prior periods to discontinued operations in the Company's Consolidated Financial Statements, and recorded an impairment loss of $4.9 million in 2009. The real estate held-for-sale

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 6—Real Estate Owned and Held-For-Sale (Continued)

investment consisted of land and building, net of accumulated depreciation, of approximately $41.4 million, a mortgage note payable held-for-sale of $41.4 million and other liabilities of $1.2 million. The Company did not record interest expense related to the note payable, as the interest expense was non-recourse and the Company was in the process of cooperating with the receiver and the first lien holder in order for the first lien holder to take title to the office building. The Company also did not believe that net income for the office building was realizable and, as such, did not record any income or loss on this held-for-sale investment up to its transfer. In May 2012, the Company surrendered the property to the first mortgage lender in full satisfaction of the mortgage note payable and recorded income from discontinued operations of $1.2 million related to the reversal of accrued liabilities which were not incurred.

Note 7—Debt Obligations

The Company utilizes repurchase agreements, warehouse credit facilities, a revolving credit facility, collateralized debt obligations, a collateralized loan obligation, junior subordinated notes, a note payable, loan participations and mortgage notes payable to finance certain of its loans and investments. Borrowings underlying these arrangements are primarily secured by a significant amount of the Company's loans and investments.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

Repurchase Agreements and Credit Facilities

The following table outlines borrowings under the Company's repurchase agreements and credit facilities as of December 31, 2012 and 2011:

	December 31, 2012		December 31, 2011	
	Debt Carrying Value	Collateral Carrying Value	Debt Carrying Value	Collateral Carrying Value
Repurchase agreement, financial institution, rolling monthly term, interest is variable based on one-month LIBOR; the weighted average note rate was 1.75% and 1.69%, respectively	$ 35,072,000	$ 43,604,281	$ 26,105,000	$ 29,192,267
Repurchase agreement, financial institution, rolling monthly term, interest is variable based on one-month LIBOR; the weighted average note rate was 1.73%	689,619	827,488	—	—
Warehousing credit facility, financial institution, $50.0 million committed line, expiration July 2013, interest is variable based on one-month LIBOR, the weighted average note rate was 3.00% and 3.09%, respectively	50,000,000	70,075,000	50,000,000	70,192,000
Warehousing credit facility, financial institution, $17.3 million committed line, expiration December 2013, interest is variable based on LIBOR or Prime, the weighted average note rate was 3.00%	17,300,000	30,000,000	—	—
Warehousing credit facility, financial institution, $12.6 million committed line, expiration December 2013, interest is variable based on LIBOR or Prime, the weighted average note rate was 3.00%	12,600,000	18,000,000	—	—
Revolving credit facility, financial institution, $15.0 million committed line, expiration May 2013, interest is fixed at 8.00% with a 1.00% non-use fee, the weighted average note rate was 8.11%	15,000,000	—	—	—
Total repurchase agreements and credit facilities	$ 130,661,619	$ 162,506,769	$ 76,105,000	$ 99,384,267

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

At December 31, 2012 and 2011, the weighted average note rate for the Company's repurchase agreements and credit facilities was 3.25% and 2.61%, respectively. There were no interest rate swaps on these facilities at December 31, 2012 and 2011. Including certain fees and costs, the weighted average note rate was 3.82% and 3.10% at December 31, 2012 and 2011, respectively.

During the year ended December 31, 2012, the Company financed the purchase of 17 RMBS investments with a repurchase agreement with a financial institution for a total of $54.7 million and paid down the total debt by $45.7 million due to principal paydowns received on the RMBS investments. During the year ended December 31, 2011, the Company financed the purchase of seven RMBS investments with this repurchase agreement for a total of $30.0 million and paid down the total debt by $3.9 million due to principal paydowns received on the RMBS investments. See Note 4—"Securities" for further details. The total debt balance was $35.1 million and $26.1 million at December 31, 2012 and 2011, respectively. The facility generally finances between 60% and 90% of the value of each investment, has a rolling monthly term, and bears interest at a rate of 125 to 200 basis points over LIBOR. The facility also includes a minimum net worth covenant of $100.0 million.

In the second quarter of 2012, the Company financed the purchase of an RMBS investment with another repurchase agreement with a financial institution for $0.8 million and paid down the debt by $0.1 million due to principal paydowns received on the RMBS investment in the fourth quarter of 2012. The debt balance was $0.7 million at December 31, 2012. See Note 4—"Securities" for further details. The facility finances 80% of the value of the investment, has a rolling monthly term, and bears interest at a rate of 185 basis points over LIBOR.

In July 2011, the Company entered into a two year, $50.0 million warehouse facility with a financial institution to finance first mortgage loans on multifamily properties. The facility bears interest at a rate of 275 basis points over LIBOR, required a 1% commitment fee upon closing, matures in July 2013 with a one year extension option that requires two 5% paydowns and has warehousing and non-use fees. The facility also has a maximum advance rate of 75% and contains several restrictions including full repayment of an advance if a loan becomes 60 days past due, is in default or is written down by the Company. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. The facility also has a compensating balance requirement of $50.0 million to be maintained by the Company and its affiliates. At December 31, 2012, the outstanding balance of this facility was $50.0 million. In January 2013, the Company amended the facility, increasing the committed amount to $75.0 million and the facility was paid down to $0 as part of the issuance of a second CLO.

In December 2012, the Company entered into a $17.3 million warehouse facility with a financial institution to finance the first mortgage loan on a multifamily property. The facility bears interest at a rate of 275 basis points over LIBOR or Prime at the Company's election, required a 1% commitment fee upon closing and matures in December 2017. The facility also has a maximum advance rate of 58%, which can be increased to 65% under certain specified conditions, and contains several restrictions including full repayment of an advance if the loan becomes 60 days past due, is in default or is written down by the Company. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. At December 31, 2012, the outstanding balance of this facility was $17.3 million. In January 2013, the facility was repaid in full as part of the issuance of a second CLO.

In June 2012, the Company entered into a $12.6 million warehouse facility with a financial institution to finance the first mortgage loan on a multifamily property. The facility bears interest at a rate of 275 basis points over LIBOR or Prime at the Company's election, required a 1% commitment fee upon closing, matures in December 2013 and has a non-use fee. The facility also has a maximum advance rate of 70%, which can be increased to 75% under certain specified conditions, and contains several restrictions including full repayment of an advance if the loan becomes 60 days past due, is in default or is written down by the Company. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios. At December 31, 2012, the outstanding balance of this facility was $12.6 million. In January 2013, the facility was repaid in full as part of the issuance of a second CLO.

In May 2012, the Company entered into a $15.0 million committed revolving line of credit with a one year term maturing in May 2013, which is secured by a portion of the bonds originally issued by the Company's CDO entities that have been repurchased by the Company. This facility has a 1% commitment fee, a 1% non-use fee and pays interest at a fixed rate of 8% on any drawn portion of the line. The facility also includes a debt service coverage ratio requirement for the posting of collateral. At December 31, 2012, the outstanding balance of this facility was $15.0 million. In January 2013, the Company amended the facility, increasing the committed amount to $20.0 million and a fixed rate of interest of 8.5% on any drawn portion of the $20.0 million commitment. The amendment also includes a one year extension option upon maturity in May 2013 and requires a 1% commitment fee, a 1% non-use fee and pays interest at a fixed rate of 8.5% on any drawn portion of the line.

In February 2013, the Company entered into a one year, $50.0 million warehouse facility with a financial institution to finance first mortgage loans on multifamily properties. The facility bears interest at a rate of 250 basis points over LIBOR, requires a 12.5 basis point commitment fee upon closing, matures in February 2014, has warehousing and non-use fees and allows for an original warehousing period of up to 24 months with a one year extension option from the initial advance on an asset, subject to certain conditions. The facility also has a maximum advance rate of 75% and contains certain restrictions including partial prepayment of an advance if a loan becomes 90 days past due or in the process of foreclosure, subject to certain conditions. The facility also includes various financial covenants including a minimum liquidity requirement of $20.0 million, minimum tangible net worth which includes junior subordinated notes as equity of $150.0 million, maximum total liabilities less subordinate debt of $2.0 billion, as well as certain other debt service coverage ratios and debt to equity ratios.

In the first quarter of 2010, the Company entered into an agreement with Wachovia Bank, National Association, owned by Wells Fargo, National Association ("Wachovia") whereby the Company could retire all of its $335.6 million of debt outstanding at the time the parties began to negotiate the agreement for a discounted payoff amount of $176.2 million, representing 52.5% of the face amount of

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

the debt. The $335.6 million of indebtedness was comprised of $286.1 million of term debt and a $49.5 million working capital facility. Upon closing on the discounted payoff agreement on June 30, 2010, the Company recorded a $158.4 million gain to its 2010 Consolidated Statement of Operations, net of $0.4 million of stock warrant expense and $0.6 million of other various expenses and commissions. Estimated state income taxes were approximately $0.9 million and recorded in provision for income taxes resulting in a net gain of approximately $157.5 million. In June 2010, the Company entered into a new $26.0 million term financing agreement with a different financial institution collateralized by two multi-family loans. The maturity date of the facility was in December 2010 and the facility bore an Interest rate of LIBOR plus 500 basis points or Prime plus 500 basis points. The Company paid a 1% commitment fee upon closing. In October 2010, the Company repaid the $26.0 million facility. In July 2009, the Company had amended and restructured its term credit agreements, revolving credit agreement and working capital facility (the "Amended Agreements") with Wachovia. Pursuant to the Amended Agreements, the interest rate for the term loan facility was changed to LIBOR plus 350 basis points from LIBOR plus approximately 200 basis points and the interest rate on the working capital facility was changed to LIBOR plus 800 basis points from LIBOR plus 500 basis points. The Company had also agreed to pay a commitment fee of 1.00% payable over three years and issued Wachovia 1.0 million warrants at an average strike price of $4.00. All of the warrants expire on July 23, 2015 and no warrants have been exercised to date. The warrants were valued at approximately $0.6 million upon issuance using the Black-Scholes method and were partially amortized into interest expense in the Company's Consolidated Statement of Operations as of the second quarter of 2010. The remaining portion totaling $0.4 million was expensed as part of the Wachovia discounted payoff gain above. See Note 13—"Equity—Warrants" for further details.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

Collateralized Debt Obligations

The following table outlines borrowings and the corresponding collateral under the Company's collateralized debt obligations as of December 31, 2012:

	Debt		Collateral						
			Loans		Securities			Cash	
	Face Value	Carrying Value	Unpaid Principal(1)	Carrying Value(1)	Face Value	Carrying Value	Fair Value(2)	Restricted Cash(3)	Collateral At-Risk(4)
CDO I—Issued four investment grade tranches January 19, 2005. Reinvestment period through April 2009. Stated maturity date of February 2040. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.28%	$133,994,136	$139,856,472	$ 299,881,599	$ 238,852,726	$ —	$ —	$ —	$ 1,036,155	$207,772,049
CDO II—Issued nine investment grade tranches January 11, 2006. Reinvestment period through April 2011. Stated maturity date of April 2038. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.24%	231,186,301	237,209,429	395,266,909	345,919,525	10,000,000	1,100,000	1,100,000	470,952	188,271,174
CDO III—Issued ten investment grade tranches December 14, 2006. Reinvestment period through January 2012. Stated maturity date of January 2042. Interest is variable based on three-month LIBOR; the weighted average note rate was 0.68%	426,458,233	435,386,944	515,403,735	485,235,214	—	—	—	24,819,361	244,697,945
Total CDOs	$791,638,670	$812,452,845	$1,210,552,243	$1,070,007,465	$10,000,000	$1,100,000	$1,100,000	$26,326,468	$640,741,168

The following table outlines borrowings and the corresponding collateral under the Company's collateralized debt obligations as of December 31, 2011:

	Debt		Collateral						
			Loans		Securities			Cash	
	Face Value	Carrying Value	Unpaid Principal(1)	Carrying Value(1)	Face Value	Carrying Value	Fair Value(2)	Restricted Cash(3)	Collateral At-Risk(4)
CDO I—Issued four investment grade tranches January 19, 2005. Reinvestment period through April 2009. Stated maturity date of February 2040. Interest is variable based on three-month LIBOR; the weighted average note rate was 4.49%	$160,435,201	$ 166,513,982	$ 329,771,834	$ 267,636,713	$ 734,969	$ 742,602	$ 737,423	$ 22,136	$152,303,041
CDO II—Issued nine investment grade tranches January 11, 2006. Reinvestment period through April 2011. Stated maturity date of April 2038. Interest is variable based on three-month LIBOR; the weighted average note rate was 2.83%	285,827,267	292,073,302	443,418,527	380,782,546	10,000,000	2,000,000	2,000,000	17,136,397	131,932,659
CDO III—Issued ten investment grade tranches December 14, 2006. Reinvestment period through January 2012. Stated maturity date of January 2042. Interest is variable based on three-month LIBOR; the weighted									

average note rate was 1.24%	534,791,657	544,028,109	579,343,579	531,123,295	—	—	—	24,795,495	171,427,137
Total CDOs	$981,054,125	$1,002,615,393	$1,352,533,940	$1,179,542,554	$10,734,969	$2,742,602	$2,737,423	$41,954,028	$455,662,837

(1) Amounts include loans to real estate assets consolidated by the Company that were reclassified to real estate owned and held-for-sale, net on the Consolidated Financial Statements.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

(2) The security with a fair value of $1,100,000 was rated CCC- at December 31, 2012 and 2011 by Standard & Poor's. The security with a fair value of $737,423 at December 31, 2011 was rated AAA at December 31, 2011 by Standard & Poor's.

(3) Represents restricted cash held for reinvestment and/or principal repayments in the CDOs. Does not include restricted cash related to interest payments, delayed fundings and expenses.

(4) Amounts represent the face value of collateral in default, as defined by the CDO indenture, as well as assets deemed to be "credit risk". Credit risk assets are reported by each of the CDOs and are generally defined as one that, in the CDO collateral manager's reasonable business judgment, has a significant risk of declining in credit quality or, with a passage of time, becoming a defaulted asset.

At December 31, 2012 and 2011, the aggregate weighted average note rate for the Company's collateralized debt obligations, including the cost of interest rate swaps on assets financed in these facilities, was 1.87% and 2.23%, respectively. Excluding the effect of swaps, the weighted average note rate at December 31, 2012 and 2011 was 0.86% and 1.14%, respectively. Including certain fees and costs, the weighted average note rate was 2.77% and 3.25% at December 31, 2012 and 2011, respectively.

On January 19, 2005, the Company completed its first collateralized debt obligation vehicle, issuing to third party investors four tranches of investment grade collateralized debt obligations ("CDO I") through a newly-formed wholly-owned subsidiary, Arbor Realty Mortgage Securities Series 2004-1, Ltd. ("the Issuer"). At inception, the Issuer held assets, consisting primarily of bridge loans, mezzanine loans and cash totaling approximately $469.0 million, which serve as collateral for CDO I. The Issuer issued investment grade notes with an initial principal amount of approximately $305.0 million and a wholly-owned subsidiary of the Company purchased the preferred equity interests of the Issuer. The four investment grade tranches were issued with floating rate coupons with an initial combined weighted average rate of three-month LIBOR plus 0.77%. CDO I was replenished with substitute collateral for loans that were repaid during the first four years of CDO I, up until April 2009. Thereafter, the outstanding debt balance is reduced as loans are repaid. The Company incurred approximately $7.2 million of issuance costs which is amortized on a level yield basis over the average estimated life of CDO I. As of April 15, 2009, CDO I has reached the end of its replenishment period and will no longer make $2.0 million amortization payments to investors that were made quarterly prior to the replenishment date. Investor capital is repaid quarterly from proceeds received from loan repayments held as collateral in accordance with the terms of the CDO. Proceeds distributed are recorded as a reduction of the CDO liability. Proceeds of $26.4 million and $52.8 million were distributed in 2012 and 2011, respectively. The CDO liability is also reduced as the investment grade notes are purchased by the Company—see below. The outstanding note balance for CDO I was $139.9 million and $166.5 million at December 31, 2012 and 2011, respectively.

On January 11, 2006, the Company completed its second collateralized debt obligation vehicle, issuing to third party investors nine tranches of investment grade collateralized debt obligations ("CDO II") through a newly-formed wholly-owned subsidiary, Arbor Realty Mortgage Securities Series 2005-1, Ltd. ("the Issuer II"). At inception, the Issuer II held assets, consisting primarily of bridge loans, mezzanine loans and cash totaling approximately $475.0 million, which serve as collateral for CDO II. The Issuer II issued investment grade notes with an initial principal amount of approximately $356.0 million and a wholly-owned subsidiary of the Company purchased the preferred equity interests of the Issuer II. The nine investment grade tranches were issued with floating rate coupons with an initial combined weighted average rate of three-month LIBOR plus 0.74%. CDO II was replenished with substitute collateral for loans that were repaid during the first five years of CDO II, up until April 2011. Thereafter, the outstanding debt balance is reduced as loans are repaid.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

The Company incurred approximately $6.2 million of issuance costs which is being amortized on a level yield basis over the average estimated life of CDO II. As of April 15, 2011, CDO II has reached the end of its replenishment period and will no longer make $1.2 million amortization payments to investors that were made quarterly prior to the replenishment date. Investor capital is repaid quarterly from proceeds received from loan repayments held as collateral in accordance with the terms of the CDO. Proceeds distributed are recorded as a reduction of the CDO liability. Proceeds of $46.0 million and $1.4 million were distributed and recorded as a reduction of the CDO II liability during both 2012 and 2011, respectively. The CDO liability is also reduced as the investment grade notes are purchased by the Company—see below. The outstanding note balance for CDO II was $237.2 million and $292.1 million at December 31, 2012 and 2011, respectively.

On December 14, 2006, the Company completed its third collateralized debt obligation vehicle, issuing to third party investors ten tranches of investment grade collateralized debt obligations ("CDO III") through a newly-formed wholly-owned subsidiary, Arbor Realty Mortgage Securities Series 2006-1, Ltd. ("the Issuer III"). At inception, the Issuer III held assets, consisting primarily of bridge loans, mezzanine loans, junior participation loans, preferred equity investments and cash totaling approximately $500.0 million, which serve as collateral for CDO III. The Issuer III issued investment grade notes with an initial principal amount of approximately $547.5 million, including a $100.0 million revolving note class that provides a revolving note facility and a wholly-owned subsidiary of the Company purchased the preferred equity interests of the Issuer III. The ten investment grade tranches were issued with floating rate coupons with an initial combined weighted average rate of three-month LIBOR plus 0.44% and the revolving note facility has a commitment fee of 0.22% per annum on the undrawn portion of the facility. CDO III was replenished with substitute collateral for loans that were repaid during the first five years up to January 2012. Thereafter, the outstanding debt balance will be reduced as loans are repaid. As of January 15, 2012, CDO III has reached the end of its replenishment period. Investor capital will be repaid quarterly from proceeds received from loan repayments held as collateral in accordance with the terms of the CDO. Proceeds distributed are recorded as a reduction of the CDO liability. Proceeds of $50.7 million were distributed in 2012. The CDO liability is also reduced as the investment grade notes are purchased by the Company—see below. The Company incurred approximately $9.7 million of issuance costs which is being amortized on a level yield basis over the average estimated life of CDO III. The outstanding note balance for CDO III was $350.8 million and $544.0 million at December 31, 2012 and 2011, respectively. CDO III has $100.0 million revolving note class that provides a revolving note facility. The outstanding revolving note facility for CDO III was $84.6 million and $100.0 million at December 31, 2012 and 2011, respectively.

Proceeds from the sale of the 23 investment grade tranches issued in CDO I, CDO II and CDO III were used to repay outstanding debt under the Company's repurchase agreements and notes payable. The assets pledged as collateral were contributed from the Company's existing portfolio of assets.

The Company accounts for these transactions on its Consolidated Balance Sheet as financing facilities. The Company's CDOs are VIEs for which the Company is the primary beneficiary and are consolidated in the Company's Financial Statements accordingly. The investment grade tranches are treated as secured financings, and are non-recourse to the Company.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

During the year ended December 31, 2012, the Company purchased, at a discount, $66.2 million of investment grade rated Class B, C, D, E, F, G and H notes originally issued by its CDO II and CDO III issuing entities for a price of $35.8 million from third party investors and recorded a net gain on extinguishment of debt of $30.5 million in its 2012 Consolidated Statement of Operations.

During the year ended December 31, 2011, the Company purchased, at a discount, $21.3 million of investment grade rated Class B, C, D, E and F notes originally issued by its three CDO issuing entities for a price of $10.4 million from third party investors and recorded a net gain on extinguishment of debt of $10.9 million from these transactions in its 2011 Consolidated Statement of Operations.

During the year ended December 31, 2010, the Company purchased, at a discount, $67.7 million of investment grade rated Class A2, B, C, D, E, F and G notes originally issued by its three CDO issuing entities for a price of $22.8 million from third party investors, except for a $15.0 million Class B note which was purchased from the Company's manager, ACM, for a price of approximately $6.2 million. In 2010, ACM purchased this note from a third party investor for approximately $6.2 million. The Company recorded a net gain on extinguishment of debt of $44.8 million from these transactions in its 2010 Consolidated Statement of Operations.

In 2010, the Company re-issued its own CDO bonds it had acquired throughout 2009 with an aggregate face amount of approximately $42.8 million as part of an exchange for the retirement of $114.1 million of its junior subordinated notes. This transaction resulted in the recording of $65.2 million of additional CDO debt, of which $42.3 million represents the portion of the Company's CDO bonds that were exchanged and $22.9 million represents the estimated interest due on the reissued bonds through their maturity, of which $20.8 million remains at December 31, 2012. See "Junior Subordinated Notes" below for further details.

The following table sets forth the face amount and gain on extinguishment of the Company's CDO bonds repurchased in the following periods by bond class:

	For the Year Ended December 31,					
	2012		2011		2010	
Class:	Face Amount	Gain	Face Amount	Gain	Face Amount	Gain
A2	$ —	$ —	$ —	$ —	$ 7,375,000	$ 4,683,125
B	13,000,000	4,615,000	5,654,540	2,086,799	35,500,000	20,182,344
C	3,329,509	1,200,182	7,005,291	3,502,815	12,350,132	9,823,405
D	13,350,000	5,819,066	2,433,912	1,428,950	822,216	680,384
E	13,765,276	6,445,033	2,291,855	1,403,761	1,636,457	1,374,624
F	9,708,556	5,048,417	3,918,343	2,455,892	5,936,662	4,828,921
G	8,672,039	4,777,138	—	—	4,030,552	3,254,671
H	4,403,771	2,554,187	—	—	—	—
Total	$66,229,151	$30,459,023	$21,303,941	$10,878,217	$67,651,019	$44,827,474

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

Collateralized Loan Obligation

The following table outlines borrowings and the corresponding collateral under the Company's collateralized loan obligation as of December 31, 2012:

	Debt		Collateral		
			Loans		Cash
	Face Value	Carrying Value	Unpaid Principal	Carrying Value	Restricted Cash
CLO—Issued two investment grade tranches September 24, 2012. Replacement period through September 2014. Stated maturity date of October 2022. Interest is variable based on three-month LIBOR; the weighted average note rate was 3.65%	$ 87,500,000	$ 87,500,000	$ 125,086,650	$ 124,525,103	$ —

On September 24, 2012, the Company completed its first collateralized loan obligation, or CLO, issuing to third party investors two tranches of investment grade collateralized loan obligations through a newly-formed wholly-owned subsidiaries, Arbor Realty Collateralized Loan Obligation 2012-1, Ltd. (the "Issuer") and Arbor Realty Collateralized Loan Obligation 2012-1, LLC (the "Co-Issuer" and together with the Issuer, the "Issuers"). Initially, the notes are secured by a portfolio of loan obligations with a face value of approximately $125.1 million, consisting primarily of bridge loans and a senior participation interest in a first mortgage loan that were contributed from the Company's existing loan portfolio. The financing has a two-year replacement period that allows the principal proceeds and sale proceeds (if any) of the loan obligations to be reinvested in qualifying replacement loan obligations, subject to the satisfaction of certain conditions set forth in the indenture. Thereafter, the outstanding debt balance will be reduced as loans are repaid. The aggregate principal amounts of the two classes of notes were $75.0 million of Class A senior secured floating rate notes and $12.5 million of Class B secured floating rate notes. The Company retained a residual interest in the portfolio with a notional amount of $37.6 million. The notes have an initial weighted average interest rate of approximately 3.39% plus one-month LIBOR and interest payments on the notes are payable monthly, beginning on November 15, 2012, to and including October 15, 2022, the stated maturity date of the notes. The Company incurred approximately $2.3 million of issuance costs which is being amortized on a level yield basis over the average estimated life of the CLO. Including certain fees and costs, the weighted average note rate was 4.33% at December 31, 2012. The Company accounts for this transaction on its balance sheet as a financing facility. The Company's CLO is a VIE for which the Company is the primary beneficiary and is consolidated in the Company's financial statements. The two investment grade tranches are treated as a secured financing, and are non-recourse to the Company.

On January 28, 2013, The Company completed its second CLO, issuing to third party investors two tranches of investment grade collateralized loan obligations through a newly-formed wholly-owned

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

subsidiaries, Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. (the "Issuer") and Arbor Realty Collateralized Loan Obligation 2013-1, LLC (the "Co-Issuer" and together with the Issuer, the "Issuers"). As of the CLO closing date, the notes are secured by a portfolio of loan obligations with a face value of approximately $210.0 million, consisting primarily of bridge loans and a senior participation interest in a first mortgage loan that were contributed from the Company's existing loan portfolio. The financing has a two-year replacement period that allows the principal proceeds and sale proceeds (if any) of the loan obligations to be reinvested in qualifying replacement loan obligations, subject to the satisfaction of certain conditions set forth in the indenture. Thereafter, the outstanding debt balance will be reduced as loans are repaid. The proceeds of the issuance of the securities also includes $50.0 million for the purpose of acquiring additional loan obligations for a period of up to 90 days from the closing date of the CLO, at which point it is expected that the Issuer will own loan obligations with a face value of approximately $260.0 million. The aggregate principal amounts of the two classes of notes were $156.0 million of Class A senior secured floating rate notes and $21.0 million of Class B secured floating rate notes. The Company retained a residual interest in the portfolio with a notional amount of approximately $83.0 million. The notes have an initial weighted average interest rate of approximately 2.36% plus one-month LIBOR and interest payments on the notes are payable monthly, beginning on March 15, 2013, to and including February 15, 2023, the stated maturity date of the notes. The Company incurred approximately $3.4 million of issuance costs which is being amortized on a level yield basis over the average estimated life of the CLO. Including certain fees and costs, the weighted average note rate is expected to be 3.03%. The Company expects to account for this transaction on its balance sheet as a financing facility.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

Junior Subordinated Notes

The following table outlines borrowings under the Company's junior subordinated notes as of December 31, 2012 and 2011:

	December 31, 2012 Debt Carrying Value	December 31, 2011 Debt Carrying Value
Junior subordinated notes, maturity March 2034, unsecured, face amount of $28.0 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 3.18% and 0.50%, respectively	$ 25,289,857	$ 25,203,958
Junior subordinated notes, maturity April 2035, unsecured, face amount of $7.0 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 3.51% and 0.50%, respectively	6,296,128	6,277,218
Junior subordinated notes, maturity March 2034, unsecured, face amount of $28.0 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 3.18% and 0.50%, respectively	25,289,857	25,203,958
Junior subordinated notes, maturity March 2034, unsecured, face amount of $27.3 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 3.18% and 0.50%, respectively	24,656,921	24,573,169
Junior subordinated notes, maturity June 2036, unsecured, face amount of $14.6 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 2.83% and 0.50%, respectively	13,160,155	13,121,735
Junior subordinated notes, maturity April 2037, unsecured, face amount of $15.7 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 2.74% and 0.50%, respectively	14,142,185	14,100,534
Junior subordinated notes, maturity April 2037, unsecured, face amount of $31.5 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 2.74% and 0.50%, respectively	28,410,761	28,327,185
Junior subordinated notes, maturity April 2035, unsecured, face amount of $21.2 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 3.51% and 0.50%, respectively	19,147,508	19,087,154
Junior subordinated notes, maturity June 2036, unsecured, face amount of $2.6 million, interest rate fixed until 2012 then variable based on three-month LIBOR, the weighted average note rate was 2.83% and 0.50%, respectively	2,373,773	2,366,557
Total junior subordinated notes	$158,767,145	$158,261,468

The carrying value under these facilities was $158.8 million and $158.3 million at December 31, 2012 and 2011, which is net of a deferred amount of $17.1 million and $17.6 million, respectively. The current weighted average note rate was 3.08% and 0.50% at December 31, 2012 and 2011, however, based upon the accounting treatment for the restructuring mentioned below, the effective rate was 3.12% and 3.85% at December 31, 2012

and 2011, respectively. Including certain fees and costs, the weighted average note rate was 3.35% and 5.10% at December 31, 2012 and 2011, respectively. The

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

impact of these variable interest entities with respect to consolidation is discussed in Note 9—"Variable Interest Entities."

In 2010, the Company retired $114.1 million of its junior subordinated notes, with a carrying value of $102.1 million, in exchange for the re-issuance of its own CDO bonds it had acquired throughout 2009 with an aggregate face amount of $42.8 million, CDO bonds of other issuers it had acquired in the second quarter of 2008 with an aggregate face amount of $25.0 million and a carrying value of $0.4 million, and $10.5 million in cash. This transaction resulted in the recording of $65.2 million of additional CDO debt, of which $42.3 million represents the portion of the Company's CDO bonds that were exchanged and $22.9 million represents the estimated interest due on the bonds through their maturity, a reduction to securities available-for-sale of $0.4 million representing the fair value of CDO bonds of other issuers, and a gain on extinguishment of debt of $26.3 million, or $1.03 per basic and diluted common share, in the first quarter of 2010.

In 2009, the Company retired $265.8 million of its then outstanding trust preferred securities, primarily consisting of $258.4 million of junior subordinated notes issued to third party investors and $7.4 million of common equity issued to the Company in exchange for $289.4 million of newly issued unsecured junior subordinated notes, representing 112% of the original face amount. The notes bore a fixed interest rate of 0.50% per annum until March 31, 2012 or April 30, 2012 (the "Modification Period"). Thereafter, interest is to be paid at the rates set forth in the existing trust agreements until maturity, equal to three month LIBOR plus a weighted average spread of 2.90%, which was reduced to 2.77% after the exchange in 2010 mentioned above. The 12% increase to the face amount due upon maturity, which had a balance of $17.1 million at December 31, 2012, is being amortized into expense over the life of the notes. The Company also paid transaction fees of approximately $1.3 million to the issuers of the junior subordinated notes related to this restructuring which is being amortized over the life of the notes.

During the Modification Period, the Company was permitted to make distributions of up to 100% of taxable income to common shareholders. The Company had agreed that such distributions would be paid in the form of the Company's stock to the maximum extent permissible under the Internal Revenue Service rules and regulations in effect at the time of such distribution, with the balance payable in cash. This requirement regarding distributions in stock could have been terminated by the Company at any time, provided that the Company paid the note holders the original rate of interest from the time of such termination. The terms of the Modification Period expired in April 2012.

The junior subordinated notes are unsecured, have original maturities of 25 to 28 years, pay interest quarterly at a fixed rate or floating rate of interest based on three-month LIBOR and, absent the occurrence of special events, were not redeemable during the first two years.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

Notes Payable

The following table outlines borrowings under the Company's notes payable as of December 31, 2012 and 2011:

	December 31, 2012		December 31, 2011	
	Debt Carrying Value	Collateral Carrying Value	Debt Carrying Value	Collateral Carrying Value
Note payable relating to investment in equity affiliates, $50.2 million, expiration July 2016, interest is fixed, the weighted average note rate was 4.06%	$ 50,157,708	$ 55,988,411	$ 50,157,708	$ 55,988,411
Junior loan participation secured by the Company's interest in a mezzanine loan with a principal balance of $32.0 million, participation interest was based on a portion of the interest received from the loan which had a variable rate of LIBOR plus 4.35%	—	—	32,000,000	32,000,000
Junior loan participation, maturity of August 2012, secured by the Company's interest in a mezzanine loan with a principal balance of $11.8 million. The participation had a 0% rate of interest	—	—	2,000,000	2,000,000
Junior loan participation, secured by the Company's interest in a first mortgage loan with a principal balance of $1.3 million, participation interest was based on a portion of the interest received from the loan which has a fixed rate of 9.57%	1,300,000	1,300,000	1,300,000	1,300,000
Total notes payable	$ 51,457,708	$ 57,288,411	$ 85,457,708	$ 91,288,411

At December 31, 2012 and 2011, the aggregate weighted average note rate for the Company's notes payable was 3.95% and 4.14%, respectively. There were no interest rate swaps on the notes payable at December 31, 2012 and 2011.

In 2008, the Company recorded a $49.5 million note payable after receiving cash related to a transaction with Lightstone Value Plus REIT, L.P. to exchange the Company's profits interest in POM for operating partnership units in Lightstone Value Plus REIT, L.P. The note, which was paid down to $48.5 million as of December 31, 2008, was initially secured by the Company's interest in POM, matures in July 2016 and bears interest at a fixed rate of 4.06% with payment deferred until the closing of the transaction. Upon the closing of the POM transaction in March 2009, the note balance was increased to $50.2 million and is secured by the Company's investment in common and preferred operating partnership units in Lightstone Value Plus REIT, L.P. In March 2009, the Company also recorded a gain on exchange of profits interest of $56.0 million. See Note 5—"Investment in Equity Affiliates" for further details. At December 31, 2012, the outstanding balance of this note was $50.2 million.

In April 2011, the Company entered into a non-recourse junior loan participation in the amount of $32.0 million on a $50.0 million mezzanine loan. The loan was participated out to a subordinate lender at a discount and the Company received $28.8 million of proceeds. The subordinate lender received its proportionate share of the interest received from the loan, which had a variable rate of LIBOR plus 4.35% and a maturity of July 2012. The Company also had the right to sell its $18.0 million senior participation to the subordinate lender, at face value, in the event of default or if the loan was not repaid by July 9, 2012. In May 2012, the Company sold the $50.0 million mezzanine loan to the same

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

third party which relieved the Company's $32.0 million junior loan participation liability. In June 2011, the Company entered into a non-recourse junior loan participation in the amount of $2.0 million on an $11.8 million mezzanine loan. The participation had a 0% rate of interest and a maturity of August 2012. Upon maturity in August 2012, the Company was relieved of its $2.0 million junior loan participation liability. The Company also has a third junior loan participation with an outstanding balance at December 31, 2012 of $1.3 million on a $1.3 million bridge loan. Participations have a maturity date equal to the corresponding mortgage loan and are secured by the participant's interest in the mortgage loan. Interest expense is based on the portion of the interest received from the loan that is paid to the junior participant. The Company's obligation to pay interest on the participation is based on the performance of the related loan.

Mortgage Note Payable—Real Estate Owned

During 2011, the Company assumed a $55.4 million interest-only first lien mortgage in connection with the acquisition of real property pursuant to bankruptcy proceedings for an entity in which the Company had a $29.8 million loan secured the Multifamily Portfolio. The real estate investment was classified as real estate owned in the Company's Consolidated Balance Sheet in March 2011. The mortgage bears interest at a variable rate of one-month LIBOR plus 1.23% and has a maturity date of March 2014 with a one year and three month extension option. In June 2011, one of the properties in the Multifamily Portfolio was sold to a third party for $1.6 million and the proceeds were used to pay down the first lien mortgage to a balance of $53.8 million at December 31, 2012.

Mortgage Notes Payable—Held-For-Sale

During 2010, the Company assumed a $20.8 million interest-only first lien mortgage related to a deed in lieu of foreclosure agreement for an entity in which the Company had a $5.6 million junior participation loan secured by an apartment building. The real estate investment was originally classified as real estate owned and was reclassified as real estate held-for-sale in December 2011. The mortgage bore interest at a fixed rate of 6.23% and had a maturity date of December 2013 with a five year extension option. In March 2012, the Company sold the property to a third party and the first lien mortgage was paid off.

During 2008, the Company assumed a $41.4 million interest-only first lien mortgage related to the foreclosure of an entity in which the Company had a $5.0 million mezzanine loan. The real estate investment was originally classified as real estate owned and was reclassified as real estate held-for-sale at September 30, 2009. The mortgage bore interest at a fixed rate of 6.13% and had a maturity date of June 2012. In May 2012, the Company surrendered the property to the first mortgage lender in full satisfaction of the first lien mortgage.

Debt Covenants

The Company's debt facilities contain various financial covenants and restrictions, including minimum net worth, minimum liquidity and maximum debt balance requirements, as well as certain other debt service coverage ratios and debt to equity ratios. The Company was in compliance with all financial covenants and restrictions at December 31, 2012.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

The Company's CDO and CLO vehicles contain interest coverage and asset overcollateralization covenants that must be met as of the waterfall distribution date in order for the Company to receive such payments. If the Company fails these covenants in any of its CDOs or CLO, all cash flows from the applicable CDO or CLO would be diverted to repay principal and interest on the outstanding CDO or CLO bonds and the Company would not receive any residual payments until that CDO or CLO regained compliance with such tests. The Company's CDOs and CLO were in compliance with all such covenants as of December 31, 2012, as well as on the most recent determination date in January 2013. In the event of a breach of the CDO or CLO covenants that could not be cured in the near-term, the Company would be required to fund its non-CDO or non-CLO expenses, including management fees and employee costs, distributions required to maintain REIT status, debt costs, and other expenses with (i) cash on hand, (ii) income from any CDO or CLO not in breach of a CDO or CLO covenant test, (iii) income from real property and loan assets, (iv) sale of assets, (v) or accessing the equity or debt capital markets, if available. The Company has the right to cure covenant breaches which would resume normal residual payments to it by purchasing non-performing loans out of the CDOs or CLO. However, the Company may not have sufficient liquidity available to do so at such time.

The chart below is a summary of the Company's CDO and CLO compliance tests as of the most recent determination date in January 2013:

Cash Flow Triggers	CDO I	CDO II	CDO III	CLO I
Overcollateralization(1)				
Current	172.73%	138.89%	105.90%	142.96%
Limit	145.00%	127.30%	105.60%	137.86%
Pass / Fail	Pass	Pass	Pass	Pass
Interest Coverage(2)				
Current	476.34%	453.78%	620.84%	257.78%
Limit	160.00%	147.30%	105.60%	120.00%
Pass / Fail	Pass	Pass	Pass	Pass

(1) The overcollateralization ratio divides the total principal balance of all collateral in the CDO and CLO by the total principal balance of the bonds associated with the applicable ratio. To the extent an asset is considered a defaulted security, the asset's principal balance for purposes of the overcollateralization test is the lesser of the asset's market value or the principal balance of the defaulted asset multiplied by the asset's recovery rate which is determined by the rating agencies. Rating downgrades of CDO and CLO collateral will generally not have a direct impact on the principal balance of a CDO and CLO asset for purposes of calculating the CDO's and CLO overcollateralization test unless the rating downgrade is below a significantly low threshold (e.g. CCC-) as defined in each CDO and CLO vehicle.

(2) The interest coverage ratio divides interest income by interest expense for the classes senior to those retained by the Company.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 7—Debt Obligations (Continued)

The chart below is a summary of the Company's CDO and CLO overcollateralization ratios as of the following determination dates:

Determination Date	CDO I	CDO II	CDO III	CLO I
January 2013	172.73%	138.89%	105.90%	142.96%
October 2012	171.36%	138.59%	105.64%	—
July 2012	168.66%	144.75%	106.96%	—
April 2012	167.82%	142.39%	107.59%	—
January 2012	167.80%	139.51%	107.59%	—

The ratio will fluctuate based on the performance of the underlying assets, transfers of assets into the CDOs prior to the expiration of their respective replenishment dates, purchase or disposal of other investments, and loan payoffs. No payment due under the Junior Subordinated Indentures may be paid if there is a default under any senior debt and the senior lender has sent notice to the trustee. The Junior Subordinated Indentures are also cross-defaulted with each other.

Note 8—Noncontrolling Interest

Noncontrolling interest in a consolidated entity on the Company's Consolidated Balance Sheet, with a balance of $1.9 million and $1.9 million as of December 31, 2012 and 2011, respectively, represents a third party's interest in the equity of a consolidated subsidiary, and is related to the POM transaction discussed in Note 5—"Investment in Equity Affiliates." For the years ended December 31, 2012 and 2011, the Company recorded net income of $0.2 million, as well as distributions of $0.2 million, attributable to the noncontrolling equity interest.

Note 9—Variable Interest Entities

The Company has evaluated its loans and investments, mortgage related securities, investments in equity affiliates, junior subordinated notes, CDOs and CLOs, in order to determine if they qualify as VIEs or as variable interests in VIEs. This evaluation resulted in the Company determining that its bridge loans, junior participation loans, mezzanine loans, preferred equity investments, investments in equity affiliates, junior subordinated notes, CDOs, CLOs and investments in mortgage related securities are potential VIEs. A VIE is defined as an entity in which equity investors (i) do not have the characteristics of a controlling financial interest, and/or (ii) do not have sufficient equity at risk for the entity to finance its activities without additional financial support from other parties.

A VIE is required to be consolidated by its primary beneficiary, which is defined as the party that (i) has the power to control the activities that most significantly impact the VIE's economic performance and (ii) has the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE. The Company's involvement with VIEs primarily affects its financial performance and cash flows through amounts recorded in interest income, interest expense, provision for loan losses and through activity associated with its derivative instruments.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 9—Variable Interest Entities (Continued)

Consolidated VIEs

The Company consolidates its CDO and CLO subsidiaries, which qualify as VIEs, of which the Company is the primary beneficiary. These CDOs and CLOs invest in real estate and real estate-related securities and are financed by the issuance of CDO and CLO debt securities. The Company, or one of its affiliates, is named collateral manager, servicer, and special servicer for all CDO and CLO collateral assets which the Company believes gives it the power to direct the most significant economic activities of the entity. The Company also has exposure to CDO and CLO losses to the extent of its equity interests and also has rights to waterfall payments in excess of required payments to CDO and CLO bond investors. As a result of consolidation, equity interests in these CDOs and CLOs have been eliminated, and the Consolidated Balance Sheet reflects both the assets held and debt issued by the CDOs and CLOs to third parties. The Company's operating results and cash flows include the gross amounts related to CDO and CLO assets and liabilities as opposed to the Company's net economic interests in the CDO and CLO entities.

Assets held by the CDOs and CLOs are restricted and can be used only to settle obligations of the CDOs and CLOs. The liabilities of the CDOs and CLOs are non-recourse to the Company and can only be satisfied from each CDOs and CLOs respective asset pool. Assets and liabilities related to the CDOs and CLOs are disclosed parenthetically, in the aggregate, in the Company's Consolidated Balance Sheets. See Note 7—"Debt Obligations" for further details.

The Company is not obligated to provide, has not provided, and does not intend to provide financial support to any of the consolidated CDOs and CLOs.

Unconsolidated VIEs

The Company determined that it is not the primary beneficiary of 54 VIEs in which it has a variable interest as of December 31, 2012 because it does not have the ability to direct the activities of the VIEs that most significantly impact each entity's economic performance. VIEs, of which the Company is not the primary beneficiary, have an aggregate carrying amount of $655.0 million and exposure to real estate debt of approximately $4.6 billion at December 31, 2012.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 9—Variable Interest Entities (Continued)

The following is a summary of the Company's variable interests in identified VIEs, of which the Company is not the primary beneficiary, as of December 31, 2012:

Type	Carrying Amount(1)	Maximum Exposure to Loss(2)
Loans	$ 441,759,718	$ 441,759,718
Loans and equity investments	78,195,297	78,195,297
RMBS	122,379,439	122,379,439
CMBS	2,100,000	2,100,000
CDO Bond	10,000,000	10,000,000
Junior subordinated notes(3)	578,000	578,000
Total	$ 655,012,454	$ 655,012,454

(1) Represents the carrying amount of loans and investments before reserves. At December 31, 2012, $222.8 million of loans to VIEs had corresponding loan loss reserves of approximately $150.2 million and $49.3 million of loans to VIEs were related to loans classified as non-performing. See Note 3—"Loans and Investments" for further details.

(2) The Company's maximum exposure to loss as of December 31, 2012 would not exceed the carrying amount of its investment.

(3) These entities that issued the junior subordinated notes are VIEs. It is not appropriate to consolidate these entities as equity interests are variable interests only to the extent that the investment is considered to be at risk. Since the Company's investments were funded by the entities that issued the junior subordinated notes, it is not considered to be at risk.

Note 10—Derivative Financial Instruments

Hedging Activities

The Company recognizes all derivatives as either assets or liabilities in the Consolidated Balance Sheets and measures those instruments at fair value. Additionally, the fair value adjustments will affect either accumulated other comprehensive loss until the hedged item is recognized in earnings, or net income (loss) attributable to Arbor Realty Trust, Inc., depending on whether the derivative instrument qualifies as a hedge for accounting purposes and, if so, the nature of the hedging activity. The ineffective portion of a derivative's change in fair value is recognized immediately in earnings.

Derivatives

In connection with the Company's interest rate risk management, the Company periodically hedges a portion of its interest rate risk by entering into derivative financial instrument contracts. Specifically, the Company's derivative financial instruments are used to manage differences in the amount, timing, and duration of its expected cash receipts and its expected cash payments principally related to its investments and borrowings. The Company's objectives in using interest rate derivatives are to add stability to interest income and to manage its exposure to interest rate movements. To accomplish this

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 10—Derivative Financial Instruments (Continued)

objective, the Company primarily uses interest rate swaps as part of its interest rate risk management strategy. Interest rate swaps designated as cash flow hedges involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without exchange of the underlying notional amount. The Company has entered into various interest rate swap agreements to hedge its exposure to interest rate risk on (i) variable rate borrowings as it relates to fixed rate loans; (ii) the difference between the CDO investor return being based on the three-month LIBOR index while the supporting assets of the CDO are based on the one-month LIBOR index; and (iii) use of LIBOR rate caps in loan agreements.

Derivative financial instruments must be effective in reducing the Company's risk exposure in order to qualify for hedge accounting. When the terms of an underlying transaction are modified, or when the underlying hedged item ceases to exist, all changes in the fair value of the instrument are marked-to-market with changes in value included in net income for each period until the derivative instrument matures or is settled. In cases where a derivative financial instrument is terminated early, any gain or loss is generally amortized over the remaining life of the hedged item. Any derivative instrument used for risk management that does not meet the hedging criteria is marked-to-market with the changes in value included in net income. The Company does not use derivatives for trading or speculative purposes.

In certain circumstances, the Company may finance the purchase of RMBS investments through a repurchase agreement with the same counterparty which may qualify as a linked transaction if certain criteria are met. The Company's linked transactions are evaluated on a combined basis, reported as forward contract derivative instruments and included in other assets on the Consolidated Balance Sheets at fair value. The fair value of linked transactions reflect the value of the underlying RMBS, linked repurchase agreement borrowings and accrued interest receivable/payable on such instruments. The Company's linked transactions are not designated as hedging instruments and, as a result, the change in the fair value and net interest income from linked transactions is reported in other income on the Consolidated Statement of Operations.

The following is a summary of the derivative financial instruments held by the Company as of December 31, 2012 and 2011 (dollars in thousands):

		Notional Value						Fair Value	
Designation\Cash Flow	Derivative	Count	December 31, 2012	Count	December 31, 2011	Expiration Date	Balance Sheet Location	December 31, 2012	December 31, 2011
Non-Qualifying	Basis Swaps	8	$ 603,524	9	$ 854,079	2013 - 2015	Other Assets	$ 128	$ 1,563
Non-Qualifying	LIBOR Caps	1	$ 6,000	2	$ 13,000	2013	Other Assets	$ —	$ 1
Qualifying	LIBOR Cap	1	$ 73,301	1	$ 73,301	2013	Other Assets	$ —	$ 1
Qualifying	Interest Rate Swaps	14	$ 312,227	24	$ 515,327	2014 - 2017	Other Liabilities	$ (37,755)	$ (45,890)
Non-Qualifying	Forward Contracts	12	$ —	—	$ —	2013 - 2031	Other Assets	$ 10,800	$ —

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 10—Derivative Financial Instruments (Continued)

The fair value of Non-Qualifying Basis Swap Hedges was $0.1 million and $1.6 million as of December 31, 2012 and 2011, respectively, and was recorded in other assets in the Consolidated Balance Sheets. These basis swaps are used to manage the Company's exposure to interest rate movements and other identified risks but do not meet hedge accounting requirements. The Company is exposed to changes in the fair value of certain of its fixed rate obligations due to changes in benchmark interest rates and uses interest rate swaps to manage its exposure to changes in fair value on these instruments attributable to changes in the benchmark interest rate. These interest rate swaps designated as fair value hedges involve the receipt of variable-rate amounts from a counterparty in exchange for the Company making fixed-rate payments over the life of the agreements without the exchange of the underlying notional amount. The fair value of the Non-Qualifying LIBOR Cap Hedges was less than $0.1 million at December 31, 2012 and 2011, and was recordedin other assets in the Consolidated Balance Sheets. The Company entered into these hedges in the fourth quarter of 2010 and the first quarter of 2011 due to loan agreements which required LIBOR Caps of 1% to 2% and during the year ended December 31, 2012, a LIBOR cap matured with a notional value of approximately $7.0 million. During the year ended December 31, 2012, a basis swap matured with a notional value of approximately $110.1 million and the notional value of four basis swaps decreased by approximately $140.4 million pursuant to the contractual terms of the respective swap agreements. During the year ended December 31, 2011, the notional value on four basis swaps decreased by approximately $202.8 million pursuant to the contractual terms of the respective swap agreements. For the years ended December 31, 2012, 2011 and 2010, the change in fair value of the Non-Qualifying Swaps was $(1.4) million, $0.2 million and $(0.7) million, respectively, and was recorded in interest expense on the Consolidated Statements of Operations.

The fair value of Qualifying Interest Rate Swap Cash Flow Hedges as of December 31, 2012 and 2011 was $(37.8) million and $(45.9) million, respectively, and was recorded in other liabilities in the Consolidated Balance Sheets. The change in the fair value of Qualifying Interest Rate Swap Cash Flow Hedges was recorded in accumulated other comprehensive loss in the Consolidated Balance Sheets. These interest rate swaps are used to hedge the variable cash flows associated with existing variable-rate debt, and amounts reported in accumulated other comprehensive loss related to derivatives will be reclassified to interest expense as interest payments are made on the Company's variable-rate debt. During the year ended December 31, 2012, ten interest rate swaps matured with a combined notional value of approximately $196.4 million and the notional value on an interest rate swap decreased by approximately $6.4 million pursuant to the contractual terms of the respective swap agreement. During the year ended December 31, 2011, the Company entered into a LIBOR Cap with a notional value of approximately $73.3 million that qualifies as a cash flow hedge. The fair value of the Qualifying LIBOR Cap Hedge was less than $0.1 million at December 31, 2011 and was recorded in other assets in the Consolidated Balance Sheet. The Company entered into this hedge in the first quarter of 2011 due to a loan agreement which required a LIBOR Cap of 2%. In addition, during the year ended December 31, 2011, the notional values on two interest rate swaps decreased by approximately $14.2 million pursuant to the contractual terms of the respective swap agreements and six interest rate swaps matured with a combined notional value of approximately $111.3 million. As of December 31, 2012, the Company expects to reclassify approximately $(14.3) million ofother comprehensive loss from Qualifying Cash Flow Hedges to interest expense over the next twelve months assuming interest rates on that date are held constant. Gains and losses on terminated swaps are being

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 10—Derivative Financial Instruments (Continued)

deferred and recognized in earnings over the original life of the hedged item. These swap agreements must be effective in reducing the variability of cash flows of the hedged items in order to qualify for the aforementioned hedge accounting treatment. As of December 31, 2012 and 2011, the Company has a net deferred loss of $2.2 million and $2.9 million, respectively, in accumulated other comprehensive loss. The Company recorded $0.9 million, $1.8 million and $1.7 million as additional interest expense related to the amortization of the loss for the years ended December 31, 2012, 2011 and 2010, respectively, and $0.2 million as a reduction to interest expense related to the accretion of the net gains for each of the years ended December 31, 2012, 2011 and 2010, respectively. The Company expects to record approximately $0.7 million of net deferred loss to interest expense over the next twelve months.

The fair value of Non-Qualifying Forward Contracts was $10.8 million as of December 31, 2012 and was recorded in other assets in the Consolidated Balance Sheets and consisted of $75.3 million of RMBS investments, net of $64.6 million of repurchase financing. There were no forward contracts as of December 31, 2011. During the year ended December 31, 2012, the Company purchased 12 RMBS investments for $84.6 million and financed generally 80%—90% of the purchases with repurchase agreements totaling $71.3 million, which are accounted for as linked transactions and considered forward contracts. The repurchase agreements bear interest at a rate of 125 to 175 basis points over LIBOR. The Company received total principal paydowns on the RMBS of $9.3 million and paid down the associated repurchase agreement by $6.7 million. For the year ended December 31, 2012, $1.1 million of net interest income and a $0.2 million increase in fair value was recorded to other income in the Consolidated Statement of Operations. The RMBS investments bear interest at a weighted average fixed rate of 4.28%, have a weighted average stated maturity of 25.0 years, but have weighted average estimated lives of 8.7 years based on the estimated maturities of the RMBS investments.

The following table presents the effect of the Company's derivative financial instruments on the Statements of Operations as of December 31, 2012, 2011 and 2010 (dollars inthousands):

		Amount of Loss Recognized in Other Comprehensive Loss (Effective Portion) For the Year Ended December 31,			Amount of Loss Reclassified from Accumulated Other Comprehensive Loss into Interest Expense (Effective Portion) For the Year Ended December 31,			Amount of (Loss) Gain Recognized in Interest Expense (Ineffective Portion) For the Year Ended December 31,			Amount of Gain Recognized in other Income For the Year Ended December 31,		
Designation\Cash Flo	Derivative	2012	2011	2010	2012	2011	2010	2012	2011	2010	2012	2011	2010
Non-Qualifying	Basis Swaps / Caps	$ —	$ —	$ —	$ —	$ —	$ —	$ (22)	$827	$ (94)	$ —	$ —	$ —
Qualifying	Interest Rate Swaps / Cap	$7,699	$20,698	$32,905	$(16,565)	$(27,164)	$(30,949)	$ —	$ —	$ —	$ —	$ —	$ —
Non-Qualifying	Forward Contracts	$ —	$ —	$ —	$ —	$ —	$ —	$ —	$ —	$ —	$167	$ —	$ —

The cumulative amount of other comprehensive loss related to net unrealized losses on derivatives designated as qualifying hedges as of December 31, 2012 and 2011 of approximately $(40.0) million and $(48.8) million, respectively, is a combination of the fair value of qualifying cash flow hedges

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 10—Derivative Financial Instruments (Continued)

of $(37.8) million and $(45.9) million, respectively, deferred losses on terminated interest swaps of $(2.7) million and $(3.7) million as of December 31, 2012 and 2011,respectively, and deferred net gains on termination of interest swaps of $0.5 million and $0.8 million as of December 31, 2012 and 2011, respectively.

The Company has agreements with certain of its derivative counterparties that contain a provision where if the Company defaults on any of its indebtedness, including default where repayment of the indebtedness has not been accelerated by the lender, then the Company could also be declared in default on its derivative obligations. As of December 31, 2012 and 2011, thefair value of derivatives in a net liability position, which includes accrued interest but excludes any adjustment for nonperformance risk related to these agreements, was $(19.2) million and $(22.0) million, respectively. As of December 31, 2012 and 2011, the Company had minimum collateral posting thresholds with certain of its derivative counterparties and had posted collateral of $20.0 million and $21.9 million, respectively, which is recorded in other assets in the Company's Consolidated Balance Sheets.

Note 11—Fair Value

Fair Value of Financial Instruments

Fair value estimates are dependent upon subjective assumptions and involve significant uncertainties resulting in variability in estimates with changes in assumptions. The following table summarizes the carrying values and the estimated fair values of the Company's financial instruments as of December 31, 2012 and 2011:

	December 31, 2012		December 31, 2011	
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value
Financial assets:				
Loans and investments, net	$ 1,325,667,053	$ 1,316,001,339	$ 1,302,440,660	$ 1,262,157,792
Available-for-sale securities	3,552,736	3,552,736	4,276,368	4,276,368
Securities held-to-maturity, net	42,986,980	43,153,124	29,942,108	29,994,214
Derivative financial instruments	10,927,551	10,927,551	1,565,063	1,565,063
Financial liabilities:				
Repurchase agreements and credit facilities.	$ 130,661,619	$ 130,363,126	$ 76,105,000	$ 75,976,340
Collateralized debt obligations	812,452,845	590,901,757	1,002,615,393	606,929,771
Collateralized loan				

obligation	87,500,000	87,500,000	—	—
Junior subordinated notes	158,767,145	99,984,066	158,261,468	48,464,677
Notes payable	51,457,708	46,743,406	85,457,708	78,860,307
Mortgage note payable —real estate owned	53,751,004	50,005,874	53,751,004	51,251,004
Mortgage notes payable —held-for-sale	—	—	62,190,000	61,957,869
Derivative financial instruments	37,754,775	37,754,775	45,889,539	45,889,539

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

The following methods and assumptions were used by the Company in estimating the fair value of each class of financial instrument:

Loans and investments, net: Fair values of loans and investments that are not impaired are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality. Fair values of loans and investments that are impaired are estimated by the Company using significant judgments, which include assumptions regarding discount rates, capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management.

Available-for-sale securities: Fair values are approximated based on current market quotes received from financial sources that trade such securities and are based on prevailing market data and, in some cases, are derived from third party proprietary models based on well recognized financial principles and reasonable estimates about relevant future market conditions. The fair values of certain CMBS securities are estimated by the Company using significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management.

Securities held-to-maturity, net: Fair values are approximated based on internally developed valuation models, which are compared to current non-binding market quotes received from financial sources that trade such securities.

Derivative financial instruments: Fair values of interest rate swap derivatives are approximated based on current market data received from financial sources that trade such instruments and are based on prevailing market data and derived from third party proprietary models based on well recognized financial principles and reasonable estimates about relevant future market conditions. These items are included in other assets and other liabilities on the Consolidated Balance Sheets. The Company incorporates credit valuation adjustments in the fair values of its derivative financial instruments to reflect counterparty nonperformance risk. The fair values of RMBS underlying linked transactions are estimated based on internally developed valuation models, which are compared to broker quotations. The value of the underlying RMBS is then netted against the carrying amount (which approximates fair value) of the repurchase agreement borrowing at the valuation date. The fair value of linked transactions also includes accrued interest receivable on the RMBS and accrued interest payable on the underlying repurchase agreement borrowings.

Repurchase agreements, credit facilities, notes payable and mortgage notes payable: Fair values are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates for financing with similar characteristics and credit quality.

Collateralized debt obligations and collateralized loan obligations: Fair values are estimated based on broker quotations, representing the discounted expected future cash flows at a yield which reflects current market interest rates and credit spreads.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

Junior subordinated notes: Fair values are estimated based on broker quotations, representing the discounted expected future cash flows at a yield which reflects current market interest rates and credit spreads.

Fair Value Measurement

Fair value is defined as the price at which an asset could be exchanged in a current transaction between knowledgeable, willing parties. A liability's fair value is defined as the amount that would be paid to transfer the liability to a new obligor, not the amount that would be paid to settle the liability with the creditor. Where available, fair value is based on observable market prices or parameters or derived from such prices or parameters. Where observable prices or inputs are not available, valuation models are applied. These valuation techniques involve some level of management estimation and judgment, the degree of which is dependent on the price transparency for the instruments or market and the instruments' complexity.

Assets and liabilities disclosed at fair value are categorized based upon the level of judgment associated with the inputs used to measure their fair value. Hierarchical levels directly related to the amount of subjectivity associated with the inputs to fair valuation of these assets and liabilities are as follows:

- Level 1—Inputs are unadjusted and quoted prices exist in active markets for identical assets or liabilities at the measurement date. The types of assets and liabilities carried at Level 1 fair value generally are government and agency securities, equities listed in active markets, investments in publicly traded mutual funds with quoted market prices and listed derivatives.

- Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability through correlation with market data at the measurement date and for the duration of the instrument's anticipated life. Level 2 inputs include quoted market prices in markets that are not active for an identical or similar asset or liability, and quoted market prices in active markets for a similar asset or liability. Fair valued assets and liabilities that are generally included in this category are non-government securities, municipal bonds, certain hybrid financial instruments, certain mortgage and asset-backed securities, certain corporate debt, certain commitments and guarantees, certain private equity investments and certain derivatives.

- Level 3—Inputs reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date. These valuations are based on significant unobservable inputs that require a considerable amount of judgment and assumptions. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model. Generally, assets and liabilities carried at fair value and included in this category are certain mortgage and asset-backed securities, certain corporate debt, certain private equity investments, certain municipal bonds, certain commitments and guarantees and certain derivatives.

Determining which category an asset or liability falls within the hierarchy requires significant judgment and the Company evaluates its hierarchy disclosures each quarter.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

The Company measures certain financial assets and financial liabilities at fair value on a recurring basis, including available-for-sale securities and derivative financial instruments. The fair value of these financial assets and liabilities was determined using the following inputs as of December 31, 2012:

	Carrying Value	Fair Value	Fair Value Measurements Using Fair Value Hierarchy		
			Level 1	Level 2	Level 3
Financial assets:					
Available-for-sale securities(1)	$ 3,552,736	$ 3,552,736	$ 352,736	$ —	$ 3,200,000
Derivative financial instruments(2)	10,927,551	10,927,551	—	128,015	10,799,536
Financial liabilities:					
Derivative financial instruments	$ 37,754,775	$ 37,754,775	$ —	$ 37,754,775	$ —

(1) For the year ended December 31, 2012, the Company's equity securities available-for-sale were measured using Level 1inputs and the Company's CDO bond and CMBS investments available-for-sale were measured using Level 3 inputs.

(2) For the year ended December 31, 2012, the Company's basis swap derivatives were measured using Level 2 inputs and the Company's forward contract derivatives were measured using Level 3 inputs.

Available-for-sale securities: Fair values are approximated based on current market quotes received from financial sources that trade such securities. The fair values of available-for-sale equity securities traded in active markets are approximated using Level 1 inputs, while the fair values of available-for-sale debt securities that are approximated using current, non-binding market quotes received from financial sources that trade such investments are valued using Level 3 inputs. The fair values of certain CMBS and CDO securities are estimated by the Company using Level 3 inputs that require significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management.

Derivative financial instruments: Fair values of interest rate swap derivatives are approximated using Level 2 inputs based on current market data received from financial sources that trade such instruments and are based on prevailing market data and derived from third party proprietary models based on well recognized financial principles including counterparty risks, credit spreads and interest rate projections, as well as reasonable estimates about relevant future market conditions. These items are included in other assets and other liabilities on the Consolidated Balance Sheet. The Company incorporates credit valuation adjustments in the fair values of its derivative financial instruments to reflect counterparty nonperformance risk. The fair values of forward contract derivatives are approximated using Level 3 inputs in internally developed valuation models, which are compared to current non-binding market quotes for the underlying RMBS received from pricing services and financial sources that trade such investments.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

The following roll forward table reconciles the beginning and ending balances of financial assets measured at fair value on a recurring basis using Level 3 inputs:

	Available-for-sale Securities	Derivative Financial Instruments
Balance as of December 31, 2011	$ 4,100,000	$ —
Adjustments to fair value:		
Additions(1)	—	13,273,316
Paydowns(2)	—	(2,640,957)
Changes in unrealized gain(3)	(900,000)	—
Net changes in fair value(4)	—	167,177
Balance as of December 31, 2012	$ 3,200,000	$ 10,799,536

(1) Represents forward contract derivatives recorded at fair value in the year ended December 31, 2012.

(2) Represents the paydowns on the forward contracts during the year ended December 31, 2012.

(3) Represents the change in unrealized gain on the Company's debt securities available-for-sale recorded in accumulated other comprehensive loss on the Consolidated Balance Sheet.

(4) Represents the net change in fair value recorded to other income during the year ended December 31, 2012.

The Company measures certain financial and non-financial assets at fair value on a nonrecurring basis, such as impaired loans. The fair value of these financial assets was determined using the following inputs as of December 31, 2012:

	Net Carrying Value	Fair Value	Fair Value Measurements Using Fair Value Hierarchy		
			Level 1	Level 2	Level 3
Financial assets:					
Impaired loans, net(1)	$ 78,504,839	$ 103,429,718	$ —	$ —	$ 103,429,718

(1) The Company had an allowance for loan losses of $161.7 million relating to 20 loans with an aggregate carrying value, before loan loss reserves, of approximately $240.2 million at December 31, 2012.

Loan impairment assessments: Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, loan purchase discounts, and net of the allowance for loan losses when such loan or investment is deemed to be impaired. The Company considers a loan impaired when, based upon current information and events, it is probable that it will be unable to collect all amounts due for both principal and interest according to the contractual terms of the loan agreement. The Company performs evaluations of its loans to

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

determine if the value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, which may result in an allowance and corresponding charge to the provision for loan losses. These valuations require significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management. The table above includes all impaired loans, regardless of the period in which an impairment was recognized.

Quantitative information about Level 3 Fair Value Measurements on a recurring and non-recurring basis:

	At December 31, 2012			
	Fair Value	**Valuation Technique(s)**	**Unobservable Inputs**	**Range (Weighted Average)**
Financial assets:				
Impaired loans(1):				
Multi-family	$15,823,855	Direct capitalization analysis and discounted cash flows	Discount rate	7.50% to 8.00% (7.92%)
			Capitalization rate	6.00% to 9.50% (7.06%)
			Revenue growth rate	2.00% to 3.00% (2.17%)
Office	5,139,545	Discounted cash flows	Discount rate	9.00% to 10.00% (9.22%)
			Capitalization rate	7.50% to 8.25% (7.95%)
			Revenue growth rate	0.00% to 3.00% (2.40%)
Land	76,004,427	Discounted cash flows	Discount rate	15.50%
			Capitalization rate	9.73%
			Revenue growth rate	5.40%
	5,999,972	Comparable sales and discounted cash	Dollar per acre	$293K/Acre

		flows	Discount rate	11%
Hotel	—	Discounted cash flows	Discount rate	12.74%
			Capitalization rate	9.00%
			Revenue growth rate	3.00%
Condo	461,919	Discounted cash flows	Discount rate	13.00%
			Revenue growth rate	3.00%
CMBS	2,100,000	Discounted cash flows	Discount rate	12.40%
			Capitalization rate	10.00%
			Revenue growth rate	4.80%
CDO Bond	1,100,000	Broker quotes	N/A	N/A
Forward Contract Derivatives	10,799,536	Valuation models	Discount rate	(2)
			Loss severity	(2)
			Cumulative default rate	(2)
			Voluntary prepayment rate	(2)

(1) Includes all impaired loans regardless of the period in which provision was recorded.

(2) Each forward contract derivative is associated with an underlying security that is individually modeled and valued based on the security's specific characteristics, which include current collateral composition, collateral performance projections,

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

tranche credit enhancement and other market factors. Accordingly, as the range of the unobservable inputs used to value each individual security varies greatly, disclosing a range or weighted average of such inputs would not be meaningful.

Impaired Loans and CMBS: The Asset Management department is responsible for the Company's valuation policies and procedures and reports to the Audit Committee of the Board of Directors. The Asset Management department analyzes changes in fair value from period to period through its quarterly impairment analysis. Many methods are used to develop and substantiate unobservable inputs such as analyzing discount and capitalization rates as well as researching revenue and expense growth. Significant increases in discount or capitalization rates in isolation would result in a significantly lower fair value measurement while significant increases in revenue growth rates in isolation would result in a significantly higher fair value measurement. Significant decreases in discount or capitalization rates in isolation would result in a significantly higher fair value measurement while significant decreases in revenue growth rates in isolation would result in a significantly lower fair value measurement.

CDO Bond and Forward Contract Derivatives: Fair value is approximated based on internally developed valuation models, which are compared to current non-binding market quotes received from financial sources that trade such securities. Significant unobservable inputs used to calculate the quotes are not readily available to the Company.

The Company measures certain assets and liabilities for which fair value is only disclosed. The fair value of these assets and liabilities was determined using the following inputs as of December 31, 2012:

			Fair Value Measurements Using Fair Value Hierarchy		
	Carrying Value	Fair Value	Level 1	Level 2	Level 3
Financial assets:					
Loans and investments, net	$ 1,325,667,053	$ 1,316,001,339	$ —	$ —	$ 1,316,001,339
Securities held-to-maturity, net	42,986,980	43,153,124	—	—	43,153,124
Financial liabilities:					
Repurchase agreements and credit facilities	$ 130,661,619	$ 130,363,126	$ —	$ —	$ 130,363,126
Collateralized debt obligations	812,452,845	590,901,757	—	—	590,901,757
Collateralized loan obligation	87,500,000	87,500,000	—	—	87,500,000
Junior subordinated notes	158,767,145	99,984,066	—	—	99,984,066
Notes payable	51,457,708	46,743,406	—	—	46,743,406
Mortgage note					

payable —real estate owned	53,751,004	50,005,874	—	—	50,005,874

Loans and investments, net: Fair values of loans and investments that are not impaired are estimated using Level 3 inputs in a discounted cash flow model, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality. Fair values of loans and investments that are impaired are estimated at Level 3 by the Company using significant judgments, which include assumptions regarding capitalization rates, leasing, creditworthiness of major tenants, occupancy rates, availability of financing, exit plan, loan sponsorship, actions of other lenders and other factors deemed necessary by management.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 11—Fair Value (Continued)

Securities held-to-maturity, net: Fair values are approximated at Level 3 based on internally developed valuation models, which are compared to current non-binding market quotes received from financial sources that trade such securities.

Repurchase agreements, credit facilities, notes payable and mortgage notes payable: Fair values are estimated at Level 3 using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates for financing with similar characteristics and credit quality.

Collateralized debt obligations and collateralized loan obligation: Fair values are estimated at Level 3 based on broker quotations, representing the discounted expected future cash flows at a yield which reflects current market interest rates and credit spreads.

Junior subordinated notes: Fair values are estimated at Level 3 based on broker quotations, representing the discounted expected future cash flows at a yield which reflects current market interest rates and credit spreads.

Note 12—Commitments and Contingencies

As of December 31, 2012, the Company had the following material contractual obligations (dollars in thousands):

	Payments Due by Period(1)						
Contractual Obligations	2013	2014	2015	2016	2017	Thereafter	Total
Repurchase agreements and credit facilities	$113,362	$ —	$ —	$ —	$17,300	$ —	$ 130,662
Collateralized debt obligations(2)	189,245	272,551	101,396	156,476	8,158	84,627	812,453
Collateralized loan obligation(3)	—	5,600	45,053	20,200	16,647	—	87,500
Junior subordinated notes(4)	—	—	—	—	—	175,858	175,858
Notes payable	1,300	—	—	50,158	—	—	51,458
Mortgage note payable—real estate owned(5)	—	53,751	—	—	—	—	53,751
Totals	$303,907	$331,902	$146,449	$226,834	$42,105	$260,485	$1,311,682

(1) Represents principal amounts due based on contractual maturities.

(2) Comprised of $139.9 million of CDO I debt, $237.2 million of CDO II debt and $435.4 million of CDO III debt with a weighted average contractual maturity of 1.53, 1.98 and 1.93 years, respectively, as of December 31, 2012. The balance of estimated interest due through maturity on CDO bonds reissued in 2010, which is included in the carrying values of the CDOs, totaled $20.8 million at December 31, 2012. During the year ended December 31, 2012, the Company repurchased, at a discount, $66.2 million of investment grade notes originally issued by the Company's CDO II and CDO III issuers and recorded a reduction of the outstanding debt balance of $66.2 million.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 12—Commitments and Contingencies (Continued)

(3) Represents $87.5 million of CLO debt with a weighted average contractual maturity of 3.09 years as of December 31, 2012.

(4) Represents the face amount due upon maturity. The carrying value is $158.8 million, which is net of a deferred amount of $17.1 million at December 31, 2012.

(5) Represents a $55.4 million mortgage note payable with a contractual maturity in 2014, related to a real estate investment purchased out of bankruptcy in March 2011, which was paid down in the second quarter of 2011 and had a balance of $53.8 million at December 31, 2012.

In accordance with certain loans and investments, the Company has outstanding unfunded commitments of $9.8 million as of December 31, 2012, that the Company is obligated to fund as the borrowers meet certain requirements. Specific requirements include, but are not limited to, property renovations, building construction, and building conversions based on criteria met by the borrower in accordance with the loan agreements. In relation to the $9.8 million outstanding balance at December 31, 2012, the Company's restricted cash balance and CDO III revolver capacity contained approximately $6.5 million available to fund the portion of the unfunded commitments for loans financed by the Company's CDO vehicles.

Litigation

The Company currently is neither subject to any material litigation nor, to management's knowledge, is any material litigation currently threatened against the Company other than the following:

On June 15, 2011, three related lawsuits were filed by the Extended Stay Litigation Trust (the "Trust"), a post-bankruptcy litigation trust alleged to have standing to pursue claims that previously had been held by Extended Stay, Inc. and the Homestead Village L.L.C. family of companies (together "ESI") (formerly Chapter 11 debtors, together the "Debtors") that have emerged from bankruptcy. Two of the lawsuits were filed in the United States Bankruptcy Court for the Southern District of New York, and the third in the Supreme Court of the State of New York, New York County. (The New York State Court action has been removed to the Bankruptcy Court). There are 73 defendants in the three lawsuits, including 55 corporate and partnership entities and 18 individuals. A subsidiary of the Company and certain other entities that are affiliates of the Company are included as defendants.

The lawsuits all allege, as a factual basis and background certain facts surrounding the June 2007 leveraged buyout of ESI from affiliates of Blackstone Capital. The Company's subsidiary, Arbor ESH II, LLC, had a $115.0 million investment in the Series A1 Preferred Units of a holding company of Extended Stay, Inc. The New York State Court action and one of the two federal court actions name as defendants, Arbor ESH II, LLC, Arbor Commercial Mortgage, LLC and ABT-ESI LLC, an entity in which the Company has a membership interest, among the broad group of defendants. These two actions were commenced by substantially identical complaints. The defendants are alleged in these complaints, among other things, to have breached fiduciary and contractual duties by causing or allowing the Debtors to pay illegal dividends or other improper distributions of value at a time when the Debtors were insolvent. These two complaints also allege that the defendants aided and abetted, induced, or participated in breaches of fiduciary duty, waste, and unjust enrichment ("Fiduciary Duty Claims") and name a director of the Company, and a former general counsel of Arbor Commercial

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 12—Commitments and Contingencies (Continued)

Mortgage, LLC, each of whom had served on the Board of Directors of ESI for a period of time. The Company is defending these two defendants and paying the costs of such defense. On the basis of the foregoing allegations, the Trust has asserted claims under a number of common law theories, seeking the return of assets transferred by the Debtors prior to the Debtors' bankruptcy filing.

In the third action, filed in Bankruptcy Court, the same plaintiff, the Trust, has named Arbor Commercial Mortgage, LLC and ABT-ESI LLC, together with a number of other defendants and asserts claims, including constructive and fraudulent conveyance claims under state and federal statutes, as well as a claim under the Federal Debt Collection Procedure Act.

The complaints seek among other things, damages of not less than $2.1 billion, plus punitive damages, on a joint and several basis, from each defendant in connection with the Fiduciary Duty Claims and the return of in excess of $50.0 million which is alleged to have been wrongfully received by the holders of the Series A1 Preferred Units, including Arbor ESH II, LLC. The Company has moved to dismiss the referenced actions and intends to vigorously defend against the claims asserted therein.

The Company has not made a loss accrual for this litigation because it believes that it is not probable that a loss has been incurred and an amount cannot be reasonably estimated.

Note 13—Equity

Common Stock

The Company's charter provides for the issuance of up to 500 million shares of common stock, par value $0.01 per share, and 100 million shares of preferred stock, par value $0.01 per share. The Company was incorporated in June 2003 and was initially capitalized through the sale of 67 shares of common stock for $1,005.

In June 2010, the Company filed a shelf registration statement on Form S-3 with the SEC under the 1933 Act with respect to an aggregate of $500.0 million of debt securities, common stock, preferred stock, depositary shares and warrants that may be sold by the Company from time to time pursuant to Rule 415 of the 1933 Act. On June 23, 2010, the SEC declared this shelf registration statement effective.

In June 2012, the Company completed a public offering in which it sold 3,500,000 shares of its common stock for $5.40 per share, and received net proceeds of approximately $17.5 million after deducting the underwriting discount and other offering expenses. The Company used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

In October 2012, the Company completed another public offering in which it sold 3,500,000 shares of its common stock for $5.80 per share, and received net proceeds of approximately $19.2 million after deducting the underwriting discount and other offering expenses. The Company used the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes.

On December 31, 2012, the Company entered into an "At-The-Market" ("ATM") equity offering sales agreement with JMP Securities LLC ("JMP") whereby, in accordance with the terms of the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 13—Equity (Continued)

agreement, from time to time the Company may issue and sell through JMP up to 6,000,000 shares of its common stock. Sales of the shares, if any, will be made by means of ordinary brokers' transactions or otherwise at market prices prevailing at the time of sale, at prices related to prevailing market prices or at negotiated prices. As of February 15, 2013, JMP has sold 787,700 shares for net proceeds of $5.5 million.

On February 1, 2013, the Company completed an underwritten public offering of 1.4 million shares of 9.0% Series A Cumulative Redeemable Preferred Stock generating net proceeds of approximately $33.6 million after deducting underwriting fees and estimated offering costs. In addition, the underwriters were granted an over-allotment option for 210,000 shares of the preferred stock which expires in March 2013. On February 5, 2013, the underwriters exercised their option for 151,500 shares providing additional net proceeds of approximately $3.7 million. The Company intends to use the net proceeds from the offering to make investments, to repurchase or pay liabilities and for general corporate purposes. The Company currently has $416.4 million available under the shelf registration.

In December 2011, the Board of Directors authorized a stock repurchase plan that enabled the Company to buy up to 0.5 million shares of its common stock beginning January 3, 2012. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. A Rule 10b5-1 plan permits the Company to repurchase shares at times when it might otherwise be prevented from doing so. The program expired on July 3, 2012, as of which date the Company had repurchased a total of 170,170 shares of its common stock under this stock repurchase plan at a total cost of $0.7 million and an average cost of $4.02 per share. In June 2011, the Board of Directors authorized a stock repurchase plan that enabled the Company to buy up to 1.5 million shares of its common stock. At management's discretion, shares could be acquired from time to time on the open market, through privately negotiated transactions or pursuant to a Rule 10b5-1 plan. As of December 31, 2011, the Company repurchased all of the 1.5 million shares of its common stock under this stock repurchase plan at a total cost of $5.7 million and an average cost of $3.83 per share.

The Company paid an incentive management fee for the twelve month period ending December 31, 2010 to ACM in a combination of cash and shares of common stock during the first quarter of 2011. The Company issued 666,927 shares of common stock in March 2011 for the portion of the incentive management fee paid in common stock.

The Company had 31,249,225 and 24,298,140 shares of common stock outstanding at December 31, 2012 and 2011, respectively.

Deferred Compensation

The Company has a stock incentive plan, under which the Board of Directors has the authority to issue shares of stock to certain directors, officers of the Company, and employees of the Company and ACM. On April 3, 2012, the Company issued an aggregate of 90,000 shares of fully vested common stock to the non-management members of the Board of Directors, as well as 6,255 shares of fully vested common stock to a former director who was also the corporate secretary, under the 2003 Stock Incentive Plan, as amended and restated in 2009 (the "Plan"), and recorded approximately $0.5 million to selling and administrative expense in its Consolidated Statement of Operations for the year ended

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 13—Equity (Continued)

December 31, 2012. On March 19, 2012, the Company issued 10,000 shares of fully vested common stock under the Plan to a director who is also an officer of the managing member of ACM, and recorded approximately $0.1 million to selling and administrative expense in the Company's Consolidated Statement of Operations for the year ended December 31, 2012. On January 22, 2012, the Company issued 15,000 shares of fully vested common stock under the Plan to a director who was re-appointed to the Board of Directors on December 19, 2011, and accrued approximately $0.1 million to selling and administrative expense in the Company's Consolidated Statement of Operations for the year ended December 31, 2011. In February 2013, the Board of Directors authorized the issuance of approximately 200,000 shares of restricted common stock under the Plan to certain employees of the Company and ACM. The effective date of the grant will be February 28, 2013 and will vest over a two year period. One third of the shares will vest as of the date of grant, one third will vest in February 2014, and the remaining third will vest in February 2015.

On December 12, 2011, the Company issued an aggregate of 250,000 shares of common stock under the Plan to certain employees of the Company and ACM. The 250,000 common shares underlying the stock awards granted were fully vested as of the date of grant and the Company recorded approximately $0.4 million to employee compensation and benefits and approximately $0.5 million to selling and administrative expense in its Consolidated Statement of Operations for the year ended December 31, 2011. On July 22, 2011, the Company issued an aggregate of 105,000shares of common stock under the Plan to the non-management members of the Board of Directors. The 105,000 common shares underlying the stock awards granted were fully vested as of the date of grant and the Company recorded approximately $0.5 million to selling and administrative expense in its Consolidated Statement of Operations for the year ended December 31, 2011. On April 1, 2010, the Company issued an aggregate of 90,000 shares of common stock under the Plan to the independent members of the Board of Directors. The 90,000 common shares underlying the stock awards granted were fully vested as of the date of grant and the Company recorded $0.3 million to selling and administrative expense in its Consolidated Statement of Operations for the year ended December 31, 2010. In May 2009, the Company's shareholders approved an amendment to the Plan to authorize the grant of stock options, as well as the authorization of an additional 1,250,000 shares of the Company's common stock to be reserved for issuance under the Plan.

Dividends paid on restricted shares are recorded as dividends on shares of the Company's common stock whether or not they are vested. For accounting purposes, the Company measures the compensation costs for these shares as of the date of the grant, with subsequent remeasurement for any unvested shares granted to non-employees of the Company with such amounts expensed against earnings, at the grant date (for the portion that vest immediately) or ratably over the respective vesting periods.

Warrants

In connection with a debt restructuring with Wachovia Bank in the third quarter of 2009, the Company issued Wachovia 1.0 million warrants at an average strike price of $4.00. Of such warrants, 500,000 warrants were exercisable $3.50, 250,000 warrants are exercisable at a price of $4.00 and 250,000 warrants are exercisable at a price of $5.00. All of the warrants are currently exercisable, expire on July 23, 2015 and no warrants have been exercised to date. The warrants were valued at

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 13—Equity (Continued)

approximately $0.6 million upon issuance using the Black-Scholes method which was fully amortized into interest expense in the Company's Consolidated Statement of Operations in 2010 upon closing a discounted payoff agreement with Wachovia Bank. See Note 7—"Debt Obligations" for further information relating to these transactions.

Note 14—Earnings Per Share

Basic earnings per share ("EPS") is calculated by dividing net income (loss) attributable to Arbor Realty Trust, Inc. by the weighted average number of shares of common stock outstanding during each period inclusive of unvested stock awards with full dividend participation. Diluted EPS is calculated by dividing net income (loss) by the weighted average number of shares of common stock outstanding plus the additional dilutive effect of common stock equivalents during each period using the treasury stock method. The Company's common stock equivalents include the dilutive effect of warrants outstanding and the potential settlement of incentive management fees in common stock.

The following is a reconciliation of the numerator and denominator of the basic and diluted earnings per share computations for the years ended December 31, 2012, 2011, and 2010, respectively.

	For the Year Ended December 31,					
	2012		2011		2010	
	Basic	Diluted	Basic	Diluted	Basic	Diluted
Income (loss) from continuing operations, net of noncontrolling interest	$16,172,850	$16,172,850	$(37,495,414)	$(37,495,414)	$113,421,744	$113,421,744
Income (loss) from discontinued operations	5,328,038	5,328,038	(2,816,299)	(2,816,299)	(511,533)	(511,533)
Net income (loss) attributable to Arbor Realty Trust, Inc.	$21,500,888	$21,500,888	$(40,311,713)	$(40,311,713)	$112,910,211	$112,910,211
Weighted average number of common shares outstanding	26,956,938	26,956,938	24,968,894	24,968,894	25,424,481	25,424,481
Dilutive effect of warrants(1)	—	254,349	—	—	—	148,707
Dilutive effect of incentive management fee shares(2)	—	—	—	—	—	168,102
Total weighted						

average number of common shares outstanding	26,956,938	27,211,287	24,968,894	24,968,894	25,424,481	25,741,290
Income (loss) from continuing operations, net of noncontrolling interest, per common share	$ 0.60	$ 0.59	$ (1.50)	$ (1.50)	$ 4.46	$ 4.41
Income (loss) from discontinued operations per common share	0.20	0.20	(0.11)	(0.11)	(0.02)	(0.02)
Net income (loss) attributable to Arbor Realty Trust, Inc. per common share	$ 0.80	$ 0.79	$ (1.61)	$ (1.61)	$ 4.44	$ 4.39

(1) In connection with a debt restructuring with Wachovia Bank in the third quarter of 2009, the Company issued Wachovia 1.0 million warrants at an average strike price of $4.00. For the year ended December 31, 2011, the Company had a net loss and thus did not have a dilutive effect from the warrants.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 14—Earnings Per Share (Continued)

(2) For the twelve month period ended December 31, 2010, ACM earned an incentive management fee. As provided for in the management agreement, ACM elected to be paid its incentive management fees partially in the Company's common shares totaling 666,927, which were issued in the first quarter of 2011. A portion of the shares of common stock are considered dilutive for the period in which they were earned but not yet issued.

Note 15—Related Party Transactions

Due from related party was approximately $0.1 million and $0.7 million at December 31, 2012 and 2011, respectively, and consisted primarily of escrows held by ACM and its affiliates related to real estate transactions.

At December 31, 2012, due to related party was $3.1 million and consisted primarily of base management fees due to ACM, which will be remitted by the Company in the first quarter of 2013. At December 31, 2011, due to related party was $2.7 million and consisted primarily of base management fees due to ACM which were remitted by the Company in the first quarter of 2012.

In September 2012, the Company purchased, at par, a $5.1 million bridge loan from ACM. The loan was originated by ACM in May 2012 to a third party entity that acquired a multifamily property from ACM. The loan bears interest at a rate of one-month LIBOR plus 5.25% with a LIBOR floor of 0.24% and has a maturity date of May 2015. Interest income recorded from this loan totaled approximately $0.1 million for the year ended December 31, 2012.

In December 2011, the Company completed a restructuring of a $67.6 million preferred equity loan on the Lexford Portfolio ("Lexford"), which is a portfolio of multi-family assets. The Company, along with a consortium of independent outside investors, made an additional preferred equity investment of $25.0 million in Lexford, of which the Company holds a $10.5 million interest, and Mr. Fred Weber, the Company's Executive Vice President of Structured Finance, holds a $0.5 million interest, as of December 31, 2012. The original preferred equity investment now bears a fixed rate of interest of 2.36%, revised from an original rate of LIBOR plus 5.00% (the loan was paying a modified rate of LIBOR plus 1.65% at the time of the new investment). The original preferred equity investment matures in June 2020. The new preferred equity investment has a fixed interest rate of 12% and also matures in June 2020. Interest income recorded from the preferred equity investment totaled approximately $1.3 million for the year ended December 31, 2012. The Company, along with the same outside investors, also made a $0.1 million equity investment into Lexford,of which the Company held a $44,000 noncontrolling interest, and does not have the power to control the significant activities of the entity. During the fourth quarter of 2011, the Company recorded losses from the entity against the equity investment, reducing the balance to zero. The Company records this investment under the equity method of accounting. In addition, under the terms of the restructuring, Lexford's first mortgage lender required a change of property manager for the underlying assets. The new management company is an affiliate of Mr. Ivan Kaufman, the Company's chairman and chief executive officer, and has a contract with the new entity for 7.5 years and will be entitled to 4.75% of gross revenues of the underlying properties, along with the potential to share in the proceeds of a sale or refinancing of the debt should the management company remain engaged by the new entity at the time of such capital event. In the first quarter of 2012, Mr. Fred Weber invested $250,000 in the new management company and currently owns a 23.5% ownership interest. Mr. Ivan Kaufman and his affiliates currently own a 53.9% ownership interest.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 15—Related Party Transactions (Continued)

During the second quarter of 2011, the Company originated a mortgage loan to a third party borrower secured by property purchased from ACM. The loan had an unpaid principal balance of $6.2 million, a maturity date of May 2014 and a variable interest rate of LIBOR plus 6.00%. Upon approving the transaction, the independent directors committee of the Board of Directors required the Company to sell the loan in 90 days and ACM agreed to guarantee the loan until it was sold. In the third quarter of 2011, the loan was sold to an affiliated entity of Mr. Ivan Kaufman for $6.2 million. Interest income recorded from this loan for the year ended December 31, 2011 was approximately $0.2 million.

During the second quarter of 2011, the Company originated a loan to a third party borrower for a portfolio of properties with an unpaid principal balance of $24.4 million as of December 31, 2012, of which one property in the portfolio was previously financed with an $11.7 million loan that was purchased by ACM. The $11.7 million loan was repaid as part of the $24.4 million loan on the portfolio. The new loan had a variable interest rate of LIBOR plus 4.75% and was repaid in full in January 2013. Interest income recorded from this loan totaled approximately $1.7 million and $0.8 million for the years ended December 31, 2012 and 2011, respectively.

During the first quarter of 2011, the Company originated four mortgage loans totaling $28.4 million to borrowers which were secured by property purchased from ACM or its affiliate. Two of the loans totaling $22.4 million have maturity dates of March 2014 and a combined weighted average variable interest rate of 6.20% as of December 31, 2012 and were secured by the same property. The third was a $2.0 million bridge loan with a maturity date of February 2013 and an interest rate of one-month LIBOR plus 6.00%, which was paid off in the third quarter of 2012. The fourth was a $4.0 million bridge loan with a maturity date in April 2013 and an interest rate of one-month LIBOR plus 6.00%. Interest income recorded from these loans totaled approximately $1.9 million and $1.5 million for the years ended December 31, 2012 and 2011, respectively.

In October 2010, the Company purchased, at par, a $4.7 million bridge loan from ACM. The loan was originated by ACM in June 2010 to a joint venture that acquired a condo development property in Brooklyn, New York. The loan bore interest at a rate of one-month LIBOR plus 8% with a LIBOR floor of 0.5% and a LIBOR cap of 1.5% and had a maturity date of June 2012. In the second quarter of 2012, the loan matured and was paid off. In addition, ACM contributed $0.9 million for a 50% non-controlling interest in an entity, which owns 28% of this joint venture. In the third quarter of 2011, ACM sold its investment in this joint venture to an affiliated entity of Mr. Ivan Kaufman for $0.9 million. Interest income recorded from this loan totaled approximately $0.1 million and $0.4 million for the years ended December 31, 2012 and 2011, respectively.

The Company is dependent upon its manager, ACM, with whom it has a conflict of interest, to provide services to the Company that are vital to its operations. The Company's chairman, chief executive officer and president, Mr. Ivan Kaufman, is also the chief executive officer and president of ACM, and, the Company's chief financial officer and treasurer, Mr. Paul Elenio, is the chief financial officer of ACM. In addition, Mr. Kaufman and his affiliated entities ("the Kaufman Entities") together beneficially own approximately 92% of the outstanding membership interests of ACM and certain of the Company's employees and directors also hold an ownership interest in ACM. Furthermore, one of the Company's former directors is general counsel to ACM and another of the Company's directors also serves as the trustee of one of the Kaufman Entities that holds a majority of the outstanding

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 15—Related Party Transactions (Continued)

membership interests in ACM and co-trustee of another Kaufman Entity that owns an equity interest in ACM. ACM currently holds approximately 5.3 million of the Company's common shares, representing approximately 17% of the voting power of the Company's outstanding stock as of December 31, 2012. The Company's Board of Directors approved a resolution under the Company's charter allowing Ivan Kaufman and ACM, (which Mr. Kaufman has a controlling equity interest in), to own more than the ownership interest limit of the Company's common stock stated in the Company's charter as amended. In May 2012, the Company's charter was amended to lower each of the general aggregate stock ownership limit and the general common stock ownership limit from 7% to 5% unless an exemption is granted by the Company's Board of Directors.

During the third quarter of 2010, the Company purchased a $15.0 million investment grade rated bond originally issued by its CDO II issuing entity for a price of approximately $6.2 million from ACM who had purchased it from a third party investor in the third quarter of 2010 for approximately $6.2 million, and recorded a gain on extinguishment of debt of approximately $8.9 million from this transaction.

In March 2010, an affiliated entity of Mr. Ivan Kaufman contributed $1.1 million for a 50% non-controlling interest in an entity, which owns 31% of a joint venture that acquired a condo development property in Brooklyn, New York. In addition, in March 2010, ACM originated a $3.0 million bridge loan to this joint venture. In May 2010, the Company purchased the loan at par. The loan was paid down $2.2 million in September 2010 and the remaining balance was paid off in October 2010. The loan bore interest at a rate of one-month LIBOR plus 10% and had a maturity date of March 2013. Interest income recorded from this loan for the year ended December 31, 2010 was approximately $0.1 million.

Note 16—Distributions

The Company must currently distribute at least 90% of its taxable income in order to qualify as a REIT and must distribute 100% of its taxable income in order not to be subject to corporate federal income taxes on retained income. Certain REIT income may be subject to state and local income taxes. The Company's assets or operations that would not otherwise comply with the REIT requirements are owned or conducted by its taxable REIT subsidiaries, the income of which is subject to federal and state income tax. Under current federal tax law, the income and the tax on such income attributable to certain debt extinguishment transactions realized in 2009 and 2010 have been deferred to future periods at the Company's election. The Company anticipates it will distribute all of its taxable income to its stockholders. Because taxable income differs from cash flow from operations due to non-cash revenues or expenses (such as depreciation or provision for loan losses), in certain circumstances, the Company may generate operating cash flow in excess of its distributions or, alternatively, may be required to borrow to make sufficient distribution payments. The Company was in compliance with all REIT requirements as of December 31, 2012, 2011 and 2010.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 16—Distributions (Continued)

The following table presents dividends paid by the Company on its common stock for the years ended December 31, 2012, 2011 and 2010:

			For Tax Purposes						
			Dividend Classified as Ordinary Income			Capital Gain Distribution		Dividend Classified as Return of Capital	
Year	Total Dividends Paid (In Thousands)	Dividend Paid Per Share	Percent	Dividend Paid Per Share	Qualified Dividend Income(1)	Percent	Dividend Paid Per Share	Percent	Dividend Paid Per Share
2012	$ 8,031	$ 0.285	100%	$ 0.285	—	—	—	—	—
2011	—	—	—	—	—	—	—	—	—
2010	—	—	—	—	—	—	—	—	—

(1) Qualified dividend income is eligible for reduced dividend rates.

The Company declared and paid distributions of $12,236, $14,500 and $14,500 for the years ended December 31, 2012, 2011 and 2010, respectively, representing the 12.5% return on the preferred shares issued to third parties by its subsidiary REIT.

Under the terms of the Company's amended junior subordinated note agreements, annual dividends were limited to 100% of taxable income to common shareholders and were required to be paid in the form of the Company's stock to the maximum extent permissible, with the balance payable in cash. Upon expiration of these terms in April 2012, the Company is permitted to pay 100% of its taxable income in cash. See Note 7—"Debt Obligations" for further details.

Note 17—Management Agreement

The Company, ARLP and Arbor Realty SR, Inc. have a management agreement with ACM, pursuant to which ACM provides certain services and the Company pays ACM a base management fee and under certain circumstances, an annual incentive fee.

The Company's chief executive officer is also ACM's chief executive officer and controlling equity owner and the Company's chief financial officer and treasurer is also ACM's chief financial officer. ACM has agreed to provide the Company with structured finance investment opportunities and loan servicing as well as other services necessary to operate its business. The Company relies to a significant extent on the facilities and resources of ACM to conduct its operations. ACM's management of the Company is under the direction or supervision of the Company's Board of Directors. The management agreement requires ACM to manage the business affairs in conformity with the policies and the general investment guidelines that are approved and monitored by the Company's Board of Directors.

The Company and its operating partnership have also entered into a services agreement with ACM pursuant to which its asset management group provides asset management services to ACM. In the event the services provided by its asset management group pursuant to the agreement exceed by more than 15% per quarter the level of activity anticipated by the Board of Directors, it will negotiate in good faith with its manager an adjustment to the manager's base management fee under the

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 17—Management Agreement (Continued)

management agreement, to reflect the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by its asset management group.

The base management fee is an arrangement whereby the Company reimburses ACM for its actual costs incurred in managing the Company's business based on the parties' agreement in advance on an annual budget with subsequent quarterly true-ups to actual costs. The 2012, 2011 and 2010 base management fees were $10.0 million, $8.3 million and $7.6 million, respectively, and the 2013 base management fee is estimated to be approximately $10.8 million. All origination fees on investments are retained by the Company.

The incentive fee is calculated as (1) 25% of the amount by which (a) the Company's funds from operations per share, adjusted for certain gains and losses including gains from the retirement and restructuring of debt and 60% of any loan loss reserve recoveries (spread over a three year period), exceeds (b) the product of (x) 9.5% per annum or the Ten Year U.S. Treasury Rate plus 3.5%, whichever is greater, and (y) the greater of $10.00 or the weighted average of book value of the net assets contributed by ACM to ARLP per ARLP partnership unit, the offering price per share of the Company's common equity in the private offering on July 1, 2003 and subsequent offerings and the issue price per ARLP partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of the Company's outstanding shares.

The minimum return, or incentive fee hurdle to be reached before an incentive fee is earned, is a percentage applied on a per share basis to the greater of $10.00 or the average gross proceeds per share. In addition, 60% of any loan loss and other reserve recoveries are eligible to be included in the incentive fee calculation, which recoveries are spread over a three year period.

The management agreement also allows the Company to consider, from time to time, the payment of additional "success-based" fees to ACM for accomplishing certain specified corporate objectives; has a termination fee of $10.0 million; and is renewable automatically for successive one-year terms, unless terminated with six months prior written notice. If the Company terminates or elects not to renew the management agreement without cause, it is required to pay the termination fee of $10.0 million.

The incentive fee is measured on an annual basis. However, when applicable, the Company will pay the annual incentive fee in quarterly installments, each within 60 days of each fiscal quarter. The quarterly installments are calculated based on the results for the period of twelve months ending on the last day of each quarter with respect to which such installment is payable. Each quarterly installment payment is deemed to be an advance of a portion of the incentive fee payable for the year, with an adjustment at year end to reflect the full year's results. At least 25% of any incentive fee is paid to ACM in shares of the Company's common stock, subject to ownership limitations in the Company's charter. For purposes of determining the number of shares that are paid to ACM to satisfy the common stock portion of the incentive fee from and after the date the Company's common shares are publicly traded, each common share shall have a value equal to the average closing price per common share based on the last twenty days of the fiscal quarter with respect to which the incentive fee is being paid.

The incentive fee is accrued as it is earned. The expense incurred for incentive fee paid in common stock is determined using the amount of stock calculated as noted above and the quoted market price of the stock on the last day of each quarter. At December 31 of each year, the Company

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 17—Management Agreement (Continued)

remeasures the incentive fee expense paid to ACM in shares of the Company's common stock in accordance with current accounting guidance, which discusses how to determine the expense when certain terms are not known prior to the measurement date. Accordingly, any expense recorded related to common stock issued as a portion of incentive fee is adjusted to reflect the fair value of the stock on the measurement date when the final calculation of the total incentive fee is determined. In the event the calculated incentive fee for the full year is an amount less than the total of the installment payments made to ACM for the year, ACM will refund to the Company the amount of such overpayment in cash regardless of whether such installments were paid in cash or common stock. In such a case, the Company would record a negative incentive fee expense in the quarter when such overpayment is determined.

ACM is responsible for all costs incident to the performance of its duties under the management agreement, including compensation of its employees, rent for facilities and other "overhead" expenses. The Company is required to pay ACM management fees as well as reimburse ACM for all expenses incurred on behalf of the Company in connection with the raising of capital or the incurrence of debt, interest expenses, taxes and license fees, litigation and extraordinary or non recurring expenses.

ACM, pursuant to the management agreement with the Company, and Mr. Kaufman, pursuant to his non-competition agreement with the Company, have granted the Company a right of first refusal to pursue all opportunities identified by them or their affiliates to invest in multifamily and commercial mortgage loans and customized financing transactions, including bridge loans, mezzanine loans, preferred equity investments, note acquisitions and participation interests in owners of real properties (collectively, "Structured Finance Investments") as long as such investment opportunities are consistent with the Company's investment objectives and guidelines and such investments would not adversely affect the Company's status as a REIT. These agreements also provide that ACM or Mr. Kaufman, as the case may be, may pursue any opportunity in Structured Finance Investments if the opportunity is rejected by both the Company's credit committee and a majority of the Company's independent directors.

Pursuant to the management agreement and Mr. Kaufman's non-competition agreement, the Company has agreed not to pursue, and to allow ACM and its affiliates, including Mr. Kaufman, to pursue opportunities to invest in multi-family and commercial mortgage loans that meet the underwriting and approval guidelines of Fannie Mae, the Federal Housing Administration and conduit commercial lending programs secured by first liens on real property (collectively, the "Manager Target Investments"). In addition to its exclusive right to pursue Manager TargetInvestments, ACM and its affiliates may pursue any other type of investment (except Structured Finance Investments) without the Company's consent.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 17—Management Agreement (Continued)

The following table sets forth the Company's base and incentive compensation management fees for the periods indicated:

	For the Year Ended December 31,		
Management Fees:	**2012**	**2011**	**2010**
Base	$ 10,000,000	$ 8,300,000	$ 7,600,000
Incentive	—	—	18,765,448
Total management fee	$ 10,000,000	$ 8,300,000	$ 26,365,448

For the year ended December 31, 2012, 2011 and 2010 the Company recorded base management fee expenses of $10.0 million, $8.3 million and $7.6 million, respectively. As mentioned above, the management agreement allows for "success-based" payments to be paid to the Company's manager upon the completion of specified corporate objectives in addition to the standard base management fee. No "success-based" payments were made for the years ended December 31, 2012, 2011 and 2010. Of the base management fees recorded, approximately$3.1 million and $2.7 million was included in due to related party at December 31, 2012 and 2011, respectively. These amounts are paid in the quarters subsequent to each respective year end.

Installments of the annual incentive fee are subject to quarterly recalculation and potential reconciliation at the end of the fiscal year, and any overpayments are required to be repaid in accordance with the management agreement. For the twelve month period ending December 31, 2010, ACM earned an incentive management fee of $18.8 million. As more fully described in Note 7—"Debt Obligations", on June 30, 2010, the Company closed on a discounted payoff agreement with Wachovia and retired all of its debt with Wachovia at the discount described. The successful completion of the retirement of the Wachovia debt was a significant contributor to an incentive fee for the manager in 2010. As indicated earlier, gains on the extinguishment of debt are included in the incentive fee calculation and the gain, net of fees, certain expenses, and taxes, attributable to the Wachovia transaction was $157.5 million. For the years ended December 31, 2012 and 2011, ACM did not earn an incentive management fee.

Additionally, in 2007, ACM, received an incentive fee installment totaling $19.0 million which was recorded as a prepaid management fee related to the incentive fee on $77.1 million of deferred revenue recognized on the transfer of control of the 450 West 33rd Street property, which is one of the Company's equity affiliates.

Note 18—Income Taxes

The Company is organized and conducts its operations to qualify as a REIT and to comply with the provisions of the Internal Revenue Code with respect thereto. A REIT is generally not subject to federal income tax on taxable income which is distributed to its stockholders, provided that at least 90% of taxable income is distributed and provided that certain other requirements are met. The Company did not have REIT—federal taxable income n of dividends paid and net operating loss deductions for the years ended December 31, 2012, 2011 and 2010, and therefore, has not provided for federal income tax expense, except for $0.4 million of federal alternative minimum tax recorded in 2012.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 18—Income Taxes (Continued)

In 2012 and 2010, the Company recorded $0.2 million and $0.9 million, respectively, of estimated state income taxes incurred in those states that do not adopt the federal tax law that allows the Company to elect to defer income generated from certain debt extinguishment transactions. There were no such estimated income taxes for the year ended December 31, 2011.For the 2009 and 2010 tax years, the income and the tax on certain debt extinguishment transactions was, at our election, deferred to future periods.

Certain of the Company's assets or operations that would not otherwise comply with the REIT requirements, are owned or conducted by its taxable REIT subsidiaries, the income of which is subject to federal and state income taxes. The Company did not record a provision for current income taxes related to the assets that are held in taxable REIT subsidiaries for the years ended December 31, 2012, 2011and 2010 as they were in a net loss position. However, during the year ended December 31, 2012, the Company recorded a $1.4 million receivable for theexpected refund of federal income taxes paid by a taxable REIT subsidiary in a prior year, which was received in 2012.

The Company's (benefit) provision for income taxes was comprised as follows:

	Years Ended December 31,		
	2012	2011	2010
Current tax (benefit) provision:			
Federal	$ (1,025,508)	$ —	$ —
State	245,517	—	850,000
Total current tax (benefit) provision	(779,991)	—	850,000
Deferred tax (benefit) provision:			
Federal—net of valuation allowance	(13,695)	—	977,915
State—net of valuation allowance	(7,872)	—	732,085
Total deferred tax (benefit) provision	(21,567)	—	1,710,000
Total (benefit) provision	$ (801,558)	$ —	$ 2,560,000

The Company's effective income tax rate as a percentage of pretax income or loss differed from the U.S. federal statutory rate was as follows:

	Years Ended December 31,		
	2012	2011	2010
U.S. federal statutory rate	35.0%	35.0%	35.0%
REIT non-taxable income	(41.0)	(41.9)	(34.1)
State and local income taxes, net of federal tax benefit	(1.1)	(0.9)	0.7
Change in valuation allowance	9.8	7.8	0.6
Refund	(6.5)	—	—
Effective income tax rate	(3.8)%	—%	2.2%

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 18—Income Taxes (Continued)

The significant components of deferred tax assets (liabilities) were as follows:

	December 31,	
	2012	2011
Deferred tax assets (liabilities):		
Expenses not currently deductible	$ 1,705,929	$ —
Net operating and capital loss carryforwards	3,180,736	5,370,646
Interest in equity affiliates—net	(1,034,317)	(256,516)
Deferred tax assets	3,852,348	5,114,130
Valuation allowance	(3,830,781)	(5,114,130)
Net deferred tax asset	$ 21,567	$ —

Deferred tax assets, net of deferred tax liabilities, are included in other assets in the Consolidated Balance Sheet. At December 31, 2012, the Company had approximately $4.9 million of deferred tax assets consisting of expenses not currently deductible, net operating loss carryforwards and capital loss carryforwards. In addition, the Company's deferred tax assets are offset by approximately $1.0 million of deferred tax liabilities resulting from timing differences relating to investments in equity affiliates, and a valuation allowance of approximately $3.8 million.

At December 31, 2011, the Company had approximately $5.4 million of deferred tax assets consisting of net operating loss carryforwards and capital loss carryforwards. In addition, the Company's deferred tax assets are offset by approximately $0.3 million of deferred tax liabilities resulting from timing differences relating to investments in equity affiliates, and a valuation allowance of approximately $5.1 million. The majority of the change in the deferred tax assets was due to the realization of transactions that occurred at the underlying partnerships during 2011. As a result of these transactions, the related valuation allowance was reversed.

The taxable REIT subsidiaries have federal and state net operating loss carryforwards as of December 31, 2012 and 2011 of approximately $17.5 million and $11.0 million, respectively, which will expire through 2033 and 2032, respectively. The taxable REIT subsidiaries also have a federal and state capital loss carryover as of December 31, 2011 of approximately $2.0 million, which will expire in 2017. There were no capital loss carryovers as of December 31, 2012. The Company has concluded that it is more likely than not that the net operating losses and capital loss carryovers will not be utilized during the carryforward period, and as such, net of deferred tax liabilities, the Company has established a valuation allowance against these net deferred tax assets.

The Company has approximately $162.0 million of federal and state net operating losses and approximately $200.0 million of capital losses as of December 31, 2012. The net operating losses will expire through 2032 and the capital losses will expire through 2018.

The Company has assessed its tax positions for all open tax years, which includes 2009 to 2012, and concluded there were no material uncertainties to be recognized. The Company's accounting policy with respect to interest and penalties related to tax uncertainties is to classify these amounts as provision for income taxes. The Company has not recognized any interest and penalties related to tax uncertainties for the years ended December 31, 2012, 2011 and 2010.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 19—Due to Borrowers

Due to borrowers represents borrowers' funds held by the Company to fund certain expenditures or to be released at the Company's discretion upon the occurrence of certain pre-specified events, and to serve as additional collateral for borrowers' loans. While retained, these balances earn interest in accordance with the specific loan terms they are associated with.

Note 20—Summary Quarterly Consolidated Financial Information—Unaudited

The following tables represent summarized quarterly financial data of the Company for the years ended December 31, 2012 and 2011 which, in the opinion of management, reflects all adjustments, consisting only of normal recurring adjustments, necessary for a fair presentation of the Company's results of operations.

Net income (loss) shown agrees with the Company's quarterly report(s) on Form 10-Q as filed with the Securities and Exchange Commission. However, individual line items vary from such reports due to the presentation of discontinued operations being retroactively reclassified from property operating income and expenses and loss on impairment of real estate due to the sale of a real estate investment that was part of a portfolio of hotel properties in 2012 and reclassifying real estate owned to real estate held-for-sale in 2011.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 20—Summary Quarterly Consolidated Financial Information—Unaudited (Continued)

	For the Three Months Ended			
	December 31, 2012	September 30, 2012	June 30, 2012	March 31, 2012
Net interest income	$ 11,034,505	$ 10,520,512	$ 9,731,906	$ 7,845,007
Total other revenue	6,148,892	8,048,602	8,479,049	8,777,500
Total other expenses	18,081,083	20,067,382	23,894,103	22,717,713
Loss from continuing operations before gain on extinguishment of debt, income (loss) from equity affiliates and benefit (provision) for income taxes	(897,686)	(1,498,268)	(5,683,148)	(6,095,206)
Gain on extinguishment of debt	—	4,144,688	20,968,214	5,346,121
Income (loss) from equity affiliates	2,347	(225,493)	(224,136)	(250,574)
(Loss) income before (provision) benefit for income taxes	(895,339)	2,420,927	15,060,930	(999,659)
Benefit (provision) for income taxes	275,000	(275,000)	(600,000)	1,401,558
(Loss) income from continuing operations	(620,339)	2,145,927	14,460,930	401,899
Gain on sale of real estate held-for-sale	466,310	—	—	3,487,145
(Loss) income from operations of real estate held-for-sale	(59,241)	(31,622)	1,138,899	326,547
Income from discontinued operations	407,069	(31,622)	1,138,899	3,813,692
Net (loss) income	(213,270)	2,114,305	15,599,829	4,215,591
Net income attributable to noncontrolling interest	53,969	53,976	53,811	53,811
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (267,239)	$ 2,060,329	$ 15,546,018	$ 4,161,780
Basic (loss) earnings per common share:				
(Loss) income from continuing operations, net of noncontrolling interest	$ (0.02)	$ 0.07	$ 0.57	$ 0.01
Income from discontinued operations	0.01	—	0.05	0.16

Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (0.01)	$ 0.07	$ 0.62	$ 0.17
Diluted (loss) earnings per common share:				
(Loss) income from continuing operations, net of noncontrolling interest	$ (0.02)	$ 0.07	$ 0.57	$ 0.01
Income from discontinued operations	0.01	—	0.05	0.16
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (0.01)	$ 0.07	$ 0.62	$ 0.17

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

December 31, 2012

Note 20—Summary Quarterly Consolidated Financial Information—Unaudited (Continued)

	For the Three Months Ended			
	December 31, 2011	September 30, 2011	June 30, 2011	March 31, 2011
Net interest income	$ 7,351,825	$ 7,117,159	$ 2,780,021	$ 4,966,618
Total other revenue	4,745,155	7,006,210	7,366,740	4,429,872
Total other expenses	41,680,058	24,950,569	21,239,155	9,723,180
Loss from continuing operations before gain on extinguishment of debt and (loss) income from equity affiliates	(29,583,078)	(10,827,200)	(11,092,394)	(326,690)
Gain on extinguishment of debt	2,958,556	5,100,462	1,926,700	892,500
(Loss) income from equity affiliates	(94,748)	3,717,323	24,446	24,365
(Loss) income from continuing operations	(26,719,270)	(2,009,415)	(9,141,248)	590,175
Loss on impairment of real estate held-for-sale	(700,000)	—	(750,000)	—
Loss on operations of real estate held-for-sale	(308,591)	(378,769)	(409,609)	(269,330)
Loss from discontinued operations	(1,008,591)	(378,769)	(1,159,609)	(269,330)
Net (loss) income	(27,727,861)	(2,388,184)	(10,300,857)	320,845
Net income attributable to noncontrolling interest	54,037	54,045	53,878	53,696
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (27,781,898)	$ (2,442,229)	$(10,354,735)	$ 267,149
Basic (loss) earnings per common share:				
(Loss) income from continuing operations, net of noncontrolling interest	$ (1.11)	$ (0.08)	$ (0.36)	$ 0.02
Loss from discontinued operations	(0.04)	(0.02)	(0.05)	(0.01)
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (1.15)	$ (0.10)	$ (0.41)	$ 0.01
Diluted (loss) earnings per common share:				
(Loss) income from				

continuing operations, net of noncontrolling interest	$ (1.11)	$ (0.08)	$ (0.36)	$ 0.02
Loss from discontinued operations	(0.04)	(0.02)	(0.05)	(0.01)
Net (loss) income attributable to Arbor Realty Trust, Inc.	$ (1.15)	$ (0.10)	$ (0.41)	$ 0.01

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

SCHEDULE IV—LOANS AND OTHER LENDING INVESTMENTS

DECEMBER 31, 2012

Type	Location	Periodic Payment Terms(1)	Maturity Date(2)	Interest Pay Rate Index(3)	Prior Liens	Face Amount	Carrying Amount(4)
Bridge Loans:							
Bridge loans in excess of 3% of carrying amount of total loans:							
Multi-family	Various	IO	2014 - 2017	LIBOR + 3.49% - 5.60% Floor 0.48%	—	164,930,532	159,217,851
Office	NY	IO	2016	Fixed 6.30%	—	42,000,000	41,688,249
					—	206,930,532	200,906,100
Bridge loans less than 3% of carrying amount of total loans:							
Multi-family	Various	IO	2013 - 2020	LIBOR + 1.50% - 10.34% Floor 0.20% - 1.00% Fixed 10.00% - 15.00%	11,000,000	417,675,556	411,235,300
Office	Various	IO	2013 - 2020	LIBOR + 1.80% - 8.00% Floor 0.24% - 5.50% Fixed 6.30%	—	141,092,838	136,725,524
Land	Various	IO	2013 - 2016	LIBOR + 2.00% - 4.50% Fixed 8.75% - 11.64%	—	131,413,011	75,227,710
Hotel	Various	IO / PI	2013 - 2017	LIBOR + 2.88% - 10.2% Floor 0.50% - 1.47%	—	66,942,284	66,942,284
Commercial	NY	PI	2017	LIBOR + 3.23% Floor 0.24%	—	23,322,617	23,322,617
Retail	Various	IO	2013 - 2016	LIBOR + 5.75% - 6.75% Floor 0.19% - 0.29%	—	19,350,000	19,238,419
					11,000,000	799,796,306	732,691,854
Total Bridge Loans					11,000,000	1,006,726,838	933,597,954
Mezzanine Loans:							
Mezzanine loans less than 3% of carrying amount of total loans:							
Multi-family	Various	IO / PI	2013 - 2046	LIBOR + 2.50% - 12.00% Floor 0.21% - 2.50% Fixed 4.00% - 11.00%	269,957,337	70,960,261	54,044,387
Office	Various	IO / PI	2015 - 2017	Fixed 9.39% - 10.00%	183,198,098	22,078,509	19,983,748
Land	CA	IO	2013	—	—	9,332,969	—
Commercial	NY	PI	2017	LIBOR + 4.23% Floor 0.24%	—	471,900	469,060
Condo	CA	IO	2013	LIBOR + 3.00% Floor 0.25%	32,838,073	10,000,000	—
Total Mezzanine Loans					485,993,5080	112,843,639	74,497,194

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

SCHEDULE IV—LOANS AND OTHER LENDING INVESTMENTS (Continued)

DECEMBER 31, 2012

Type	Location	Periodic Payment Terms(1)	Maturity Date(2)	Interest Pay Rate Index(3)	Prior Liens	Face Amount	Carrying Amount(4)
Junior Participations:							
Junior participation loans in excess of 3% of carrying amount of total loans:							
Office	Various	IO	2013 - 2016	LIBOR + 1.00% - 5.71%	107,861,151	135,000,000	135,000,000
Junior participation loans less than 3% of carrying amount of total loans:							
Multi-family	MD	IO	2014	LIBOR + 1.25%	185,000,000	32,000,000	26,787
Office	Various	IO / PI	2015 - 2017	Fixed 4.00% - 12.80%	1,332,730,905	74,990,991	46,890,538
Hotel	Various	IO / PI	2014 - 2017	LIBOR + 1.79% Fixed 9.35%	72,632,653	38,671,507	34,999,993
Total Junior Participations					1,698,224,709	280,662,498	216,917,318
Preferred Equity Loans:							
Preferred equity loans less than 3% of carrying amount of total loans:							
Multi-family	Various	IO	2014 - 2020	LIBOR + 9.93% Fixed 2.36% - 12.00%	1,009,580,000	85,573,672	85,534,653
Condo	NY	IO	2014	Fixed 17.00%	10,000,000	15,250,000	15,119,934
Total Preferred Equity Loans					1,019,580,000	100,823,672	100,654,587
Total Loans					$3,214,798,217	$1,501,056,647	$1,325,667,053

(1) IO = Interest Only, PI = Principal and Interest.

(2) Maturity date does not include possible extensions.

(3) References to LIBOR are to one-month LIBOR unless specifically stated otherwise.

(4) The federal income tax basis is approximately $1.5 billion.

ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

SCHEDULE IV—LOANS AND OTHER LENDING INVESTMENTS (Continued)

DECEMBER 31, 2012

The following table reconciles the Company's loans and investments carrying amounts for the periods indicated:

	For the Year Ended December 31,		
	2012	2011	2010
Balance at beginning of year	$ 1,302,440,660	$ 1,414,225,388	$ 1,700,774,288
Additions during period:			
New loan originations	275,633,168	206,477,919	24,900,137
Funding of unfunded loan commitments(1)	7,271,166	3,660,638	8,198,836
Accretion of unearned revenue	2,794,627	2,203,739	1,498,207
Loan charge-offs	46,585,800	27,062,564	194,910,892
Recoveries of reserves	917,966	6,124,954	18,120,766
Reclassification of allowance for loan loss to real estate owned	—	31,710,929	—
Market value adjustments	—	—	8,758,598
Reclassification of interest receivable	—	—	3,344,907
Reclassification from due to borrowers	—	—	177,302
Deductions during period:			
Loan payoffs	(171,822,185)	(108,668,220)	(134,272,783)
Proceeds and receivables from sale of loans	(17,945,000)	(31,450,000)	(60,000,000)
Proceeds used against junior loan participations	(34,000,000)	—	—
Loan paydowns	(13,889,148)	(55,307,130)	(41,463,722)
Loss on sale and restructuring of loans	—	(4,710,000)	(7,214,481)
Use of loan charge-offs	(46,585,800)	(27,062,564)	(194,910,892)
Loans converted to real estate owned	—	(114,810,469)	—
Provision for loan losses	(23,828,224)	(44,810,000)	(100,932,519)
Unearned revenue and costs	(1,905,977)	(2,207,088)	(5,550)
Market value adjustments	—	—	(7,658,598)
Balance at end of year	$ 1,325,667,053	$ 1,302,440,660	$ 1,414,225,388

(1) In accordance with certain loans and investments, the Company has outstanding unfunded commitments that it is obligated to fund as the borrowers meet certain requirements. Specific requirements include but are not limited to property renovations, building construction, and building conversions based on criteria met by the borrower in accordance with the loan agreements.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Not applicable.

ITEM 9A. CONTROLS AND PROCEDURES

Under the direction of our Chief Executive Officer and Chief Financial Officer, we have evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2012. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of December 31, 2012.

No change in internal control over financial reporting occurred during the quarter ended December 31, 2012 that has materially affected, or is reasonably likely to materially affect, such internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting

Management of Arbor Realty Trust, Inc. is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934, as amended, as a process designed by, or under the supervision of, the company's principal executive and principal financial officers and effected by the Company's Board of Directors, management and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

- pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with the authorization of management and directors of the Company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting can provide only reasonable assurance with respect to financial statement preparation and presentation. Projections of any evaluation of effectiveness to future periods are subject to the risks that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2012. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control—Integrated Framework.

Based on this assessment, management concluded that, as of December 31, 2012, the Company's internal control over financial reporting is effective.

The Company's independent registered public accounting firm has issued a report on management's assessment of the Company's internal control over financial reporting. This report appears on the following page of this annual report on Form 10-K.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of
Arbor Realty Trust, Inc. and Subsidiaries

We have audited Arbor Realty Trust, Inc. and Subsidiaries' internal control over financial reporting as of December 31, 2012, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Arbor Realty Trust, Inc. and Subsidiaries' management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Arbor Realty Trust, Inc. and Subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Arbor Realty Trust, Inc. and Subsidiaries as of December 31, 2012 and 2011 and the related consolidated statements of operations, comprehensive income (loss), changes in equity and cash flows for each of the three years in the period ended December 31, 2012 of Arbor Realty Trust, Inc. and Subsidiaries and our report dated February 15, 2013 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

New York, New York
February 15, 2013

ITEM 9B. OTHER INFORMATION

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information regarding our directors and executive officers set forth under the captions "Board of Directors" and "Executive Officers" of the 2013 Proxy Statement is incorporated herein by reference.

The information regarding compliance with Section 16(a) of the Securities Exchange Act of 1934 set forth under the caption "Security Ownership of Certain Beneficial Owners and Management" in the 2013 Proxy Statement is incorporated herein by reference.

The information regarding our code of ethics for our chief executive and other senior financial officers under the caption "Senior Officer Code of Ethics and Code of Business Conduct and Ethics" in the 2013 Proxy Statement is incorporated herein by reference.

The information regarding our audit committee under the caption "Audit Committee" in the 2013 Proxy Statement is incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

The information contained in the section captioned "Executive Compensation" of the 2013 Proxy Statement is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information contained in the section captioned "Security Ownership of Certain Beneficial Owners and Management" of the 2013 Proxy Statement is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

The information contained in the section captioned "Certain Relationships and Related Transactions" and "Director Independence" of the 2013 Proxy Statement is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information regarding our independent accountant's fees and services in the sections captioned "Independent Accountants' Fees" and "Audit Committee Pre-Approval Policy" of the 2013 Proxy Statement is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) and (c) Financial Statements and Schedules.

See the "Index to the Consolidated Financial Statements of Arbor Realty Trust, Inc. and Subsidiaries" included in Item 8 of this report.

(b) Exhibits.

In reviewing the agreements included as exhibits to this Annual Report on Form 10-K, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about Arbor or the other parties to the agreements. The agreements contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;
- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and
- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time. Additional information about Arbor may be found elsewhere in this report and Arbor's other public filings, which are available without charge through the SEC's website at http://www.sec.gov.

Exhibit Number	Description
3.1	Articles of Incorporation of Arbor Realty Trust, Inc.*
3.2	Articles of Amendment to Articles of Incorporation of Arbor Realty Trust, Inc. /*\
3.3	Articles Supplementary of Arbor Realty Trust, Inc.*
3.4	Articles Supplementary of 8.250% Series A Cumulative Redeemable Preferred Stock. ♣
3.5	Amended and Restated Bylaws of Arbor Realty Trust, Inc./*\/*\
4.1	Form of Certificate for Common Stock.*
4.2	Common Stock Purchase Warrant, Certificate No. W-1, dated July 23, 2009, issued to Wachovia Bank, National Association.•
4.3	Common Stock Purchase Warrant, Certificate No. W-2, dated July 23, 2009, issued to Wachovia Bank, National Association.•
4.4	Common Stock Purchase Warrant, Certificate No. W-3, dated July 23, 2009, issued to Wachovia Bank, National Association.•
4.5	Specimen 8.250% Series A Cumulative Redeemable Preferred Stock Certificate. ♣

Exhibit Number	Description
10.1	Second Amended and Restated Management Agreement, dated August 6, 2009, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership and Arbor Realty SR, Inc. ♣♣♣
10.2	Services Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership.*
10.3	Non-Competition Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Realty Limited Partnership and Ivan Kaufman.*
10.4	Second Amended and Restated Agreement of Limited Partnership of Arbor Realty Limited Partnership, dated January 18, 2005, by and among Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership, Arbor Realty LPOP, Inc. and Arbor Realty GPOP, Inc.†
10.5	Registration Rights Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Commercial Mortgage, LLC.*
10.6	2003 Omnibus Stock Incentive Plan, (as amended and restated on June 18, 2009). ♣♣♣
10.7	Form of Restricted Stock Agreement.*
10.8	Benefits Participation Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Management, LLC.*
10.9	Form of Indemnification Agreement.*
10.10	Amended and Restated Loan Purchase and Repurchase Agreement, dated July 12, 2004, by and among Arbor Realty Funding LLC, as seller, Wachovia Bank, National Association, as purchaser, and Arbor Realty Trust, Inc., as guarantor.**
10.11	Indenture, dated January 19, 2005, by and between Arbor Realty Mortgage Securities Series 2004-1, Ltd., Arbor Realty Mortgage Securities Series 2004-1 LLC, Arbor Realty SR, Inc. and LaSalle Bank National Association.†
10.12	Indenture, dated January 11, 2006, by and between Arbor Realty Mortgage Securities Series 2005-1, Ltd., Arbor Realty Mortgage Securities Series 2005-1 LLC, Arbor Realty SR, Inc. and LaSalle Bank National Association.‡
10.13	Master Repurchase Agreement, dated as of October 26, 2006, by and between Column Financial, Inc. and Arbor Realty SR, Inc. and Arbor TRS Holding Company Inc., as sellers, Arbor Realty Trust, Inc., Arbor Realty Limited Partnership, as guarantors, and Arbor Realty Mezzanine LLC.‡‡
10.14	Indenture, dated December 14, 2006, by and between Arbor Realty Mortgage Securities Series 2006-1, Ltd., Arbor Realty Mortgage Securities Series 2006-1 LLC, Arbor Realty SR, Inc. and Wells Fargo Bank, National Association. ♦
10.15	Master Repurchase Agreement, dated as of March 30, 2007, by and between Variable Funding Capital Company LLC, as purchaser, Wachovia Bank, National Association, as swingline purchaser, Wachovia Capital Markets, LLC, as deal agent, Arbor Realty Funding LLC, Arbor Realty Limited Partnership and ARSR Tahoe, LLC, as sellers, Arbor Realty Trust, Inc., Arbor Realty Limited Partnership and Arbor Realty SR, Inc., as guarantors. ♦♦

10.16 Credit Agreement, dated November 6, 2007, by and between Arbor Realty Funding, LLC, ARSR Tahoe, LLC, Arbor Realty Limited Partnership, and ART 450 LLC, as Borrowers, Arbor Realty Trust, Inc., Arbor Realty Limited Partnership, and Arbor Realty SR, Inc., as Guarantors, and Wachovia Bank, National Association, as Administrative Agent. ♦♦♦

Exhibit Number	Description
10.17	Junior Subordinated Indenture, dated May 6, 2009, between Arbor Realty SR, Inc. and The Bank of New York Mellon Trust Company, National Association, as Trustee relating to $29,400,000 aggregate principal amount of Junior Subordinated Notes due 2034. ♣♣
10.18	Junior Subordinated Indenture, dated May 6, 2009, between Arbor Realty SR, Inc. and The Bank of New York Mellon Trust Company, National Association, as Trustee relating to $168,000,000 aggregate principal amount of Junior Subordinated Notes due 2034. ♣♣
10.19	Junior Subordinated Indenture, dated May 6, 2009, among Arbor Realty SR, Inc. Arbor Realty Trust, Inc., as Guarantor, and Wilmington Trust Company, as Trustee, relating to $21,224,000 aggregate principal amount of Junior Subordinated Notes due 2035. ♣♣
10.20	Junior Subordinated Indenture, dated May 6, 2009, among Arbor Realty SR, Inc. Arbor Realty Trust, Inc., as Guarantor, and Wilmington Trust Company, as Trustee, relating to $2,632,000 aggregate principal amount of Junior Subordinated Notes due 2036. ♣♣
10.21	Junior Subordinated Indenture, dated May 6, 2009, among Arbor Realty SR, Inc. Arbor Realty Trust, Inc., as Guarantor, and Wilmington Trust Company, as Trustee, relating to $47,180,000 aggregate principal amount of Junior Subordinated Notes due 2037. ♣♣
10.22	Exchange Agreement, dated May 6, 2009, among Arbor Realty Trust, Inc., Arbor Realty SR, Inc., Kodiak CDO II, Ltd., Attentus CDO I, Ltd. and Attentus CDO III, Ltd. ♣♣
10.23	Exchange Agreement, dated May 6, 2009, among Arbor Realty SR, Inc., Arbor Realty Trust, Inc., Taberna Preferred Funding I, Ltd., Taberna Preferred Funding II, Ltd., Taberna Preferred Funding III, Ltd., Taberna Preferred Funding IV, Ltd., Taberna Preferred Funding V, Ltd., Taberna Preferred Funding VII, Ltd. and Taberna Preferred Funding VIII, Ltd. ♣♣
10.24	First Amended and Restated Credit Agreement, dated as of July 23, 2009, among Arbor Realty Funding, LLC, a Delaware limited liability company, as a Borrower, ARSR Tahoe, LLC, a Delaware limited liability company, as a Borrower, Arbor ESH II LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Limited Partnership, a Delaware limited partnership, as a Borrower and a Guarantor, ART 450 LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Trust, Inc., a Maryland corporation, as a Guarantor, Arbor Realty SR, Inc., a Maryland corporation, as a Borrower and a Guarantor, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder. ♣♣♣
10.25	First Amended and Restated Revolving Loan Agreement, dated as of July 23, 2009, among Arbor Realty Trust, Inc., a Maryland corporation, Arbor Realty GPOP, Inc., a Delaware corporation, Arbor Realty LPOP, Inc., a Delaware corporation, Arbor Realty Limited Partnership, a Delaware limited partnership, Arbor Realty SR, Inc., a Maryland corporation, Arbor Realty Collateral Management, LLC, as Borrowers, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder and initial lender. ♣♣♣
10.26	Registration Rights Agreement, dated as of July 23, 2009, by and between Arbor Realty Trust, Inc. and Wachovia Bank, National Association, a national banking association.•

Exhibit Number	Description
10.27	First Amendment to First Amended and Restated Credit Agreement, dated as of December 16, 2009, among Arbor Realty Funding, LLC, a Delaware limited liability company, as a Borrower, ARSR Tahoe, LLC, a Delaware limited liability company, as a Borrower, Arbor ESH II LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Limited Partnership, a Delaware limited partnership, as a Borrower and a Guarantor, ART 450 LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Trust, Inc., a Maryland corporation, as a Guarantor, Arbor Realty SR, Inc., a Maryland corporation, as a Borrower and a Guarantor, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder.•
10.28	Second Amendment to First Amended and Restated Credit Agreement, dated as of December 24, 2009, among Arbor Realty Funding, LLC, a Delaware limited liability company, as a Borrower, ARSR Tahoe, LLC, a Delaware limited liability company, as a Borrower, Arbor ESH II LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Limited Partnership, a Delaware limited partnership, as a Borrower and a Guarantor, ART 450 LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Trust, Inc., a Maryland corporation, as a Guarantor, Arbor Realty SR, Inc., a Maryland corporation, as a Borrower and a Guarantor, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders and Wells Fargo Bank, National Association, a national banking association, as the custodian. •
10.29	First Amendment to First Amended and Restated Revolving Loan Agreement, dated as of December 24, 2009, among Arbor Realty Trust, Inc., a Maryland corporation, Arbor Realty GPOP, Inc., a Delaware corporation, Arbor Realty LPOP, Inc., a Delaware corporation, Arbor Realty Limited Partnership, a Delaware limited partnership, Arbor Realty SR, Inc., a Maryland corporation, Arbor Realty Collateral Management, LLC, as Borrowers, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder and initial lender.•
10.30	Third Amendment and Waiver to First Amended and Restated Credit Agreement, dated as of January 20, 2010, among Arbor Realty Funding, LLC, a Delaware limited liability company, as a Borrower, ARSR Tahoe, LLC, a Delaware limited liability company, as a Borrower, Arbor ESH II LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Limited Partnership, a Delaware limited partnership, as a Borrower and a Guarantor, ART 450 LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Trust, Inc., a Maryland corporation, as a Guarantor, Arbor Realty SR, Inc., a Maryland corporation, as a Borrower and a Guarantor, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder. •
10.31	Second Amendment and Waiver to First Amended and Restated Revolving Loan Agreement, dated as of February 2, 2010, among Arbor Realty Trust, Inc., a Maryland corporation, Arbor Realty GPOP, Inc., a Delaware corporation, Arbor Realty LPOP, Inc., a Delaware corporation, Arbor Realty Limited Partnership, a Delaware limited partnership, Arbor Realty SR, Inc., a Maryland corporation, Arbor Realty Collateral Management, LLC, as Borrowers, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder and initial lender.•

Exhibit Number	Description
10.32	Fourth Amendment and Waiver to First Amended and Restated Credit Agreement, dated as of February 2, 2010, among Arbor Realty Funding, LLC, a Delaware limited liability company, as a Borrower, ARSR Tahoe, LLC, a Delaware limited liability company, as a Borrower, Arbor ESH II LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Limited Partnership, a Delaware limited partnership, as a Borrower and a Guarantor, ART 450 LLC, a Delaware limited liability company, as a Borrower, Arbor Realty Trust, Inc., a Maryland corporation, as a Guarantor, Arbor Realty SR, Inc., a Maryland corporation, as a Borrower and a Guarantor, the several Lenders from time to time a party thereto, and Wachovia Bank, National Association, a national banking association, as administrative agent for the Lenders thereunder. •
10.33	Exchange Agreement, dated as of February 26, 2010, among Arbor Realty SR, Inc. and Taberna Preferred Funding I, Ltd., Taberna Preferred Funding V, Ltd., Taberna Preferred Funding VII, Ltd. and Taberna Preferred Funding VIII, Ltd.•
10.34	Revolving Bridge Loan and Security Agreement dated as of July 22, 2011, by and between Capital One, National Association as lender and Arbor Realty SR, Inc. as borrower, and Arbor Realty Trust, Inc. as guarantor.••
10.35	Underwriting Agreement, dated June 7, 2012, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership and Deutsche Bank Securities Inc. •••
10.36	Indenture, dated September 24, 2012, by and between Arbor Realty Collateralized Loan Obligation 2012-1, Ltd., Arbor Realty Collateralized Loan Obligation 2012-1, LLC, Arbor Realty SR, Inc. and U.S. Bank, National Association. ♠
10.37	Placement Agreement, dated September 24, 2012, by and between Arbor Realty Collateralized Loan Obligation 2012-1, Ltd., Arbor Realty Collateralized Loan Obligation 2012-1, LLC and Sandler O'Neill & Partners, L.P. ♠
10.38	Loan Obligation Purchase Agreement, dated September 24, 2012, by and between Arbor Realty SR, Inc. and Arbor Realty Collateralized Loan Obligation 2012-1, Ltd.♠
10.39	Underwriting Agreement, dated October 5, 2012, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership and Deutsche Bank Securities Inc. ♠♠
10.40	Equity Distribution Agreement, dated December 31, 2012, by and among Arbor Realty Trust, Inc., Arbor Realty Limited Partnership and JMP Securities LLC.
10.41	Indenture, dated January 28, 2013, by and between Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., Arbor Realty Collateralized Loan Obligation 2013-1, LLC, Arbor Realty SR, Inc. and U.S. Bank National Association.
10.42	Placement Agreement, dated January 28, 2013, by and between Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., Arbor Realty Collateralized Loan Obligation 2013-1, LLC and Sandler O'Neill & Partners, L.P.
10.43	Loan Obligation Purchase Agreement, dated January 28, 2013, by and between Arbor Realty SR, Inc. and Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
10.44	Underwriting Agreement, dated February 1, 2013, by and among Arbor Realty Trust, Inc., Arbor Realty Limited Partnership, Deutsche Bank Securities Inc., JMP Securities LLC, Ladenburg Thalmann & Co. Inc., and MLV & Co. LLC. ♠♠♠

Exhibit Number	Description
21.1	List of Subsidiaries of Arbor Realty Trust, Inc.
23.1	Consent of Ernst & Young LLP, independent registered public accounting firm.
31.1	Certification of Chief Executive Officer pursuant to Exchange Act Rule 13a-14.
31.2	Certification of Chief Financial Officer pursuant to Exchange Act Rule 13a-14.
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.1	Financial statements from the Annual Report on Form 10-K of Arbor Realty Trust, Inc. for the year ended December 31, 2012, filed on February 15, 2013, formatted in XBRL: (i) the Consolidated Balance Sheet, (ii) the Consolidated Statement of Operations, (iii) the Consolidated Statement of Comprehensive Income (Loss), (iv) the Consolidated Statement of Changes in Equity, (v) the Consolidated Statement of Cash Flows and (vi) the Notes to Consolidated Financial Statements.

Exhibit Index

/*\	Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2007.
/*\/*\	Incorporated by reference to Exhibit 99.2 of the Registrant's Current Report on Form 8-K (No. 001-32136) which was filed with the Securities and Exchange Commission on December 11, 2007.
*	Incorporated by reference to the Registrant's Registration Statement on Form S-11 (Registration No. 333-110472), as amended. Such registration statement was originally filed with the Securities and Exchange Commission on November 13, 2003.
**	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended September 30, 2004.
†	Incorporated by reference to the Registrant's Annual Report of Form 10-K for the year ended December 31, 2004.
‡	Incorporated by reference to the Registrant's Annual Report of Form 10-K for the year ended December 31, 2005.
‡ ‡	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended September 30, 2006.
♦	Incorporated by reference to the Registrant's Annual Report of Form 10-K for the year ended December 31, 2006.
♦♦	Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2007.

♦♦♦ Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2007.

♣ Incorporated by reference to the Registrant's Form 8-A which was filed with the Securities and Exchange Commission on February 1, 2013.

♣♣	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended March 31, 2009.
♣♣♣	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended June 30, 2009.
•	Incorporated by reference to the Registrant's Annual Report of Form 10-K for the year ended December 31, 2009.
••	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended June 30, 2011.
•••	Incorporated by reference to the Registrant's Current Report on Form 8-K which was filed with the Securities and Exchange Commission on June 12, 2012.
♠	Incorporated by reference to the Registrant's Quarterly Report of Form 10-Q for the quarter ended September 30, 2012.
♠♠	Incorporated by reference to the Registrant's Current Report on Form 8-K which was filed with the Securities and Exchange Commission on October 11, 2012.
♠♠♠	Incorporated by reference to the Registrant's Current Report on Form 8-K which was filed with the Securities and Exchange Commission on February 1, 2013.

In reviewing the agreements included as exhibits to this Annual Report on Form 10-K, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about Arbor or the other parties to the agreements. The agreements contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;
- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and
- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time. Additional information about Arbor may be found elsewhere in this report and Arbor's other public filings, which are available without charge through the SEC's website at http://www.sec.gov.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized on February 15, 2013.

ARBOR REALTY TRUST, INC.

By: /s/ IVAN KAUFMAN

Name: Ivan Kaufman
Title: *Chief Executive Officer*

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, this report has been signed below on behalf of the Registrant in the capacities and on the dates indicated.

Signature	Title	Date
/s/ IVAN KAUFMAN Ivan Kaufman	Chairman of the Board of Directors, Chief Executive Officer and President (Principal Executive Officer)	February 15, 2013
/s/ PAUL ELENIO Paul Elenio	Chief Financial Officer (Principal Financial Officer)	February 15, 2013
/s/ ARCHIE R. DYKES Archie R. Dykes	Director	February 15, 2013
/s/ KAREN EDWARDS Karen Edwards	Director	February 15, 2013
/s/ WILLIAM HELMREICH William Helmreich	Director	February 15, 2013
/s/ WILLIAM C. GREEN William C. Green	Director	February 15, 2013
/s/ C. MICHAEL KOJAIAN C. Michael Kojaian	Director	February 15, 2013

Signature	Title	Date
/s/ MELVIN F. LAZAR Melvin F. Lazar	Director	February 15, 2013
/s/ JOSEPH MARTELLO Joseph Martello	Director	February 15, 2013

Exhibit 10.40

EXECUTION COPY

ARBOR REALTY TRUST, INC.

6,000,000 Shares of Common Stock

EQUITY DISTRIBUTION AGREEMENT

Dated: December 31, 2012

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SCHEDULES

ARBOR REALTY TRUST, INC.

6,000,000 Shares of Common Stock

EQUITY DISTRIBUTION AGREEMENT

December 31, 2012

JMP Securities LLC
600 Montgomery Street, Suite 1100
San Francisco, California 94111

Ladies and Gentlemen:

Each of Arbor Realty Trust, Inc., a Maryland corporation (the "Company") and Arbor Realty Limited Partnership, a Delaware limited partnership (the "Operating Partnership") confirms its agreement (this "Agreement") with JMP Securities LLC (the "Placement Agent"), as follows:

SECTION 1. Description of Securities.

The Company agrees that, from time to time during the term of this Agreement, on the terms and subject to the conditions set forth herein, it may issue and sell through the Placement Agent, acting as agent and/or principal, up to 6,000,000 shares (the "Securities") of the Company's common stock, par value $0.01 per share (the "Common Stock"). Notwithstanding anything to the contrary contained herein, except as set forth in a Placement Notice (as defined below) the parties hereto agree that compliance with the limitations set forth in this Section 1 on the number of the Securities issued and sold under this Agreement shall be the sole responsibility of the Company, and the Placement Agent shall have no obligation in connection with such compliance. The issuance and sale of the Securities through the Placement Agent will be effected pursuant to the Registration Statement (as defined below) filed by the Company and declared effective by the Securities and Exchange Commission (the "Commission"), although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement to offer, sell or issue the Securities.

The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the "Securities Act"), with the Commission a registration statement on Form S-3 (File No. 333-167303), including a base prospectus, relating to certain securities, including the Securities to be issued from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the "Exchange Act"). The Company has prepared a prospectus supplement specifically relating to the Securities (the "Prospectus Supplement") to the base prospectus included as part of such registration statement. The Company will furnish to the Placement Agent, for use by the Placement Agent, copies of the prospectus included as part of such registration statement, as supplemented by the Prospectus Supplement, relating to the Securities. Except where the context otherwise requires, such registration statement, as amended when it became effective, including all documents filed as part thereof or incorporated by reference therein, and including any information contained in a Prospectus (as defined below) subsequently filed with the Commission pursuant to Rule 424(b) under the Securities Act or deemed to be a part of such registration statement pursuant to Rule 430B of the Securities Act, is herein called the "Registration Statement." The base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement, in the form in which such prospectus and/or Prospectus Supplement have most recently been filed by the Company with the Commission pursuant to Rule 424(b) under the Securities Act is herein

called the "Prospectus." Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms "amend," "amendment" or "supplement" with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein. Any reference herein to financial statements and schedules and other information that is "contained," "included" or "stated" in the Registration Statement or the Prospectus (and all other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information that is incorporated by reference in the Registration Statement or the Prospectus, as the case may be. Any reference herein to the Registration Statement, any Rule 462(b) Registration Statement, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to the Commission's Electronic Data Gathering, Analysis and Retrieval system ("EDGAR"); all references in this Agreement to any Issuer Free Writing Prospectus (other than any Issuer Free Writing Prospectuses that, pursuant to Rule 433 under the Securities Act, are not required to be filed with the Commission) shall be deemed to include the copy thereof filed with the Commission pursuant to EDGAR.

SECTION 2. Placements.

Each time that the Company wishes to issue and sell the Securities hereunder (each, a " Placement"), it will notify the Placement Agent by email notice (or other method mutually agreed to in writing by the parties) containing the parameters in accordance with which it desires the Securities to be sold, which shall at a minimum include the number of Securities to be issued (the " Placement Securities"), the time period during which sales are requested to be made, any limitation on the number of Securities that may be sold in any one day and any minimum price below which sales may not be made (a " Placement Notice"), a form of which containing such minimum sales parameters necessary is attached hereto as Exhibit A. The Placement Notice shall originate from any of the individuals from the Company set forth on Exhibit B (with a copy to each of the other individuals from the Company listed on such schedule), and shall be addressed to each of the individuals from the Placement Agent set forth on Exhibit B, as such Exhibit B may be amended from time to time. If the Placement Agent wishes to accept such proposed terms included in the Placement Notice (which it may decline to do so for any reason in its sole discretion) or, following discussion with the Company, wishes to accept amended terms, the Placement Agent will, prior to 4:30 p.m. (Eastern time) on the Business Day (as defined below) following the Business Day on which such Placement Notice is delivered to the Placement Agent, issue to the Company a notice by email (or other method mutually agreed to in writing by the parties) addressed to all of the individuals from the Company and the Placement Agent set forth on Exhibit B) setting forth the terms that the Placement Agent is willing to accept. Where the terms provided in the Placement Notice are amended as provided for in the immediately preceding sentence, such terms will not be binding on the Company or the Placement Agent until the Company delivers to the Placement Agent an acceptance by email (or other method mutually agreed to in writing by the parties) of all of the terms of such Placement Notice, as amended (the "Acceptance"), which email shall be addressed to all of the individuals from the Company and the Placement Agent set forth on Exhibit B. The Placement Notice (as amended by the corresponding Acceptance, if applicable) shall be effective upon receipt by the Company of the Placement Agent's acceptance of the terms of the Placement Notice or upon receipt by the Placement Agent of the Company's Acceptance, as the case may be, unless and until (i) the entire amount of the Placement Securities have been sold, (ii) in accordance with the Placement Notice requirements set forth in the second sentence of this paragraph, the Company terminates the Placement Notice, (iii) the Company issues a subsequent Placement Notice with parameters superseding those on the earlier dated Placement Notice, (iv) the Agreement has been terminated under the provisions of Section 9 or Section 12 or (v) either party shall have suspended the sale of the Placement Securities in accordance with Section 3 below. The amount of any discount, commission or other compensation to be paid by the Company to the

Placement Agent in connection with the sale of the Placement Securities shall be calculated in accordance with the terms set forth in Exhibit C. It is expressly acknowledged and agreed that neither the Company nor the Placement Agent will have any obligation whatsoever with respect to a Placement or any Placement Securities unless and until the Company delivers a Placement Notice to the Placement Agent and either (i) the Placement Agent accepts the terms of such Placement Notice or (ii) where the terms of such Placement Notice are amended, the Company accepts such amended terms by means of an Acceptance pursuant to the terms set forth above, and then only upon the terms specified in the Placement Notice (as amended by the corresponding Acceptance, if applicable) and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice (as amended by the corresponding Acceptance, if applicable), the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable) will control. The term " Business Day" means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York are generally authorized or obligated by law or executive order to close.

SECTION 3. Sale of Placement Securities by the Placement Agent.

Subject to the provisions of Section 6(a), the Placement Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell the Placement Securities up to the amount specified, and otherwise in accordance with the terms of such Placement Notice (as amended by the corresponding Acceptance, if applicable). T he Placement Agent will provide written confirmation to the Company no later than the opening of the Trading Day (as defined below) immediately following the Trading Day on which it has made sales of Placement Securities hereunder setting forth the number of Placement Securities sold on such day, the compensation payable by the Company to the Placement Agent pursuant to Section 2 with respect to such sales, and the Net Proceeds (as defined below) payable to the Company, with an itemization of the deductions made by the Placement Agent (as set forth in Section 6(b)) from the gross proceeds that it receives from such sales. Subject to the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable), the Placement Agent may sell Placement Securities by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on the New York Stock Exchange ("NYSE"), on any other existing trading market for the Common Stock or to or through a market maker. If specified in a Placement Notice (as amended by the corresponding Acceptance, if applicable), the Placement Agent may also sell Placement Securities by any other method permitted by law, including but not limited to in privately negotiated transactions. For the purposes hereof, " Trading Day" means any day on which shares of Common Stock are purchased and

sold on the principal market on which the Common Stock is listed or quoted and during which there has been no market disruption of, unscheduled closing of or suspension of trading on such principal market.

SECTION 4. Suspension of Sales. The Company or the Placement Agent may, upon notice to the other party in writing (including by email correspondence to each of the individuals of the other party set forth on Exhibit B, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other party set forth on Exhibit B), suspend any sale of Placement Securities; provided, however, that such suspension shall not affect or impair either party's obligations with respect to any Placement Securities sold hereunder prior to the receipt of such notice. Each of the parties agrees that no such notice under this Section 4 shall be effective against the other unless it is made to one of the individuals named on Exhibit B hereto, as such Exhibit may be amended from time to time.

SECTION 5. Representations and Warranties.

(a) *Representations and Warranties by the Company and the Operating Partnership*. The Company and the Operating Partnership, jointly and severally, represent and warrant to the Placement Agent as of the date hereof and as of each Representation Date (as defined herein) on which a certificate is required to be delivered pursuant to Section 7(o) of this Agreement and as of the time of each sale of any Securities or any securities pursuant to this Agreement (the "Applicable Time"), and agrees with the Placement Agent, as follows:

(1) Compliance with Registration Requirements. The Securities have been duly registered under the Securities Act pursuant to the Registration Statement. The Registration Statement has become effective under the Securities Act, and no stop order preventing or suspending the use of any base prospectus, the Prospectus Supplement, the Prospectus or any Permitted Free Writing Prospectus (as defined below), or the effectiveness of the Registration Statement and no proceedings for such purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

At the respective times each of the Registration Statement, any registration statement filed by the Company to register the offer and sale of the Securities pursuant to Rule 462(b) under the Securities Act (a "Rule 462(b) Registration Statement") and any post-effective amendments thereto became or becomes effective and as of the date hereof, the Registration Statement, any Rule 462(b) Registration Statement and any amendments and supplements thereto complied and will comply in all material respects with the requirements of the Securities Act. The conditions for the use of Form S-3, as set forth in the General Instructions thereto, have been complied with and the Registration Statement meets, and the offering and sale of the Securities as contemplated hereby complies with, the requirements of Rule 415(a)(1)(x) under the Securities Act (including without limitation, Rule 415(a)(5)). The Registration Statement, as of the date hereof and each effective date with respect thereto, did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Neither the Prospectus nor any amendments or supplements thereto, as of their respective dates, and at each Applicable Time and Settlement Date (as defined below), as the case may be, included or will include an untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The representations and warranties set forth in the immediately preceding paragraph shall not apply to statements in or omissions from the Registration Statement or the Prospectus, as amended or supplemented, made in reliance upon and in conformity with information furnished to the Company in writing by the Placement Agent expressly for use therein.

The copies of the Registration Statement and any Rule 462(b) Registration Statement and any amendments thereto, any other preliminary prospectus, each Issuer Free Writing Prospectus (as defined below) that is required to be filed with the Commission pursuant to Rule 433 under the Securities Act and the Prospectus and any amendments or supplements thereto delivered and to be delivered to the Placement Agent (electronically or otherwise) in connection with the offering of the Securities were and will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T. "Issuer Free Writing Prospectus" means any "issuer free writing prospectus," as defined in Rule 433 under the Securities Act, relating to the Securities that (i) is required to be filed with the Commission by the Company, (ii) is a "road show" that is a "written

communication" within the meaning of Rule 433(d)(8)(i) under the Securities Act whether or not required to be filed with the Commission, or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) under the Securities Act because it contains a description of the Securities or of the offering that does not reflect the final terms, and all free writing prospectuses that are listed in Exhibit H hereto, in each case in the form furnished (electronically or otherwise) to the Placement Agent for use in connection with the offering of the Securities.

Each Issuer Free Writing Prospectus relating to the Securities, as of its issue date and as of each Applicable Time and Settlement Date (as defined below), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any incorporated document deemed to be a part thereof that has not been superseded or modified; each Issuer Free Writing Prospectus, as supplemented by and taken together with the Prospectus, as of the Applicable Time and Settlement Date (as defined below), will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances, prevailing at that time, not misleading. The foregoing sentence does not apply to statements in or omissions from any issuer free writing prospectus based upon and in conformity with written information furnished to the Company by the Placement Agent specifically for use therein.

Each document incorporated by reference in the Registration Statement or the Prospectus heretofore filed, when it was filed (or, if any amendment with respect to any such document was filed, when such amendment was filed), conformed in all material respects with the requirements of the Exchange Act, and any further documents so filed and incorporated after the date of this Agreement will, when they are filed, conform in all material respects with the requirements of the Exchange Act; no such document when it was filed (or, if an amendment with respect to any such document was filed, when such amendment was filed), contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and no such document, when it is filed, will contain an untrue statement of a material fact or will omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading.

(2) Company Not Ineligible Issuer. As of the date of the execution and delivery of this Agreement (with such date being used as the determination date for purposes of this clause), the Company was not and is not an "ineligible issuer" (as defined in Rule 405 under the Securities Act), without taking account of any determination by the Commission pursuant to Rule 405 Under the Securities Act that it is not necessary that the Company be considered an ineligible issuer (as defined in Rule 405 under the Securities Act).

(3) Issuer Free Writing Prospectuses. Each Issuer Free Writing Prospectus relating to the Securities, as of its issue date and as of each Applicable Time and Settlement Date (as defined below), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, including any document incorporated by reference therein that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus based upon and in conformity with the Prospectus.

(4) Company Authorization of Agreement. This Agreement and the transactions contemplated herein have been duly and validly authorized by the Company and this Agreement has been duly and validly executed and delivered by the Company.

(5) Operating Partnership Authorization of Agreement. This Agreement and the transactions contemplated herein have been duly and validly authorized by the Operating Partnership and this Agreement has been duly and validly executed and delivered by the Operating Partnership.

(6) Authorization of Management Agreement and Services Agreement. The second amended and restated management and advisory agreement (the "Management Agreement"), dated as of August 6, 2009, among the Company, the Operating Partnership, Arbor Commercial Mortgage, LLC (the "Manager") and Arbor Realty SR, Inc., a Maryland corporation and a wholly-owned subsidiary of the Company, has been duly authorized, executed and delivered by each of the Company and the Operating Partnership and constitutes a valid and binding agreement of each of the Company and the Operating Partnership enforceable in accordance with its terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other laws affecting enforcement of creditors' rights or by general equitable principles. The services agreement (the "Services Agreement"), dated as of July 1, 2003, among the Company, the Operating Partnership and the Manager has been duly authorized, executed and delivered by each of the Company and the Operating Partnership and constitutes a valid and binding agreement of each of the Company and the Operating Partnership enforceable in accordance with its terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other laws affecting enforcement of creditors' rights or by general equitable principles.

(7) Distribution of Offering Material by the Company. The Company and its affiliates have not distributed and will not distribute, prior to the completion of the Placement Agent's distribution of the Securities, any written offering material in connection with the offering and sale of the Securities other than the Prospectus, the Registration Statement or any Issuer Free Writing Prospectus.

(8) Independent Accountants. Ernst & Young LLP, who certified the financial statements and supporting schedules incorporated by reference in the Registration Statement and the Prospectus, is an independent registered public accounting firm as required by the Securities Act, the Exchange Act and the Public Company Accounting Oversight Board (United States).

(9) Financial Statements; Non-GAAP Financial Measures. The financial statements of the Company and its subsidiaries, together with the related schedules (if any) and notes (the "Company Financial Statements"), incorporated by reference in the Registration Statement and the Prospectus, and any financial statements required by Rule 3-14 of Regulation S-X (the "Acquisition Financial Statements"), incorporated by reference in the Registration Statement and the Prospectus present fairly the financial position of the Company and its consolidated subsidiaries at the dates indicated, or, if applicable, with respect to the Acquisition Financial Statements, the respective property or tenant; and all such financial statements have been prepared in conformity with United States generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved and comply with all applicable accounting requirements under the Securities Act. The supporting schedules, if any, incorporated by reference in the Registration Statement and the Prospectus present fairly, in accordance with GAAP, the information required to be stated therein. The selected financial data and the summary financial information included or incorporated by reference in the Registration Statement and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. There are no financial statements or schedules required to be included in the

Registration Statement or the Prospectus under the Securities Act, which are not so included. If applicable, the unaudited pro forma financial

information (including the related notes) incorporated by reference in the Registration Statement or the Prospectus complies as to form in all material respects with the applicable accounting requirements of the Securities Act, and management of the Company believes that the assumptions underlying the pro forma adjustments are reasonable. If applicable, such pro forma adjustments have been properly applied to the historical amounts in the compilation of the information and such information fairly presents with respect to the Company and its consolidated subsidiaries, the financial position, results of operations and other information purported to be shown therein at the respective dates and for the respective periods specified. No pro forma financial information is required to be included in the Registration Statement or the Prospectus, which is not so included. All disclosures contained in the Registration Statement or the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Securities Act, to the extent applicable. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement and the Prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(10) No Material Adverse Change in Business. Since the respective dates as of which information is given in the Registration Statement and the Prospectus (in each case exclusive of any amendments or supplements thereto subsequent to the date of this Agreement), except as otherwise stated therein, (A) there has been no material adverse change or any development involving a prospective material adverse change in the operations, condition (financial or otherwise), or in the earnings, business affairs or business prospects of the Company and its subsidiaries, including, without limitation, the Operating Partnership, considered as one enterprise, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company or any of its subsidiaries that are material with respect to the Company and its subsidiaries considered as one enterprise, (C) since the date of the latest balance sheet incorporated by reference in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has incurred or undertaken any liabilities or obligations, direct or contingent, which are material to the Company and its subsidiaries, including without limitation the Operating Partnership, considered as one enterprise, except for liabilities or obligations which are described in the Registration Statement and the Prospectus, and (D) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its stock.

(11) Good Standing of the Company and the Operating Partnership. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Maryland and has power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus and to enter into and perform its obligations under this Agreement; and the Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of the State of Delaware and has authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement and the Prospectus. Each of the Company and the Operating Partnership is duly qualified as a foreign corporation to transact business and is in good standing in the State of New York and in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except (solely in the case of jurisdictions other than the State of New York) where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(12) The Partnership Agreement. The Second Amended and Restated Agreement of Limited Partnership of the Operating Partnership (the "Partnership Agreement"), dated as of January 18, 2005, among Arbor Realty GPOP, Inc., a Delaware corporation, Arbor Realty LPOP, Inc., a Delaware corporation, the Manager and the Company, has been duly and validly authorized, executed and delivered by the Company (through its direct subsidiaries) and is a valid and binding agreement, enforceable against the Company in accordance with its terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other laws affecting enforcement of creditors' rights or by general equitable principles.

(13) Good Standing of Subsidiaries. Each subsidiary of the Company has been duly organized and is validly existing as a corporation, limited or general partnership or limited liability company, as the case may be, in good standing under the laws of the jurisdiction of its organization, has power and authority to conduct its business as described in the Registration Statement and the Prospectus and is duly qualified as a foreign corporation, limited or general partnership or limited liability company, as the case may be, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect; except as otherwise disclosed in the Registration Statement and the Prospectus, all of the issued and outstanding stock of each such subsidiary that is a corporation, all of the issued and outstanding partnership interests of each such subsidiary that is a limited or general partnership and all of the issued and outstanding limited liability company interests, membership interests or other similar interests of each such subsidiary that is a limited liability company have been duly authorized and validly issued, and, in the case of each subsidiary that is a corporation, are fully paid and nonassessable and are owned by the Company or the Operating Partnership, directly or indirectly, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity (each, a "Lien"); and none of the outstanding shares of stock, partnership interests or limited liability company interests, membership interests or other similar interests of any such subsidiary was issued in violation of any preemptive rights, rights of first refusal or other similar rights of any securityholder of such subsidiary or any other person. The only Significant Subsidiaries (as defined below) of the Company are the subsidiaries listed on Schedule I hereto and Schedule I accurately sets forth whether each such Significant Subsidiary is a corporation, limited or general partnership or limited liability company and the jurisdiction of organization of each such Significant Subsidiary and, in the case of any Significant Subsidiary which is a partnership or limited liability company, its general partners and managing members, respectively. For purposes of this Agreement "Significant Subsidiaries" means "significant subsidiaries" as defined by Rule 1-02 of Regulation S-X, each of which are listed on Schedule I hereto.

(14) Capitalization. The authorized, issued and outstanding stock of the Company is as set forth in the Company's quarterly report on Form 10-Q for the nine months ended September 30, 2012. The issued and outstanding shares of stock of the Company have been duly authorized and are validly issued, fully paid and nonassessable; and none of the outstanding shares of stock of the Company was issued

in violation of any preemptive rights, rights of first refusal or other similar rights of any securityholder of the Company or any other person. The authorized, issued and outstanding units of partnership interest in the Operating Partnership (the " OP Units"), have been duly authorized and validly issued; and all of such OP Units have been sold in compliance with applicable laws (including, without limitation, federal and state securities laws).

(15) Authorization of Securities. The Securities have been duly authorized for issuance and sale to the Placement Agent pursuant to this Agreement and, when issued and delivered by the Company pursuant to this Agreement against payment of the consideration set forth herein, will be validly issued, fully paid and nonassessable; no holder of the Securities is or will be subject to personal liability by reason of being such a holder; and the issuance of the Securities is not subject to any preemptive right, right of first refusal or other similar right of any securityholder of the Company or any other person.

(16) Description of Securities. The Securities conform in all material respects to the description thereof contained in the section of the Prospectus entitled "Description of Capital Stock—Common Stock" and such description conforms to the rights set forth in the Company's Articles of Incorporation and Bylaws.

(17) Absence of Defaults and Conflicts. Neither the Company, the Operating Partnership nor any of their respective subsidiaries is in violation of its Organizational Documents (as defined below) or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any Company Document (as defined below), except for such defaults that would not result in a Material Adverse Effect. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and in the Registration Statement and the Prospectus (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Prospectus under the caption "Use of Proceeds") and compliance by each of the Company and the Operating Partnership with its obligations under this Agreement do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default under, or result in the creation or imposition of any Lien upon any property or assets of the Company, the Operating Partnership or any of their respective subsidiaries pursuant to any Company Documents, nor will such action result in any violation of the provisions of the Organizational Documents of the Company, the Operating Partnership or any of their respective subsidiaries or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any of its subsidiaries or any of their respective assets, properties or operations. The term " Company Documents" as used herein means any contracts, indentures, mortgages, deeds of trust, loan or credit agreements, bonds, notes, debentures, evidences of indebtedness, leases or other instruments or agreements to which the Company, the Operating Partnership or any of their respective subsidiaries is a party or by which the Company, the Operating Partnership or any of their respective subsidiaries is bound or to which any of the property or assets of the Company, the Operating Partnership or any of their respective subsidiaries is subject. The term " Organizational Documents" as use herein means (a) in the case of a corporation, its charter and by-laws; (b) in the case of a limited or general partnership, its partnership certificate, certificate of formation or similar organizational document and its partnership agreement; (c) in the case of a limited liability company, its articles of organization, certificate of formation or similar organizational documents and its operating agreement, limited liability company agreement, membership agreement or other similar agreement; (d) in the case of a trust, its certificate of trust, certificate of formation or similar organizational document and its trust agreement or other similar agreement; and (e) in the case of any other entity, the organizational and governing documents of such entity.

(18) Absence of Labor Dispute. No labor dispute with the employees of the Company or any subsidiary of the Company exists or, to the knowledge of the Company, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of the principal suppliers, manufacturers, customers or contractors of the

Company or any of its subsidiaries which, in any such case, may reasonably be expected to result in a Material Adverse Effect.

(19) Absence of Proceedings. Except as described in the Registration Statement and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, against or affecting the Company, the Operating Partnership or any of their respective subsidiaries or which has as a subject thereof, any officer or director of the Company in their capacity as such or as would otherwise be required to be disclosed in the Prospectus. To the knowledge of the Company or the Operating Partnership, there is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, threatened, against or affecting the Company, the Operating Partnership or any of their respective subsidiaries except as would not have a Material Adverse Effect or which has as a subject thereof, any officer or director of the Company in their capacity as such or as would otherwise be required to be disclosed in the Prospectus.

(20) Accuracy of Descriptions and Exhibits. The information in the Prospectus under the captions "Description of Debt Securities," "Description of Capital Stock," "Description of Depositary Shares," "Description of Warrants" and "Federal Income Tax Considerations" is correct in all material respects; all descriptions in the Registration Statement and the Prospectus of any Company Documents are accurate in all material respects; and there are no franchises, contracts, indentures, mortgages, deeds of trust, loan or credit agreements, bonds, notes, debentures, evidences of indebtedness, leases or other instruments or agreements required to be described or referred to in the Registration Statement or the Prospectus or to be filed as exhibits to the Registration Statement which have not been so described and filed as required.

(21) Possession of Intellectual Property. The Company and its subsidiaries own or possess or have the right to use on reasonable terms all patents, patent rights, patent applications, licenses, inventions, copyrights, know how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names, service names and other intellectual property (collectively, "Intellectual Property") necessary to carry on their respective businesses as described in the Prospectus and as proposed to be conducted; and neither the Company nor any of its subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interests of the Company or any of its subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, individually or in the aggregate, might result in a Material Adverse Effect.

(22) Absence of Further Requirements. (A) No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency, domestic or foreign, (B) no authorization, approval, vote or other consent of any stockholder or creditor of the Company or the Operating Partnership, (C) no waiver or consent under any Company Document, and (D) no authorization, approval, vote or other consent of any other person or entity, is necessary or required for the performance by the Company or the Operating Partnership of their respective obligations under this Agreement, for the offering, issuance, sale or delivery of the Securities hereunder, or for the consummation of any of the other transactions contemplated by this Agreement, in each case on the terms contemplated by this Agreement and the Prospectus, except such as have been already obtained

under the Securities Act, the rules of the NYSE, state securities laws or the rules of the Financial Industry Regulatory Authority, Inc. ("FINRA").

(23) Possession of Licenses and Permits. The Company, the Operating Partnership and their respective subsidiaries possess such permits, licenses, approvals, consents and other authorizations issued by the appropriate federal, state, local or foreign regulatory agencies or bodies (collectively, "Governmental Licenses") as are necessary to conduct the business now operated by them; the Company and its subsidiaries are in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, individually or in the aggregate, have a Material Adverse Effect; all of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not have a Material Adverse Effect; and neither the Company, the Operating Partnership nor any of their respective subsidiaries has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(24) Investment Company Act. The Company is not, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the Prospectus, will not be, an "investment company" or an entity "controlled" by an "investment company" as such terms are defined the Investment Company Act of 1940, as amended (the " 1940 Act").

(25) Absence of Registration Rights. Except as disclosed in the Registration Statement and the Prospectus, there are no persons with registration rights or other similar rights to have any securities (debt or equity) (A) registered pursuant to the Registration Statement or included in the offering contemplated by this Agreement or (B) otherwise registered by the Company under the Securities Act.

(26) Joint Ventures. All of the joint ventures in which the Company or any subsidiary owns any interest (the " Joint Ventures") are listed on Schedule II hereto. The Company's or subsidiary's ownership interest in such Joint Venture is set forth in Schedule II.

(27) Exchange Act Registration; New York Stock Exchange. The Securities have been registered pursuant to Section 12(b) of the Exchange Act. The outstanding shares of Common Stock have been, and the Securities being sold hereunder will have been, approved for listing, subject only to official notice of issuance, on the NYSE.

(28) FINRA Matters. All of the information (including, but not limited to, information regarding affiliations, security ownership and trading activity) provided to the Placement Agent or to counsel for the Placement Agent by the Company, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with letters, filings or other supplemental information provided to FINRA is true, complete and correct.

(29) Insurance. The Company, the Operating Partnership and each of their respective subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and any fidelity or surety bonds insuring the Company, the Operating Partnership or any of their respective subsidiaries or their respective businesses,

assets, employees, officers and directors are in full force and effect; the Company, the Operating Partnership and their respective subsidiaries are in compliance with the terms of such policies and instruments in all material respects; there are no claims by the Company, the Operating Partnership or any of their respective subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company, the Operating Partnership nor any such subsidiary has been refused any insurance coverage sought or applied for; and neither the Company, the Operating Partnership nor any such subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be

necessary to continue its business at a cost that would not have a Material Adverse Effect. Without limitation to the foregoing provisions of this Section 5(a)(29), and such exceptions as would not, individually or in the aggregate, have a Material Adverse Effect, the Company, the Operating Partnership and their respective subsidiaries have title insurance on any real property currently leased or owned or controlled by them or to be leased or owned or to be controlled by them (collectively, the "Real Property"), in each case in an amount at least equal to the original cost of acquisition, and the Company, the Operating Partnership and their respective subsidiaries are entitled to all benefits of the insured thereunder, and each such Real Property is insured by extended coverage hazard and casualty insurance in amounts and on such terms as are customarily carried by lessors of properties similar to those owned by the Company, the Operating Partnership and their respective subsidiaries (in the markets in which the Company's and subsidiaries' respective Real Properties are located), and the Company, the Operating Partnership and their respective subsidiaries carry comprehensive general liability insurance and such other insurance as is customarily carried by lessors of properties similar to those owned by the Company, the Operating Partnership and their respective subsidiaries in amounts and on such terms as are customarily carried by lessors of properties similar to those owned by the Company, the Operating Partnership and their respective subsidiaries (in the markets in which the Company's, the Operating Partnership's and their respective subsidiaries' respective Real Properties are located) and the Company, the Operating Partnership or one of their respective subsidiaries is named as an additional insured on all policies required under the leases for such properties. With respect to mortgage loans extended by the Company and its subsidiaries, the Company or its subsidiary has one or more lender's title insurance policies insuring the lien of the mortgages encumbering the real property underlying such loans with coverages, in the aggregate, equal to at least the maximum aggregate principal amount of such loan.

(30) Disclosure Controls and Procedures. The Company and the Operating Partnership have established and maintain disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that (i) are designed to ensure that material information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the Company's management, including the Company's principal executive officer and principal financial officer, particularly during the preparation of the reports that it files or submits under the Exchange Act; and (ii) are effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms.

(31) Accounting Controls. The Company, the Operating Partnership and each of their respective subsidiaries maintain a system of internal control over financial reporting sufficient to provide reasonable assurance that financial reporting is reliable and financial statements for external purposes are prepared in accordance with GAAP and includes policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company; (ii) provide

reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto. Except as described in the Registration Statement and the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (i) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (ii) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(32) Absence of Manipulation. Each of the Company and the Operating Partnership has not taken and will not take, directly or indirectly, any action designed to or that would constitute or that might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security to facilitate the sale or resale of the Securities.

(33) Statistical and Market-Related Data. The statistical and market-related data included in the Registration Statement and the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate as of the respective dates of such documents, and the Company has obtained the written consent to the use of such data from such sources to the extent required.

(34) Foreign Corrupt Practices Act. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that has resulted or would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA, and the Company and its subsidiaries and, to the knowledge of the Company, its other affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(35) Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any

governmental agency (collectively, "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any

of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(36) OFAC. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or person acting on behalf of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (" OFAC"); and the Company will not directly or indirectly use any of the proceeds received by the Company from the sale of Securities contemplated by this Agreement, or lend, contribute or otherwise make available any such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(37) Lending Relationship. Except as disclosed in the Registration Statement, and the Prospectus, neither the Company nor any of its subsidiaries has any outstanding borrowings from, or is a party to any line of credit, credit agreement or other credit facility or otherwise has a borrowing relationship with, any bank or other lending institution affiliated with the Placemenet Agent, and the Company does not intend to use any of the proceeds from the sale of the Securities to repay any debt owed to the Placement Agent or any affiliate of the Placement Agent.

(38) Transfer Taxes. There are no stock or other transfer taxes, stamp duties, capital duties or other similar duties, taxes or charges payable in connection with the execution or delivery of this Agreement by the Company or the issuance or sale by the Company of the Securities to be sold by the Company to the Placement Agent hereunder.

(39) ERISA. Except as set forth in the Company's financial statements, each of the Company and the Operating Partnership does not have any material liabilities under the Employee Retirement Income Security Act of 1974, as amended, or Section 4975 of the Internal Revenue Code of 1986, as amended from time to time.

(40) REIT Status. Commencing with the Company's taxable year ended December 31, 2003, and the taxable year ended December 31, 2005 of Arbor Realty SR, Inc., a Maryland real estate investment trust (the " Private REIT"), each of the Company and the Private REIT has been organized and operated in conformity with the requirements for qualification and taxation as a real estate investment trust (" REIT") under the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively, the " Code"), and each of the Company's and the Private REIT's current and proposed method of operations as described in the Registration Statement and the Prospectus will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code for its taxable year ending December 31, 2012 and thereafter. The Company does not know of any event that would cause or is likely to cause either the Company or the Private REIT to fail to qualify as a REIT under the Code at any time.

(41) Tax Opinion. With respect to the legal opinion as to federal income tax matters provided to the Placement Agent pursuant to Section 7(p) hereof, the Company's representatives have discussed with its tax counsel, Skadden, Arps, Slate, Meagher & Flom LLP, the officer's certificate supporting such opinion, and where representations in such officer's certificate involve terms defined in the Code, the Treasury regulations thereunder, published rulings of the Internal Revenue Service or other relevant authority, the Company's representatives

are satisfied after their discussions with their counsel in their understanding of such terms and are capable of making such representations.

(42) Tax Returns. All tax returns required to be filed as of the date hereof by the Company and each of its subsidiaries have been timely filed (or valid extensions to such filings have been obtained), all such tax returns are true, correct and complete in all material respects, and all material taxes and other assessments of a similar nature (whether imposed directly or through withholding) including any interest, additions to tax or penalties applicable thereto due or claimed to be due from such entities have been paid, other than those being contested in good faith and for which adequate reserves have been provided.

(43) Related Party Transactions. There are no business relationships or related-party transactions involving the Company or the Operating Partnership required to be described in the Registration Statement and the Prospectus which have not been so described as required.

(44) No Unlawful Contributions or Other Payments . Neither the Company, the Operating Partnership nor any subsidiary nor, to the best of the Company's knowledge, any employee or agent of the Company, the Operating Partnership or any subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any law or of the character required to be disclosed in the Prospectus.

(45) Brokers and Finders. Neither the Company, the Operating Partnership nor any subsidiary has incurred any liability for a fee, commission or other compensation on account of the employment of a broker or finder in connection with the transactions contemplated by this Agreement other than as contemplated hereby.

(46) No Prohibition on Subsidiaries from Paying Dividends or Making Other Distributions . No subsidiary is currently

prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or other equity interests, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other Subsidiary.

(47) Title to Real and Personal Property. (i) The Company and its subsidiaries, including the Operating Partnership, have (or in the case of a Joint Venture, such limited partnership, limited liability company or other joint venture entity has) good and marketable title in fee simple to, or a valid leasehold interest in, the Real Property and good and marketable title to any and all personal property owned by the Company or any of its Subsidiaries that is material to the business of the Company or the Operating Partnership, in each case free and clear of all Liens, except as described in the Prospectus or such as would not reasonably be expected to result in a Material Adverse Effect; and any real property, buildings and equipment held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases (the " Leases") with such exceptions as are disclosed in the Prospectus or such as would not reasonably be expected to result in a Material Adverse Effect; (ii) neither the Company nor any of its Subsidiaries has received notice of any claim that has been or may be asserted by anyone adverse to the rights of the Company or any subsidiary with respect to any such Real Properties, personal property or Leases or affecting or questioning the rights of the Company to the continued ownership, lease, possession or occupancy of such Real Properties, personal property or Leases, except for such claims that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (iii) no person or entity,

including, without limitation, any tenant under the leases, if any, for the Real Properties has an option or right of first refusal or any other right to purchase any of such Real Properties, except as disclosed in the Prospectus; (iv) each of the Real Properties has access to public rights of way, either directly or through insured easements, except where the failure to have such access would not, individually or in the aggregate, have a Material Adverse Effect; (v) each of the Real Properties is served by all public utilities necessary for the current operations on such property in sufficient quantities for such operations, except where the failure to have such public utilities would not, individually or in the aggregate, have a Material Adverse Effect; (vi) each of the Real Properties complies with all applicable codes and zoning and subdivision laws and regulations, except for such failure to comply which would not, either individually or in the aggregate, have a Material Adverse Effect; (vii) all of the Leases are in full force and effect, except where the failure to be in full force or effect would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and neither the Company nor any of its subsidiaries is in default in the payment of any amounts due under any such Leases or in any other default thereunder and neither the Company nor any of its subsidiaries knows or an event which, with the passage of time or the giving of notice or both, would constitute a default under any such Lease, except such defaults that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and (viii) there is no pending or, to the knowledge of the Company or its subsidiaries, threatened condemnation, zoning change, or other proceeding or action that would in any manner affect the size of, use of, improvements on, construction on or access to any Real Property, except such proceedings or actions that, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(48) Compliance with Environmental Laws. Except as otherwise disclosed in the Registration Statement and the Prospectus: (i) neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any other owners of the Real Property at any time, or to the knowledge of the Company, any other party has at any time, handled, stored, treated, transported, manufactured, spilled, leaked, or discharged, dumped, transferred or otherwise disposed of or dealt with, Hazardous Materials (as hereinafter defined) on, to or from any Real Property, other than by any such action taken in material compliance with all applicable Environmental Statutes (as hereinafter defined) or by the Company, any of its subsidiaries or any other party in connection with the ordinary use of residential, retail or commercial properties owned by the Company or any subsidiary; (ii) the Company and its subsidiaries do not intend to use the Real Property or any subsequently acquired properties for the purpose of handling, storing, treating, transporting, manufacturing, spilling, leaking, discharging, dumping, transferring or otherwise disposing of or dealing with Hazardous Materials other than by any such action taken in material compliance with all applicable Environmental Statues or by the Company, any of its subsidiaries or, to the knowledge of the Company, any other party in connection with the ordinary use of residential, retail or commercial properties owned by the Company or any subsidiary; (iii) the Company and the Operating Partnership do not know of any seepage, leak, discharge, release, emission, spill, or dumping of Hazardous Materials from the Real Property into waters on or adjacent to the Real Property or from the Real Property onto any real property owned or occupied by any other party, or onto lands from which Hazardous Materials might seep, flow or drain into such waters other than in material compliance with Environmental Statutes; (iv) neither the Company nor any of its subsidiaries has received any notice of, or has knowledge of, any occurrence or circumstance which, with notice or passage of time or both, would give rise to a claim under or pursuant to any U.S. federal, state or local environmental statute or regulation or under common law, pertaining to Hazardous Materials on or originating from any of the Real Property or arising out of the conduct of the Company or any of its subsidiaries, including without limitation a claim under or pursuant to any Environmental Statute (as hereinafter defined); and (v) neither the Real Property is included nor, to the

Company's or the Operating Partnership's knowledge, is proposed for inclusion on the National Priorities List issued pursuant to CERCLA (as hereinafter defined) by United States Environmental Protection Agency (the " EPA") or, to the Company's or to the Operating Partnership's knowledge, proposed for inclusion on any similar list or inventory issued pursuant to any other Environmental Statute or issued by any other governmental authority. As used herein, "Hazardous Materials" shall include, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, toxic substances, or related materials, asbestos or any hazardous material as defined by any U.S. federal, state or local environmental law, ordinance, rule or regulation including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601-9675 (" CERCLA"), the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sections 1801-1819, the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Sections 6901-6992K, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Sections 11001-11050, the Toxic Substances Control Act, 15

U.S.C. Sections 2601-2671, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sections 136-136y, the Clean Air Act, 42 U.S.C. Sections 7401-7642, the Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. Sections 1251-1387, the Safe Drinking Water Act, 42 U.S.C. Sections 300f-330j-26, and the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, as any of the above statutes may be amended from time to time, and in the regulations promulgated pursuant to each of the foregoing (individually, an " Environmental Statute") or by any governmental authority.

(49) Compliance with ADA. The Company and its subsidiaries and each Real Property are currently in compliance with all presently applicable provisions of the Americans with Disabilities Act, as amended, except for any such non-compliance that would not, individually or in aggregate, reasonably be expected to have a Material Adverse Effect.

(50) No Breach or Default under Loans. To the Company's knowledge, there is no breach of, or default under (nor has any event occurred which with notice, lapse of time, or both would constitute a breach of, or default under) the loan documents relating to the debt instruments acquired or originated by the Company as described in the Prospectus (collectively, the " Loans") which breach or default, if uncured, would result in a Material Adverse Effect. To the Company's knowledge without due inquiry, there is no breach or default under (nor has any event occurred which with notice, lapse of time, or both would constitute a breach of, or default under) the loan documents relating to any loans senior to the Loans, which breach or default, if uncured, would result in a Material Adverse Effect.

(51) Compliance with Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the " Sarbanes-Oxley Act"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(52) Proprietary Trading by the Placement Agent. The Company acknowledges and agrees that the Placement Agent has informed the Company that the Placement Agent may, to the extent permitted under the Securities Act and the Exchange Act, purchase and sell shares of Common Stock for its own account while this Agreement is in effect, and shall be under no obligation to purchase Securities on a principal basis pursuant to this Agreement, except as otherwise agreed by the Placement Agent in the Placement Notice (as amended by the corresponding Acceptance, if applicable); provided, that no such purchase or sales shall take place while a Placement Notice is in effect (except (i) as agreed by the Placement Agent in the

Placement Notice (as amended by the corresponding Acceptance, if applicable) or (ii) to the extent the Placement Agent may engage in sales of Placement Securities purchased or deemed purchased from the Company as a "riskless principal" or in a similar capacity).

(b) *Certificates*. Any certificate signed by any officer of the Company or the Operating Partnership delivered to the Placement Agent or to counsel for the Placement Agent pursuant to the terms or provisions of this Agreement shall be deemed a representation and warranty by the Company to the Placement Agent as to the matters covered thereby.

SECTION 6. Sale and Delivery to the Placement Agent; Settlement.

(a) *Sale of Placement Securities*. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon the Placement Agent's acceptance of the terms of a Placement Notice or upon receipt by the Placement Agent of an Acceptance, as the case may be, and unless the sale of the Placement Securities described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, the Placement Agent, for the period specified in the Placement Notice, will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Securities up to the amount specified, and otherwise in accordance with the terms of such Placement Notice. The Company acknowledges and agrees that (i) there can be no assurance that the Placement Agent will be successful in selling Placement Securities, (ii) the Placement Agent will incur no liability or obligation to the Company or any other person or entity if it does not sell Placement Securities for any reason other than a failure by the Placement Agent to use its commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Securities as required under this Section 6, and (iii) the Placement Agent shall be under no obligation to purchase Securities on a principal basis pursuant to this Agreement, except as otherwise agreed by the Placement Agent in the Placement Notice (as amended by the corresponding Acceptance, if applicable).

(b) *Settlement of Placement Securities*. Unless otherwise specified in the applicable Placement Notice, settlement for sales of Placement Securities will occur on the third (3rd) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each, a "Settlement Date"). The amount of proceeds to be delivered to the Company on a Settlement Date against receipt of the Placement Securities sold (the "Net Proceeds") will be equal to the aggregate sales price received by the Placement Agent at which such Placement Securities were sold, after deduction for (i) the Placement Agent's commission, discount or other compensation for such sales payable by the Company pursuant to Section 2 hereof and (ii) any other amounts due and payable by the Company to the Placement Agent hereunder pursuant to Section 8(a) hereof.

(c) *Delivery of Placement Securities*. On or before each Settlement Date, concurrently with the receipt by the Company of the Net Proceeds due to the Company in respect of such Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Placement Securities being sold by crediting the Placement Agent's or its designee's account (provided the Placement Agent shall have given the Company written notice of such designee prior to the Settlement Date) at The Depository Trust Company through its Deposit and Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the parties hereto which in all cases shall be freely tradable, transferable, registered shares in good deliverable form. On each Settlement Date, the Placement Agent will deliver the related Net Proceeds in same day funds to an account designated by the Company on, or prior to, the Settlement Date. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver Placement Securities on a Settlement Date, the Company agrees that, in addition to and in no way limiting the rights and obligations set forth in Section 10(a) hereto, it

will (i) hold the Placement Agent harmless against any loss, claim, damage, or expense

(including reasonable legal fees and expenses), as incurred, arising out of or in connection with such default by the Company and (ii) pay to the Placement Agent any commission, discount, or other compensation to which it would otherwise have been entitled absent such default.

(d) *Denominations; Registration*. If requested by the Placement Agent at least two Business Days prior to the Settlement Date, then in lieu of electronic transfer, certificates for the Securities shall be in such denominations and registered in such names as the Placement Agent shall have specified in such request. The certificates for the Securities will be made available for examination and packaging by the Placement Agent in The City of New York not later than noon (New York time) on the Business Day prior to the Settlement Date.

SECTION 7. Covenants.

The Company covenants with the Placement Agent as follows:

(a) *Registration Statement Amendment*. After the date of this Agreement and during any period in which a Prospectus relating to any Placement Securities is required to be delivered by the Placement Agent under the Securities Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), (i) the Company will notify the Placement Agent promptly of the time when any subsequent amendment to the Registration Statement, other than documents incorporated by reference, has been filed with the Commission and/or has become effective or any subsequent supplement to the Prospectus has been filed and of any comment letter from the Commission or any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information; (ii) the Company will prepare and file with the Commission, promptly upon the Placement Agent's request, any amendments or supplements to the Registration Statement or Prospectus that, in the Placement Agent's reasonable opinion, may be necessary or advisable in connection with the distribution of the Placement Securities by the Placement Agent (*provided, however*, that the failure of the Placement Agent to make such request shall not relieve the Company of any obligation or liability hereunder, or affect the Placement Agent's right to rely on the representations and warranties made by the Company in this Agreement); (iii) the Company will not file any amendment or supplement to the Registration Statement or Prospectus, other than documents incorporated by reference, relating to the Placement Securities or a security convertible into the Placement Securities unless a copy thereof has been submitted to the Placement Agent within a reasonable period of time before the filing and the Placement Agent has not reasonably objected thereto (*provided, however*, that the failure of the Placement Agent to make such objection shall not relieve the Company of any obligation or liability hereunder, or affect the Placement Agent's right to rely on the representations and warranties made by the Company in this Agreement) and the Company will furnish to the Placement Agent at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via EDGAR; and (iv) the Company will cause each amendment or supplement to the Prospectus, other than documents incorporated by reference, to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act (without reliance on Rule 424(b)(8) of the Securities Act).

(b) *Notice of Commission Stop Orders*. The Company will advise the Placement Agent, promptly after it receives notice or obtains knowledge thereof, of the issuance or threatened issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any other order preventing or suspending the use of the Prospectus or any Issuer Free Writing Prospectus, or of the suspension of the qualification of the Placement Securities for offering or sale in any jurisdiction or of the loss or suspension of any exemption from any such qualification, or of the initiation or threatening of any proceedings for any of such purposes, or of any examination pursuant to Section 8(e) of the

Securities Act concerning the Registration Statement or if the Company becomes the subject of a proceeding under Section 8A of the Securities Act in connection with the offering of the Securities. The Company will make every reasonable effort to prevent the issuance of any stop order, the suspension of any qualification of the Securities for offering or sale and any loss or suspension of any exemption from any such qualification, and if any such stop order is issued or any such suspension or loss occurs, to obtain the lifting thereof at the earliest possible moment.

(c) *Delivery of Registration Statement and Prospectus.* Except to the extent such documents have been publicly filed with the Commission pursuant to EDGAR, the Company will furnish to the Placement Agent and its counsel (at the expense of the Company) copies of the Registration Statement, the Prospectus (including all documents incorporated by reference therein) and all amendments and supplements to the Registration Statement or Prospectus, and any Issuer Free Writing Prospectuses, that are filed with the Commission during any period in which a Prospectus relating to the Placement Securities is required to be delivered under the Securities Act (including all documents filed with the Commission during such period that are deemed to be incorporated by reference therein), in each case as soon as reasonably practicable and in such quantities and at such locations as the Placement Agent may from time to time reasonably request.

(d) *Continued Compliance with Securities Laws.* If at any time when a Prospectus is required by the Securities Act or the Exchange Act to be delivered in connection with a pending sale of the Placement Securities (including, without limitation, pursuant to Rule 172 under the Securities Act), any event shall occur or condition shall exist as a result of which it is necessary to amend the Registration Statement together with the Prospectus in order that the Prospectus will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary at any such time to amend the Registration Statement together with the Prospectus in order to comply with the requirements of the Securities Act, the Company will promptly notify the Placement Agent to suspend the offering of Placement Securities during such period and the Company will promptly prepare and file with the Commission such amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement and the Prospectus comply with such requirements, and the Company will furnish to the Placement Agent such number of copies of such amendment or supplement as the Placement

Agent may reasonably request. If at any time following the issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted, conflicts or would conflict with the information contained in the Registration Statement or the Prospectus or included, includes or would include an untrue statement of a material fact or together with the Prospectus omitted, omits or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances, prevailing at that subsequent time, not misleading, the Company will promptly notify the Placement Agent to suspend the offering of Placement Securities during such period and the Company will, subject to Section 7(a) hereof, promptly amend or supplement such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(e) *Blue Sky and Other Qualifications*. The Company will use its best efforts, in cooperation with the Placement Agent, to qualify the Placement Securities for offering and sale, or to obtain an exemption for the Securities to be offered and sold, under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Placement Agent may designate and to maintain such qualifications and exemptions in effect for so long as required for the distribution of the Securities (but in no event for less than one year from the date of this Agreement); *provided*, *however*, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject. In each

jurisdiction in which the Placement Securities have been so qualified or exempt, the Company will file such statements and reports as may be required by the laws of such jurisdiction to continue such qualification or exemption, as the case may be, in effect for so long as required for the distribution of the Placement Securities (but in no event for less than one year from the date of this Agreement).

(f) *Rule 158*. The Company will timely file such reports pursuant to the Exchange Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide to the Placement Agent the benefits contemplated by, the last paragraph of Section 11(a) of the Securities Act.

(g) *Use of Proceeds*. The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the Prospectus under "Use of Proceeds."

(h) *Listing*. During any period in which the Prospectus relating to the Placement Securities is required to be delivered by the Placement Agent under the Securities Act with respect to a pending sale of the Placement Securities (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), the Company will use its commercially reasonable efforts to cause the Placement Securities to be listed on the NYSE.

(i) *Filings with the Exchange*. The Company will timely seek to file with the NYSE all material documents and notices required by the NYSE of companies that have securities traded on the NYSE.

(j) *Reporting Requirements*. The Company, during any period when the Prospectus is required to be delivered under the Securities Act and the Exchange Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act.

(k) *Notice of Other Sales*. During the pendency of any Placement Notice given hereunder, the Company shall provide the Placement Agent notice as promptly as reasonably possible before it offers to sell, contracts to sell, sells, grants any option to sell or otherwise disposes of any shares of Common Stock (other than Placement Securities offered pursuant to the provisions of this Agreement) or securities convertible into or exchangeable for Common Stock, warrants or any rights to purchase or acquire Common Stock; *provided*, that such notice shall not be required in connection with the (i) issuance, grant or sale of restricted stock, Common Stock, LTIP units, options to purchase Common Stock, or Common Stock issuable upon the exercise of options or other equity awards pursuant to any stock option, stock bonus or other stock or compensatory plan or arrangement described in the Prospectus, (ii) the issuance of securities in connection with an acquisition, merger or sale or purchase of assets described in the Prospectus, or (iii) the issuance or sale of Common Stock pursuant to any dividend reinvestment plan that the Company has in effect or may adopt from time to time, *provided* the implementation of such new plan is disclosed to the Placement Agent in advance.

(l) *Change of Circumstances*. The Company will, at any time during a fiscal quarter in which the Company intends to tender a Placement Notice or sell Placement Securities, advise the Placement Agent promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document provided to the Placement Agent pursuant to this Agreement during such fiscal quarter.

(m) *Due Diligence Cooperation*. The Company will cooperate with any reasonable due diligence review conducted by the Placement Agent or its agents in connection with the transactions

contemplated hereby, including, without limitation, providing information and making available documents and senior officers, during regular business hours and at the Company's principal offices, as the Placement Agent may reasonably request.

(n) *Disclosure of Sales*. The Company will, if applicable, disclose in its quarterly reports on Form 10-Q and in its annual report on Form 10-K the number of Placement Securities sold through the Placement Agent during the most recent fiscal quarter, the Net Proceeds to the Company and

the compensation paid or payable by the Company to the Placement Agent with respect to such Placement Securities. The Company shall also prepare and file with the Commission pursuant to Rule 424(b) under the Securities Act not later than 40 days after the completion of such quarter a prospectus supplement disclosing such sales information, if any.

(o) *Representation Dates; Certificate*. On or prior to the date that the Securities are first sold pursuant to the terms of this Agreement and:

(i) each time the Company files the Prospectus relating to the Placement Securities or amends or supplements the Registration Statement or the Prospectus relating to the Placement Securities (other than amendments or supplements that are filed solely to report sales of the Placement Securities pursuant to this Agreement) by means of a post-effective amendment, sticker, or supplement but not by means of incorporation of documents by reference into the Registration Statement or the Prospectus relating to the Placement Securities;

(ii) each time the Company files an annual report on Form 10-K under the Exchange Act (each date of filing of the Company's annual report on Form 10-K shall be a "10-K Representation Date");

(iii) each time the Company files its quarterly reports on Form 10-Q under the Exchange Act; or

(iv) each time the Company files a report on Form 8-K containing amended financial information (other than an earnings release, to "furnish" information pursuant to Items 2.02 or 7.01 of Form 8-K or to provide disclosure pursuant to Item 8.01 of Form 8-K relating to the reclassifications of certain properties as discontinued operations in accordance with Statement of Financial Accounting Standards No. 144) under the Exchange Act (each date of filing of one or more of the documents referred to in clauses (i) through (iv) shall be a " Representation Date");

the Company and the Operating Partnership shall furnish the Placement Agent with a certificate, in the form attached hereto as Exhibit G, within three (3) Trading Days of any Representation Date. The requirement to provide a certificate under this Section 7(o) shall be waived for any Representation Date occurring at a time at which no Placement Notice is pending, which waiver shall continue until the earlier to occur of the date the Company delivers a Placement Notice hereunder (which for such calendar quarter shall be considered a Representation Date) and the next occurring Representation Date; *provided, however*, that such waiver shall not apply for any 10-K Representation Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Securities following a Representation Date when the Company relied on such waiver and did not provide the Placement Agent with a certificate under this Section 7(o), then before the Company delivers the Placement Notice or the Placement Agent sells any Placement Securities, the Company and the Operating Partnership shall provide the Placement Agent with a certificate, in the form attached hereto as Exhibit G, dated the date of the Placement Notice.

(p) *Legal Opinions*. On or prior to the date that the Securities are first sold pursuant to the terms of this Agreement and within three (3) Trading Days after each 10-K Representation Date with

respect to which the Company and the Operating Partnership is obligated to deliver a certificate in the form attached hereto as Exhibit G for which no waiver is applicable, the Company shall cause to be furnished to the Placement Agent (i) a written opinion of Venable LLP, Maryland counsel to the Company ("Company Maryland Counsel"), or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinion is required to be delivered, substantially similar to the form attached hereto as Exhibit D, (ii) written opinions of Skadden, Arps, Slate Meagher and Flom LLP, special counsel to the Company ("Company Special Counsel"), or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinions are required to be delivered, substantially similar to the forms attached hereto as Exhibit E-1 and Exhibit E-2, (iii) the written opinion of Allen & Overy LLP regarding certain matters pursuant to the 1940 Act, or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinion is required to be delivered, substantially similar to the form attached hereto as Exhibit F (iv) unless waived by the Placement Agent, a written opinion of Hunton & Williams LLP, counsel to the Placement Agent ("Counsel to the Placement Agent"), or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent, dated the date that the opinion is required to be delivered; *provided, however*, that in lieu of such opinions for subsequent 10-K Representation Dates, counsel may furnish the Placement Agent with a letter (a "Reliance Letter") to the effect that the Placement Agent may rely on a prior opinion delivered under this Section 7(p) to the same extent as if it were dated the date of such letter (except that statements in such prior opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented at such 10-K Representation Date).

(q) *Comfort Letter*. On or prior to the date that the Securities are first sold pursuant to the terms of this Agreement and within three (3) Trading Days after each 10-K Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit F for which no waiver is applicable, the Company shall cause its independent accountants (and any other independent accountants whose report is included in the Prospectus) to furnish the Placement Agent letters (the " Comfort Letters"), dated the date of the Comfort Letter is delivered, in form and substance satisfactory to the Placement Agent, (i) confirming that they are an independent registered public accounting firm within the meaning of the Securities Act, the Exchange Act and the PCAOB, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants' "comfort letters" to underwriters in connection with registered public offerings.

(r) *Market Activities*. The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or (ii) sell, bid for, or purchase the Securities to be issued and sold pursuant to this Agreement, or pay anyone any compensation for soliciting purchases of the Securities to be issued and sold pursuant to this Agreement other than the Placement Agent; *provided, however*, that the Company may bid for and purchase its Common Stock in accordance with Rule 10b-18 under the Exchange Act.

(s) *Investment Company Act*. The Company is familiar with the Investment Company Act, and the rules and regulations thereunder, and

will in the future conduct its and the Operating Partnership's affairs, in such a manner and will use its commercially reasonable best efforts to ensure that the Company and the Operating Partnership will not be an "investment company" within the meaning of the Investment Company Act and the rules and regulations thereunder.

(t) *Securities Act and Exchange Act*. The Company will use its best efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in

force, so far as necessary to permit the continuance of sales of, or dealings in, the Placement Securities as contemplated by the provisions hereof and the Prospectus.

(u) *No Offer to Sell*. Other than a free writing prospectus (as defined in Rule 405 under the Securities Act) approved in advance in writing by the Company and the Placement Agent in its capacity as principal or agent hereunder, the Company (including its agents and representatives, other than the Placement Agent in its capacity as such) will not, directly or indirectly, make, use, prepare, authorize, approve or refer to any free writing prospectus relating to the Securities to be sold by the Placement Agent as principal or agent hereunder.

(v) *Sarbanes-Oxley Act*. The Company and its subsidiaries will use their best efforts to comply with all effective applicable provisions of the Sarbanes-Oxley Act of 2002.

(w) *Regulation M*. If following the date hereof the Company qualifies for the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act with respect to the Company or the Common Stock, and subsequently thereafter, the Company has reason to believe that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the Company or the Common Stock, it shall promptly notify the Placement Agent and sales of the Placement Securities under this Agreement shall be suspended until that or other exemptive provisions have been satisfied in the judgment of each party.

(x) *REIT Qualification*. Each of the Company and the Private REIT will use its best efforts to continue to meet the requirements to qualify as a "real estate investment trust" under the Code, until the Board of Directors of the Company determines that it is no longer in the best interests of the Company to qualify as a REIT.

SECTION 8. Payment of Expenses.

(a) *Expenses*. The Company will pay all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment and supplement thereto, (ii) the word processing, printing and delivery to the Placement Agent of this Agreement and such other documents as may be required in connection with the offering, purchase, sale, issuance or delivery of the Placement Securities, (iii) the preparation, issuance and delivery of the certificates for the Placement Securities to the Placement Agent, including any stock or other transfer taxes and any capital duties, stamp duties or other duties or taxes payable upon the sale, issuance or delivery of the Placement Securities to the Placement Agent, (iii) the fees and disbursements of the counsel, accountants and other advisors to the Company and the Operating Partnership, (iv) the qualification or exemption of the Placement Securities under securities laws in accordance with the provisions of Section 7(e) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Placement Agent in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplements thereto, (v) the printing and delivery to the Placement Agent of copies of any permitted Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Placement Agent to investors, (vi) the fees and expenses of the transfer agent and registrar for the Securities, (vii) the filing fees incident to, and the reasonable fees and disbursements of counsel to the Placement Agent in connection with, the review by FINRA of the terms of the sale of the Securities and (viii) the fees and expenses incurred in connection with the listing of the Placement Securities on the NYSE.

(b) *Termination of Agreement.* If this Agreement is terminated by the Placement Agent in accordance with the provisions of Section 9 or Section 12(a)(i) hereof or by the Company pursuant to

Section 12(b) hereof, the Company shall reimburse the Placement Agent for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Placement Agent.

SECTION 9. Conditions of the Placement Agent's Obligations. The obligations of the Placement Agent hereunder with respect to a Placement will be subject to the continuing accuracy and completeness of the representations and warranties of the Company and the Operating Partnership contained in this Agreement or in certificates of any officer of the Company, the Operating Partnership or any of their respective subsidiaries delivered pursuant to the provisions hereof, to the performance by the Company and the Operating Partnership of their respective covenants and other obligations hereunder, and to the following further conditions:

(a) *Opinions of Company Maryland Counsel, Company Special Counsel and Counsel to the Placement Agent* . On or prior to the date that Securities are first sold pursuant to the terms of this Agreement the Company shall furnish to the Placement Agent the opinions, each addressed to the Placement Agent, of (i) Venable LLP, Maryland counsel for the Company, or other counsel satisfactory to the Placement Agent, in form and substance

reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinion is required to be delivered, substantially similar to the form attached hereto as Exhibit D; (ii) Skadden, Arps, Slate, Meagher and Flom LLP, special counsel for the Company, the Subsidiaries, the Operating Partnership or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinions are required to be delivered, substantially similar to the forms attached hereto as Exhibit E-1 and Exhibit E-2; (iii) Allen & Overy LLP, special 1940 Act counsel for the Company and the Subsidiaries, or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent and its counsel, dated the date that the opinions are required to be delivered, substantially similar to the forms attached hereto as Exhibit F; (iv) unless waived by the Placement Agent, Hunton & Williams LLP, counsel to the Placement Agent, or other counsel satisfactory to the Placement Agent, in form and substance reasonably satisfactory to the Placement Agent, dated the date that the opinion is required to be delivered.

(b) *Effectiveness of Registration Statement*. The Registration Statement and any Rule 462(b) Registration Statement shall have become effective and shall be available for (i) all sales of Placement Securities issued pursuant to all prior Placement Notices and (ii) the sale of all Placement Securities contemplated to be issued by any Placement Notice.

(c) *No Material Notices*. None of the following events shall have occurred and be continuing: (i) receipt by the Company or any of its subsidiaries of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Placement Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus, or any Issuer Free Writing Prospectus, or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, the Prospectus, or any Issuer Free Writing Prospectus, or such documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus and any Issuer Free Writing Prospectus, it will not

contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) *No Misstatement or Material Omission*. The Placement Agent shall not have advised the Company that the Registration Statement or Prospectus, or any Issuer Free Writing Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in the Placement Agent's reasonable opinion is material, or omits to state a fact that in the Placement Agent's opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(e) *Material Changes*. Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business.

(f) *Representation Certificate*. The Placement Agent shall have received the certificate required to be delivered pursuant to Section 7(o) on or before the date on which delivery of such certificate is required pursuant to Section 7(o).

(g) *Accountant's Comfort Letter.* The Placement Agent shall have received the Comfort Letter required to be delivered pursuant Section 7(q) on or before the date on which such delivery of such opinion is required pursuant to Section 7(q).

(h) *Approval for Listing*. The Placement Securities shall either have been (i) approved for listing on the NYSE, subject only to notice of issuance, or (ii) the Company shall have filed an application for listing of the Placement Securities on the NYSE at, or prior to, the issuance of any Placement Notice.

(i) *No Suspension*. Trading in the Securities shall not have been suspended on the NYSE.

(j) *Additional Documents*. On each date on which the Company is required to deliver a certificate pursuant to Section 7(o), counsel for the Placement Agent shall have been furnished with such documents and opinions as they may require for the purpose of enabling them to pass upon the issuance and sale of the Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, contained in this Agreement.

(k) *Securities Act Filings Made*. All filings with the Commission required by Rule 424 under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder shall have been made within the applicable time period prescribed for such filing by Rule 424 under the Securities Act.

(l) *Termination of Agreement.* If any condition specified in this Section 9 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Placement Agent by notice to the Company, and such termination shall be without liability of any party to any other party except as provided in Section 7 hereof and except that, in the case of any termination of this Agreement, Sections 5, 10, 11 and 19 hereof shall survive such termination and remain in full force and effect.

SECTION 10. Indemnity and Contribution by the Company, the Operating Partnership and the Placement Agent .

(a) *Indemnification by the Company and the Operating Partnership* . The Company and the Operating Partnership, jointly and severally, agree to indemnify, defend and hold harmless the Placement Agent and any person who controls the Placement Agent within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any loss, expense, liability, damage or claim (including the reasonable cost of investigation) as incurred which, jointly or severally, the Placement Agent or any controlling person may incur under the Securities Act, the Exchange Act or otherwise, insofar as such loss, expense, liability, damage or claim arises out of or is based upon (1) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereof), any Issuer Free Writing Prospectus that the Company has filed or was required to file with the Commission or the Prospectus (the term Prospectus for the purpose of this Section 10 being deemed to include the Prospectus as of its date and as amended or supplemented by the Company), (2) any omission or alleged omission to state a material fact required to be stated in any such Registration Statement, or necessary to make the statements made therein not misleading, or (3) any omission or alleged omission from any such Issuer Free Writing Prospectus or Prospectus of a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; *except*, in the case of each of clauses (1), (2) and (3), insofar as any such loss, expense, liability, damage or claim arises out of or is based upon any untrue statement or alleged untrue statement of a material fact or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus and any Issuer Free Writing Prospectus, in the light of the circumstances under which they were made) not misleading, in each such case, to the extent contained in and in conformity with information furnished in writing by the Placement Agent to the Company expressly for use therein (that information being limited to that described in Section 10(c) hereof). The indemnity agreement set forth in this Section 10(a) shall be in addition to any liability which the Company and the Operating Partnership may otherwise have. If any action is brought against the Placement Agent or any controlling person in respect of which indemnity may be sought against the Company or the Operating Partnership pursuant to the foregoing paragraph of this Section 10(a), the Placement Agent shall promptly notify the Company or the Operating Partnership, as the case may be, in writing of the institution of such action, and the Company or the Operating Partnership, as the case may be, shall if it so elects, assume the defense of such action, including the employment of counsel and payment of expenses; *provided*, *however*, that any failure or delay to so notify the Company or the Operating Partnership, as the case may be, will not relieve the Company or the Operating Partnership of any obligation hereunder, except to the extent that their ability to defend is materially prejudiced by such failure or delay. The Placement Agent or such controlling person shall have the right to employ its or their own counsel in any such case, but the fees and expenses of such counsel shall be at the expense of the Placement Agent or such controlling person unless the employment of such counsel shall have been authorized in writing by the Company or the Operating Partnership, as the case may be, in connection with the defense of such action, or the Company or the Operating Partnership, as the case may be, shall not have employed counsel reasonably satisfactory to the Placement Agent or such controlling person, as the case maybe, to have charge of the defense of such action within a reasonable time or such indemnified party or parties shall have reasonably concluded (based on the advice of counsel) that there may be defenses available to it or them which are different from or additional to those available to the Company or the Operating Partnership (in which case neither the Company nor the Operating Partnership shall have the right to direct the defense of such action on behalf of the indemnified party or parties), in any of which events such fees and expenses shall be borne by the Company or the Operating Partnership, as the case may be, and paid as incurred (it being understood, however, that neither the Company nor the Operating Partnership shall be liable for the expenses of more than one separate firm of attorneys for the Placement Agent or such controlling persons in any one action or series of related actions in the same jurisdiction (other than local counsel in any such jurisdiction) representing the indemnified parties who are parties to such action). Anything in this paragraph to the contrary notwithstanding, neither the Company nor the Operating Partnership shall be liable for any settlement of any such claim or action effected without its consent.

(b) *Indemnification by the Placement Agent.* The Placement Agent agrees to indemnify, defend and hold harmless the Company, the Operating Partnership, the Company's directors, the Company's officers that signed the Registration Statement, any person who controls the Company and the Operating Partnership within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any loss, expense, liability, damage or claim (including the reasonable cost of investigation) as incurred which, jointly or severally, the Company, the Operating Partnership or any such person may incur under the Securities Act, the Exchange Act or otherwise, insofar as such loss, expense, liability, damage or claim arises out of or is based upon (1) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereof), any Issuer Free Writing Prospectus that the Company has filed or was required to file with the Commission, the Prospectus, (2) any omission or alleged omission to state a material fact required to be stated in any such Registration Statement, or necessary to make the statements made therein not misleading, or (3) any omission or alleged omission from any such Issuer Free Writing Prospectus or the Prospectus of a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading, but in each case only insofar as such untrue statement or alleged untrue statement or omission or alleged omission was made in such Registration Statement, Issuer Free Writing Prospectus or Prospectus in reliance upon and in conformity with information furnished in writing by the Placement Agent to the Company expressly for use therein. The statements set forth in the sixth paragraph under the caption "Plan of Distribution" in the Prospectus Supplement (to the extent such statements relate to the Placement Agent) constitute the only information furnished by or on behalf of the Placement Agent to the Company or the Operating Partnership for the purposes of Section 5(a)(1) and this Section 10. The indemnity agreement set forth in this Section 10(b) shall be in addition to any liabilities that the Placement Agent may otherwise have.

If any action is brought against the Company , the Operating Partnership, or any such person in respect of which indemnity may be sought against the Placement Agent pursuant to the foregoing paragraph, the Company , the Operating Partnership or such person shall promptly notify the Placement Agent in writing of the institution of such action and the Placement Agent shall if it so elects assume the defense of such action, including the employment of counsel and payment of expenses; *provided*, *however*, that any failure or delay to so notify the Placement Agent will not relieve the Placement Agent of any obligation hereunder, except to the extent that their ability to defend is materially prejudiced by such failure or delay. The Company , the Operating Partnership or such person shall have the right to employ its own counsel in any such case, but the fees and expenses of such counsel shall be at the expense of the Company , the Operating Partnership or such person unless the employment of such counsel shall have been authorized in writing by the Placement Agent in connection with the defense of such action or the Placement Agent shall not have employed counsel reasonably satisfactory to the Company , the Operating Partnership or such person, as the case may be, to have charge of the defense of such action within a reasonable time or such indemnified party or parties shall have reasonably

concluded (based on the advice of counsel) that there may be defenses available to it or them which are different from or additional to those available to (in which case the Placement Agent shall not have the right to direct the defense of such action on behalf of the indemnified party or parties), in any of which events such fees and expenses shall be borne by the Placement Agent and paid as incurred (it being understood, however, that the Placement Agent shall not be liable for the expenses of more than one separate firm of attorneys in any one action or series of related actions in the same jurisdiction (other than local counsel in any such jurisdiction) representing the indemnified parties who are parties to such action). Anything in this paragraph to the contrary notwithstanding, the Placement Agent shall not be liable for any settlement of any such claim or action effected without its written consent.

(c) *Contribution*. If the indemnification provided for in this Section 10 is unavailable or insufficient to hold harmless an indemnified party under subsections (a) and (b) of this Section 10 in respect of any losses, expenses, liabilities, damages or claims referred to therein, then each applicable

indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, expenses, liabilities, damages or claims (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, the Operating Partnership and by the Placement Agent, each from the offering of the Securities, or (ii) if (but only if) the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, the Operating Partnership and the Placement Agent in connection with the statements or omissions which resulted in such losses, expenses, liabilities, damages or claims, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Operating Partnership shall be deemed to be equal to the gross proceeds from the offering of Securities (before deducting discounts and expenses) received by each of them and benefits received by the Placement Agent shall be deemed to be equal to the underwriting discounts and commissions received the Placement Agent. The relative fault of the Company, the Operating Partnership and of the Placement Agent shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or omission or alleged omission relates to information supplied by the Company and/or Operating Partnership or by the Placement Agent and the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid or payable by a party as a result of the losses, claims, damages and liabilities referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any claim or action.

(d) The Company, the Operating Partnership and the Placement Agent agree that it would not be just and equitable if contribution pursuant to this Section 10 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in clause (i) and, if applicable, clause (ii) of subsection (c) above. Notwithstanding the provisions of this Section 10, the Placement Agent shall not be required to contribute any amount in excess of the underwriting discounts and commissions applicable to the Securities purchased by the Placement Agent and the liability of the Company and/or the Operating Partnership pursuant to this Section 10 shall not exceed the gross proceeds received by the Company and/or the Operating Partnership in the offering. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(e) The provisions of this Section shall not affect any agreement among the Company and/or the Operating Partnership with respect to indemnification.

SECTION 11. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or the Operating Partnership or any of their respective subsidiaries submitted pursuant hereto, shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Placement Agent or controlling person, or by or on behalf of the Company or the Operating Partnership and shall survive delivery of the Securities to the Placement Agent.

SECTION 12. Termination of Agreement.

(a) *Termination; General.* The Placement Agent may terminate this Agreement, by notice to the Company, as hereinafter specified at any time (i) if there has been, since the time of execution of this Agreement or since the date as of which information is given in the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or

other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Placement Agent, impracticable or inadvisable to market the Securities or to enforce contracts for the sale of the Securities, or (iii) if trading in the Placement Securities has been suspended or limited by the Commission or the NYSE, or if trading generally on the NYSE MKT, the NYSE or the Nasdaq Global Market has been suspended or limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, the FINRA or any other governmental authority, or a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States or in Europe, or (iv) if a banking moratorium has been declared by either Federal or New York authorities.

(b) *Termination by the Company*. The Company shall have the right, by giving one (1) day notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. Upon termination of this Agreement pursuant to this Section 12(b), any outstanding Placement Notices shall also be terminated.

(c) *Termination by the Placement Agent.* The Placement Agent shall have the right, by giving one (1) day notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement.

(d) *Automatic Termination*. Unless earlier terminated pursuant to this Section 12, this Agreement shall automatically terminate upon the issuance and sale of all of the Placement Securities through the Placement Agent on the terms and subject to the conditions set forth herein.

(e) *Continued Force and Effect*. This Agreement shall remain in full force and effect unless terminated pursuant to Sections 12(a), (b), (c), or (d) above or otherwise by mutual agreement of the parties.

(f) *Effectiveness of Termination*. Any termination of this Agreement shall be effective on the date specified in such notice of termination; *provided*, *however*, that such termination shall not be effective until the close of business on the date of receipt of such notice by the Placement Agent or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Securities, such Placement Securities shall settle in accordance with the provisions of this Agreement.

(g) *Liabilities*. If this Agreement is terminated pursuant to this Section 12, such termination shall be without liability of any party to any other party except as provided in Section 8 hereof, and except that, in the case of any termination of this Agreement, Section 5, Section 10, Section 11 and Section 19 hereof shall survive such termination and remain in full force and effect.

SECTION 13. Notices. Except as otherwise provided in this Agreement, all notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Placement Agent shall be directed to the Placement Agent at JMP Securities LLC, 600 Montgomery Street, Suite 1100, San Francisco, California 94111, Facsimile: (415) 835-8920, Attention: Equity Securities, with a copy (which shall not constitute notice) to Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia, 23219-4074, Attention: Daniel M. LeBey, and notices to the Company and the Operating Partnership shall be directed to them c/o Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553, Attention: Paul Elenio, Chief Financial Officer and Treasurer, with a copy (which shall not constitute notice) to Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, Attention: David J. Goldschmidt.

SECTION 14. Parties. This Agreement shall inure to the benefit of and be binding upon the Placement Agent, the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Placement Agent, the Company and their respective successors and the controlling persons and officers and directors referred to in Section 10 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Placement Agent, the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from the Placement Agent shall be deemed to be a successor by reason merely of such purchase.

SECTION 15. Adjustments for Stock Splits. The parties acknowledge and agree that all stock-related numbers contained in this Agreement shall be adjusted to take into account any stock split, stock dividend or similar event effected with respect to the Securities.

SECTION 16. Governing Law and Time. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

SECTION 17. Effect of Headings. The Section and Exhibit headings herein are for convenience only and shall not affect the construction hereof.

SECTION 18. Permitted Free Writing Prospectuses. The Company represents, warrants and agrees that, unless it obtains the prior consent of the Placement Agent, and the Placement Agent represents, warrants and agrees that, unless it obtains the prior consent of the Company, it has not made and will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus, or that would otherwise constitute a "free writing prospectus," as defined in Rule 405 under the Securities Act, required to be filed with the Commission. Any such free writing prospectus consented to by the Placement Agent or by the Company, as the case may be, is hereinafter referred to as a "Permitted Free Writing Prospectus." The Company represents and warrants that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an "issuer free writing prospectus," as defined in Rule 433 under the Securities Act, and has complied and will comply with the requirements of Rule 433 under the Securities Act applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping. For the purposes of clarity, the parties hereto agree that all free writing prospectuses, if any, listed in Exhibit H hereto are Permitted Free Writing Prospectuses.

SECTION 19. Absence of Fiduciary Relationship. Each of the Company and the Operating Partnership acknowledge and agree that:

(a) The Placement Agent is acting solely as agent and/or principal in connection with the public offering of the Securities and in connection with each transaction contemplated by this Agreement and the process leading to such transactions, and no fiduciary or advisory relationship between the Company, the Operating Partnership or any of their respective affiliates, stockholders (or other equity holders), creditors or employees or any other party, on the one hand, and the Placement Agent, on the other hand, has been or will be created in respect of any of the transactions contemplated by this Agreement, irrespective of whether or not the Placement Agent has advised or is advising the Company, or the Operating Partnership on other matters, and the Placement Agent has no obligation to the Company or the Operating Partnership with respect to the transactions contemplated by this Agreement, except the obligations expressly set forth in this Agreement;

(b) the public offering price of the Securities was not established by the Placement Agent; it is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;

(c) the Placement Agent has not provided any legal, accounting, regulatory or tax advice with respect to the transactions contemplated by this Agreement and it has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate;

(d) it is aware that the Placement Agent and its respective affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and the Operating Partnership and the Placement Agent has no obligation to disclose such interests and transactions to the Company or the Operating Partnership by virtue of any fiduciary, advisory or agency relationship or otherwise; and

(e) it waives, to the fullest extent permitted by law, any claims it may have against the Placement Agent for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Placement Agent shall not have any liability (whether direct or indirect, in contract, tort or otherwise) to it in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on its behalf or in right of it or the Company, the Operating Partnership, or employees or creditors of the Company or the Operating Partnership.

[*Signature Page Follows.*]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement by and among the Placement Agent, the Company and the Operating Partnership in accordance with its terms.

Very truly yours,

ARBOR REALTY TRUST, INC.

By: /s/ Paul Elenio
Name: Paul Elenio
Title: CFO

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc., its
General Partner

By: /s/ Paul Elenio
Name: Paul Elenio
Title: CFO

CONFIRMED AND ACCEPTED, as of the date first above written:

JMP SECURITIES LLC

By: /s/ Kent Ledbetter
Authorized Signatory
Kent Ledbetter
Director of Investment Banking

Signature Page to Equity Distribution Agreement

SCHEDULE I
Significant Subsidiaries of the Company

Jurisdiction of

Name	Jurisdiction of Organization	Type Of Entity
SIGNIFICANT SUBSIDIARIES		
Arbor Realty GPOP, Inc.	Delaware	Corporation
Arbor Realty Limited Partnership	Delaware	Limited Partnership (general partner is Arbor Realty GPOP, Inc.)
Arbor Realty SR, Inc.	Maryland	Corporation
Arbor Realty Funding, LLC	Delaware	Limited Liability Company
Arbor Realty Member LLC	Delaware	Limited Liability Company
Arbor Realty Mortgage Securities Series 2004-1, Ltd.	Cayman Islands	Exempted Company with Limited Liability
AR Prime Holdings LLC	Delaware	Limited Liability Company
Arbor Realty Mortgage Securities Series 2005-1 Ltd.	Cayman Islands	Exempted Limited Liability Company
Arbor TRS Holdings, LLC	Delaware	Limited Liability Company (TRS)
Arbor Realty Mortgage Securities Series 2006-1, Ltd.	Cayman Islands	Exempted Company with Limited Liability

SCHEDULE II

Joint Ventures of the Company

Name	Jurisdiction of Organization	Type of Entity	Percentage Ownership
Prime Outlets Acquisition Company LLC	Delaware	Limited Liability Company	24.17%
450 Managing Member LLC	Delaware	Limited Liability Company	28.96%
200 Fifth Holder LLC	Delaware	Limited Liability Company	20.00%
AC Flushing LLC	New York	Limited Liability Company	50.00%
LBREP York Avenue Holdings LLC	Delaware	Limited Liability Company	8.70%
823 Park Avenue Mezz LLC	Delaware	Limited Liability Company	20.00%
Richland Terrace Apartments, LLC	South Carolina	Limited Liability Company	25.00%
Ashley Court - Fort Wayne LLC	Indiana	Limited Liability Company	25.00%
Nottingham Village, LLC	Indiana	Limited Liability Company	25.00%

EXHIBIT A

FORM OF PLACEMENT NOTICE

JMP Securities LLC
600 Montgomery Street, Suite 1100
San Francisco, California 94111

Subject: Equity Distribution—Placement Notice

Gentlemen:

Pursuant to the terms and subject to the conditions contained in the Equity Distribution Agreement among Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), Arbor Realty Limited Partnership, a Delaware limited partnership (the " Operating Partnership") and Arbor Commercial Mortgage, LLC, a New York limited liability company and JMP Securities LLC (the "Placement Agent") dated December 31, 2012 (the " Agreement"), I hereby request on behalf of the Company that the Placement Agent sell up to [•] shares of the Company's common stock, par value $0.01 per share, at a minimum market price of $[•] per share.

[ADDITIONAL SALES PARAMETERS MAY BE ADDED, SUCH AS THE MAXIMUM AGGREGATE OFFERING PRICE, THE TIME PERIOD IN WHICH SALES ARE REQUESTED TO BE MADE, SPECIFIC DATES THE SHARES MAY NOT BE SOLD ON, THE MANNER IN WHICH SALES ARE TO BE MADE BY THE PLACEMENT AGENT, AND/OR THE CAPACITY IN WHICH THE PLACEMENT AGENT MAY ACT IN SELLING SHARES (AS PRINCIPAL, AGENT, OR BOTH)]

EXHIBIT B

AUTHORIZED INDIVIDUALS FOR PLACEMENT NOTICES AND ACCEPTANCES

[INTENTIONALLY OMITTED]

EXHIBIT C

COMPENSATION

The Placement Agent shall be paid compensation which will not exceed, but may be lower than, 2.0% of the gross proceeds from the sale of Securities pursuant to the terms of this Agreement.

EXHIBIT D

FORM OF OPINION OF COMPANY MARYLAND COUNSEL

[INTENTIONALLY OMITTED]

EXHIBIT E-1

FORM OF OPINION OF COMPANY SPECIAL COUNSEL

[INTENTIONALLY OMITTED]

EXHIBIT E-2

FORM OF TAX OPINION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

[INTENTIONALLY OMITTED]

EXHIBIT F

FORM OF OPINION OF ALLEN & OVERY LLP

[INTENTIONALLY OMITTED]

EXHIBIT G

OFFICER CERTIFICATE

The undersigned and are the [CFO/Treasurer] and [General Counsel/Secretary], respectively, of Arbor Realty Trust, Inc., a Maryland corporation (the "Company"). The Company is the sole general partner of Arbor Realty Limited Partnership, a Delaware limited partnership (the "Operating Partnership"), and as such, each of the undersigned is authorized to execute and deliver this Certificate in the name of and on behalf of the Company, in its own capacity, and as the general partner of the Operating Partnership. The undersigned hereby execute this Certificate in connection with the closing held as of the date hereof pursuant to the terms of that certain Equity Distribution Agreement, dated December 31, 2012 (the

"Equity Distribution Agreement"), among the Company, the Operating Partnership and JMP Securities LLC. Capitalized terms used herein without definition shall have the meanings given to such terms in the Equity Distribution Agreement.

The undersigned each hereby further certifies, in their respective capacities as officers of the Company, in its own capacity, and as the general partner of the Operating Partnership that:

1. The representations and warranties of the Company and the Operating Partnership in the Equity Distribution Agreement are true and correct, as if made on and as of the date hereof, and the Company and the Operating Partnership have complied with all of their respective obligations thereunder and satisfied all of the conditions on their part to be performed or satisfied at or prior to the date hereof;

2. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued and no proceedings for that purpose have been instituted or are pending or threatened under the Securities Act of 1933, as amended;

3. Subsequent to the respective dates as of which information is given in the Registration Statement or the Prospectus, there has not been (A) any Material Adverse Change, (B) any transaction that is material to the Company and its subsidiaries taken as a whole, (C) any obligation, direct or contingent, that is material to the Company and its subsidiaries, taken as a whole, incurred by the Company or the Subsidiaries, (D) any change in the capital stock or outstanding indebtedness of the Company or any Subsidiary that is material to the Company and its subsidiaries, taken as a whole, or (E) any loss or damage (whether or not insured) to the Properties which has been sustained or will have been sustained which could reasonably be expected to have a Material Adverse Effect; and

4. Each of Skadden, Arps, Slate, Meagher & Flom LLP and Hunton & Williams LLP is entitled to rely on this Officers' Certificate in connection with the opinion that each firm is rendering pursuant to the Equity Distribution Agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF, the undersigned have signed their names on this day of , 20 .

ARBOR REALTY TRUST, INC.

By: _____
Name:
Title:

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc., its General Partner

By: _____
Name:
Title:

EXHIBIT H

ISSUER FREE WRITING PROSPECTUSES

None.

Exhibit 10.41

Execution Version

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.,
as Issuer,

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC,
as Co-Issuer,

ARBOR REALTY SR, INC.,
as Advancing Agent

AND

U.S. BANK NATIONAL ASSOCIATION,
as Trustee, Paying Agent, Calculation Agent, Transfer Agent,
Custodial Securities Intermediary, Backup Advancing Agent and Notes Registrar

INDENTURE

Dated as of January 28, 2013

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INDENTURE, dated as of January 28, 2013, by and between ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, a limited liability company formed under the laws of Delaware (the "Co-Issuer"), U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee (herein, together with its permitted successors and assigns in the trusts hereunder, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar, and ARBOR REALTY SR, INC. (including any successor by merger, the "Arbor Parent"), a Maryland corporation, as advancing agent (herein, together with its permitted successors and assigns in the trusts hereunder, the "Advancing Agent").

PRELIMINARY STATEMENT

Each of the Issuer and the Co-Issuer is duly authorized to execute and deliver this Indenture to provide for the Notes issuable as provided in this Indenture. All covenants and agreements made by the Issuer and Co-Issuer herein are for the benefit and security of the Secured Parties. The Issuer, the Co-Issuer, U.S. Bank National Association, in all of its capacities, and the Advancing Agent are entering into this Indenture, and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Issuer and Co-Issuer in accordance with this Indenture's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Secured Parties, all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising:

(a) the Loan Obligations listed in the Schedule of Closing Date Loan Obligations which the Issuer purchases on the Closing Date and causes to be delivered to the Trustee (directly or through an agent or bailee) herewith, all payments thereon or with respect thereto and all Loan Obligations which are delivered to the Trustee (directly or through an agent or bailee) after the Closing Date pursuant to the terms hereof (including all Additional Loan Obligations and Replacement Loan Obligations) and all payments thereon or with respect thereto,

(b) the Collection Accounts, the Payment Account, the Expense Account, the Unused Proceeds Account, the RDD Funding Account, the Custodial Account and the related security entitlements and all income from the investment of funds in any of the foregoing at any time credited to any of the foregoing accounts,

(c) the Eligible Investments,

(d) the rights of the Issuer under the Loan Obligation Management Agreement, each Loan Obligation Purchase Agreement (including any Loan Obligation Purchase Agreement entered into after the Closing Date) and the Servicing Agreement,

(e) all amounts delivered to the Trustee (or its bailee) (directly or through a securities intermediary),

(f) all other investment property, instruments and general intangibles in which the Issuer has an interest, other than the Excepted Assets,

(g) the Issuer's ownership interest in, and rights to, all Permitted Subsidiaries and

(h) all proceeds with respect to the foregoing clauses (a) through (g).

The collateral described in the foregoing clauses (a) through (h), with the exception of any Excepted Assets, is referred to herein as the "Assets." Such Grants are made to secure the Notes equally and ratably without prejudice, priority or distinction between any Note and any other Note for any reason, except as expressly provided in this Indenture (including, but not limited to, the Priority of Payments) and to secure (i) the payment of all amounts due on and in respect of the Notes in accordance with their terms, (ii) the payment of all other sums payable under this Indenture and (iii) compliance with the provisions of this Indenture, all as provided in this Indenture. The foregoing Grant shall, for the purpose of determining the property subject to the lien of this Indenture, be deemed to include any securities and any investments granted by or on behalf of the Issuer to the Trustee for the benefit of the Secured Parties, whether or not such securities or such investments satisfy the criteria set forth in the definitions of "Loan Obligation" or "Eligible Investment," as the case may be.

Except to the extent otherwise provided in this Indenture, this Indenture shall constitute a security agreement under the laws of the State of New York applicable to agreements made and to be performed therein, for the benefit of the Noteholders. Upon the occurrence and during the continuation of any Event of Default hereunder, and in addition to any other rights available under this Indenture or any other Assets held for the benefit and security of the Noteholders or otherwise available at law or in equity but subject to the terms hereof, the Trustee shall have all rights and remedies of a secured party on default under the laws of the State of New York and other applicable law to enforce the assignments and security interests contained herein and, in addition, shall have the right, subject to compliance with any mandatory requirements of applicable law and the terms of this Indenture, to sell or apply any rights and other interests assigned or pledged hereby in accordance with the terms hereof at public and private sale.

The Trustee acknowledges such Grants, accepts the trusts hereunder in accordance with the provisions hereof, and agrees to perform the duties herein in accordance with, and subject to, the terms hereof, in order that the interests of the Secured Parties may be adequately and effectively protected in accordance with this Indenture.

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions.

Except as otherwise specified herein or as the context may otherwise require, the following terms have the respective meanings set forth below for all purposes of this Indenture, and the definitions of such terms are equally applicable both to the singular and plural forms of such terms and to the masculine, feminine and neuter genders of such terms. The word "including" and its variations shall mean "including without limitation." Whenever any reference is made to an amount the determination of which is governed by Section 1.2 hereof, the provisions of Section 1.2 shall be applicable to such determination or calculation, whether or not reference is specifically made to Section 1.2, unless some other method of calculation or determination is expressly specified in the particular provision. All references in this Indenture to designated "Articles," "Sections," "Subsections" and other subdivisions are to the designated Articles, Sections, Subsections and other subdivisions of this Indenture as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section, Subsection or other subdivision.

"17g-5 Information": The meaning specified in Section 14.3(h) hereof.

"17g-5 Website": A password-protected internet website which shall initially be located at www.usbank.com/abs. Any change of the 17g-5 Website shall only occur after notice has been delivered by the Issuer to the Information Agent, the Trustee, the Collateral Administrator, the Loan Obligation Manager, the Placement Agent and the Rating Agency, which notice shall set forth the date of change and new location of the 17g-5 Website.

"1940 Act": Investment Company Act of 1940, as amended.

"A Note": A promissory note secured by a mortgage on commercial real estate property that is not subordinate in right of payment to any separate promissory note secured by a direct or beneficial interest in the same property.

"Accepted Loan Servicer": Any commercial mortgage loan master or primary servicer that (1) is engaged in the business of servicing commercial mortgage loans (with a minimum servicing portfolio of U.S.$100,000,000) that are comparable to the Loan Obligations owned or to be owned by the Issuer and (2) as to which Moody's has not cited servicing concerns of such servicer as the sole or material factor in any downgrade or withdrawal of the ratings (or placement on "watch status" in contemplation of a ratings downgrade or withdrawal) of securities in any commercial mortgage backed securities transaction serviced by such servicer prior to the time of determination.

"Account": Any of the Interest Collection Account, the Principal Collection Account, the Unused Proceeds Account, the RDD Funding Account, the Payment Account, the Expense Account, the Custodial Account and the Preferred Share Distribution Account and any subaccount thereof that the Trustee deems necessary or appropriate.

"Accountants' Report": A report of a firm of Independent certified public accountants of recognized national reputation appointed by the Issuer pursuant to Section 10.13(a), which may be the firm of independent accountants that reviews or performs procedures with respect to the financial reports prepared by the Issuer or the Loan Obligation Manager.

"Act" or "Act of Securityholders": The meaning specified in Section 14.2 hereof.

"Additional Loan Obligations": Loan Obligations that are acquired by the Issuer during the Post-Closing Acquisition Period.

"Advancing Agent": Arbor Realty SR, Inc., unless a successor Person shall have become the Advancing Agent pursuant to the applicable provisions of this Indenture, and thereafter "Advancing Agent" shall mean such successor Person.

"Advancing Agent Fee": The fee payable monthly in arrears on each Payment Date to the Advancing Agent in accordance with the Priority of Payments, equal to 0.07% *per annum* on the Aggregate Outstanding Amount of the Notes on such Payment Date prior to giving effect to distributions with respect to such Payment Date; which fee may be waived by the Advancing Agent, in its discretion in connection with any Payment Date unless such fee is payable to the Back-up Advancing Agent pursuant to the Priority of Payments.

"Advisers Act": The Investment Advisers Act of 1940, as amended.

"Advisory Committee": The meaning specified in the Loan Obligation Management Agreement.

"Affiliate" or "Affiliated": With respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer or employee (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (i) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Person, or (ii) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise; provided that neither the Company Administrator nor any other company, corporation or person to which the Company Administrator provides directors and/or administrative services and/or acts as share trustee shall be an Affiliate of the Issuer or Co-Issuer; provided, further, that neither the Loan Obligation Manager, the Arbor Parent nor any of the Arbor Parent's subsidiaries shall be deemed to be Affiliates of the Issuer.

"Agent Members": Members of, or participants in, the Depository, Clearstream, Luxembourg or Euroclear.

"Aggregate Collateral Balance": The sum of (without duplication) (i) the aggregate Principal Balance of Loan Obligations (excluding for purposes of this clause (i), for the avoidance of doubt, the then unfunded portion of any RDD Obligation), (ii) the sum of Cash and the aggregate Principal Balance of Eligible Investments held as Principal Proceeds, (iii) the sum of Cash and the aggregate Principal Balance of Eligible Investments held in the Unused

Proceeds Account and (iv) the sum of cash and the aggregate Principal Balance of Eligible Investments held in the RDD Funding Account.

"Aggregate Outstanding Amount": With respect to any Class or Classes of the Notes as of any date of determination, the aggregate principal balance of such Class or Classes of Notes Outstanding as of such date of determination.

"Aggregate Principal Balance": When used with respect to any Loan Obligations as of any date of determination, the sum of the Principal Balances on such date of determination of all such Loan Obligations.

"Arbor Parent": The meaning specified in the first paragraph of this Indenture.

"ARMS Equity": ARMS 2013-1 Equity Holdings LLC, a Delaware limited liability company.

"Article 15 Agreement": The meaning specified in Section 15.1(a) hereof.

"As-Stabilized DSCR": With respect to any Loan Obligation, the ratio, as calculated by the Loan Obligation Manager in accordance with

the Loan Obligation Management Standard, of (a) the "stabilized" annual net cash flow generated from the related property before interest, depreciation and amortization; to (b) the annual payments of principal and interest due pursuant to the terms of the related Underlying Instruments (but excluding any balloon payments, required principal paydowns or reserve payments, and including any required funding of working capital reserves). In determining the "stabilized" net cash flow the Loan Obligation Manager may make certain assumptions, including, without limitation, with respect to occupancy rates, rental rates and operational expenses as the Loan Obligation Manager believes is reasonable in its good faith judgment executed in accordance with the Loan Obligation Management Standard. In determining As-Stabilized DSCR for any Senior Participation, the calculation of As-Stabilized DSCR shall take into account the annual payments of principal and interest due on any Senior Participation pursuant to the terms of the related Senior Participation Agreement (and, in the case of a Senior Participation that is a Senior Pari Passu Participation, the annual payments of principal and interest due pursuant to the terms of the related Non-Acquired Participation that is pari passu with the Senior Participation being acquired) and shall exclude the annual payments of principal and interest due on any related Junior Participation.

"As-Stabilized LTV": With respect to any Loan Obligation, the ratio, expressed as a percentage, as calculated by the Loan Obligation Manager in accordance with the Loan Obligation Management Standard, of the Principal Balance of such Loan Obligation to the value estimate of the related Underlying Mortgaged Property as reflected in an appraisal that was obtained not less than 6 months prior to the date of closing of such Loan Obligation, which value is based on the appraisal or portion of an appraisal that states an "as-stabilized" value and/or "as-renovated" value for such property, which may be based on the assumption that certain events will occur, including without limitation, with respect to the re-tenanting, renovation or other repositioning of such property. In determining As-Stabilized LTV for any Senior Participation, the calculation of As-Stabilized LTV shall take into account the outstanding Principal Balance of the Senior Participation being acquired by the Issuer (and, in the case of a Senior Participation

that is a Senior Pari Passu Participation, the Principal Balance of the related Non-Acquired Participation that is pari passu with the Senior Participation being acquired) and shall exclude the Principal Balance of any related Junior Participation.

"Assets": The meaning specified in the first paragraph of the Granting Clause of this Indenture.

"Authenticating Agent": With respect to the Notes or a Class of the Notes, the Person designated by the Trustee to authenticate such Notes on behalf of the Trustee pursuant to Section 2.12 hereof.

"Authorized Officer": With respect to the Issuer or Co-Issuer, any Officer (or attorney-in-fact appointed by the Issuer or the Co-Issuer) who is authorized to act for the Issuer or Co-Issuer in matters relating to, and binding upon, the Issuer or Co-Issuer. With respect to the Loan Obligation Manager, the persons listed on Schedule C attached hereto. With respect to the Trustee or any other bank or trust company acting as trustee of an express trust or as custodian, a Trust Officer. Each party may receive and accept a certification of the authority of any other party as conclusive evidence of the authority of any person to act, and such certification may be considered as in full force and effect until receipt by such other party of written notice to the contrary.

"Available Principal Proceeds": With respect to any Payment Date, the amount of Principal Proceeds standing to the credit of the Principal Collection Account as of the Determination Date related to such Payment Date.

"Backup Advancing Agent": U.S. Bank National Association, a national banking association, solely in its capacity as Backup Advancing Agent hereunder, or any successor Backup Advancing Agent; provided that any such successor Backup Advancing Agent must be a financial institution having a long-term debt rating from Moody's at least equal to "A2" and a short-term debt rating from Moody's at least equal to "P-1."

"Backup Advancing Agent Fee": The fee payable monthly in arrears on each Payment Date to the Backup Advancing Agent in accordance with the Priority of Payments, equal to 0.001% *per annum* on the Aggregate Outstanding Amount of the Notes on such Payment Date prior to giving effect to distributions with respect to such Payment Date.

"Bailee Letter": The meaning specified in Section 12.4(b)(v) hereof.

"Bank": U.S. Bank National Association, a national banking association, in its individual capacity and not as Trustee and, if any Person is appointed as a successor Trustee, such Person in its individual capacity and not as Trustee.

"Bankruptcy Code": The federal Bankruptcy Code, Title 11 of the United States Code, as amended and Part V of the Companies Law (2012 Revision) of the Cayman Islands, as amended from time to time, the Bankruptcy Law (1997 Revision) of the Cayman Islands, as amended from time to time and the Foreign Bankruptcy Proceedings (International Cooperation) Rules 2008 of the Cayman Islands, as amended from time to time.

"Bearer Securities": The meaning specified in Section 3.3(a)(iv) hereof.

"Board of Directors": With respect to the Issuer, the directors of the Issuer duly appointed in accordance with the Governing Documents of the Issuer and, with respect to the Co-Issuer, the LLC Managers duly appointed by the sole member of the Co-Issuer or otherwise.

"Board Resolution": With respect to the Issuer, a resolution of the Board of Directors of the Issuer and, with respect to the Co-Issuer, a resolution or unanimous written consent of the LLC Managers or the sole member of the Co-Issuer.

"Business Day": Any day other than (i) a Saturday or Sunday and (ii) a day on which commercial banks are authorized or required by applicable law, regulation or executive order to close in New York, New York or the location of the Corporate Trust Office.

"Buy/Sell Interest": A Loan Obligation for which one of the participants has exercised, or has the right to exercise, the purchase its corresponding participant's interest, or sell its interest to such corresponding participant for the same price, in accordance with the related Underlying Instrument.

"Calculation Agent": The meaning specified in Section 7.14(a) hereof.

"Calculation Amount": With respect to any Loan Obligation, at any time, the lesser of (a) the Moody's Recovery Rate of such Loan Obligation multiplied by the Principal Balance of such Loan Obligation and (b) the market value of such Loan Obligation, as determined by the Loan Obligation Manager in accordance with the Loan Obligation Management Standard based upon, among other things, a recent appraisal and information from one or more third party commercial real estate brokers and such other information as the Loan Obligation Manager deems appropriate.

"Cash": Such coin or currency of the United States of America as at the time shall be legal tender for payment of all public and private debts.

"Certificate of Authentication": The meaning specified in Section 2.1 hereof.

"Certificated Security": A "certificated security" as defined in Section 8-102(a)(4) of the UCC.

"Class": The Class A Notes or the Class B Notes, as applicable.

"Class A Defaulted Interest Amount": With respect to the Class A Notes as of each Payment Date, the accrued and unpaid amount due to Holders of the Class A Notes on account of any shortfalls in the payment of the Class A Interest Distribution Amount with respect to any preceding Payment Date or Payment Dates, together with interest accrued thereon (to the extent lawful).

"Class A Interest Distribution Amount": On each Payment Date, the amount due to Holders of the Class A Notes on account of interest equal to the product of (i) the Aggregate Outstanding Amount of the Class A Notes on the first day of the related Interest Accrual Period,

(ii) the actual number of days in such Interest Accrual Period divided by 360 and (iii) the Class A Rate.

"Class A Notes": The Class A Senior Secured Floating Rate Notes, Due 2023, issued by the Issuer and the Co-Issuer pursuant to this Indenture.

"Class A Rate": With respect to any Class A Note, the *per annum* rate at which interest accrues on such Note for any Interest Accrual Period, which shall be equal to (a) one-month LIBOR for the related Interest Accrual Period plus (b) 2.00% *per annum*.

"Class B Defaulted Interest Amount": With respect to the Class B Notes as of each Payment Date, the accrued and unpaid amount due to Holders of the Class B Notes on account of any shortfalls in the payment of the Class B Interest Distribution Amount with respect to any preceding Payment Date or Payment Dates, together with interest accrued thereon (to the extent lawful).

"Class B Interest Distribution Amount": On each Payment Date, the amount due to Holders of the Class B Notes on account of interest equal to the product of (i) the Aggregate Outstanding Amount of the Class B Notes on the first day of the related Interest Accrual Period, (ii) the actual number of days in such Interest Accrual Period divided by 360 and (iii) the Class B Rate.

"Class B Notes": The Class B Secured Floating Rate Notes due 2023, issued by the Issuer and the Co-Issuer pursuant to this Indenture.

"Class B Rate": With respect to any Class B Note, the *per annum* rate at which interest accrues on such Note for any Interest Accrual Period, which shall be equal to (a) one-month LIBOR for the related Interest Accrual Period plus (b) 5.00% *per annum*.

"Clean-up Call": The meaning specified in Section 9.1 hereof.

"Clean-up Call Date": The meaning specified in Section 9.1 hereof.

"Clearing Agency": An organization registered as a "clearing agency" pursuant to Section 17A of the Exchange Act.

"Clearstream, Luxembourg": Clearstream Banking, société anonyme, a limited liability company organized under the laws of the Grand Duchy of Luxembourg.

"CLO Servicer": Arbor Commercial Mortgage, LLC, each of Arbor Commercial Mortgage, LLC's permitted successors and assigns or any successor Person that shall have become the servicer and special servicer pursuant to the provisions of the Servicing Agreement.

"Closing": The transfer of any Note to the initial registered Holder of such Note.

"Closing Date": January 28, 2013.

"Closing Date Loan Obligations": The Loan Obligations listed on Schedule A attached hereto, for which Part 1 are Loan Obligations that are acquired by the Issuer on the Closing Date and for which Part 2 are Loan Obligations that are expected to be acquired by the Issuer during the Post-Closing Acquisition Period.

"Co-Issuer": Arbor Realty Collateralized Loan Obligation 2013-1, LLC, a limited liability company formed under the laws of the State of Delaware, until a successor Person shall have become the Co-Issuer pursuant to the applicable provisions of this Indenture, and thereafter "Co-Issuer" shall mean such successor Person.

"Co-Issuers": The Issuer and the Co-Issuer.

"Code": The United States Internal Revenue Code of 1986, as amended.

"Collateral Administration Agreement": An agreement dated as of the Closing Date among the Issuer, the Loan Obligation Manager and the Collateral Administrator, as amended from time to time.

"Collateral Administrator": The Bank, in its capacity as such under the Collateral Administration Agreement, and any successor thereto.

"Collection Accounts": The trust accounts so designated and established pursuant to Section 10.2(a) hereof.

"Company Administration Agreement": The administration agreement, dated on or about the Closing Date, by and among the Issuer and the Company Administrator, as modified and supplemented and in effect from time to time.

"Company Administrative Expenses": All fees, expenses and other amounts due or accrued with respect to any Payment Date and payable by the Issuer, the Co-Issuer or any Permitted Subsidiary (including legal fees and expenses) to (i) the Trustee pursuant to Section 6.7 hereof or any co-trustee appointed pursuant to this Indenture (including amounts payable by the Issuer as indemnification pursuant to this Indenture), (ii) the Company Administrator under the Company Administration Agreement (including amounts payable by the Issuer as indemnification pursuant to the Company Administration Agreement) and to provide for the costs of liquidating the Issuer following redemption of the Notes, (iii) the LLC Managers (including indemnification), (iv) payable in the order in which invoices are received by the Issuer, the Independent accountants, agents and counsel of the Issuer for reasonable fees and expenses (including amounts payable in connection with the preparation of tax forms on behalf of the Issuer and the Co-Issuer) and any registered office and government filing fees, (v) Moody's for fees and expenses in connection with any rating (including the annual fee payable with respect to the monitoring of any rating) of the Notes, including fees and expenses due or accrued in connection with any credit assessment or rating of the Loan Obligations, (vi) the Loan Obligation Manager under this Indenture and the Loan Obligation Management Agreement, (vii) the Loan Obligation Manager or other Persons as indemnification pursuant to the Loan Obligation Management Agreement, (viii) the Advancing Agent or other Persons as indemnification pursuant to Section 17.3, (ix) each member of the Advisory Committee (including amounts payable as indemnification) under each agreement between such Advisory

Committee member and the Issuer (and the amounts payable by the Issuer to each member of the Advisory Committee as indemnification pursuant to each such agreement); (x) the Preferred Shares Paying Agent and the Share Registrar under the Preferred Share Paying Agency Agreement (including amounts payable as indemnification), (xi) payable in the order in which invoices are received by the Issuer, any other Person in respect of any governmental fee, charge or tax in relation to the Issuer or the Co-Issuer (in each case as certified by an Authorized Officer of the Issuer or the Co-Issuer to the Trustee), and (xii) payable in the order in which invoices are received by the Issuer, any other Person in respect of any other fees or expenses (including indemnifications) permitted under this Indenture (including, without limitation, any costs or expenses incurred in connection with certain modeling systems and services) and the documents delivered pursuant to or in connection with this Indenture and the Notes and any amendment or other modification of any such documentation, in each case unless expressly prohibited under this Indenture (including, without limitation, the payment of all transaction fees and all legal and other fees and expenses required in connection with the purchase of any Loan Obligations or any other transaction authorized by this Indenture); provided that Company Administrative Expenses shall not include (a) amounts payable in respect of the Notes and (b) any Loan Obligation Manager Fee payable pursuant to the Loan Obligation Management Agreement.

"Company Administrator": MaplesFS Limited, a licensed trust company incorporated in the Cayman Islands, as administrator pursuant to the Company Administration Agreement, unless a successor Person shall have become administrator pursuant to the Company Administration Agreement, and thereafter, Company Administrator shall mean such successor Person.

"Controlling Class": The Class A Notes, so long as any Class A Notes are Outstanding, then the Class B Notes, so long as Class B Notes are Outstanding, and then the Preferred Shares.

"Corporate Trust Office": The designated corporate trust office of the Trustee, currently located at: (a) for Note transfer purposes, presentment of the Notes for final payment thereon, 60 Livingston Avenue, St. Paul, MN 55107, Attention: Corporate Trust Services—Arbor Realty

Collateralized Loan Obligation 2013-1, Ltd.; and (b) for all other purposes, 190 South LaSalle Street, 8th Floor, Chicago, Illinois, 60603, Attention: Corporate Trust Services—Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., fax: (312) 332-8010, or such other address as the Trustee may designate from time to time by notice to the Noteholders, the Holder of the Preferred Shares, the Loan Obligation Manager, Moody's and the Issuer or the principal corporate trust office of any successor Trustee.

"Credit Risk/Defaulted Obligation Cash Purchase": The meaning specified in Section 12.1(a)(i) hereof.

"Credit Risk Obligation": Any Loan Obligation that, in the Loan Obligation Manager's reasonable business judgment, has a significant risk of declining in credit quality or, with a lapse of time, becoming a Defaulted Obligation.

"Custodial Account": An account at the Custodial Securities Intermediary in the name of the Trustee pursuant to Section 10.1(b) hereof.

"Custodial Securities Intermediary": The meaning specified in Section 3.3(a) hereof.

"Default": Any Event of Default or any occurrence that is, or with notice or the lapse of time or both would become, an Event of Default.

"Defaulted Interest Amount": The Class A Defaulted Interest Amount and/or the Class B Defaulted Interest Amount, as the context requires.

"Defaulted Obligation": Any Loan Obligation if a foreclosure or default (whether or not declared) with respect to the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) has occurred and, with respect to a default, is continuing as determined by the Loan Obligation Manager; provided, however, that notwithstanding the foregoing, a Loan Obligation shall not be deemed to be a Defaulted Obligation as a result of (A) the related borrower's failure to pay interest on such Loan Obligation or on the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) on the due date therefor, if the related lender or holder of such Loan Obligation or of the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) consents to extend the due date when such interest is due and payable, and such interest is paid on or before such extended due date (provided that such interest is paid not more than 60 days (or 30 days if such interest was previously paid 60 days after the initial date that it was due) as a result of the Loan Obligation Manager, on behalf of the Issuer, (subject to the applicable provisions of the Servicing Agreement) previously consenting to extend such due date after the initial date that it was due), or (B) the related borrower's failure to pay principal on such Loan Obligation or on the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) on the maturity date thereof, if the maturity date has been extended by the related servicer or special servicer in connection with a modification of such related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) (so long as the Maturity Extension Requirements are met), or (C) the occurrence of any default other than a payment default with respect to such Loan Obligation or the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan), unless and until the earlier of (x) the declaration of default and acceleration of the maturity of the Loan Obligation by the lender or holder thereof and (y) the continuance of such default uncured for 60 days after such default became known to the Loan Obligation Manager or the CLO Servicer or, subject to the satisfaction of the Rating Agency Condition, such longer period as the Loan Obligation Manager (subject to the applicable provisions of the Servicing Agreement) determines. Notwithstanding the foregoing, any Loan Obligation that has sustained an implied reduction of principal balance due to an appraisal reduction will not necessarily be considered a Defaulted Obligation solely due to such implied reduction.

For purposes of the definition of "Defaulted Obligation," the "Maturity Extension Requirements" will be satisfied with respect to any extension if the maturity date is extended to a new maturity date that is not more than three years after the original maturity date. As used above, the term "original maturity date" means the maturity date of a Loan Obligation or the related Whole Loan (or, in the case of a Senior Participation, the related Underlying Whole Loan) as extended by all extensions thereof that the related borrower had the right to elect and did elect under the terms of the instruments and agreements relating to such Loan Obligation or to the related Whole Loan

(or, in the case of a Senior Participation, the related Underlying Whole Loan), but before taking into account any additional extensions thereof that are consented to by the servicer or special servicer of such Loan Obligation.

For the avoidance of doubt (x) any initial permissible 60 day extension period described in this definition shall in no event be combined with any subsequent permissible 30 day extension period described in this definition and (y) if a Defaulted Obligation is the subject of a work-out, modification or otherwise has cured the default such that the subject Loan Obligation is no longer in default pursuant to its terms (as such terms may have been modified), such Loan Obligation will no longer be treated as a Defaulted Obligation.

"Defaulted Obligation Exchange": The meaning specified in Section 12.1(a) hereof.

"Definitive Notes": The meaning specified in Section 2.2(b) hereof.

"Depository" or "DTC": The Depository Trust Company, its nominees, and their respective successors.

"Determination Date": With respect to any Payment Date, the fourth Business Day prior to such Payment Date.

"Disqualified Transferee": The meaning specified in Section 2.5(l) hereof.

"Dissolution Expenses": The amount of expenses reasonably likely to be incurred in connection with the discharge of this Indenture, the liquidation of the Assets and the dissolution of the Co-Issuers, as reasonably certified by the Loan Obligation Manager or the Issuer, based in part on expenses incurred by the Trustee and reported to the Loan Obligation Manager.

"Dollar," "U.S. $" or "$": A U.S. dollar or other equivalent unit in Cash.

"Due Date": Each date on which a Scheduled Distribution is due on an Asset.

"Due Period": With respect to any Payment Date, the period commencing on the day immediately succeeding the second preceding Determination Date (or commencing on the Closing Date, in the case of the Due Period relating to the first Payment Date) and ending on and including the Determination Date immediately preceding such Payment Date.

"Eligibility Criteria": The criteria set forth below with respect to any Loan Obligation, whether an Additional Loan Obligation or a Replacement Loan Obligation, acquired by the Issuer after the Closing Date, compliance with which shall be evidenced by an Officer's Certificate of the Loan Obligation Manager delivered to the Trustee as of the date of such acquisition:

(i) it is a Whole Loan or a Senior Participation that is secured by Multi-Family Property;

(ii) the obligor is incorporated or organized under the laws of, and the Loan Obligation is secured by property located in, the United States;

(iii) it was originated within the past six months;

(iv) it provides for monthly payments of interest at a floating rate of interest based on one-month LIBOR;

(v) it has a Moody's Rating;

(vi) the Whole Loan (or, in the case of a Senior Participation, the Underlying Whole Loan) has a maturity date, assuming the exercise of all extension options (if any) that are exercisable at the option of the related borrower under the terms of such Whole Loan (or, as applicable, in the case of a Senior Participation, the Underlying Whole Loan) is not more than five years from its origination date;

(vii) it has an As-Stabilized LTV that is not greater than 75%;

(viii) it has an As-Stabilized DSCR that is not less than 1.25x;

(ix) the Principal Balance of such Loan Obligation is not greater than U.S.$30,000,000;

(x) (I) with respect to the Additional Loan Obligations, as of the Portfolio Finalization Date and (II) with respect to any Replacement Loan Obligation, immediately after giving effect to the acquisition of such Replacement Loan Obligation:

(A) the Weighted Average Life of all the Loan Obligations is not greater than 4.5 years from the Closing Date;

(B) the Weighted Average Spread of all the Loan Obligations is not less than 5.0%;

(C) the aggregate Principal Balance of all Loan Obligations allocated to a related Underlying Mortgaged Property located in any one State is no greater than 40% of the Portfolio Finalization Date Collateral Principal Balance; and

(D) the aggregate Principal Balance of all Loan Obligations divided by the number of Loan Obligations does not exceed U.S.$13,000,000;

(xi) with respect to each (1) Replacement Loan Obligation, the Moody's Weighted Average Rating Factor for such Replacement Loan Obligation is equal to or less than the Moody's Weighted Average Rating Factor of the Loan Obligations that generated the Principal Proceeds that are being applied to the

purchase such Replacement Loan Obligations; and (2) Additional Loan Obligation, the Moody's Rating for such Loan Obligation is equal to or better than the Moody's Rating that equates to the Moody's Weighted Average Rating Factor for all Loan Obligations acquired by the Issuer on the Closing Date;

(xii) except with respect to RDD Obligations, it will not require the Issuer to make any future payments after the initial purchase thereof;

(xiii) if it is a RDD Obligation, the aggregate amount of RDD Funding Advances with respect to such RDD Obligation is deposited into the RDD Funding Account on the date such RDD Obligation is acquired by the Issuer;

(xiv) it is not prohibited under its Underlying Instruments from being purchased by the Issuer and pledged to the Trustee;

(xv) it is not the subject of any solicitation by the borrower or Junior Participation holder to amend, modify or waive any provision of any of the related Underlying Instruments;

(xvi) it is not an interest that, in the Loan Obligation Manager's reasonable business judgment, has a significant risk of declining in credit quality or, with lapse of time or notice, becoming a Defaulted Obligation;

(xvii) it is not a Defaulted Obligation (as determined by the Loan Obligation Manager after reasonable inquiry);

(xviii) it is Dollar denominated and may not be converted into an obligation payable in any other currencies;

(xix) if such Loan Obligation has attached reciprocal "buy/sell" rights as a dispute resolution mechanism, such rights in favor of the Issuer are freely assignable by the Issuer to any of its affiliates;

(xx) it provides for the repayment of principal at not less than par no later than upon its maturity or upon redemption, acceleration or its full prepayment;

(xxi) it is serviced pursuant to the Servicing Agreement or it is serviced by an Accepted Loan Servicer pursuant to a commercial mortgage servicing arrangement that includes the standard servicing provisions found in commercial mortgage backed securities transactions;

(xxii) the requirements set forth in Section 16.3 hereof have been met (subject to such exceptions as are reasonably acceptable to the Loan Obligation Manager);

(xxiii) if it is a Senior Participation, the related Participating Institution is any of (1) a "special purpose entity" or a "qualified institutional lender" as such

terms are typically defined in the Underlying Instruments related to participations; (2) an entity that has a long-term unsecured debt rating from Moody's of "A3" or higher; (3) a securitization trust, a CDO issuer or a similar securitization vehicle, or (4) a special purpose entity that is 100% directly or indirectly owned by the Arbor Parent, for so long as the separateness provisions of its organizational documents have not been amended (unless the Rating Agency Condition was satisfied in connection with such amendment);

(xxiv) its acquisition will be in compliance with Section 206 of the Advisers Act;

(xxv) its acquisition, ownership, enforcement and disposition will not cause the Issuer to fail to be a Qualified REIT Subsidiary unless an appropriate tax opinion has previously been received from Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters that the Issuer will be treated as a foreign corporation that is not engaged in a trade or business in the United States for U.S. federal income tax purposes;

(xxvi) its acquisition would not cause the Issuer, the Co-Issuer or the pool of Assets to be required to register as an investment company under the 1940 Act; and if the borrowers with respect to the Loan Obligation are excepted from the definition of an "investment company" solely by reason of Section 3(c)(1) of the 1940 Act, then either (x) such Loan Obligation does not constitute a "voting security" for purposes of the 1940 Act or (y) the aggregate amount of such Loan Obligation held by the Issuer is less than 10% of the entire issue of such Loan Obligation;

(xxvii) it does not provide for any payments which are or will be subject to deduction or withholding for or on account of any withholding or similar tax, other than any taxes imposed pursuant to FATCA, unless the borrowers under such Loan Obligation are required to make "gross up" payments that ensure that the net amount actually received by the Issuer or the relevant Permitted Subsidiary (free and clear of taxes, whether assessed against such borrower or the Issuer or such Permitted Subsidiary) will equal the full amount that the Issuer or such Permitted Subsidiary would have received had no such deduction or withholding been required; and

(xxviii) (a) with respect to each Additional Loan Obligation (excluding the Closing Date Loan Obligations identified on Part 2 of Schedule A or any Additional Loan Obligation acquired in lieu thereof), the Principal Balance of (1) the largest Additional Loan Obligation is equal to or less than U.S.$25,000,000, (2) the second-largest Additional Loan Obligation is equal to or less than U.S.$15,000,000 and (3) the third-largest Additional Loan Obligation is equal to or less than U.S.$10,000,000; and (b) with respect to the Closing Date Loan Obligations identified in Part 2 of Schedule A or any Additional Loan Obligation acquired in lieu thereof, the maximum Principal Balances shall be as follows: (1) the largest of such Additional Loan Obligations is equal to or less than

U.S.$18,000,000 and (2) the second-largest of such Additional Loan Obligations is equal to or less than U.S.$13,200,000.

"Eligible Investments": Any Dollar-denominated investment that, at the time it is Granted to the Trustee (directly or through a Securities Intermediary or bailee), is Registered and is one or more of the following obligations or securities:

(i) direct obligations of, and obligations the timely payment of principal of and interest on which is fully and expressly guaranteed by, the United States, or any agency or instrumentality of the United States, the obligations of which are expressly backed by the full faith and credit of the United States;

(ii) demand and time deposits in, certificates of deposit of, bankers' acceptances issued by, or federal funds sold by, any depository institution or trust company incorporated under the laws of the United States or any state thereof or the District of Columbia (including the Trustee or the commercial department of any successor Trustee, as the case may be; provided that such successor otherwise meets the criteria specified herein) and subject to supervision and examination by federal and/or state banking authorities so long as the commercial paper and/or the debt obligations of such depositary institution or trust company (or, in the case of the principal depositary institution in a holding company system, the commercial paper or debt obligations of such holding company) at the time of such investment or contractual commitment providing for such investment have a credit rating not less than "Aa3" by Moody's, in the case of long-term debt obligations, and "P-1" by Moody's, for short-term debt obligations;

(iii) unleveraged repurchase or forward purchase obligations with respect to (a) any security described in clause (i) above or (b) any other security issued or guaranteed by an agency or instrumentality of the United States of America, in either case entered into with a depository institution or trust company (acting as principal) described in clause (ii) above (including the Trustee or the commercial department of any successor Trustee, as the case may be; provided that such person otherwise meets the criteria specified herein) or entered into with a corporation (acting as principal) whose long-term rating is not less than "Aa3" by Moody's, and whose short-term credit rating is not less than "P-1" by Moody's;

(iv) registered securities bearing interest or sold at a discount issued by any corporation incorporated under the laws of the United States or any state thereof or the District of Columbia that has a long-term credit rating of not less than "Aa3" by Moody's and a short-term credit rating of not less than P-1 by Moody's, at the time of such investment or contractual commitment providing for such investment;

(v) commercial paper or other similar short-term obligations (including that of the Trustee or the commercial department of any successor Trustee, as the case may be, or any affiliate thereof; provided that such person

otherwise meets the criteria specified herein) having at the time of such investment a short-term credit rating of "P-1" by Moody's; provided, further, that the issuer thereof must also have at the time of such investment a senior long-term debt rating of not less than "Aa3" by Moody's;

(vi) a reinvestment agreement issued by any bank (if treated as a deposit by such bank), or a Registered guaranteed investment or reinvestment agreement issued by an insurance company or other corporation or entity, in each case that has a short term credit rating of not less than "P-1" by Moody's; provided that the issuer thereof must also have at the time of such investment a long term credit rating of not less than "Aa3" by Moody's; and

(vii) any other investment similar to those described in clauses (i) through (vi) above that (1) Moody's has confirmed may be included in the portfolio of Assets as an Eligible Investment without adversely affecting its then-current ratings on the Notes and (2) has a long-term credit rating of not less than "Aa3" by Moody's and a short term credit rating of not less than "P-1" by Moody's;

provided that mortgage-backed securities and interest only securities shall not constitute Eligible Investments; and provided, further, that (a) Eligible Investments acquired with funds in the Collection Accounts shall include only such obligations or securities as mature no later than three Business Day prior to the next Payment Date succeeding the acquisition of such obligations or securities, (b) Eligible Investments shall not include obligations bearing interest at inverse floating rates, (c) Eligible Investments shall be treated as indebtedness for U.S. federal income tax purposes and such investment shall not cause the Issuer to fail to be treated as a Qualified REIT Subsidiary (unless the Issuer has previously received an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters opining that the Issuer will be treated as a foreign corporation not engaged in a trade or business in the United States for U.S. federal income tax purposes, in which case the investment will not cause the Issuer to be treated as a foreign corporation engaged in a trade or business in the United States for U.S. federal income tax purposes), (d) Eligible Investments shall not be subject to deduction or withholding for or on account of any withholding or similar tax (other than any taxes imposed pursuant to FATCA), unless the payor is required to make "gross up" payments that ensure that the net amount actually received by the Issuer (free and clear of taxes, whether assessed against such obligor or the Issuer) will equal the full amount that the Issuer would have received had no such deduction or withholding been required, (e) Eligible Investments shall not be purchased for a price in excess of par and (f) Eligible Investments shall not include margin stock. Eligible Investments may be obligations of, and may be purchased from, the Trustee and its Affiliates so long as the Trustee has a capital and surplus of at least U.S.$200,000,000 and has a long term unsecured credit rating of at least "Baa1" by Moody's, and may include obligations for which the Trustee or an Affiliate thereof receives compensation for providing services.

"Entitlement Order": The meaning specified in Section 8-102(a)(8) of the UCC.

"ERISA": The United States Employee Retirement Income Security Act of 1974, as amended.

"Euroclear": Euroclear Bank S.A./N.V., as operator of the Euroclear system.

"Event of Default": The meaning specified in Section 5.1 hereof.

"Excepted Assets": (i) The U.S.$250 proceeds of share capital contributed by ARMS Equity as the holder of the ordinary shares of the Issuer, the U.S.$250 representing a profit fee to the Issuer, and, in each case, any interest earned thereon and the bank account in which such amounts are held and (ii) the Preferred Share Distribution Account and all of the funds and other property from time to time deposited in or credited to the Preferred Share Distribution Account.

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

"Exchange Obligation": The meaning specified in Section 12.1(a(ii)) hereof.

"Expense Account": The account established pursuant to Section 10.7(a) hereof.

"FATCA": Sections 1471 through 1474 of the Code and any related provisions of law, court decisions, administrative guidance or agreements with any taxing authority in respect thereof.

"Financial Asset": The meaning specified in Section 8-102(a)(9) of the UCC.

"Financing Statements": Financing statements relating to the Assets naming the Issuer, as debtor, and the Trustee, on behalf of the Secured Parties, as secured party.

"Fitch": Fitch, Inc., Fitch Ratings, Ltd. and their subsidiaries including Derivative Fitch, Inc. and Derivative Fitch Ltd. and any successor or successors thereto.

"GAAP": The meaning specified in Section 6.3(k) hereof.

"General Intangible": The meaning specified in Section 9-102(a)(42) of the UCC.

"Global Securities": The Rule 144A Global Securities and the Regulation S Global Securities.

"Governing Documents": With respect to (i) the Issuer, the memorandum and articles of association of the Issuer, as amended and restated and/or supplemented and in effect from time to time and certain resolutions of its Board of Directors and (ii) all other Persons, the articles of incorporation, certificate of incorporation, by-laws, certificate of limited partnership, limited partnership agreement, limited liability company agreement, certificate of formation, articles of association and similar charter documents, as applicable to any such Person.

"Government Items": A security (other than a security issued by the Government National Mortgage Association) issued or guaranteed by the United States of America or an

agency or instrumentality thereof representing a full faith and credit obligation of the United States of America and, with respect to each of the foregoing, that is maintained in book-entry form on the records of a Federal Reserve Bank.

"Grant": To grant, bargain, sell, warrant, alienate, remise, demise, release, convey, assign, transfer, mortgage, pledge, create and grant a security interest in and right of set-off against, deposit, set over and confirm. A Grant of the Assets or of any other security or instrument shall include all rights, powers and options (but none of the obligations) of the granting party thereunder, including without limitation the immediate continuing right to claim, collect, receive and take receipt for principal and interest payments in respect of the Assets (or any other security or instrument), and all other amounts payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the granting party or otherwise, and generally to do and receive anything that the granting party is or may be entitled to do or receive thereunder or with respect thereto.

"Holder" or "Securityholder": With respect to any Note, the Person in whose name such Note is registered in the Notes Register. With respect to any Preferred Share, the Person in whose name such Preferred Share is registered in the register maintained by the Share Registrar.

"IAI": An institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under Regulation D under the Securities

Act.

"Indenture": This instrument as originally executed and, if from time to time supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, as so supplemented or amended.

"Independent": As to any Person, any other Person (including, in the case of an accountant, or lawyer, a firm of accountants or lawyers and any member thereof or an investment bank and any member thereof) who (i) does not have and is not committed to acquire any material direct or any material indirect financial interest in such Person or in any Affiliate of such Person, and (ii) is not connected with such Person as an Officer, employee, promoter, underwriter, voting trustee, partner, director or Person performing similar functions. "Independent" when used with respect to any accountant may include an accountant who audits the books of such Person if in addition to satisfying the criteria set forth above the accountant is independent with respect to such Person within the meaning of Rule 101 of the Code of Ethics of the American Institute of Certified Public Accountants.

Whenever any Independent Person's opinion or certificate is to be furnished to the Trustee such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

"Information Agent": The meaning specified in Section 14.13(b) hereof.

"Initial Maturity Date": With respect to any Loan Obligation, (i) the maturity date of such Loan Obligation without giving effect to any exercised extension options available under the terms of such Loan Obligation, or (ii) if the related borrower has exercised an

extension option, the maturity date of such Loan Obligation after giving effect to the exercised extension option, but without giving effect to any additional extension option available under the terms of such Loan Obligation.

"Instrument": The meaning specified in Section 9-102(a)(47) of the UCC.

"Interest Accrual Period": With respect to the Notes, (i) with respect to the first Payment Date, the period from and including the Closing Date to but excluding such first Payment Date and (ii) with respect to each successive Payment Date, the period from and including the immediately preceding Payment Date to, but excluding, such Payment Date.

"Interest Advance": The meaning specified in Section 10.9(a) hereof.

"Interest Collection Account": The trust account established pursuant to Section 10.2(a) hereof.

"Interest Coverage Ratio": As of any Measurement Date, the ratio calculated in accordance with the assumptions set forth in Section 1.2(e) hereof by dividing:

(a) (i) the sum of (A) Cash standing to the credit of the Expense Account, plus (B) the scheduled interest payments due (in each case regardless of whether the due date for any such interest payment has yet occurred) in the Due Period in which such Measurement Date occurs on (x) the Loan Obligations (excluding, subject to clause (3) below, accrued and unpaid interest on Defaulted Obligations); provided that no interest (or dividends or other distributions) will be included with respect to any Loan Obligation to the extent that such Loan Obligation does not provide for the scheduled payment of interest (or dividends or other distributions) in Cash and (y) the Eligible Investments held in the Payment Account, the Collection Accounts, the RDD Funding Account and the Expense Account (whether purchased with Interest Proceeds or Principal Proceeds), plus (C) Interest Advances, if any, advanced by the Advancing Agent or the Backup Advancing Agent, with respect to the related Payment Date, minus (ii) any amounts scheduled to be paid pursuant to Section 11.1(a)(i)(1) through (4) (other than any Loan Obligation Manager Fees that the Loan Obligation Manager has agreed to waive in accordance with this Indenture and the Loan Obligation Management Agreement); by

(b) the sum of (i) the scheduled interest on the Class A Notes payable on the Payment Date immediately following such Measurement Date, plus (ii) any Class A Defaulted Interest Amount payable on the Payment Date immediately following such Measurement Date, plus (iii) the scheduled interest on the Class B Notes payable immediately following such Measurement Date, plus (iv) any Class B Defaulted Interest Amount payable on the Payment Date immediately following such Measurement Date.

"Interest Coverage Test": The test that will be met as of any Measurement Date on which any Notes remain Outstanding if the Interest Coverage Ratio as of such Measurement Date is equal to or greater than 120.00%.

"Interest Distribution Amount": Each of the Class A Interest Distribution Amount and Class B Interest Distribution Amount.

"Interest Proceeds": With respect to any Payment Date, (A) the sum (without duplication) of (1) all Cash payments of interest (including any deferred interest and any amount representing the accreted portion of a discount from the face amount of a Loan Obligation or an Eligible Investment) or other distributions received during the related Due Period on all Loan Obligations other than Defaulted Obligations (net of the Servicing Fee and other amounts payable in accordance with the Servicing Agreement) and Eligible Investments, including, in the Loan Obligation Manager's commercially reasonable

discretion (exercised as of the trade date), the accrued interest received in connection with a sale of such Loan Obligations or Eligible Investments (to the extent such accrued interest was not applied to the purchase of Replacement Loan Obligations), in each case, excluding any accrued interest included in Principal Proceeds pursuant to clause (A)(3) or (4) of the definition of Principal Proceeds, (2) all make-whole premiums, yield maintenance or prepayment premiums or any interest amount paid in excess of the stated interest amount of a Loan Obligation received during the related Due Period, (3) all amendment, modification and waiver fees, late payment fees, commitment fees, exit fees, extension fees and other fees and commissions received by the Issuer during such Due Period in connection with such Loan Obligations and Eligible Investments (other than, in each such case, fees and commissions received in connection with the restructuring of a Defaulted Obligation or default of Loan Obligations and Eligible Investments), (4) those funds in the Expense Account designated as Interest Proceeds by the Loan Obligation Manager pursuant to Section 10.7(a), (5) all funds remaining on deposit in the Expense Account upon redemption of the Notes in whole, pursuant to Section 10.7(a), (6) Interest Advances, if any, advanced by the Advancing Agent or the Backup Advancing Agent, with respect to such Payment Date, (7) all accrued original issue discount on Eligible Investments, (8) any interest payments received in Cash by the Issuer during the related Due Period on any asset held by a Permitted Subsidiary that is not a Defaulted Obligation, (9) all payments of principal on Eligible Investments purchased with proceeds of items (A)(1), (2) and (3) of this definition, (10) Cash and Eligible Investments contributed by ARMS Equity pursuant to Section 12.2(c) and designated as "Interest Proceeds" by ARMS Equity and (11) any excess proceeds received in respect of a Loan Obligation to the extent such proceeds are designated "Interest Proceeds" by the Loan Obligation Manager in its sole discretion with notice to the Trustee on or before the related Determination Date; provided that Interest Proceeds will in no event include any payment or proceeds specifically defined as "Principal Proceeds" in the definition thereof, minus (B) the aggregate amount of any Nonrecoverable Interest Advances that were previously reimbursed to the Advancing Agent or the Backup Advancing Agent.

"Interest Shortfall": The meaning set forth in Section 10.9(a) hereof.

"Issuer": Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., an exempted company incorporated under the laws of the Cayman Islands with limited liability, until a successor Person shall have become the Issuer pursuant to the applicable provisions of this Indenture, and thereafter "Issuer" shall mean such successor Person.

"Issuer Order" and "Issuer Request": A written order or request (which may be in the form of a standing order or request) dated and signed in the name of the Issuer (and the Co-Issuer, if applicable) by an Authorized Officer of the Issuer (and by an Authorized Officer of the Co-Issuer, if applicable), or by an Authorized Officer of the Loan Obligation Manager.

"Junior Participation": One or more junior participation interests (or B Notes) in an Underlying Whole Loan pursuant to a Senior AB Participation, in which the related Senior Participation is a Loan Obligation that has been acquired by the Issuer.

"LIBOR": The meaning set forth in Schedule B attached hereto.

"LIBOR Determination Date": The meaning set forth in Schedule B attached hereto.

"List": The meaning specified in Section 12.4(a)(ii) hereof.

"Listed Bidders": The meaning specified in Section 12.4(a)(ii) hereof.

"LLC Managers": The managers of the Co-Issuer duly appointed by the sole member of the Co-Issuer (or, if there is only one manager of the Co-Issuer so duly appointed, such sole manager).

"Loan Obligation Management Agreement": The Loan Obligation Management Agreement, dated as of the Closing Date, by and between the Issuer and the Loan Obligation Manager, as amended, supplemented or otherwise modified from time to time in accordance with its terms.

"Loan Obligation" and "Loan Obligations": Any Whole Loan or Senior Participation acquired by the Issuer in accordance with the provisions of this Indenture.

"Loan Obligation File": The meaning set forth in Section 3.3(d).

"Loan Obligation Manager" or "ARCM": Arbor Realty Collateral Management, LLC, each of Arbor Realty Collateral Management, LLC's permitted successors and assigns or any successor Person that shall have become the Loan Obligation Manager pursuant to the provisions of the Loan Obligation Management Agreement and thereafter "Loan Obligation Manager" shall mean such successor Person.

"Loan Obligation Manager Fee": The meaning set forth in the Loan Obligation Management Agreement.

"Loan Obligation Management Standard": The meaning set forth in the Loan Obligation Management Agreement.

"Loan Obligation Purchase Agreement": Any Loan Obligation Purchase agreement entered into on or about the Closing Date and any other Loan Obligation Purchase agreement entered into after the Closing Date if a purchase agreement is necessary to comply with this Indenture, which agreement is assigned to the Trustee pursuant to this Indenture.

"London Banking Day": The meaning set forth in Schedule B attached hereto.

"Loss Value Payment": A cash payment made to the Issuer by the Seller in connection with a breach of representation or warranty with

respect to any Loan Obligation

pursuant to the Loan Obligation Purchase Agreement in an amount that the Loan Obligation Manager on behalf of the Issuer, subject to the consent of a majority of the holders of each Class of Notes (excluding any Note hold by any Seller or any of their respective affiliates), determines is sufficient to compensate the Issuer for such breach of representation or warranty, which Loss Value Payment will be deemed to cure sure breach of representation or warranty.

"Majority": With respect to:

(i) any Class of Notes, the Holders of more than 50% of the Aggregate Outstanding Amount of the Notes of such Class; and

(ii) the Preferred Shares, the Preferred Shareholders representing more than 50% of the of the aggregate liquidation preference of outstanding Preferred Shares.

"Mandatory Redemption": The meaning specified in Section 9.5 hereof.

"Maturity": With respect to any Note, the date on which the unpaid principal of such Note becomes due and payable as therein or herein provided, whether at the Stated Maturity Date or by declaration of acceleration or otherwise.

"Measurement Date": Any of the following: (i) the Closing Date, (ii) the date of acquisition or disposition of any Loan Obligation, (iii) any date on which any Loan Obligation becomes a Defaulted Obligation, (iv) each Determination Date, (v) the Portfolio Finalization Date and (vi) with reasonable notice to the Issuer and the Trustee, any other Business Day that the Rating Agency or the Holders of at least 66-2/3% of the Aggregate Outstanding Amount of any Class of Notes requests be a "Measurement Date"; provided that, if any such date would otherwise fall on a day that is not a Business Day, the relevant Measurement Date will be the immediately preceding Business Day.

"Minnesota Collateral": The meaning specified in Section 3.3(a)(v) hereof.

"Monthly Report": The meaning specified in Section 10.11(c) hereof.

"Moody's": Moody's Investors Service, Inc., and its successors in interest.

"Moody's Portfolio Finalization Date Deemed Rating Confirmation": A deemed written confirmation from Moody's of the ratings assigned by Moody's to the Notes on the Closing Date.

"Moody's Rating": With respect to any Loan Obligation, the private credit assessment assigned to such Loan Obligation by Moody's for the Issuer.

"Moody's Rating Factor": With respect to any Loan Obligation, the number set forth in the table below opposite the Moody's Rating of such Loan Obligation:

Moody's Rating	Moody's Rating Factor
Aaa	1
Aa1	10
Aa2	20
Aa3	40
A1	70
A2	120
A3	180
Baa1	260
Baa2	360
Baa3	610
Ba1	940
Ba2	1,350
Ba3	1,766
B1	2,220
B2	2,720
B3	3,490
Caa1	4,770
Caa2	6,500

Caa3	8,070
Ca or lower	10,000

"Moody's Recovery Rate": With respect to any Loan Obligation, 60%.

"Moody's Test Modification": The meaning specified in Section 12.4 hereof.

"Moody's Weighted Average Rating Factor": An amount determined by (i) summing the products obtained by multiplying the Principal Balance of each Loan Obligation (excluding Defaulted Obligations) by its Moody's Rating Factor and (ii) dividing such sum by the aggregate outstanding Principal Balance of all such Loan Obligations and rounding the result up to the nearest whole number.

"Multi-Family Property" A real property with five or more residential rental units (including mixed use multi-family/office and multi-family/retail) as to which the majority of the underwritten revenue is from residential rental units.

"Net Outstanding Portfolio Balance": On any Measurement Date, the sum (without duplication) of:

(i) the Aggregate Principal Balance on such Measurement Date of the Loan Obligations (other than Defaulted Obligations);

(ii) the Aggregate Principal Balance of all Principal Proceeds held as Cash and Eligible Investments and all Cash and Eligible Investments held in the RDD Funding Account and the Unused Proceeds Account; and

(iii) with respect to each Defaulted Obligation, the Calculation Amount of such Defaulted Obligation;

provided, however, that (A) with respect to each Defaulted Obligation that has been owned by the Issuer for more than three years after becoming a Defaulted Obligation, the Principal Balance of such Defaulted Obligation shall be zero for purposes of computing the Net Outstanding Portfolio Balance, and (B) with respect to each Defaulted Obligation as to which the Loan Obligation Manager has delivered written notice to the Issuer and the Trustee of its intent to engage in either (1) Credit Risk/Defaulted Obligation Cash Purchase or (2) an exchange for an Exchange Obligation, the Loan Obligation Manager will have 45 days to exercise such purchase

or exchange and during such period such Loan Obligation will not be treated as a Defaulted Obligation for purposes of computing the Net Outstanding Portfolio Balance.

"No Downgrade Confirmation": A confirmation from the Rating Agency that any proposed action, or failure to act or other specified event will not, in and of itself, result in the downgrade or withdrawal of the then-current rating assigned to any Class of Notes then rated by the Rating Agency.

"Non-call Period": The period from the Closing Date to and including the Business Day immediately preceding the Payment Date in February 2015 during which no Optional Redemption is permitted to occur.

"Non-Acquired Participation": With respect to any Senior Participation acquired by the Issuer, any related participation interest (whether a Senior Pari Passu Participation or a Junior Participation) in the related Underlying Whole Loan, which related participation interest is not acquired by the Issuer.

"Non-Permitted Holder": The meaning specified in Section 2.13(b) hereof.

"Nonrecoverable Interest Advance": Any Interest Advance previously made or proposed to be made pursuant to Section 10.9 hereof that the Advancing Agent or the Backup Advancing Agent, as applicable, has determined in its sole discretion, exercised in good faith, that the amount so advanced or proposed to be advanced plus interest expected to accrue thereon, will not be ultimately recoverable from subsequent payments or collections with respect to the related Loan Obligation.

"Note Liquidation Event": The meaning specified in Section 12.1(d) hereof.

"Note Protection Tests": The Par Value Test and the Interest Coverage Test.

"Noteholder": The Person in whose name such Note is registered in the Notes Register.

"Note Interest Rate": With respect to the Class A Notes and the Class B Notes, the Class A Rate and the Class B Rate, respectively.

"Notes": The Class A Notes and the Class B Notes, collectively, authorized by, and authenticated and delivered under, this Indenture.

"Notes Register" and "Notes Registrar": The respective meanings specified in Section 2.5(a) hereof.

"Notional Amount": In respect of the Preferred Shares, the per share notional amount of U.S.$1,000. The aggregate Notional Amount of the Preferred Shares on the Closing Date will be U.S.$82,987,000.

"NRSRO": Any nationally recognized statistical rating organization, other than the Rating Agency.

"NRSRO Certification": A certification substantially in the form of Exhibit G executed by a NRSRO in favor of the Issuer and the Information Agent that states that such NRSRO has provided the Issuer with the appropriate certifications under Exchange Act Rule 17g-5(a)(3)(iii)(B) and that such NRSRO has access to the 17g-5 Website.

"Offering Memorandum": The Offering Memorandum, dated January 25, 2013, relating to the offering of the Notes.

"Officer": With respect to any corporation or limited liability company, including the Issuer, the Co-Issuer and the Loan Obligation Manager, any Director, Manager, the Chairman of the Board of Directors, the President, any Senior Vice President any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, General Partner of such entity; and with respect to the Trustee, any Trust Officer.

"Officer's Certificate": With respect to the Issuer, the Co-Issuer and the Loan Obligation Manager, any certificate executed by an Officer thereof.

"Opinion of Counsel": A written opinion addressed to the Trustee and the Rating Agency in form and substance reasonably satisfactory to the Trustee and the Rating Agency of an outside third party counsel of national recognition admitted to practice before the highest court of any state of the United States or the District of Columbia (or the Cayman Islands, in the case of an opinion relating to the laws of the Cayman Islands), which attorney may, except as otherwise expressly provided in this Indenture, be counsel for the Issuer, and which attorney shall be reasonably satisfactory to the Trustee. Whenever an Opinion of Counsel is required hereunder, such Opinion of Counsel may rely on opinions of other counsel who are so admitted and so satisfactory which opinions of other counsel shall accompany such Opinion of Counsel and shall either be addressed to the Trustee and the Rating Agency or shall state that the Trustee and the Rating Agency shall be entitled to rely thereon.

"Optional Redemption": The meaning specified in Section 9.1(c) hereof.

"Outstanding": With respect to the Notes, as of any date of determination, all of the Notes or any Class of Notes, as the case may be, theretofore authenticated and delivered under this Indenture except:

(i) Notes theretofore canceled by the Notes Registrar or delivered to the Notes Registrar for cancellation;

(ii) Notes or portions thereof for whose payment or redemption funds in the necessary amount have been theretofore irrevocably deposited with the Trustee or the Paying Agent in trust for the Holders of such Notes pursuant to Section 4.1(a)(ii); provided that, if such Notes or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, unless proof satisfactory to

the Trustee is presented that any such Notes are held by a holder in due course; and

(iv) Notes alleged to have been mutilated, destroyed, lost or stolen for which replacement Notes have been issued as provided in Section 2.6;

provided that in determining whether the Noteholders of the requisite Aggregate Outstanding Amount have given any request, demand, authorization, direction, notice, consent or waiver hereunder, (x) Notes owned by the Issuer, the Co-Issuer or any Affiliate thereof shall be disregarded and deemed not to be Outstanding and (y) in relation to any amendment or other modification of, or assignment or termination of, any of the express rights or obligations of the Loan Obligation Manager under the Loan Obligation Management Agreement or this Indenture (including the exercise of any rights to remove the Loan Obligation Manager except with respect to the termination of the Loan Obligation Manager without cause and with respect to the replacement of the Loan Obligation Manager in instances where the Loan Obligation Manager has not been terminated for cause or where such replacement is not an Affiliate of the Loan Obligation Manager), Notes owned by the Loan Obligation Manager or any of its Affiliates, or by any accounts managed by them, shall be disregarded and deemed not to be Outstanding. In determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes that the Trustee knows to be so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer, the Loan Obligation Manager or any other obligor upon the Notes or any Affiliate of the Issuer, the Loan Obligation Manager or such other obligor.

"Par Value Ratio": As of any Measurement Date, the number (expressed as a percentage) calculated in accordance with the assumptions set forth in Section 1.2(d) by dividing (a) the sum of the Net Outstanding Portfolio Balance on such Measurement Date by (b) the sum of the aggregate outstanding principal amount of the Class A Notes and the Class B Notes and the amount of any unreimbursed Interest Advances.

"Par Value Test": The test that will be met as of any Measurement Date on which any Notes remain Outstanding if the Par Value Ratio on such Measurement Date is equal to or greater than 144.25%.

"Participating Institution": With respect to any participation, the entity that holds legal title to the participated asset.

"Paying Agent": Any Person authorized by the Issuer and the Co-Issuer to pay the principal of or interest on any Notes on behalf of the Issuer and the Co-Issuer as specified in Section 7.2 hereof.

"Payment Account": The payment account of the Trustee in respect of the Notes established pursuant to Section 10.3 hereof.

"Payment Date": With respect to each Class of Notes, monthly on the 15th day of each calendar month (or if such day is not a Business Day, the next succeeding Business Day) to

and including the Stated Maturity Date related to such Class unless redeemed or repaid prior thereto, commencing on March 15, 2013.

"Permitted Subsidiary": Any one or more wholly-owned, single purpose entities established exclusively for the purpose of taking title to mortgage, real estate or any Sensitive Asset in connection, in each case, with the exercise of remedies or otherwise.

"Person": An individual, corporation (including a business trust), partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated association or government or any agency or political subdivision thereof.

"Placement Agent": Sandler O'Neill & Partners, L.P., in its capacity as the placement agent.

"Placement Agency Agreement": The placement agreement relating to the Notes dated as of the Closing Date by and among the Issuer, the Co-Issuer and the Placement Agent.

"Pledged Loan Obligation": On any date of determination, any Loan Obligation that has been Granted to the Trustee and not been released from the lien of this Indenture pursuant to Section 10.12 hereof.

"Portfolio Finalization Date": The date which is the earlier of (i) the 90th day after the Closing Date; (ii) the first date on which the Aggregate Principal Balance of the Pledged Loan Obligations is at least equal to the Portfolio Finalization Date Collateral Principal Balance and (iii) the date that the Loan Obligation Manager determines, in its sole discretion, and notifies the Trustee of such determination, that investment in Additional Loan Obligations is no longer practical or desirable.

"Portfolio Finalization Date Collateral Principal Balance": U.S.$259,987,000.

"Post-Closing Acquisition Period": The period commencing on the Closing Date and ending on the earlier of (i) the Portfolio Finalization Date and (ii) the occurrence of an Event of Default (after the expiry of any applicable grace periods).

"Preferred Shareholder": A registered owner of Preferred Shares as set forth in the share register maintained by the Share Registrar.

"Preferred Shares": The preferred shares issued by the Issuer concurrently with the issuance of the Notes.

"Preferred Share Distribution Account": A segregated account established and designated as such by the Preferred Shares Paying Agent pursuant to the Preferred Share Paying Agency Agreement.

"Preferred Shares Distribution Amount": Any remaining Interest Proceeds and Principal Proceeds, if any, to be released from the lien of this Indenture and paid (upon standing order of the Issuer) to the Preferred Shares Paying Agent for deposit into the Preferred Share

Distribution Account for distribution to the holders of the Preferred Shares after payment by the Trustee of all distributions which take priority pursuant to Section 11.1(a).

"Preferred Share Paying Agency Agreement": The Preferred Share Paying Agency Agreement, dated as of the Closing Date, among the Issuer, the Preferred Shares Paying Agent relating to the Preferred Shares and the Share Registrar, as amended from time to time in accordance with the terms thereof.

"Preferred Shares Paying Agent": The Bank, solely in its capacity as Preferred Shares Paying Agent under the Preferred Share Paying Agency Agreement and not individually, unless a successor Person shall have become the Preferred Shares Paying Agent pursuant to the applicable provisions of the Preferred Share Paying Agency Agreement, and thereafter Preferred Shares Paying Agent shall mean such successor Person.

"Principal Balance" or "par": With respect to any Loan Obligation or Eligible Investment, as of any date of determination, the outstanding principal amount of such Loan Obligation or Eligible Investment; provided that:

(i) the Principal Balance of any Eligible Investment that does not pay Cash interest on a current basis will be the accreted value thereof; and

(ii) the Principal Balance of any RDD Obligation also will be deemed to include the unfunded portion of such RDD Obligation on deposit in the RDD Funding Account.

"Principal Collection Account": The trust account established pursuant to Section 10.2(a) hereof.

"Principal Proceeds": With respect to any Payment Date, (A) the sum (without duplication) of (1) all principal payments (including Unscheduled Principal Payments and any casualty or condemnation proceeds and any proceeds from the exercise of remedies (including liquidation proceeds)) received during the related Due Period in respect of (a) Eligible Investments (other than Eligible Investments purchased with Interest Proceeds, Eligible Investments in the Expense Account, Eligible Investments in the RDD Funding Account and any amount representing the accreted portion of a discount from the face amount of a Loan Obligation or an Eligible Investment) and (b) Loan Obligations as a result of (i) a maturity, scheduled amortization or mandatory prepayment on a Loan Obligation, (ii) optional prepayments made at the option of the related borrower, (iii) recoveries on Defaulted Obligations or (iv) any other principal payments received with respect to Loan Obligations, (2) all fees and commissions received during such Due Period in connection with Defaulted Obligations and Eligible Investments and the restructuring or default of such Defaulted Obligations and Eligible Investments, (3) any interest received during such Due Period on such Loan Obligations or Eligible Investments to the extent such interest constitutes proceeds from accrued interest purchased with Principal Proceeds other than accrued interest purchased by the Issuer on or prior to the Closing Date and interest included in clause (A)(1) of the definition of Interest Proceeds, (4) Sale Proceeds received during such Due Period in respect of sales (excluding those previously reinvested or currently being reinvested in Loan Obligations in accordance with the

Transaction Documents and excluding accrued interest included in Sale Proceeds (unless such accrued interest was purchased with Principal Proceeds) that are designated by the Loan Obligation Manager as Interest Proceeds in accordance with clause (A)(1) of the definition of Interest Proceeds), (5) all Cash payments of interest received during such Due Period on Defaulted Obligations, (6) funds transferred to the Principal Collection Account from the RDD Funding Account in respect of amounts previously held on deposit in respect of unfunded commitments for RDD Obligations that have been sold or otherwise disposed of before such commitments thereunder have been drawn or as to which excess funds remain, (7) any principal payments received in Cash by the Issuer during the related Due Period on any asset held by a Permitted Subsidiary, (8) any Loss Value Payments received by the Issuer from a Seller, (9) all other payments received in connection with the Loan Obligations and Eligible Investments that are not included in Interest Proceeds (10) after the Portfolio Finalization Date, all amounts in the Unused Proceeds Account and (11) all Cash and Eligible Investments contributed by ARMS Equity pursuant to the terms of Section 12.2(c) and designated as "Principal Proceeds" by ARMS Equity; provided that in no event will Principal Proceeds include any proceeds from the Excepted Assets minus (B)(1) the aggregate amount of any Nonrecoverable Interest Advances that were not previously reimbursed to the Advancing Agent or the Backup Advancing Agent from Interest Proceeds and (2) the portion of such Principal Proceeds previously reinvested or currently being held for reinvestment in Replacement Loan Obligations if the Issuer is permitted to purchase Replacement Loan Obligations in accordance with Section 12.2.

"Priority of Payments": The meaning specified in Section 11.1(a) hereof.

"Proceeding": Any suit in equity, action at law or other judicial or administrative proceeding.

"Purchase Price": The purchase price identified for each Loan Obligation against its name in Schedule A attached hereto.

"QIB": A "qualified institutional buyer" as defined in Rule 144A.

"Qualified Purchaser": A "qualified purchaser" within the meaning of Section 2(a)(51) of the 1940 Act or an entity owned exclusive by one or more such "qualified purchasers."

"Qualified REIT Subsidiary": A corporation that, for U.S. federal tax purposes, is wholly-owned by a real estate investment trust under Section 856(i)(2) of the Internal Revenue Code of 1986, as amended.

"Rating Agency": Moody's and any successor thereto, or, with respect to the Assets generally, if at any time Moody's or any such successor ceases to provide rating services with respect to the Notes or certificates similar to the Notes, any other NRSRO selected by the Issuer and reasonably satisfactory to a Majority of the Notes voting as a single Class.

"Rating Agency Condition": A condition that is satisfied if:

(a) the party required to satisfy the Rating Agency Condition (the " Requesting Party") has made a written request to the Rating Agency for a No Downgrade Confirmation; and

(b) any one of the following has occurred:

(i) a No Downgrade Confirmation has been received; or

(ii) (A) within 10 business days of such request being sent to the Rating Agency, the Rating Agency has not replied to such request or has responded in a manner that indicates that the Rating Agency is neither reviewing such request nor waiving the requirement for confirmation;

(B) the Requesting Party has confirmed that the Rating Agency has received the confirmation request,

(C) the Requesting Party promptly requests the No Downgrade Confirmation a second time; and

(D) there is no response to either confirmation request within five (5) business days of such second request.

"Rating Confirmation Failure": The meaning specified in Section 7.19(b) hereof.

"RDD Funding Account": The account established pursuant to Section 10.6(a) hereof.

"RDD Funding Advance": With respect to RDD Obligations, one or more future advances that the Issuer is required to make to the obligor under the Underlying Instruments relating thereto, subject to satisfaction of conditions precedent specified therein.

"RDD Obligation": Any Loan Obligation that requires the lender to make one or more additional advances to the borrower upon the satisfaction of certain conditions precedent specified in the related Underlying Instruments.

"Record Date": The date on which the Holders of Notes entitled to receive a payment in respect of principal or interest on the succeeding Payment Date is determined, such date as to any Payment Date being the 15th day (whether or not a Business Day) prior to the applicable Payment Date.

"Redemption Date": Any Payment Date specified for a redemption of the Securities pursuant to Section 9.1 hereof.

"Redemption Date Statement": The meaning specified in Section 10.11(i) hereof.

"Redemption Price": The Redemption Price of each Class of Notes or the Preferred Shares, as applicable, on a Redemption Date will be calculated as follows:

Class A Notes. The redemption price for the Class A Notes will be calculated on the related Determination Date and will equal the Aggregate Outstanding Amount of the Class A Notes to be redeemed, together with the Class A Interest Distribution Amount (plus any Class A Defaulted Interest Amount) due on the applicable Redemption Date;

Class B Notes. The redemption price for the Class B Notes will be calculated on the related Determination Date and will equal the Aggregate Outstanding Amount of the Class B Notes to be redeemed, together with the Class B Interest Distribution Amount (plus any Class B Defaulted Interest Amount) due on the applicable Redemption Date; and

Preferred Shares. The redemption price for the Preferred Shares will be calculated on the related Determination Date and will be equal to the sum of all net proceeds from the sale of the Assets in accordance with Article 12 hereof and Cash (other than the Issuer's rights, title and interest in the property described in clause (i) of the definition of "Excepted Assets"), if any, remaining after payment of all amounts and expenses, including payments made in respect of the Notes, described under clauses (1) through (10) of Section 11.1(a)(i) and clauses (1) through (6) of Section 11.1(a)(ii); provided that, if there are no such net proceeds or Cash remaining, the redemption price for the Preferred Shares shall be equal to U.S.$0.

"Reference Banks": The meaning set forth in Schedule S attached hereto.

"Registered": With respect to any debt obligation, a debt obligation that is issued after July 18, 1984, and that is in registered form for purposes of the Code.

"Registered Office Agreement": The registered office agreement dated January December 13, 2012 between the Issuer and MaplesFS Limited as registered office provider, as modified, supplemented and in effect from time to time.

"Registered Security": The meaning specified in Section 3.3(a)(iii) hereof.

"Regulation S": Regulation S under the Securities Act.

"Regulation S Global Security": The meaning specified in Section 2.2(b)(ii) hereof.

"Reimbursement Interest": Interest accrued on the amount of any Interest Advance made by the Advancing Agent or the Backup Advancing Agent, for so long as it is outstanding, at the Reimbursement Rate.

"Reimbursement Rate": A rate *per annum* equal to the "prime rate" as published in the "Money Rates" section of the Wall Street Journal, as such "prime rate" may change from time to time. If more than one "prime rate" is published in The Wall Street Journal for a day, the average of such "prime rates" will be used, and such average will be rounded up to the nearest one eighth of one percent (0.125%). If the "prime rate" contained in The Wall Street Journal is not readily ascertainable, the Loan Obligation Manager will select an equivalent publication that

publishes such "prime rate," and if such "prime rates" are no longer generally published or are limited, regulated or administered by a governmental authority or quasigovernmental body, then the Loan Obligation Manager will select, in its reasonable discretion, a comparable interest rate index.

"REIT": A "real estate investment trust" under the Code.

"Replacement Loan Obligation": Any Loan Obligation that is acquired after the Closing Date that satisfies the Eligibility Criteria and the Replacement Criteria in accordance with the terms of Section 12.2(a) hereof.

"Replacement Criteria": The meaning specified in Section 12.2(a) hereof.

"Replacement Period": The period beginning on the Closing Date and ending on and including the first to occur of any of the following events or dates: (i) the end of the Due Period related to the Payment Date in February 2015; (ii) the end of the Due Period related to the Payment Date on which all of the Securities are redeemed as described herein under Section 9.1; and (iii) the date on which an Event of Default has occurred.

"Repurchase Price": The meaning specified in Section 16.3(c) hereof.

"Repurchase Request": The meaning specified in Section 7.17 hereof.

"Rule 17g-5": The meaning specified in Section 14.13 hereof.

"Rule 144A": Rule 144A under the Securities Act.

"Rule 144A Global Security": The meaning specified in Section 2.2(b)(i) hereof.

"Rule 144A Information": The meaning specified in Section 7.13 hereof.

"S&P": Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors in interest.

"Sale": The meaning specified in Section 5.17(a) hereof.

"Sale Proceeds": All proceeds (including accrued interest) received with respect to Loan Obligations and Eligible Investments as a result of sales of such Loan Obligations and Eligible Investments, sales in connection with the exercise of a purchase option by the holder of a Non-Acquired Participation or a mezzanine lender, and sales in connection with a repurchase for a breach of a representation or warranty, in each case net of any reasonable out-of-pocket expenses of the Loan Obligation Manager or the Trustee in connection with any such sale.

"Schedule of Closing Date Loan Obligations": The Loan Obligations listed on Schedule A attached hereto, which Schedule shall include the Principal Balance, the spread and the relevant floating reference rate, the maturity date, the Moody's Rating of each such Loan Obligation.

"Scheduled Distribution": With respect to any Loan Obligation or Eligible Investment, for each Due Date, the scheduled payment of principal, interest or fee or any dividend or premium payment due on such Due Date or any other distribution with respect to such Loan Obligation or Eligible Investment, determined in accordance with the assumptions specified in Section 1.2 hereof.

"SEC": The Securities and Exchange Commission.

"Secured Parties": Collectively, the Trustee, the Noteholders and the Loan Obligation Manager, each as their interests appear in applicable Transaction Documents.

"Securities": Collectively, the Notes and the Preferred Shares.

"Securities Account": The meaning specified in Section 8-501(a) of the UCC.

"Securities Account Control Agreement": The meaning specified in Section 3.3(a) hereof.

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

"Securities Intermediary": The meaning specified in Section 8-102(a)(14) of the UCC.

"Security Entitlement": The meaning specified in Section 8-102(a)(17) of the UCC.

"Security": Any Note or Preferred Share or, collectively, the Notes and Preferred Shares, as the context may require.

"Seller": The meaning specified in the applicable Loan Obligation Purchase Agreement.

"Senior AB Participation": A Loan Obligation that is a participation interest (or an A Note) in an Underlying Whole Loan pursuant to a participation agreement (or intercreditor agreement) in which the interest acquired by the Issuer is senior to one or more Junior Participations.

"Senior Pari Passu Participation": A Loan Obligation that is a participation interest in an Underlying Whole Loan in which the interest acquired by the Issuer is *pari passu* with one or more other Senior Pari Passu Participation Interests that are each Non-Acquired Participations and which each are the senior-most interest in such Underlying Whole Loan.

"Senior Participation": A Loan Obligation that is either a senior participation interest (including A Notes and senior or *pari passu* participation interests) in an Underlying Whole Loan pursuant to a Senior AB Participation, in which the related Junior Participation is a Non-Acquired Participation.

"Sensitive Asset": means (i) a Loan Obligation, or a portion thereof, or (ii) a real property or other interest (including, without limitation, an interest in real property) resulting from the conversion, exchange, other modification or exercise of remedies with respect to a Loan Obligation or portion thereof, in either case, as to which the Loan Obligation Manager has determined, based on an Opinion of Counsel, could give rise to material liability of the Issuer (including liability for taxes) if held directly by the Issuer.

"Servicing Agreement": The Servicing Agreement, dated as of the Closing Date, by and among the Issuer, the Trustee, the Loan Obligation Manager and the CLO Servicer, as amended, supplemented or otherwise modified from time to time in accordance with its terms.

"Servicing Fee": With respect to each Due Period the aggregate amount of all servicing fees payable to the CLO Servicer under the Servicing Agreement and any backup servicer named therein or in any backup servicing agreement to which the Issuer is a party during such Due Period.

"Share Registrar": MaplesFS Limited, unless a successor Person shall have become the Share Registrar pursuant to the applicable provisions of the Preferred Share Paying Agency Agreement, and thereafter "Share Registrar" shall mean such successor Person.

"Specified Person": The meaning specified in Section 2.6(a) hereof.

"Stated Maturity Date": The Payment Date occurring in February 2023.

"Subordinate Interest": The meaning specified in Section 13.1 hereof.

"Tax Event": (i) Any borrower is, or on the next scheduled payment date under any Loan Obligation, will be, required to deduct or withhold from any payment under any Loan Obligation to the Issuer for or on account of any tax for whatever reason and such borrower is not required to pay to the Issuer such additional amount as is necessary to ensure that the net amount actually received by the Issuer (free and clear of taxes, whether assessed against such borrower or the Issuer) will equal the full amount that the Issuer would have received had no such deduction or withholding been required, (ii) any jurisdiction imposes net income, profits, or similar tax on the Issuer or (iii) the Issuer fails to maintain its status as a Qualified REIT Subsidiary or other disregarded entity of a REIT for U.S. federal income tax purposes. Withholding taxes imposed under FATCA, if any, shall be disregarded in applying the definition of "Tax Event."

"Tax Materiality Condition": The condition that will be satisfied if either (i) as a result of the occurrence of a Tax Event, a tax or taxes are imposed on the Issuer or withheld from payments to the Issuer and with respect to which the Issuer receives less than the full amount that the Issuer would have received had no such deduction occurred and such amount exceeds, in the aggregate, U.S.$1 million during any 12-month period or (ii) the Issuer fails to maintain its status as a Qualified REIT Subsidiary or other disregarded entity of a REIT for U.S. federal income tax purposes.

"Tax Redemption": The meaning specified in Section 9.1(b) hereof.

"Total Redemption Price": The amount equal to funds sufficient to pay all amounts and expenses described under clauses (1) through (4) and (9) of Section 11.1(a)(i) and to redeem all Notes at their applicable Redemption Prices.

"Transaction Documents": This Indenture, the Loan Obligation Management Agreement, the Loan Obligation Purchase Agreements, the Placement Agency Agreement, the Company Administration Agreement, the Preferred Share Paying Agency Agreement, the Servicing Agreement, the Collateral Administration Agreement and the Securities Account Control Agreement.

"Transfer Agent": The Person or Persons, which may be the Issuer, authorized by the Issuer to exchange or register the transfer of Notes.

"Treasury Regulations": Temporary or final regulations promulgated under the Code by the United States Treasury Department.

"Trust Officer": When used with respect to the Trustee, any officer within the Global Trust Services Group of the Corporate Trust Office (or any successor group of the Trustee) including any vice president, assistant vice president or officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Global Trust Services Group of the Corporate Trust Office because of his knowledge of and familiarity with the particular subject and who is directly responsible for the administration of this Indenture.

"Trustee": U.S. Bank National Association, a national banking association, solely in its capacity as trustee hereunder, unless a successor Person shall have become the Trustee pursuant to the applicable provisions of this Indenture, and thereafter "Trustee" shall mean such successor Person.

"UCC": The applicable Uniform Commercial Code.

"Uncertificated Security": The meaning specified in Section 3.3(a)(ii) hereof.

"Underlying Instruments": The indenture, loan agreement, note, mortgage, intercreditor agreement, participation agreement or other agreement pursuant to which a Loan Obligation or Eligible Investment has been issued or created and each other agreement that governs the terms of or secures the obligations represented by such Loan Obligation or Eligible Investment or of which holders of such Loan Obligation or Eligible Investment are the beneficiaries.

"Underlying Mortgaged Property": With respect to a Loan Obligation that is (i) a Whole Loan, the commercial mortgage property or properties securing the Whole Loan and (ii) a Senior Participation, the commercial mortgage property or properties securing the Underlying Whole Loan.

"Underlying Whole Loan": With respect to any Loan Obligation that is a Senior Participation, the Whole Loan in which such Senior Participation represents a participation interest.

"United States" and "U.S.": The United States of America, including any state and any territory or possession administered thereby.

"Unregistered Securities": The meaning specified in Section 5.17(c) hereof.

"Unscheduled Principal Payments": Any proceeds received by the Issuer from an unscheduled prepayment or redemption (in whole but not in part) by the obligor of a Loan Obligation (or, in the case of a Senior Participation, the related Underlying Whole Loan) prior to the maturity date of such Loan Obligation (or, in the case of a Senior Participation, the related Underlying Whole Loan).

"Unused Proceeds Account": The trust account established pursuant to Section 10.4(a) hereof.

"U.S. Person": The meaning specified in Regulation S.

"Weighted Average Life": As of any Measurement Date with respect to the Loan Obligations (other than Defaulted Obligations), the number obtained by (i) summing the products obtained by multiplying (a) the Average Life at such time of each Loan Obligation (other than Defaulted Obligations) by (b) the outstanding Principal Balance of such Loan Obligation and (ii) dividing such sum by the Aggregate Principal Balance at such time of all Loan Obligations (other than Defaulted Obligations). For purposes of this definition, "Average Life" means, on any Measurement Date with respect to any Loan Obligation (other than a Defaulted Obligation), the quotient obtained by the Loan Obligation Manager by dividing (i) the sum of the products of (a) the number of years (rounded to the nearest one tenth thereof) from such Measurement Date to the respective dates of each successive expected distribution of principal of such Loan Obligation and (b) the respective amounts of such expected distributions of principal by (ii) the sum of all successive expected distributions of principal on such Loan Obligation.

"Weighted Average Spread": As of any date of determination, the number obtained (rounded up to the next 0.001%), by (A) summing the products obtained by multiplying (i) with respect to any Loan Obligation (other than a Defaulted Obligation), the greater of (x) the current stated spread above LIBOR (net of any servicing fees and expenses) at which interest accrues on each such Loan Obligation and (y) if such Loan Obligation provides for a minimum interest rate payable thereunder, the excess, if any, of the minimum interest rate applicable to such Loan Obligation (net of any servicing fees and expenses) over LIBOR by (ii) the Principal Balance of such Loan Obligation as of such date, and (B) dividing such sum by the aggregate Principal Balance of all Loan Obligations (excluding all Defaulted Obligations).

"Whole Loan": A commercial mortgage loan secured by a first-lien mortgage on a Multi-Family Property.

Section 1.2 Assumptions as to Assets.

(a) In connection with all calculations required to be made pursuant to this Indenture with respect to Scheduled Distributions on any Loan Obligation and Eligible Investment, or any payments on any other Assets, and with respect to the income that can be earned on Scheduled Distributions on any Loan Obligation or Eligible Investment and on any other amounts that may be received for credit to the applicable Collection Account, the provisions set forth in this Section 1.2 shall be applied.

(b) All calculations with respect to Scheduled Distributions on the Loan Obligations and Eligible Investments shall be made on the basis of information as to the terms of each such Asset and upon report of payments, if any, received on such Asset that are furnished by or on behalf of the related borrower, obligor or issuer of such Asset and, to the extent they are not manifestly in error, such information or report may be conclusively relied upon in making such calculations.

(c) For each Due Period, the Scheduled Distribution on any Loan Obligation (other than a Defaulted Obligation, which, except as otherwise provided herein, shall be assumed to have a Scheduled Distribution of zero) or Eligible Investment shall be the sum of (i) the total amount of payments and collections in respect of such Loan Obligation or Eligible Investment (including all Sales Proceeds received during the Due Period and not reinvested in Replacement Loan Obligations or retained in the Principal Collection Account for subsequent reinvestment) that, if paid as scheduled, will be available in the Collection Accounts at the end of such Due Period for payment on the Notes and of expenses of the Issuer and the Co-Issuer pursuant to the Priority of Payments and (ii) any such amounts received in prior Due Periods that were not disbursed on a previous Payment Date and do not constitute amounts which have been used as reimbursement with respect to a prior Interest Advance pursuant to the terms of this Indenture. On any date of determination, the amount of any Scheduled Distribution due on any future date with respect to any Loan Obligation as to which any interest or other payment thereon is subject to withholding tax of any relevant jurisdiction shall be assumed to be made net of any such uncompensated withholding tax based upon withholding tax rates in effect on such date of determination.

(d) For purposes of calculating the Par Value Ratio (1) an appraisal reduction of a Loan Obligation will be assumed to result in an implied reduction of Principal Balance for such Loan Obligation only if such appraisal reduction is intended to reduce the interest payable on such Loan Obligation and only in proportion to such interest reduction and (2) any Loan Obligation that has sustained an implied reduction of Principal Balance due to an appraisal reduction will not be considered a Defaulted Obligation solely due to such implied reduction.

(e) For purposes of calculating the Interest Coverage Ratio, (1) the expected interest income on the Loan Obligations and Eligible Investments and the expected interest payable on the Notes shall be calculated using the interest rates applicable thereto on the applicable Measurement Date, (2) accrued original issue discount on Eligible Investments shall be deemed to be Scheduled Distributions due on the date such original issue discount is scheduled to be paid, (3) with respect to each Defaulted Obligation as to which the Loan Obligation Manager has delivered written notice to the Issuer and the Trustee of its intent to

engage in either (x) Credit Risk/Defaulted Obligation Cash Purchase or (y) an exchange for an Exchange Obligation, the Loan Obligation Manager will have 45 days to exercise such purchase or exchange and during such period such Loan Obligation will not be treated as a Defaulted Obligation, (4) there will be excluded all scheduled or deferred payments of interest on or principal of Loan Obligations and any payment that the Loan Obligation Manager has determined in its reasonable judgment will not be made in cash or received when due and (5) with respect to any Loan Obligation as to which any interest or other payment thereon is subject to withholding tax of any relevant jurisdiction, each payment thereon shall be deemed to be payable net of such withholding tax unless the related borrower is required to make additional payments to fully compensate the Issuer for such withholding taxes (including in respect of any such additional payments).

(f) Each Scheduled Distribution receivable with respect to a Loan Obligation or Eligible Investment shall be assumed to be received on the applicable Due Date, and each such Scheduled Distribution shall be assumed to be immediately deposited in the applicable Collection Account except to the extent the Loan Obligation Manager has a reasonable expectation that such Scheduled Distribution will not be received on the applicable Due Date. All such funds shall be assumed to continue to earn interest until the date on which they are required to be available in the applicable Collection Account for transfer to the Payment Account for application, in accordance with the terms hereof, to payments of principal of or interest on the Notes or other amounts payable pursuant to this Indenture.

(g) All calculations required to be made and all reports which are to be prepared pursuant to this Indenture with respect to the Assets, shall be made on the basis of the date on which the Issuer makes a binding commitment to purchase or sell a Loan Obligation or Eligible Investment rather than the date upon which such purchase or sale settles.

Section 1.3 Interest Calculation Convention.

All calculations of interest hereunder that are made with respect to the Notes shall be made on the basis of the actual number of days during the related Interest Accrual Period divided by 360.

Section 1.4 Rounding Convention.

Unless otherwise specified herein, test calculations that evaluate to a percentage will be rounded to the nearest ten thousandth of a percentage point and test calculations that evaluate to a number or decimal will be rounded to the nearest one hundredth of a percentage point.

ARTICLE 2

THE NOTES

Section 2.1 Forms Generally.

The Notes and the Trustee's or Authenticating Agent's certificate of authentication thereon (the "Certificate of Authentication") shall be in substantially the forms required by this Article 2, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon, as may be consistent herewith, determined by the Authorized Officers of the Issuer and the Co-Issuer, executing such Notes as evidenced by their execution of such Notes. Any portion of the text of any Note may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Note.

Section 2.2 Forms of Notes and Certificate of Authentication .

(a) Form. The form of each Class of Notes including the Certificate of Authentication, shall be substantially as set forth in Exhibits A and B hereto.

(b) Global Securities and Definitive Notes.

(i) The Notes initially offered and sold in the United States to (or to U.S. Persons who are) QIBs shall be represented by one or more permanent global notes in definitive, fully registered form without interest coupons with the applicable legend set forth in Exhibits A and B hereto added to the form of such Notes (each, a "Rule 144A Global Security"), which shall be registered in the name of the nominee of the Depository and deposited with the Trustee, at its Corporate Trust Office, as custodian for the Depository, duly executed by the Issuer and the Co-Issuer and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Rule 144A Global Securities may from time to time be increased or decreased by adjustments made on the records of the Trustee or the Depository or its nominee, as the case may be, as hereinafter provided.

(ii) The Notes initially offered and sold in the United States to (or to U.S. Persons who are) IAIs shall be issued in definitive form, registered in the name of the legal or beneficial owner thereof attached without interest coupons with the applicable legend set forth in Exhibits A and B hereto added to the form of such Notes (each a "Definitive Note"), which shall be duly executed by the Issuer and the Co-Issuer and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Definitive Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee or the Depository or its nominee, as the case may be, as hereinafter provided.

(iii) The Notes initially sold in offshore transactions in reliance on Regulation S shall be represented by one or more permanent global notes in definitive, fully registered form without interest coupons with the applicable legend set forth in Exhibits

A and B, hereto added to the form of such Notes (each, a "Regulation S Global Security"), which shall be deposited on behalf of the subscribers for such Notes represented thereby with the Trustee as custodian for the Depository and registered in the name of a nominee of the Depository for the respective accounts of Euroclear and Clearstream, Luxembourg or their respective depositories, duly executed by the Issuer and the Co-Issuer and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Regulation S Global Securities may from time to time be increased or decreased by adjustments made on the records of the Trustee or the Depository or its nominee, as the case may be, as hereinafter provided.

(c) Book-Entry Provisions. This Section 2.2(c) shall apply only to Global Securities deposited with or on behalf of the Depository.

Each of the Issuer and Co-Issuer shall execute and the Trustee shall, in accordance with this Section 2.2(c), authenticate and deliver initially one or more Global Securities that shall be (i) registered in the name of the nominee of the Depository for such Global Security or Global Securities and (ii) delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee's agent as custodian for the Depository.

Agent Members shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Trustee, as custodian for the Depository or under the Global Security, and the Depository may be treated by the Issuer, the Co-Issuer, the Trustee, and any agent of the Issuer, the Co-Issuer or the Trustee as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Co-Issuer, the Trustee, or any agent of the Issuer, the Co-Issuer or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Global Security.

(d) Delivery of Definitive Notes in Lieu of Global Securities . Except as provided in Section 2.10 hereof, owners of beneficial interests in a Class of Global Securities shall not be entitled to receive physical delivery of a Definitive Note.

Section 2.3 Authorized Amount; Stated Maturity Date; and Denominations .

(a) The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is limited to

U.S.$177,000,000, except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to Section 2.5, 2.6 or 8.5 hereof.

Such Notes shall be divided into two Classes having designations and original principal amounts as follows:

Designation		Original Principal Amount
Class A Senior Secured Floating Rate Notes Due February 2023	U.S.$	156,000,000
Class B Secured Floating Rate Notes Due February 2023	U.S.$	21,000,000

(b) The Notes shall be issuable in minimum denominations of U.S.$250,000 and integral multiples of U.S.$500 in excess thereof (plus any residual amount).

Section 2.4 Execution, Authentication, Delivery and Dating.

The Notes shall be executed on behalf of the Issuer and the Co-Issuer by an Authorized Officer of the Issuer and the Co-Issuer, respectively. The signature of such Authorized Officers on the Notes may be manual or facsimile.

Notes bearing the manual or facsimile signatures of individuals who were at any time the Authorized Officers of the Issuer or the Co-Issuer shall bind the Issuer or the Co-Issuer, as the case may be, notwithstanding the fact that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the date of issuance of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Issuer and the Co-Issuer may deliver Notes executed by the Issuer and the Co-Issuer to the Trustee or the Authenticating Agent for authentication and the Trustee or the Authenticating Agent, upon Issuer Order, shall authenticate and deliver such Notes as provided in this Indenture and not otherwise.

Each Note authenticated and delivered by the Trustee or the Authenticating Agent upon Issuer Order on the Closing Date shall be dated as of the Closing Date. All other Notes that are authenticated after the Closing Date for any other purpose under this Indenture shall be dated the date of their authentication.

Notes issued upon transfer, exchange or replacement of other Notes shall be issued in authorized denominations reflecting the original aggregate principal amount of the Notes so transferred, exchanged or replaced, but shall represent only the current outstanding principal amount of the Notes so transferred, exchanged or replaced. In the event that any Note is divided into more than one Note in accordance with this Article 2, the original principal amount of such Note shall be proportionately divided among the Notes delivered in exchange therefor and shall be deemed to be the original aggregate principal amount of such subsequently issued Notes.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a Certificate of Authentication,

substantially in the form provided for herein, executed by the Trustee or by the Authenticating Agent by the manual signature of one of their Authorized Officers, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

Section 2.5 Registration, Registration of Transfer and Exchange.

(a) The Issuer and the Co-Issuer shall cause to be kept a register (the "Notes Register") in which, subject to such reasonable regulations as it may prescribe, the Issuer and the Co-Issuer shall provide for the registration of Notes and the registration of transfers and exchanges of Notes. The Trustee is hereby initially appointed "Notes Registrar" for the purpose of maintaining the Notes Registrar and registering Notes and transfers and exchanges of such Notes with respect to the Notes Register kept in the United States as herein provided. Upon any resignation or removal of the Notes Registrar, the Issuer and the Co-Issuer shall promptly appoint a successor or, in the absence of such appointment, assume the duties of Notes Registrar.

If a Person other than the Trustee is appointed by the Issuer and the Co-Issuer as Notes Registrar, the Issuer and the Co-Issuer shall give the Trustee prompt written notice of the appointment of a successor Notes Registrar and of the location, and any change in the location, of the Notes Register, and the Trustee shall have the right to inspect the Notes Register at all reasonable times and to obtain copies thereof and the Trustee shall have the right to rely upon a certificate executed on behalf of the Notes Registrar by an Officer thereof as to the names and addresses of the Holders of the Notes and the principal amounts and numbers of such Notes.

Subject to this Section 2.5, upon surrender for registration of transfer of any Notes at the office or agency of the Issuer to be maintained as provided in Section 7.2, the Issuer and the Co-Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or

transferees, one or more new Notes of any authorized denomination and of a like aggregate principal amount.

At the option of the Holder, Notes may be exchanged for Notes of like terms, in any authorized denominations and of like aggregate principal amount, upon surrender of the Notes to be exchanged at the office or agency of the Issuer to be maintained as provided in Section 7.2. Whenever any Note is surrendered for exchange, the Issuer and the Co-Issuer shall execute, and the Trustee shall authenticate and deliver, the Notes that the Noteholder making the exchange is entitled to receive.

All Notes issued and authenticated upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer and the Co-Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Issuer and the Notes Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made to a Holder for any registration of transfer or exchange of Notes, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

None of the Notes Registrar, the Issuer or the Co-Issuer shall be required (i) to issue, register the transfer of or exchange any Note during a period beginning at the opening of business 15 days before any selection of Notes to be redeemed and ending at the close of business on the day of the mailing of the relevant notice of redemption, or (ii) to register the transfer of or exchange any Note so selected for redemption.

(b) No Note may be sold or transferred (including, without limitation, by pledge or hypothecation) unless such sale or transfer is exempt from the registration requirements of the Securities Act and is exempt from the registration requirements under applicable state securities laws.

(c) No Note may be offered, sold, resold or delivered, within the United States or to, or for the benefit of, U.S. Persons except in accordance with Section 2.5(e) below and in accordance with Rule 144A to QIBs or, solely with respect to Definitive Notes, IAIs who are also Qualified Purchasers purchasing for their own account or for the accounts of one or more QIBs or IAIs who are also Qualified Purchasers, for which the purchaser is acting as fiduciary or agent. The Notes may be offered, sold, resold or delivered, as the case may be, in offshore transactions to non-U.S. Persons in reliance on Regulation S. None of the Issuer, the Co-Issuer, the Trustee or any other Person may register the Notes under the Securities Act or any state securities laws.

(d) Upon final payment due on the Stated Maturity Date of a Note, the Holder thereof shall present and surrender such Note at the Corporate Trust Office of the Trustee or at the office of the Paying Agent (outside the United States if then required by applicable law in the case of a Note in definitive form issued in exchange for a beneficial interest in a Regulation S Global Security pursuant to Section 2.10).

(e) Transfers of Global Securities. Notwithstanding any provision to the contrary herein, so long as a Global Security remains outstanding and is held by or on behalf of the Depository, transfers of a Global Security, in whole or in part, shall be made only in accordance with Section 2.2(c) and this Section 2.5(e).

(i) Except as otherwise set forth below, transfers of a Global Security shall be limited to transfers of such Global Security in whole, but not in part, to nominees of the Depository or to a successor of the Depository or such successor's nominee. Transfers of a Global Security to a Definitive Note may only be made in accordance with Section 2.10.

(ii) Regulation S Global Security to Rule 144A Global Security or Definitive Note. If a holder of a beneficial interest in a Regulation S Global Security wishes at any time to exchange its interest in such Regulation S Global Security for an interest in the corresponding Rule 144A Global Security or for a Definitive Note or to transfer its interest in such Regulation S Global Security to a Person who wishes to take delivery

thereof in the form of an interest in the corresponding Rule 144A Global Security or for a Definitive Note, such holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such interest for an equivalent beneficial interest in the corresponding Rule 144A Global Security or for a Definitive Note. Upon receipt by the Trustee or the Notes Registrar of:

(1) if the transferee is taking a beneficial interest in a Rule 144A Global Security, instructions from Euroclear, Clearstream and/or DTC, as the case may be, directing the Note Registrar to cause to be credited a beneficial interest in the corresponding Rule 144A Global Security in an amount equal to the beneficial interest in such Regulation S Global Security, but not less than the minimum denomination applicable to such holder's Notes to be exchanged or transferred, such instructions to contain information regarding the participant account with DTC to be credited with such increase and a duly completed certificate in the form of Exhibit C-2 attached hereto; or

(2) if the transferee is taking a Definitive Note, a duly completed transfer certificate in substantially the form of Exhibit C-3 hereto, certifying that such transferee is an IAI and a Qualified Purchaser,

then the Notes Registrar shall either (x) if the transferee is taking a beneficial interest in a Rule 144A Global Security, approve the instructions at DTC to reduce, or cause to be reduced, the Regulation S Global Security by the aggregate principal amount of the beneficial interest in the Regulation S Global Security to be transferred or exchanged and the Notes Registrar shall instruct DTC, concurrently with such reduction, to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the corresponding Rule 144A Global Security equal to the reduction in the principal amount of the Regulation S Global Security or (y) if the transferee is taking an interest in a Definitive Note, the Notes Registrar shall record the transfer in the Notes Register in accordance with Section 2.5(a) and, upon execution by the Issuers, authenticate and deliver one or more Definitive Notes, as applicable, registered in the names specified in the instructions described above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the aggregate principal amount of the interest in the Regulation S Global Security transferred by the transferor).

(iii) Definitive Note or Rule 144A Global Security to Regulation S Global Security . If a holder of a beneficial interest in a Rule 144A Global Security or a Holder of a Definitive Note wishes at any time to exchange its interest in such Rule 144A Global Security or Definitive Note for an interest in the corresponding Regulation S Global Security, or to transfer its interest in such Rule 144A Global Security or Definitive Note to a Person who wishes to take delivery thereof in the form of an interest in the corresponding Regulation S Global Security, such holder, provided such holder or, in the case of a transfer, the transferee is not a U.S. person and is acquiring such interest in an offshore transaction, may, subject to the immediately succeeding sentence and the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such

interest for an equivalent beneficial interest in the corresponding Regulation S Global Security. Upon receipt by the Trustee or the Notes Registrar of:

(1) instructions given in accordance with DTC's procedures from an Agent Member directing the Trustee or the Notes Registrar to credit or cause to be credited a beneficial interest in the corresponding Regulation S Global Security, but not less than the minimum denomination applicable to such holder's Notes, in an amount equal to the beneficial interest in the Rule 144A Global Security or Definitive Note to be exchanged or transferred, and in the case of a transfer of Definitive Notes, such Holder's Definitive Notes properly endorsed for assignment to the transferee,

(2) a written order given in accordance with DTC's procedures containing information regarding the participant account of DTC and the Euroclear or Clearstream account to be credited with such increase,

(3) in the case of a transfer of Definitive Notes, a Holder's Definitive Note properly endorsed for assignment to the transferee, and

(4) a duly completed certificate in the form of Exhibit C-1 attached hereto,

then the Trustee or the Notes Registrar shall approve the instructions at DTC to reduce the principal amount of the Rule 144A Global Security (or, in the case of a transfer of Definitive Notes, the Trustee or the Notes Registrar shall cancel such Definitive Notes) and to increase the principal amount of the Regulation S Global Security by the aggregate principal amount of the beneficial interest in the Rule 144A Global Security or Definitive Note to be exchanged or transferred, and to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the corresponding Regulation S Global Security equal to the reduction in the principal amount of the Rule 144A Global Security (or, in the case of a cancellation of Definitive Notes, equal to the principal amount of Definitive Notes so cancelled).

(iv) Transfer of Rule 144A Global Securities to Definitive Notes . If, in accordance with Section 2.10, a holder of a beneficial interest in a Rule 144A Global Security wishes at any time to exchange its interest in such Rule 144A Global Security for a Definitive Note or to transfer its interest in such Rule 144A Global Security to a Person who wishes to take delivery thereof in the form of a Definitive Note in accordance with Section 2.10, such holder may, subject to the immediately succeeding sentence and the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such interest for a Definitive Note. Upon receipt by the Trustee or the Notes Registrar of (A) a duly complete certificate substantially in the form of Exhibit C-3 and (B) appropriate instructions from DTC, if required, the Trustee or the Notes Registrar shall approve the instructions at DTC to reduce, or cause to be reduced, the Rule 144A Global Security by the aggregate principal amount of the beneficial interest in the Rule 144A Global Security to be transferred or exchanged, record the transfer in the Register

in accordance with Section 2.5(a) and upon execution by the Issuers authenticate and deliver one or more Definitive Notes, registered in the names specified in the instructions described in clause (B) above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the aggregate principal amount of the interest in the Rule 144A Global Security transferred by the transferor).

(v) Transfer of Definitive Notes to Rule 144A Global Securities . If a holder of a Definitive Note wishes at any time to exchange its interest in such Definitive Note for a beneficial interest in a Rule 144A Global Security or to transfer such Definitive Note to a Person who wishes to take delivery thereof in the form of a beneficial interest in a Rule 144A Global Security, such holder may, subject to the immediately succeeding sentence and the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such Definitive Note for beneficial interest in a Rule 144A Global Security (provided that no IAI may hold an interest in a Rule 144A Global Security). Upon receipt by the Trustee or the Notes Registrar of (A) a Holder's Definitive Note properly endorsed for assignment to the transferee; (B) a duly completed certificate substantially in the form of Exhibit C-2 attached hereto; (C) instructions given in accordance with DTC's procedures from an Agent Member to instruct DTC to cause to

be credited a beneficial interest in the Rule 144A Global Securities in an amount equal to the Definitive Notes to be transferred or exchanged; and (D) a written order given in accordance with DTC's procedures containing information regarding the participant's account of DTC to be credited with such increase, the Trustee or the Notes Registrar shall cancel such Definitive Note in accordance herewith, record the transfer in the Notes Register in accordance with Section 2.5(a) and approve the instructions at DTC, concurrently with such cancellation, to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the corresponding Rule 144A Global Security equal to the principal amount of the Definitive Note transferred or exchanged.

(vi) Other Exchanges. In the event that, pursuant to Section 2.10 hereof, a Global Security is exchanged for Definitive Notes, such Notes may be exchanged for one another only in accordance with such procedures as are substantially consistent with the provisions above (including certification requirements intended to ensure that such transfers are to a QIB who is also a Qualified Purchaser or are to a non-U.S. Person, or otherwise comply with Rule 144A or Regulation S, as the case may be) and as may be from time to time adopted by the Issuer, the Co-Issuer and the Trustee.

(f) Removal of Legend. If Notes are issued upon the transfer, exchange or replacement of Notes bearing the applicable legends set forth in Exhibits A and B hereto, and if a request is made to remove such applicable legend on such Notes, the Notes so issued shall bear such applicable legend, or such applicable legend shall not be removed, as the case may be, unless there is delivered to the Issuer and the Co-Issuer such satisfactory evidence, which may include an Opinion of Counsel of an attorney at law licensed to practice law in the State of New York (and addressed to the Issuer and the Trustee), as may be reasonably required by the Issuer and the Co-Issuer, if applicable, to the effect that neither such applicable legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Regulation S, as applicable, the 1940 Act or ERISA. So long as

the Issuer or the Co-Issuer is relying on an exemption under or promulgated pursuant to the 1940 Act, the Issuer or the Co-Issuer shall not remove that portion of the legend required to maintain an exemption under or promulgated pursuant to the 1940 Act. Upon provision of such satisfactory evidence, as confirmed in writing by the Issuer and the Co-Issuer, if applicable, to the Trustee, the Trustee, at the direction of the Issuer and the Co-Issuer, if applicable, shall authenticate and deliver Notes that do not bear such applicable legend.

(g) Each beneficial owner of Regulation S Global Securities shall be deemed to make the representations and agreements set forth in Exhibit C-1 hereto.

(h) Each beneficial owner of Rule 144A Global Securities shall be deemed to make the representations and agreements set forth in Exhibit C-2 hereto.

(i) Each Holder of Definitive Notes shall make the representations and agreements set forth in the certificate attached as Exhibit C-3 hereto.

(j) Any purported transfer of a Note not in accordance with Section 2.5(a) shall be null and void and shall not be given effect for any purpose hereunder.

(k) Notwithstanding anything contained in this Indenture to the contrary, neither the Trustee nor the Notes Registrar (nor any other Transfer Agent) shall be responsible or liable for compliance with applicable federal or state securities laws (including, without limitation, the Securities Act or Rule 144A or Regulation S promulgated thereunder), the 1940 Act, ERISA or the Code (or any applicable regulations thereunder); provided, however, that if a specified transfer certificate or Opinion of Counsel is required by the express terms of this Section 2.5 to be delivered to the Trustee or Notes Registrar prior to registration of transfer of a Note, the Trustee and/or Notes Registrar, as applicable, is required to request, as a condition for registering the transfer of the Note, such certificate or Opinion of Counsel and to examine the same to determine whether it conforms on its face to the requirements hereof (and the Trustee or Notes Registrar, as the case may be, shall promptly notify the party delivering the same if it determines that such certificate or Opinion of Counsel does not so conform).

(l) If the Trustee determines or is notified by the Issuer, the Co-Issuer or the Loan Obligation Manager that (i) a transfer or attempted or purported transfer of any interest in any Note was consummated in compliance with the provisions of this Section 2.5 on the basis of a materially incorrect certification from the transferee or purported transferee, (ii) a transferee failed to deliver to the Trustee any certification required to be delivered hereunder or (iii) the holder of any interest in a Note is in breach of any representation or agreement set forth in any certification or any deemed representation or agreement of such holder, the Trustee shall not register such attempted or purported transfer and if a transfer has been registered, such transfer shall be absolutely null and void *ab initio* and shall vest no rights in the purported transferee (such purported transferee, a " Disqualified Transferee") and the last preceding holder of such interest in such Note that was not a Disqualified Transferee shall be restored to all rights as a Holder thereof retroactively to the date of transfer of such Note by such Holder.

In addition, the Trustee may require that the interest in the Note referred to in (i), (ii) or (iii) in the preceding paragraph be transferred to any person designated by the Issuer or the

Loan Obligation Manager at a price determined by the Issuer or the Loan Obligation Manager, as applicable, based upon its estimation of the prevailing price

of such interest and each Holder, by acceptance of an interest in a Note, authorizes the Trustee to take such action. In any case, the Trustee shall not be held responsible for any losses that may be incurred as a result of any required transfer under this Section 2.5(l).

(m) Each Holder of Notes approves and consents to (i) the initial purchase of the Loan Obligations by the Issuer from Affiliates of the Loan Obligation Manager on the Closing Date and (ii) any other transaction between the Issuer and the Loan Obligation Manager or its Affiliates that are permitted under the terms of this Indenture or the Loan Obligation Management Agreement.

(n) As long as any Note is Outstanding, Notes held by Arbor Parent or any disregarded entity of Arbor Parent for federal income tax purposes may not be transferred, pledged or hypothecated to any other Person (except to an affiliate that is wholly-owned by Arbor Parent and is disregarded for U.S. federal income tax purposes) unless the Issuer receives an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters that such transfer will not cause the Issuer to be treated as a foreign corporation engaged in a trade or business in the United States for federal income tax purposes (or has previously received an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters that the Issuer will be treated as a foreign corporation that is not engaged in a trade or business in the United States for federal income tax purposes).

Section 2.6 Mutilated, Defaced, Destroyed, Lost or Stolen Note .

If (a) any mutilated or defaced Note is surrendered to a Transfer Agent, or if there shall be delivered to the Issuer, the Co-Issuer, the Trustee and the relevant Transfer Agent (each a "Specified Person") evidence to their reasonable satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the Specified Person such security or indemnity as may be required by each Specified Person to save each of them and any agent of any of them harmless (an unsecured indemnity agreement delivered to the Trustee by an institutional investor with a net worth of at least U.S.$200,000,000 being deemed sufficient to satisfy such security or indemnity requirement), then, in the absence of notice to the Specified Persons that such Note has been acquired by a bona fide purchaser, the Issuer and the Co-Issuer shall execute and, upon Issuer Request, the Trustee shall authenticate and deliver, in lieu of any such mutilated, defaced, destroyed, lost or stolen Note, a new Note, of like tenor (including the same date of issuance) and equal principal amount, registered in the same manner, dated the date of its authentication, bearing interest from the date to which interest has been paid on the mutilated, defaced, destroyed, lost or stolen Note and bearing a number not contemporaneously outstanding.

If, after delivery of such new Note, a bona fide purchaser of the predecessor Note presents for payment, transfer or exchange such predecessor Note, any Specified Person shall be entitled to recover such new Note from the Person to whom it was delivered or any Person taking therefrom, and each Specified Person shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by such Specified Person in connection therewith.

In case any such mutilated, defaced, destroyed, lost or stolen Note has become due and payable, the Issuer and the Co-Issuer, if applicable, in their discretion may, instead of issuing a new Note, pay such Note without requiring surrender thereof except that any mutilated or defaced Note shall be surrendered.

Upon the issuance of any new Note under this Section 2.6, the Issuer and the Co-Issuer, if applicable, may require the payment by the registered Holder thereof of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 2.6 in lieu of any mutilated, defaced, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Issuer and the Co-Issuer, if applicable, and such new Note shall be entitled, subject to the second paragraph of this Section 2.6, to all the benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section 2.6 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Notes.

Section 2.7 Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved .

(a) The Class A Notes shall accrue interest during each Interest Accrual Period at the Class A Rate. Interest on each Class A Note shall be due and payable on each Payment Date immediately following the related Interest Accrual Period in the proportion that the outstanding principal amount of such Class A Note bears to the Aggregate Outstanding Amount of all Class A Notes; provided, however, that the payment of interest on the Class A Notes is subordinated to the payment on each Payment Date of certain amounts in accordance with the Priority of Payments.

(b) The Class B Notes shall accrue interest during each Interest Accrual Period at the Class B Rate. Interest on each Class B Note shall be due and payable on each Payment Date immediately following the related Interest Accrual Period in the proportion that the outstanding principal amount of such Class B Note bears to the Aggregate Outstanding Amount of all Class B Notes; provided, however, that the payment of interest on the Class B Notes is subordinated to the payment on each Payment Date of the interest due and payable on the Class A Notes (including any Class A Defaulted Interest Amount) and certain other amounts in accordance with the Priority of Payments.

(c) Upon any Optional Redemption, Tax Redemption or Clean-up Call, all net proceeds remaining after the sale of the Loan Obligations in accordance with Article 12 hereof and Cash and proceeds from Eligible Investments (other than the Issuer's right, title and interest in the property described in clause (i) of the definition of "Excepted Assets"), after the payment of the amounts referred to in clauses (1) through (10) of Section 11.1(a)(i) and clauses (1) through (6) of Section 11.1(a)(ii) will be distributed by the Trustee to the Preferred Shares Paying Agent for distribution to

the Holders of the Preferred Shares in accordance with the

Preferred Share Paying Agency Agreement, whereupon the Preferred Shares will be cancelled and deemed paid in full for all purposes.

(d) Interest shall cease to accrue on each Class of Notes, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity Date unless payment of principal is improperly withheld or unless a Default has occurred with respect to such payments of principal.

(e) The principal of each Class of Notes matures at par and is due and payable on the Stated Maturity Date, unless the unpaid principal of such Class of Notes becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise; provided, however, that the payment of principal on the Class B Notes (other than payment of principal pursuant to Section 9.5) may only occur after the principal on the Class A Notes has been paid in full and is subordinated to the payment on each Payment Date of the principal and interest due and payable on the Class A Notes and other amounts in accordance with the Priority of Payments and any payment of principal on the Class B Notes which is not paid, in accordance with the Priority of Payments, on any Payment Date, shall not be considered "due and payable" solely for purposes of Section 5.1(b) until the Payment Date on which such principal may be paid in accordance with the Priority of Payments or all of the Class A Notes have been paid in full.

(f) As a condition to the payment of principal of and interest on any Note without the imposition of U.S. withholding tax, the Issuer shall require certification acceptable to it to enable the Issuer, the Co-Issuer, the Trustee, the Preferred Shares Paying Agent and the Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to deduct or withhold from payments in respect of such Security under any present or future law or regulation of the United States or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation. Such certification may include U.S. federal income tax forms (such as IRS Form W-8BEN (Certification of Foreign Status of Beneficial Owner), Form W-8IMY (Certification of Foreign Intermediary Status), IRS Form W-9 (Request for Taxpayer Identification Number and Certification), or IRS Form W-8ECI (Certification of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with Conduct of a U.S. Trade or Business) or any successors to such IRS forms). In addition, each of the Issuer, Co-Issuer, the Trustee, Preferred Shares Paying Agent or any Paying Agent may require certification acceptable to it to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets. Each Holder and each beneficial owner of Notes agree to provide any certification requested pursuant to this Section 2.7(f) and to update or replace such form or certification in accordance with its terms or its subsequent amendments. Furthermore, (i) if a Holder is a "foreign financial institution" or other foreign financial entity subject to FATCA or (ii) if the Issuer is no longer a Qualified REIT Subsidiary, but is instead a foreign corporation for U.S. federal income tax purposes, the Issuer shall require information to comply with FATCA requirements pursuant to clause (xii) of the representations and warranties set forth under the third paragraph of Exhibit C-1 hereto, as deemed made pursuant to Section 2.5(g) hereto, or pursuant to clause (xiii) of the representations and warranties set forth under the third paragraph of Exhibit C-2 hereto, as deemed made pursuant to Section 2.5(h) hereto, or pursuant to clause

(xi) of the representations and warranties set forth under the third paragraph of Exhibit C-3 hereto, made pursuant to Section 2.5(i) hereto, as applicable.

(g) Payments in respect of interest on and principal on the Notes shall be payable by wire transfer in immediately available funds to a Dollar account maintained by the Holder or its nominee; provided that the Holder has provided wiring instructions to the Trustee on or before the related Record Date or, if wire transfer cannot be effected, by a Dollar check drawn on a bank in the United States, or by a Dollar check mailed to the Holder at its address in the Notes Register. The Issuer expects that the Depository or its nominee, upon receipt of any payment of principal or interest in respect of a Global Security held by the Depository or its nominee, shall immediately credit the applicable Agent Members' accounts with payments in amounts proportionate to the respective beneficial interests in such Global Security as shown on the records of the Depository or its nominee. The Issuer also expects that payments by Agent Members to owners of beneficial interests in such Global Security held through Agent Members will be governed by standing instructions and customary practices, as is now the case with securities held for the accounts of customers registered in the names of nominees for such customers. Such payments will be the responsibility of the Agent Members. Upon final payment due on the Maturity of a Note, the Holder thereof shall present and surrender such Note at the Corporate Trust Office of the Trustee or at the office of the Paying Agent (outside of the United States if then required by applicable law in the case of a Definitive Note issued in exchange for a beneficial interest in the Regulation S Global Security) on or prior to such Maturity. None of the Issuer, the Co-Issuer, the Trustee or the Paying Agent will have any responsibility or liability with respect to any records maintained by the Holder of any Note with respect to the beneficial holders thereof or payments made thereby on account of beneficial interests held therein. In the case where any final payment of principal and interest is to be made on any Note (other than on the Stated Maturity Date thereof) the Issuer or, upon Issuer Request, the Trustee, in the name and at the expense of the Issuer, shall not more than 30 nor fewer than five Business Days prior to the date on which such payment is to be made, mail to the Persons entitled thereto at their addresses appearing on the Notes Register, a notice which shall state the date on which such payment will be made and the amount of such payment per U.S.$500,000 initial principal amount of Notes and shall specify the place where such Notes may be presented and surrendered for such payment.

(h) Subject to the provisions of Sections 2.7(a) through (g) and Section 2.7(k) hereof, Holders of Notes as of the Record Date in respect of a Payment Date shall be entitled to the interest accrued and payable in accordance with the Priority of Payments and principal payable in accordance with the Priority of Payments on such Payment Date. All such payments that are mailed or wired and returned to the Paying Agent shall be held for payment as herein provided at the office or agency of the Issuer and the Co-Issuer to be maintained as provided in Section 7.2 (or returned to the Trustee).

(i) Interest on any Note which is payable, and is punctually paid or duly provided for, on any Payment Date shall be paid to the

Person in whose name that Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest.

(j) Payments of principal to Holders of the Notes of each Class shall be made in the proportion that the Aggregate Outstanding Amount of the Notes of such Class registered in the name of each such Holder on such Record Date bears to the Aggregate Outstanding Amount of all Notes of such Class on such Record Date.

(k) Interest accrued with respect to the Notes shall be calculated as described in the applicable form of Note attached hereto.

(l) All reductions in the principal amount of a Note (or one or more predecessor Notes) effected by payments of installments of principal made on any Payment Date, Redemption Date or upon Maturity shall be binding upon all future Holders of such Note and of any Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, whether or not such payment is noted on such Note.

(m) Notwithstanding anything contained in this Indenture to the contrary, the obligations of the Issuer and the Co-Issuer under the Notes, this Indenture and the other Transaction Documents are limited-recourse obligations of the Issuer and non-recourse obligations of the Co-Issuer payable solely from the Assets and following realization of the Assets, all obligations of the Co-Issuers and any claims of the Noteholders, the Trustee or any other parties to any Transaction Documents shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of the Notes against any Officer, director, employee, shareholder, limited partner or incorporator of the Issuer, the Co-Issuer or any of their respective successors or assigns for any amounts payable under the Notes or this Indenture. It is understood that the foregoing provisions of this paragraph shall not (i) prevent recourse to the Assets for the sums due or to become due under any security, instrument or agreement which is part of the Assets or (ii) constitute a waiver, release or discharge of any indebtedness or obligation evidenced by the Notes or secured by this Indenture (to the extent it relates to the obligation to make payments on the Notes) until such Assets have been realized, whereupon any outstanding indebtedness or obligation in respect of the Notes, this Indenture and the other Transaction Documents shall be extinguished and shall not thereafter revive. It is further understood that the foregoing provisions of this paragraph shall not limit the right of any Person to name the Issuer or the Co-Issuer as a party defendant in any Proceeding or in the exercise of any other remedy under the Notes or this Indenture, so long as no judgment in the nature of a deficiency judgment or seeking personal liability shall be asked for or (if obtained) enforced against any such Person or entity.

(n) Subject to the foregoing provisions of this Section 2.7, each Note delivered under this Indenture and upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights of unpaid interest and principal that were carried by such other Note.

(o) Notwithstanding any of the foregoing provisions with respect to payments of principal of and interest on the Notes (but subject to Sections 2.7(e) and (k)), if the Notes have become or been declared due and payable following an Event of Default and such acceleration of Maturity and its consequences have not been rescinded and annulled and the provisions of Section 5.5 are not applicable, then payments of principal of and interest on such Notes shall be made in accordance with Section 5.7 hereof.

(p) Payments in respect of the Preferred Shares as contemplated by Sections 11.1(a)(i)(11) and 11.1(a)(ii)(7) shall be made by the Trustee to the Preferred Shares Paying Agent.

Section 2.8 Persons Deemed Owners.

The Issuer, the Co-Issuer, the Trustee, and any agent of the Issuer, the Co-Issuer or the Trustee may treat as the owner of a Note the Person in whose name such Note is registered on the Notes Register on the applicable Record Date for the purpose of receiving payments of principal of and interest and other amounts on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and none of the Issuer, the Co-Issuer or the Trustee nor any agent of the Issuer, the Co-Issuer or the Trustee shall be affected by notice to the contrary; provided, however, that the Depository, or its nominee, shall be deemed the owner of the Global Securities, and owners of beneficial interests in Global Securities will not be considered the owners of any Notes for the purpose of receiving notices. With respect to the Preferred Shares, on any Payment Date, the Trustee shall deliver to the Preferred Shares Paying Agent the distributions thereon for distribution to the Preferred Shareholders.

Section 2.9 Cancellation.

All Notes surrendered for payment, registration of transfer, exchange or redemption, or deemed lost or stolen, shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee, and shall be promptly canceled by the Trustee and may not be reissued or resold. No Notes shall be authenticated in lieu of or in exchange for any Notes canceled as provided in this Section 2.9, except as expressly permitted by this Indenture. All canceled Notes held by the Trustee shall be destroyed or held by the Trustee in accordance with its standard retention policy unless the Issuer and the Co-Issuer shall direct by an Issuer Order that they be returned to them. Notes of the most senior Class Outstanding that are held by the Issuer, the Co-Issuer, the Loan Obligation Manager or any of their respective Affiliates may be submitted to the Trustee for cancellation at any time.

Section 2.10 Global Securities; Definitive Notes; Temporary Notes.

(a) Definitive Notes. Definitive Notes shall only be issued in the following limited circumstances:

(i) upon Transfer of Global Securities to an IAI in accordance with the procedures set forth in Section 2.5(e)(ii) or

Section 2.5(e)(iii);

(ii) if a holder of a Definitive Note wishes at any time to exchange such Definitive Note for one or more Definitive Notes or transfer such Definitive Note to a transferee who wishes to take delivery thereof in the form of a Definitive Note in accordance with Section 2.10, such holder may effect such exchange or transfer upon receipt by the Trustee or the Notes Registrar of (A) a Holder's Definitive Note properly endorsed for assignment to the transferee, and (B) duly completed certificates in the form of Exhibit C-3, upon receipt of which the Trustee or the Notes Registrar shall then cancel such Definitive Note in accordance herewith, record the transfer in the Notes Register in accordance with Section 2.5(a) and upon execution by the Co-Issuers authenticate and

deliver one or more Definitive Notes bearing the same designation as the Definitive Note endorsed for transfer, registered in the names specified in the assignment described in clause (A) above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the aggregate principal amount of the Definitive Note surrendered by the transferor).

(iii) in the event that the Depository notifies the Issuer and the Co-Issuer that it is unwilling or unable to continue as Depository for a Global Security or if at any time such Depository ceases to be a "Clearing Agency" registered under the Exchange Act and a successor depository is not appointed by the Issuer within 90 days of such notice, the Global Securities deposited with the Depository pursuant to Section 2.2 hereof shall be transferred to the beneficial owners thereof subject to the procedures and conditions set forth in this Section 2.10.

(b) Any Global Security that is exchanged for a Definitive Note shall be surrendered by the Depository to the Trustee's Corporate Trust Office together with necessary instruction for the registration and delivery of a Definitive Note to the beneficial owners (or such owner's nominee) holding the ownership interests in such Global Security. Any such transfer shall be made, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Security, an equal aggregate principal amount of Definitive Notes of the same Class and authorized denominations. Any Definitive Notes delivered in exchange for an interest in a Global Security shall, except as otherwise provided by Section 2.5(f), bear the applicable legend set forth in Exhibits C-1 or C-2, as applicable, and shall be subject to the transfer restrictions referred to in such applicable legend. The Holder of each such registered individual Global Security may transfer such Global Security by surrendering it at the Corporate Trust Office of the Trustee, or at the office of the Paying Agent.

(c) Subject to the provisions of Section 2.10(b) above, the registered Holder of a Global Security may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of either of the events specified in Section 2.10(a) above, the Issuer and the Co-Issuer shall promptly make available to the Trustee a reasonable supply of Definitive Notes.

Pending the preparation of Definitive Notes pursuant to this Section 2.10, the Issuer and the Co-Issuer may execute and, upon Issuer Order, the Trustee shall authenticate and deliver, temporary Class A Notes or Class B Notes that are printed, lithographed, typewritten, mimeographed or otherwise reproduced, in any authorized denomination, substantially of the tenor of the Definitive Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officers executing such Definitive Notes may determine, as conclusively evidenced by their execution of such Definitive Notes.

If temporary Definitive Notes are issued, the Issuer and the Co-Issuer shall cause permanent Definitive Notes to be prepared without unreasonable delay. The Definitive Notes shall be printed, lithographed, typewritten or otherwise reproduced, or provided by any

combination thereof, or in any other manner permitted by the rules and regulations of any applicable notes exchange, all as determined by the Officers executing such Definitive Notes. After the preparation of Definitive Notes, the temporary Notes shall be exchangeable for Definitive Notes upon surrender of the applicable temporary Class A or Class B Notes at the office or agency maintained by the Issuer and the Co-Issuer for such purpose, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Class A Notes or Class B Notes, the Issuer and the Co-Issuer shall execute, and the Trustee shall authenticate and deliver, in exchange therefor the same aggregate principal amount of Definitive Notes of authorized denominations. Until so exchanged, the temporary Class A Notes or Class B Notes shall in all respects be entitled to the same benefits under this Indenture as Definitive Notes.

Section 2.11 U.S. Tax Treatment of Notes and the Issuer.

(a) Each of the Issuer and the Co-Issuer intends that, for U.S. federal income tax purposes, the Notes be treated as debt and that the Issuer be treated as a Qualified REIT Subsidiary (unless the Issuer has received an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters opining that the Issuer will be treated as a foreign corporation not engaged in a trade or business in the United States for U.S. federal income tax purposes). Each prospective purchaser and any subsequent transferee of a Note or any interest therein shall, by virtue of its purchase or other acquisition of such Note or interest therein, be deemed to have agreed to treat such Note in a manner consistent with the preceding sentence for U.S. federal income tax purposes.

(b) The Issuer and the Co-Issuer shall account for the Notes and prepare any reports to Noteholders and tax authorities consistent

with the intentions expressed in Section 2.11(a) above.

(c) Each Holder of Notes shall timely furnish to the Issuer, the Co-Issuer or its agents any U.S. federal income tax form or certification (such as IRS Form W-8BEN (Certification of Foreign Status of Beneficial Owner) (with Part III marked), IRS Form W-8IMY (Certification of Foreign Intermediary Status), IRS Form W-9 (Request for Taxpayer Identification Number and Certification), or IRS Form W-8ECI (Certification of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with Conduct of a U.S. Trade or Business) or any successors to such IRS forms that the Issuer, the Co-Issuer or its agents may reasonably request and shall update or replace such forms or certification in accordance with its terms or its subsequent amendments. Furthermore, if the Issuer is no longer treated as a Qualified REIT Subsidiary but is instead a foreign corporation for U.S. federal income tax purposes or if a Noteholder is a "foreign financial institution" or other foreign financial entity subject to FATCA, Noteholders shall timely furnish any information required pursuant to Section 2.7(f).

Section 2.12 Authenticating Agents.

Upon the request of the Issuer and the Co-Issuer, the Trustee shall, and if the Trustee so chooses the Trustee may, pursuant to this Indenture, appoint one or more Authenticating Agents with power to act on its behalf and subject to its direction in the authentication of Notes in connection with issuance, transfers and exchanges under Sections 2.4,

2.5, 2.6 and 8.5 hereof, as fully to all intents and purposes as though each such Authenticating Agent had been expressly authorized by such Sections to authenticate such Notes. For all purposes of this Indenture, the authentication of Notes by an Authenticating Agent pursuant to this Section 2.12 shall be deemed to be the authentication of Notes by the Trustee.

Any corporation or banking association into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, without the execution or filing of any further act on the part of the parties hereto or such Authenticating Agent or such successor corporation. Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee, the Issuer and the Co-Issuer. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent, the Issuer and the Co-Issuer. Upon receiving such notice of resignation or upon such a termination, the Trustee shall promptly appoint a successor Authenticating Agent and shall give written notice of such appointment to the Issuer.

The Trustee agrees to pay to each Authenticating Agent appointed by it from time to time reasonable compensation for its services, and reimbursement for its reasonable expenses relating thereto and the Trustee shall be entitled to be reimbursed for such payments, subject to Section 6.7 hereof. The provisions of Sections 2.9, 6.4 and 6.5 hereof shall be applicable to any Authenticating Agent.

Section 2.13 Forced Sale on Failure to Comply with Restrictions.

(a) Notwithstanding anything to the contrary elsewhere in this Indenture, any transfer of a Note or interest therein to a U.S. Person who is determined not to have been both a QIB and a Qualified Purchaser at the time of acquisition of the Note or interest therein shall be null and void and any such proposed transfer of which the Issuer, the Co-Issuer or the Trustee shall have notice may be disregarded by the Issuer, the Co-Issuer and the Trustee for all purposes.

(b) If the Issuer determines that any Holder of a Note has not satisfied the applicable requirement described in Section 2.13(a) above (any such person a "Non-Permitted Holder"), then the Issuer shall promptly after discovery that such Person is a Non-Permitted Holder by the Issuer, the Co-Issuer or the Trustee (and notice by the Trustee or the Co-Issuer to the Issuer, if either of them makes the discovery), send notice (or procure that notice is sent) to such Non-Permitted Holder demanding that such Non-Permitted Holder transfer its interest to a Person that is not a Non-Permitted Holder within 30 days of the date of such notice. If such Non-Permitted Holder fails to so transfer its Note or interest therein, the Issuer shall have the right, without further notice to the Non-Permitted Holder, to sell such Note or interest therein to a purchaser selected by the Issuer that is not a Non-Permitted Holder on such terms as the Issuer may choose. The Issuer, or the Trustee acting on behalf of the Issuer, may select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the Note, and selling such Note to the highest such bidder. However, the Issuer or the Trustee may select a purchaser by any other means determined by it

in its sole discretion. The Holder of such Note, the Non-Permitted Holder and each other Person in the chain of title from the Holder to the Non-Permitted Holder, by its acceptance of an interest in the Note, agrees to cooperate with the Issuer and the Trustee to effect such transfers. The proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale shall be remitted to the Non-Permitted Holder. The terms and conditions of any sale under this Section 2.13(b) shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to any Person having an interest in the Note sold as a result of any such sale of exercise of such discretion.

Section 2.14 No Gross Up.

The Issuer shall not be obligated to pay any additional amounts to the Holders or beneficial owners of the Notes as a result of any

withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges.

ARTICLE 3

CONDITIONS PRECEDENT; PLEDGED LOAN OBLIGATIONS

Section 3.1 General Provisions.

The Notes to be issued on the Closing Date shall be executed by the Issuer and the Co-Issuer upon compliance with Section 3.2 and shall be delivered to the Trustee for authentication and thereupon the same shall be authenticated and delivered by the Trustee upon Issuer Request and upon receipt by the Trustee of the items described below:

(a) an Officer's Certificate of the Issuer (i) evidencing the authorization by Board Resolution of the execution and delivery of this Indenture, the Loan Obligation Management Agreement, the Placement Agency Agreement and related documents, the execution, authentication and delivery of the Notes and specifying the Stated Maturity Date of each Class of Notes, the principal amount of each Class of Notes and the applicable Note Interest Rate of each Class of Notes to be authenticated and delivered, and (ii) certifying that (A) the attached copy of the Board Resolution is a true and complete copy thereof, (B) such resolutions have not been rescinded and are in full force and effect on and as of the Closing Date, (C) the Directors authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon and (D) at least U.S.$82,987,000 of proceeds on account of the sale on the Closing Date of the Preferred Shares shall have been received;

(b) an Officer's Certificate of the Co-Issuer (i) evidencing the authorization by Board Resolution of the execution and delivery of this Indenture and related documents, the execution, authentication and delivery of the Notes and specifying the Stated Maturity Date of each Class of Notes, the principal amount of each Class of Notes and the applicable Note Interest Rate of each Class of Notes to be authenticated and delivered, and (ii) certifying that (A) the attached copy of the Board Resolution is a true and complete copy thereof, (B) such resolutions have not been rescinded and are in full force and effect on and as of the Closing Date and (C) each Officer authorized to execute and deliver the documents referenced in clause (b)(i) above holds the office and has the signature indicated thereon;

(c) (i) either (A) certificates of the Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of the Issuer that no other authorization, approval or consent of any governmental body is required for the valid issuance of such Notes, or (B) an Opinion of Counsel of the Issuer reasonably satisfactory in form and substance to the Trustee that no such authorization, approval or consent of any governmental body is required for the valid issuance of such Notes except as may have been given; and

(ii) either (A) certificates of the Co-Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of the Co-Issuer that no other authorization, approval or consent of any governmental body is required for the valid issuance of such Notes, or (B) an Opinion of Counsel of the Co-Issuer reasonably satisfactory in form and substance to the Trustee that no such authorization, approval or consent of any governmental body is required for the valid issuance of such Notes except as may have been given;

(d) an opinion of Cadwalader, Wickersham & Taft LLP, special U.S. counsel to the Co-Issuers, the Loan Obligation Manager and certain Affiliates thereof (which opinions may be limited to the laws of the State of New York and the federal law of the United States and may assume, among other things, the correctness of the representations and warranties made or deemed made by the owners of Notes pursuant to Sections 2.5(g), (h) and (i)) dated the Closing Date, as to certain matters of New York law and certain United States federal income tax and securities law matters, in a form satisfactory to the Placement Agent and the Trustee;

(e) opinions of Cadwalader, Wickersham & Taft LLP, special counsel to the Co-Issuers dated the Closing Date, relating to (i) the validity of the Grant hereunder and the perfection of the Trustee's security interest in the Assets and (ii) certain bankruptcy matters, in each case, in a form satisfactory to the Trustee;

(f) an opinion of Willkie, Farr & Gallagher LLP, special counsel to the Arbor Parent, dated the Closing Date, regarding certain 1940 Act issues, in a form satisfactory to the Trustee;

(g) an opinion of Skadden, Arps, Slate, Meagher & Flom LLP, special tax counsel to the Arbor Parent, dated the Closing Date, regarding its qualification and taxation as a REIT, in a form satisfactory to the Trustee;

(h) an opinion of Richards, Layton & Finger LLP, special Delaware counsel to the Co-Issuer, dated the Closing Date, regarding certain issues of Delaware law, in a form satisfactory to the Trustee;

(i) an opinion of Richards, Layton & Finger LLP, special Delaware counsel to ARMS Equity, dated the Closing Date, regarding certain issues of Delaware law, in a form satisfactory to the Trustee;

(j) an opinion of Richards, Layton & Finger LLP, special Delaware counsel to the Loan Obligation Manager, dated the Closing Date, regarding certain issues of Delaware law, in a form satisfactory to the Trustee;

(k) an opinion of (i) General Counsel to the CLO Servicer, dated the Closing Date, regarding certain issues of New York law, in a form satisfactory to the Trustee and (ii) Venable LLP, counsel to Arbor Realty SR, Inc., dated the Closing Date, regarding certain issues of Maryland law, in a form satisfactory to the Trustee;

(l) an opinion of Maples and Calder, Cayman Islands counsel to the Issuer, dated the Closing Date, regarding certain issues of Cayman Islands law, in a form satisfactory to the Trustee;

(m) an opinion of (i) senior corporate counsel of U.S. Bank National Association, dated as of the Closing Date, regarding certain matters of United States law and (ii) Alston & Bird LLP, counsel to U.S. Bank National Association, regarding certain matters of New York and Minnesota law;

(n) an Officer's Certificate given on behalf of the Issuer and without personal liability, stating that the Issuer is not in Default under this Indenture and that the issuance of the Securities by the Issuer will not result in a breach of any of the terms, conditions or provisions of, or constitute a Default under, the Governing Documents of the Issuer, any indenture or other agreement or instrument to which the Issuer is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which the Issuer is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture relating to the authentication and delivery of the Notes applied for and all conditions precedent provided in the Preferred Share Paying Agency Agreement relating to the issuance by the Issuer of the Preferred Shares have been complied with;

(o) an Officer's Certificate given on behalf of the Co-Issuer stating that the Co-Issuer is not in Default under this Indenture and that the issuance of the Notes by the Co-Issuer will not result in a breach of any of the terms, conditions or provisions of, or constitute a Default under, the Governing Documents of the Co-Issuer, any indenture or other agreement or instrument to which the Co-Issuer is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which the Co-Issuer is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture relating to the authentication and delivery of the Notes applied for have been complied with; and that all expenses due or accrued with respect to the offering or relating to actions taken on or in connection with the Closing Date have been paid;

(p) executed counterparts of the Loan Obligation Purchase Agreement, the Servicing Agreement, the Loan Obligation Management Agreement, the Advisory Committee Member Agreement, the Placement Agency Agreement, the Preferred Share Purchase Agreement, the Preferred Share Paying Agency Agreement and the Securities Account Control Agreement;

(q) an Accountants' Report comparing and agreeing to the following information as of the Closing Date: (i) the information with respect to each Loan Obligation set forth on the Schedule of Closing Date Loan Obligations attached hereto as Schedule A by reference to such sources as shall be specified therein and (ii) specifying the procedures undertaken by the accountants to review data and computations relating to the foregoing;

(r) an Officer's Certificate from the Loan Obligation Manager confirming that Part 1 of Schedule A hereto correctly lists (i) the Closing Date Loan Obligations to be Granted to the Trustee on the Closing Date and (ii) the Aggregate Principal Balance of the Loan Obligations as of January 28, 2013;

(s) evidence of preparation for filing at the appropriate filing office in the District of Columbia of a financing statement, on behalf of the Issuer, relating to the perfection of the lien of this Indenture;

(t) an Issuer Order executed by the Issuer and the Co-Issuer directing the Trustee to (i) authenticate the Notes specified therein, in the amounts set forth therein and registered in the name(s) set forth therein and (ii) deliver the authenticated Notes as directed by the Issuer and the Co-Issuer; and

(u) such other documents as the Trustee may reasonably require.

Section 3.2 Security for Notes.

Prior to the issuance of the Notes on the Closing Date, the Issuer shall cause the following conditions to be satisfied:

(a) Grant of Security Interest; Delivery of Loan Obligations. The Grant pursuant to the Granting Clauses of this Indenture of all of the Issuer's right, title and interest in and to the Assets and the transfer of all Closing Date Loan Obligations acquired in connection therewith purchased by the Issuer on the Closing Date (as set forth in Schedule A hereto) to the Trustee, without recourse (except as expressly provided in each applicable Loan Obligation Purchase Agreement), in the manner provided in Section 3.3(a) and the crediting to the Custodial Account by the Custodial Securities Intermediary of such Closing Date Loan Obligations shall have occurred;

(b) Certificate of the Issuer. A certificate of an Authorized Officer of the Issuer given on behalf of the Issuer and without personal liability, dated as of the Closing Date, delivered to the Trustee, to the effect that, in the case of each Closing Date Loan Obligation pledged to the Trustee for inclusion in the Assets on the Closing Date and immediately prior to the delivery thereof on the Closing Date:

(i) the Issuer is the owner of such Loan Obligation free and clear of any liens, claims or encumbrances of any nature whatsoever

except for those which are being released on the Closing Date;

(ii) the Issuer has acquired its ownership in such Closing Date Loan Obligation in good faith without notice of any adverse claim, except as described in paragraph (i) above;

(iii) the Issuer has not assigned, pledged or otherwise encumbered any interest in such Closing Date Loan Obligation (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released) other than interests Granted pursuant to this Indenture;

(iv) the Underlying Instrument with respect to such Closing Date Loan Obligation does not prohibit the Issuer from Granting a security interest in and assigning and pledging such Closing Date Loan Obligation to the Trustee;

(v) the information set forth with respect to each such Closing Date Loan Obligation in Schedule A is true correct;

(vi) the Loan Obligations included in the Assets satisfy the requirements of Section 3.2(a); and

(vii) (1) the Grant pursuant to the Granting Clauses of this Indenture shall, upon execution and delivery of this Indenture by the parties hereto, result in a valid and continuing security interest in favor of the Trustee for the benefit of the Secured Parties in all of the Issuer's right, title and interest in and to the Closing Date Loan Obligations pledged to the Trustee for inclusion in the Assets on the Closing Date; and

(2) upon (x) the execution and delivery of the Securities Account Control Agreement and the crediting of each Instrument evidencing the obligations of the borrowers under each Closing Date Loan Obligation to the Custodial Account in the manner set forth in Section 3.3(a)(i) hereof, (y) the delivery of the Instruments evidencing the obligations of the borrowers under each Closing Date Loan Obligation to the Custodial Securities Intermediary as set forth in Section 3.3(a)(iii) hereof and (z) the filing of a UCC-1 financing statement as set forth in Section 3.3(a)(v) hereof, the Trustee's security interest in all Closing Date Loan Obligations shall be a validly perfected, first priority security interest under the UCC as in effect in each applicable jurisdiction.

(c) Rating Letters. The Trustee's receipt of a letter signed by the Rating Agency and confirming that (i) the Class A Notes have been rated "Aaa(sf)" by Moody's and (ii) the Class B Notes have been rated at least "Baa2(sf)" by Moody's and that such ratings are in full force and effect on the Closing Date.

(d) Accounts. Evidence of the establishment of the Payment Account, the Collection Account, the Unused Proceeds Account, the RDD Funding Account, the Expense Account, the Preferred Share Distribution Account and the Custodial Account.

(e) Deposit to Expense Account. On the Closing Date, the Issuer shall deposit into the Expense Account from the gross proceeds of the offering of the Securities, U.S.$200,000.

(f) Deposit to Unused Proceeds Account. On the Closing Date, the Issuer shall deposit into the Unused Proceeds Account, U.S.$50,000,000 *plus* $31,200,000, which represents the purchase price of the Closing Date Loan Obligations identified in Schedule A as West Palm Beach Multifamily Portfolio and Orlando Multifamily Portfolio.

(g) Issuance of Preferred Shares. The Issuer shall have delivered to the Trustee evidence that the Preferred Shares have been, or contemporaneously with the issuance of the Notes will be, (i) issued by the Issuer and (ii) acquired in their entirety by ARMS Equity.

Section 3.3 Transfer of Assets.

(a) U.S. Bank National Association is hereby appointed as Securities Intermediary (in such capacity, the " Custodial Securities Intermediary") to hold all Assets delivered to it in physical form at its office in St. Paul, Minnesota. Any successor to such Securities Intermediary shall be a U.S. state or national bank or trust company that is not an Affiliate of the Issuer or the Co-Issuer and has capital and surplus of at least U.S.$100,000,000. Subject to the limited right to relocate Assets set forth in Section 7.5(b), the Custodial Securities Intermediary, as a Securities Intermediary, shall hold all Loan Obligations in the Custodial Account, all Eligible Investments and other investments purchased in accordance with this Indenture in the respective Accounts in which the funds used to purchase such investments are held in accordance with Article 10 and, in respect of each Account (other than the Payment Account and the Preferred Share Distribution Account), the Trustee shall have entered into an agreement with the Issuer and the Custodial Securities Intermediary (the "Securities Account Control Agreement") providing, *inter alia*, that the establishment and maintenance of such Account will be governed by a law satisfactory to the Issuer, the Trustee and the Custodial Securities Intermediary. To the maximum extent feasible, Assets shall be transferred to the Trustee as Security Entitlements in the manner set forth in clause (i) below. In the event that the measures set forth in clause (i) below cannot be taken as to any Assets, such Asset may be transferred to the Trustee in the manner set forth in clauses (ii) through (vii) below, as appropriate. The security interest of the Trustee in Assets shall be perfected and otherwise evidenced as follows:

(i) in the case of such Assets consisting of Security Entitlements, by the Issuer (A) causing the Custodial Securities Intermediary, in accordance with the Securities Account Control Agreement, to indicate by book entry that a Financial Asset has been credited to the Custodial

Account and (B) causing the Custodial Securities Intermediary to agree pursuant to the Securities Account Control Agreement that it will comply with Entitlement Orders originated by the Trustee with respect to each such Security Entitlement without further consent by the Issuer;

(ii) in the case of Assets that are "uncertificated securities" (as such term is defined in the UCC), to the extent that any such uncertificated securities do not constitute Financial Assets forming the basis of Security Entitlements by the Trustee pursuant to clause (i) (the "Uncertificated Securities"), by the Issuer (A) causing the issuer(s) of such Uncertificated Securities to register on their respective books the Trustee as the registered owner thereof upon original issue or transfer thereof or (B) causing another Person, other than a Securities Intermediary, either to become the registered owner of such

Uncertificated Securities on behalf of the Trustee, or such Person having previously become the registered owner, to acknowledge that it holds such Uncertificated Securities for the Trustee;

(iii) in the case of Assets consisting of Certificated Securities in registered form to the extent that any such Certificated Securities do not constitute Financial Assets forming the basis of Security Entitlements acquired by the Trustee pursuant to clause (i) (the " Registered Securities"), by the Issuer (A) causing (1) the Trustee to obtain possession of such Registered Securities in the State of Minnesota or (2) another Person, other than a Securities Intermediary, either to acquire possession of such Registered Securities on behalf of the Trustee, or having previously acquired such Registered Securities, in either case, in the State of Minnesota, to acknowledge that it holds such Registered Securities for the Trustee and (B) causing (1) the endorsement of such Registered Securities to the Trustee by an effective endorsement or (2) the registration of such Registered Securities in the name of the Trustee by the issuer thereof upon its original issue or registration of transfer;

(iv) in the case of Assets consisting of Certificated Securities in bearer form, to the extent that any such Certificated Securities do not constitute Financial Assets forming the basis of Security Entitlements acquired by the Trustee pursuant to clause (i) (the " Bearer Securities"), by the Issuer causing (A) the Trustee to obtain possession of such Bearer Securities in the State of Minnesota or (B) another Person, other than a Securities Intermediary, either to acquire possession of such Bearer Securities on behalf of the Trustee or, having previously acquired possession of such Bearer Securities, in either case, in the State of Minnesota, to acknowledge that it holds such Bearer Securities for the Trustee;

(v) in the case of Assets that consist of Instruments (the " Minnesota Collateral"), to the extent that any such Minnesota Collateral does not constitute a Financial Asset forming the basis of a Security Entitlement acquired by the Trustee pursuant to clause (i), by the Issuer causing (A) the Trustee to acquire possession of such Minnesota Collateral in the State of Minnesota or (B) another Person (other than the Issuer or a Person controlling, controlled by, or under common control with, the Issuer) (1) to (x) take possession of such Minnesota Collateral in the State of Minnesota and (y) authenticate a record acknowledging that it holds such possession for the benefit of the Trustee or (2) to (x) authenticate a record acknowledging that it will hold possession of such Minnesota Collateral for the benefit of the Trustee and (y) take possession of such Minnesota Collateral in the State of Minnesota; and

(vi) in the case of Assets that consist of General Intangibles and all other Assets of the Issuer in which a security interest may be perfected by filing a financing statement under Article 9 of the UCC as in effect in the District of Columbia, filing or causing the filing of a UCC financing statement naming the Issuer as debtor and the Trustee as secured party, which financing statement reasonably identifies all such Assets, with the Recorder of Deeds of the District of Columbia.

(b) The Issuer hereby authorizes the filing of UCC financing statements describing as the collateral covered thereby "all of the debtor's personal property and assets," or words to that effect, notwithstanding that such wording may be broader in scope than the Assets described in this Indenture.

(c) Without limiting the foregoing, the Issuer and the Trustee on behalf of the Bank agree, and the Bank shall cause the Custodial Securities Intermediary, to take such different or additional action as the Trustee may reasonably request in order to maintain the perfection and priority of the security interest of the Trustee in the event of any change in applicable law or regulation, including Articles 8 and 9 of the UCC and Treasury Regulations governing transfers of interests in Government Items (it being understood that the Trustee shall be entitled to rely upon an Opinion of Counsel, including an Opinion of Counsel delivered in accordance with Section 3.1(d), as to the need to file any financing statements or continuation statements, the dates by which such filings are required to be made and the jurisdictions in which such filings are required to be made).

(d) Without limiting any of the foregoing, in connection with each Grant of a Loan Obligation hereunder, the Issuer shall deliver (or cause to be delivered by the applicable Seller) to the Custodial Securities Intermediary, in each case to the extent specified on the closing checklist for such Loan Obligation provided to the Custodial Securities Intermediary by the Issuer (or the applicable Seller) the following documents (collectively, the " Loan Obligation File"):

(i) The original mortgage note or promissory note, as applicable, bearing all intervening endorsements, endorsed in blank or endorsed "Pay to the order of US Bank as Trustee without recourse," and signed in the name of the last endorsee by an authorized Person;

(ii) An original of any participation certificate together with any and all intervening endorsements thereon, endorsed in blank on its face or by endorsement or stock power attached thereto (without recourse, representation or warranty, express or implied);

(iii) An original of any participation agreement relating to any item of collateral that is not evidenced by a promissory note;

(iv) An original blanket assignment of all unrecorded documents in blank (or, in the case of a Senior Participation, a copy of any omnibus assignment in blank), in each case in form and substance acceptable for recording;

(v) The original (or in the case of a Senior Participation, a copy) of any guarantee executed in connection with the promissory note;

(vi) The original mortgage with evidence of recording thereon, or a copy thereof together with an Officer's Certificate of the Issuer (or the applicable Seller) certifying that such represents a true and correct copy of the original and that such original has been submitted or delivered to an escrow agent for recordation in the

appropriate governmental recording office of the jurisdiction where the encumbered property is located, in which case, recordation information shall not be required;

(vii) The originals of all assumption, modification, consolidation or extension agreements with evidence of recording thereon (or a copy thereof together with an Officer's Certificate of the Issuer (or the applicable Seller) certifying that such represents a true and correct copy of the original and that such original has been submitted or delivered to an escrow agent for recordation in the appropriate governmental recording office of the jurisdiction where the encumbered property is located, in which case, recordation information shall not be required), together with any other recorded document relating to the Loan Obligation otherwise included in the Loan Obligation File;

(viii) The original assignment of mortgage in blank, in form and substance acceptable for recording and signed in the name of the last endorsee;

(ix) The originals of all intervening assignments of mortgage, if any, with evidence of recording thereon, showing an unbroken chain of title from the originator thereof to the last endorsee, or copies thereof together with an Officer's Certificate of the Issuer certifying that such represent true and correct copies of the originals and that such originals have each been submitted or delivered to an escrow agent for recordation in the appropriate governmental recording office of the jurisdiction where the encumbered property is located, in which case, recordation information shall not be required;

(x) An original mortgagee policy of title insurance or a conformed version of the mortgagee's title insurance commitment either marked as binding for insurance or attached to an escrow closing letter, countersigned by the title company or its authorized agent if the original mortgagee's title insurance policy has not yet been issued;

(xi) The original (or, in the case of a Senior Participation, a copy) of any security agreement, chattel mortgage or equivalent document executed in connection with the Loan Obligation;

(xii) The original assignment of leases and rents, if any, with evidence of recording thereon, or a copy thereof together with an Officer's Certificate of the Issuer certifying that such copy represents a true and correct copy of the original that has been submitted or delivered to an escrow agent for recordation in the appropriate governmental recording office of the jurisdiction where the encumbered property is located, in which case, recordation information shall not be required;

(xiii) The original assignment of any assignment of leases and rents in blank, in form and substance acceptable for recording;

(xiv) A filed copy of the UCC-1 financing statements (and, with respect to Senior Participations, to the extent that the Issuer (or the applicable Seller) has been furnished with same) with evidence of filing thereon, and UCC-3 assignments in blank, which UCC-3 assignments shall be in form and substance acceptable for filing;

(xv) The original (or, in the case of a Senior Participation, a copy) of any environmental indemnity agreement;

(xvi) The original (or, in the case of a Senior Participation, a copy) of any general collateral assignment of all other documents held by the Issuer (or, in the case of a Senior Participation, by the lead lender) in connection with the Loan Obligation;

(xvii) An original (or, in the case of a Senior Participation, a copy) of any disbursement letter from the collateral obligor to the original mortgagee;

(xviii) An original of the survey of the encumbered property (or, in the case of a Senior Participation, a copy thereof provided same has been furnished to the Issuer (or the applicable Seller) by the related lead lender); and

(xix) A copy of any opinion of counsel (and, with respect to a Senior Participation, only to the extent such copy shall have been furnished to the Issuer (or the applicable Seller) by the lead lender).

With respect to any documents which have been delivered or are being delivered to recording offices for recording and have not been returned to the Issuer (or the applicable Seller) in time to permit their delivery hereunder at the time required, the Issuer (or the applicable Seller) shall deliver such original recorded documents to the Custodial Securities Intermediary promptly when received by the Issuer (or the applicable Seller) from the applicable recording office.

(e) The execution and delivery of this Indenture by the Trustee shall constitute certification by the Trustee that (i) each original note specified to the Trustee by the Issuer (or the applicable Seller) and all allonges thereto, if any, have been received by the Custodial Securities Intermediary; and (ii) such original note has been reviewed by the Custodial Securities Intermediary and (A) appears regular on its face (handwritten additions, changes or corrections shall not constitute irregularities if initialed by the borrower), (B) appears to have been executed and (C) purports to relate to the Loan Obligation. The Trustee agrees to review or cause to be reviewed the Loan Obligation File within 30 days after the Closing Date, and to deliver to the Issuer and the Loan Obligation Manager a report in the form of Exhibit D attached hereto, indicating, subject to any exceptions found by it in such review, (A) those documents referred to in Section 3.3(d) that have been received, and (B) that such documents have been executed, appear on their face to be what they purport to be, purport to be recorded or filed (as applicable) and have not been torn, mutilated or otherwise defaced, and appear on their faces to relate to the Mortgage Loan. The Custodial Securities Intermediary shall have no responsibility for reviewing the Loan Obligation File except as expressly set forth in this Section 3.3(e). Neither the Trustee nor the Custodial Securities Intermediary shall be under any duty or obligation to inspect, review, or examine any such documents, instruments or certificates to independently determine that they are valid, genuine, enforceable, legally sufficient, duly authorized, or appropriate for the represented purpose, whether the text of any assignment or endorsement is in proper or recordable form (except to determine if the endorsement conforms to the requirements of Section 3.3(d), whether any document has been recorded in accordance with the requirements of any applicable jurisdiction, to independently determine that any document has actually been filed or recorded in the appropriate office, that any document is other than what

it purports to be on its face, or whether the title insurance policies relate to the Underlying Mortgaged Property.

(f) Upon the first anniversary of the Closing Date, the Custodial Securities Intermediary shall (i) deliver to the Issuer and the Loan Obligation Manager a final exception report as to any remaining documents that are not in the Loan Obligation File and (ii) request that the Issuer cause such document deficiency to be cured.

(g) Without limiting the generality of the foregoing:

(i) from time to time upon the request of the Trustee, Loan Obligation Manager or CLO Servicer, the Issuer shall deliver (or cause to be delivered) to the Custodial Securities Intermediary any Underlying Instrument in the possession of the Issuer and not previously delivered hereunder (including originals of Underlying Instruments not previously required to be delivered as originals) and as to which the Trustee, Loan Obligation Manager or CLO Servicer, as applicable, shall have reasonably determined to be necessary or appropriate for the administration of such Loan Obligation hereunder or under the Loan Obligation Management Agreement or under the Servicing Agreement or for the protection of the security interest of the Trustee under this Indenture;

(ii) in connection with any delivery of documents to the Custodial Securities Intermediary pursuant to clauses (i) and (ii) above, the Trustee shall deliver to the Loan Obligation Manager and the CLO Servicer, on behalf of the Issuer, a Trust Receipt in the form of Exhibit E acknowledging the receipt of such documents by the Custodial Securities Intermediary and that it is holding such documents subject to the terms of this Indenture; and

(iii) from time to time upon request of the Loan Obligation Manager or the CLO Servicer, the Custodial Securities Intermediary shall, upon delivery by the Loan Obligation Manager or the CLO Servicer of a duly completed Request for Release in the form of Exhibit F hereto, release to the Loan Obligation Manager or the CLO Servicer such of the Underlying Instruments then in its custody as the Loan Obligation Manager or the CLO Servicer reasonably so requests. By submission of any such Request for Release, the Loan Obligation Manager or the CLO Servicer, as applicable, shall be deemed to have represented and warranted that it has determined in accordance with the Loan Obligation Manager Standard or the Servicing Standard, respectively, set forth in the Loan Obligation Management Agreement or the Servicing Agreement, as the case may be, that the requested release is necessary for the administration of such Loan Obligation hereunder or under the Loan Obligation Management Agreement or under the Servicing Agreement or for the protection of the security interest of the Trustee under this Indenture. The Loan Obligation Manager or the CLO Servicer shall return to the Custodial Securities Intermediary each Underlying Instrument released from custody pursuant to this clause (iv) within 20 Business Days of receipt thereof (except such Underlying Instruments as are released in connection with a sale, exchange or other disposition, in each case only as permitted under this Indenture, of the related Loan Obligation that is consummated within such 20-day period). Notwithstanding the

foregoing provisions of this clause (iv), (A) any note, certificate or other instrument evidencing a Pledged Loan Obligation shall be released only for the purpose of (1) a sale, exchange or other disposition of such Pledged Loan Obligation that is permitted in accordance with the terms of this Indenture, (2) presentation, collection, renewal or registration of transfer of such Loan Obligation or (3) in the case of any note, in connection with a payment in full of all amounts owing under such note, and (B) the Custodial Securities Intermediary may refuse to honor any Request for Release following the occurrence of an Event of Default under this Indenture.

(h) As of the Closing Date (with respect to the Assets owned or existing as of the Closing Date) and each date on which an Asset is

acquired (only with respect to each Asset so acquired or arising after the Closing Date), the Issuer represents and warrants as follows:

(i) this Indenture creates a valid and continuing security interest (as defined in the UCC) in the Assets in favor of the Trustee for the benefit of the Secured Parties, which security interest is prior to all other liens, and is enforceable as such against creditors of and purchasers from the Issuer;

(ii) the Issuer owns and has good and marketable title to such Assets free and clear of any lien, claim or encumbrance of any Person;

(iii) in the case of each Asset, the Issuer has acquired its ownership in such Asset in good faith without notice of any adverse claim as defined in Section 8-102(a)(1) of the UCC as in effect on the date hereof;

(iv) other than the security interest granted to the Trustee for the benefit of the Secured Parties pursuant to this Indenture, the Issuer has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Assets;

(v) the Issuer has not authorized the filing of, and is not aware of, any financing statements against the Issuer that include a description of collateral covering the Assets other than any financing statement (x) relating to the security interest granted to the Trustee for the benefit of the Secured Parties hereunder or (y) that has been terminated; the Issuer is not aware of any judgment lien, Pension Benefit Guarantee Corporation lien or tax lien filings against the Issuer;

(vi) the Issuer has received all consents and approvals required by the terms of each Asset and the Underlying Instruments to grant to the Trustee its interest and rights in such Asset hereunder;

(vii) the Issuer has caused or will have caused, within ten days, the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under applicable law in order to perfect the security interest in the Assets granted to the Trustee for the benefit of the Secured Parties hereunder;

(viii) each Asset is an Instrument, a General Intangible, a Certificated Security or an Uncertificated Security, or has been or will have been credited to a Securities Account;

(ix) the Custodial Securities Intermediary has agreed to treat all assets credited to any of the Accounts as Financial Assets;

(x) the Issuer has delivered a fully executed Securities Account Control Agreement pursuant to which the Custodial Securities Intermediary has agreed to comply with all instructions originated by the Trustee relating to each of the Accounts without further consent of the Issuer; none of the Accounts is in the name of any person other than the Issuer or the Trustee; the Issuer has not consented to the Custodial Securities Intermediary to comply with any Entitlement Orders in respect of the Accounts and any Security Entitlement credited to any of the Accounts originated by any person other than the Trustee;

(xi) (A) all original executed copies of each promissory note or other writings that constitute or evidence any pledged obligation that constitutes an Instrument have been delivered to the Custodial Securities Intermediary for the benefit of the Trustee, (B) the Issuer has received a written acknowledgement from the Custodial Securities Intermediary that the Custodial Securities Intermediary is acting solely as agent of the Trustee and (C) none of the promissory notes or other writings that constitute or evidence such collateral has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed by the Issuer to any Person other than the Trustee;

(xii) each of the Accounts constitutes a Securities Account in respect of which U.S. Bank National Association has accepted to be Custodial Securities Intermediary pursuant to the Securities Account Control Agreement on behalf of the Trustee as secured party under this Indenture.

(i) The Trustee shall cause all Eligible Investments purchased by the Trustee or the Loan Obligation Manager on behalf of the Issuer to be promptly credited to the applicable Account.

ARTICLE 4

SATISFACTION AND DISCHARGE

Section 4.1 Satisfaction and Discharge of Indenture.

This Indenture shall be discharged and shall cease to be of further effect except as to (i) rights of registration of transfer and exchange, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Notes, (iii) rights of Noteholders to receive payments of principal thereof and interest thereon, (iv) the rights, protections, indemnities and immunities of the Trustee and the specific obligations set forth below hereunder, (v) the rights, obligations and immunities of the Loan Obligation Manager hereunder and under the Loan Obligation Management Agreement, (vi) the rights, protections, indemnities and immunities of the Collateral Administrator hereunder and under the Collateral Administration Agreement and (vii) the rights of Noteholders as beneficiaries hereof with respect to the property deposited with the Trustee and payable to all or any of them (and the Trustee, on demand of and at the expense of

the Issuer, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture) when:

(a) (i) either:

(1) all Notes theretofore authenticated and delivered to Noteholders (other than (A) Notes which have been mutilated, defaced, destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.6 and (B) Notes for which payment has theretofore irrevocably been deposited in trust and thereafter repaid to the Issuer or discharged from such trust, as provided in Section 7.3) have been delivered to the Trustee for cancellation; or

(2) all Notes not theretofore delivered to the Trustee for cancellation (A) have become due and payable, or (B) shall become due and payable at their Stated Maturity Date within one year, or (C) are to be called for redemption pursuant to Article 9 under an arrangement satisfactory to the Trustee for the giving of notice of redemption by the Issuer and the Co-Issuer pursuant to Section 9.3 and either (x) the Issuer has irrevocably deposited or caused to be deposited with the Trustee, in trust for such purpose, Cash or non-callable direct obligations of the United States of America; which obligations are entitled to the full faith and credit of the United States of America or are debt obligations which are rated "Aaa" by Moody's in an amount sufficient, as recalculated by a firm of Independent nationally-recognized certified public accountants, to pay and discharge the entire indebtedness (including, in the case of a redemption pursuant to Section 9.1 or Section 9.2, the Redemption Price) on such Notes not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Notes which have become due and payable), or to the respective Stated Maturity Date or the respective Redemption Date, as the case may be or (y) in the event all of the Assets are liquidated following the satisfaction of the conditions specified in Article 5, the Issuer shall have deposited or caused to be deposited with the Trustee, in trust, all proceeds of such liquidation of the Assets, for payment in accordance with the Priority of Payments;

(ii) the Issuer has paid or caused to be paid all other sums then due and payable hereunder (including any amounts then due and payable pursuant to the Collateral Administration Agreement and the Loan Obligation Management Agreement) by the Issuer and no other amounts are scheduled to be due and payable by the Issuer other than Dissolution Expenses; and

(iii) the Co-Issuers have delivered to the Trustee Officer's certificates and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with;

provided, however, that in the case of clause (a)(i)(2)(x) above, the Issuer has delivered to the Trustee an opinion of Cadwalader, Wickersham & Taft LLP, or an opinion of another tax counsel of nationally recognized standing in the United States experienced in such

matters to the effect that the Noteholders would recognize no income gain or loss for U.S. federal income tax purposes as a result of such deposit and satisfaction and discharge of this Indenture; or

(b) (i) the Trustee confirms to the Issuer that:

(1) the Trustee is not holding any Assets (other than (x) the Loan Obligation Management Agreement, the Servicing Agreement, the Collateral Administration Agreement and the Securities Account Control Agreement and (y) Cash in an amount not greater than the Dissolution Expenses); and

(2) no assets (other than Excepted Assets or Cash in an amount not greater than the Dissolution Expenses) are on deposit in or to the credit of any Accounts in the name of the Issuer (or the Trustee for the benefit of the Issuer or any Secured Party);

(ii) each of the Co-Issuers has delivered to the Trustee a certificate stating that (1) there are no Assets (other than (x) the Loan Obligation Management Agreement, the Servicing Agreement, the Collateral Administration Agreement and the Securities Account Control Agreement and (y) Cash in an amount not greater than the Dissolution Expenses) that remain subject to the lien of this Indenture, and (2) all funds on deposit in or to the credit of the Accounts have been distributed in accordance with the terms of this Indenture or have otherwise been irrevocably deposited with the Trustee for such purpose; and

(iii) the Co-Issuers have delivered to the Trustee Officer's certificates and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, the rights and obligations of the Issuer, the Co-Issuer, the Trustee, and, if applicable, the Noteholders, as the case may be, under Sections 2.7, 4.2, 5.4(d), 5.9, 5.18, 6.7, 7.3 and 14.12 hereof shall survive.

Section 4.2 Application of Amounts held in Trust.

All amounts deposited with the Trustee pursuant to Section 4.1 shall be held in trust and applied by it in accordance with the provisions of the Notes and this Indenture (including, without limitation, the Priority of Payments) to the payment of the principal and interest, either directly or through any Paying Agent, as the Trustee may determine, and such amounts shall be held in a segregated account identified as being held in trust for the benefit of the

Secured Parties.

Section 4.3 Repayment of Amounts Held by Paying Agent .

In connection with the satisfaction and discharge of this Indenture with respect to the Notes, all amounts then held by the Paying Agent other than the Trustee under the provisions of this Indenture shall, upon demand of the Issuer and the Co-Issuer, be paid to the Trustee to be held and applied pursuant to Section 7.3 hereof and, in the case of amounts payable on the Notes,

in accordance with the Priority of Payments and thereupon such Paying Agent shall be released from all further liability with respect to such amounts.

Section 4.4 Limitation on Obligation to Incur Company Administrative Expenses .

If at any time after an Event of Default has occurred and the Notes have been declared immediately due and payable, the sum of (i) Eligible Investments, (ii) Cash and (iii) amounts reasonably expected to be received by the Issuer in Cash during the current Due Period (as certified by the Loan Obligation Manager in its reasonable judgment) is less than the sum of Dissolution Expenses and any accrued and unpaid Company Administrative Expenses, then notwithstanding any other provision of this Indenture, the Issuer shall no longer be required to incur Company Administrative Expenses as otherwise required by this Indenture to any Person other than the Trustee and its Affiliates, and failure to pay such amounts or provide or obtain such opinions, reports or services shall not constitute a Default hereunder, and the Trustee shall have no liability for any failure to obtain or receive any of the foregoing opinions, reports or services.

ARTICLE 5

REMEDIES

Section 5.1 Events of Default.

"Event of Default," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) a default in the payment of any interest on any Note when the same becomes due and payable and the continuation of any such default for three Business Days after a trust officer of the Trustee has actual knowledge or receives notice from any holder of Notes of such payment default; provided that in the case of a failure to disburse funds due to an administrative error or omission by the Loan Obligation Manager, Trustee, Collateral Administrator or any paying agent, such failure continues for five (5) Business Days after a trust officer of the Trustee receives written notice or has actual knowledge of such administrative error or omission; or

(b) a default in the payment of principal (or the related Redemption Price, if applicable) of any Class A Note when the same becomes due and payable, at its Stated Maturity Date or any Redemption Date, or if there are no Class A Notes Outstanding, a default in the payment of principal (or the related Redemption Price, if applicable) of any Class B Note when the same becomes due and payable at its Stated Maturity Date or any Redemption Date; provided, in each case, that in the case of a failure to disburse funds that is due to an administrative error or omission by the Loan Obligation Manager, Trustee, Collateral Administrator or any paying agent, such failure continues for five (5) Business Days after a trust

officer of the Trustee receives written notice or has actual knowledge of such administrative error or omission;

(c) the failure on any Payment Date to disburse amounts available in the Payment Account in accordance with the Priority of Payments set forth under Section 11.1(a) (other than (i) a default in payment described in clause (a) or (b) above and (ii) unless the holders of the Preferred Shares object, a failure to disburse any amounts to the Preferred Shares Paying Agent for distribution to the holders of the Preferred Shares), which failure continues for a period of three Business Days or, in the case of a failure to disburse such amounts due to an administrative error or omission by the Trustee or Paying Agent, which failure continues for five (5) Business Days;

(d) either the Issuer, the Co-Issuer or the pool of Assets becomes an investment company required to be registered under the 1940 Act;

(e) a default in the performance, or breach, of any other covenant or other agreement of the Issuer or Co-Issuer (other than the covenant to make the payments described in clauses (a), (b) or (c) above or to meet the Note Protection Tests) or any representation or warranty of the Issuer or Co-Issuer hereunder or in any certificate or other writing delivered pursuant hereto or in connection herewith proves to be incorrect in any material respect when made, and the continuation of such default or breach for a period of 30 days (or, if such default, breach or failure has an adverse effect on the validity, perfection or priority of the security interest granted hereunder, 15 days) after either the Issuer, the Co-Issuer or the Loan Obligation Manager has actual knowledge thereof or after notice thereof to the Issuer, the Co-Issuer and the Loan Obligation Manager by the Trustee or to the Issuer, the Co-Issuer, the Loan Obligation Manager and the Trustee by Holders of at least 25% of the Aggregate Outstanding Amount of the Controlling Class;

(f) the entry of a decree or order by a court having competent jurisdiction adjudging the Issuer or the Co-Issuer as bankrupt or

insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer or the Co-Issuer under the Bankruptcy Code, or any bankruptcy, insolvency, reorganization or similar law enacted under the laws of the Cayman Islands or any other applicable law, or appointing a receiver, liquidator, assignee, or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days;

(g) the institution by the Issuer or the Co-Issuer of proceedings to be adjudicated as bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the Bankruptcy Code, or any bankruptcy, insolvency, reorganization or similar law enacted under the laws of the Cayman Islands or any other similar applicable law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its

debts generally as they become due, or the taking of any action by the Issuer in furtherance of any such action;

(h) one or more final judgments being rendered against the Issuer or the Co-Issuer which exceed, in the aggregate, U.S.$1,000,000 and which remain unstayed, undischarged and unsatisfied for 30 days after such judgment(s) becomes nonappealable, unless adequate funds have been reserved or set aside for the payment thereof, and unless (except as otherwise specified in writing by the Rating Agency) a No Downgrade Confirmation has been received from the Rating Agency; or

(i) the Issuer loses its status as a Qualified REIT Subsidiary or other disregarded entity of the Arbor Parent for U.S. federal income tax purposes, unless (A) within 90 days, the Issuer either (1) delivers an opinion of tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that, notwithstanding the Issuer's loss of Qualified REIT Subsidiary or disregarded entity status for U.S. federal income tax purposes, the Issuer is not, and has not been, an association (or publicly traded partnership) taxable as a corporation, or is not, and has not been, otherwise subject to U.S. federal income tax on a net basis and the Noteholders are not otherwise materially adversely affected by the loss of Qualified REIT Subsidiary or disregarded entity status for U.S. federal income tax purposes or (2) receives an amount from the Preferred Shareholders sufficient to discharge in full the amounts then due and unpaid on the Notes and amounts and expenses described in clauses (1) through (10) under Section 11.1(a)(i) in accordance with the Priority of Payments or (B) all Classes of the Notes are subject to a Tax Redemption announced by the Issuer in compliance with this Indenture, and such redemption has not been rescinded.

Upon becoming aware of the occurrence of an Event of Default, the Issuer, shall promptly notify (or shall procure the prompt notification of) the Trustee, the Preferred Shares Paying Agent and the Preferred Shareholders in writing. If the Loan Obligation Manager has actual knowledge of the occurrence of an Event of Default, the Loan Obligation Manager shall promptly notify, in writing, the Trustee, the Noteholders and the Rating Agency of the occurrence of such Event of Default.

Section 5.2 Acceleration of Maturity; Rescission and Annulment .

(a) If an Event of Default shall occur and be continuing (other than the Events of Default specified in Section 5.1(f) or 5.1(g)), the Trustee may (and shall at the direction of a Majority, by outstanding principal amount, of each Class of Notes voting as a separate Class (excluding any Notes owned by the Loan Obligation Manager or any of its Affiliates or by any accounts managed by them), declare the principal of and accrued and unpaid interest on all the Notes to be immediately due and payable (and any such acceleration shall automatically terminate the Replacement Period). If an Event of Default described in Section 5.1(f) or 5.1(g) above occurs, such an acceleration shall occur automatically and without any further action and any such acceleration shall automatically terminate the Replacement Period. If the Notes are accelerated, payments shall be made in the order and priority set forth in Section 11.1(a) hereof. If the Notes are accelerated (whether such acceleration is automatic or otherwise), the Issuer (or the Loan Obligation Manager on its behalf) shall take the actions described in Section 18.1(c) herein.

(b) At any time after such a declaration of acceleration of Maturity of the Notes has been made, and before a judgment or decree for payment of the amounts due has been obtained by the Trustee as hereinafter provided in this Article 5, a Majority of each Class of Notes (voting as a separate Class), other than with respect to an Event of Default specified in Section 5.1(d), 5.1(e), 5.1(h) or 5.1(i), by written notice to the Issuer, the Co-Issuer and the Trustee, may rescind and annul such declaration and its consequences if:

(i) the Issuer or the Co-Issuer has paid or deposited with the Trustee a sum sufficient to pay:

(1) all unpaid installments of interest on and principal on the Notes that would be due and payable hereunder if the Event of Default giving rise to such acceleration had not occurred;

(2) all unpaid taxes of the Issuer and the Co-Issuer, Company Administrative Expenses and other sums paid or advanced by or otherwise due and payable to the Trustee hereunder;

(3) with respect to the Advancing Agent and the Backup Advancing Agent, any amount due and payable for

unreimbursed Interest Advances and Reimbursement Interest; and

(4) with respect to the Loan Obligation Management Agreement, any Loan Obligation Manager Fee then due and any Company Administrative Expense due and payable to the Loan Obligation Manager thereunder; and

(ii) the Trustee has determined that all Events of Default of which it has actual knowledge, other than the non-payment of the interest and principal on the Notes that have become due solely by such acceleration, have been cured and a Majority of the Controlling Class, by written notice to the Trustee, has agreed with such determination (which agreement shall not be unreasonably withheld or delayed) or waived as provided in Section 5.14.

At any such time that the Trustee, subject to Section 5.2(b), shall rescind and annul such declaration and its consequences as permitted hereinabove, the Trustee shall preserve the Assets in accordance with the provisions of Section 5.5 with respect to the Event of Default that gave rise to such declaration; provided, however, that if such preservation of the Assets is rescinded pursuant to Section 5.5, the Notes may be accelerated pursuant to the first paragraph of this Section 5.2, notwithstanding any previous rescission and annulment of a declaration of acceleration pursuant to this paragraph.

No such rescission shall affect any subsequent Default or impair any right consequent thereon.

(c) Subject to Sections 5.4 and 5.5, a Majority of the Controlling Class shall have the right to direct the Trustee in the conduct of any Proceedings for any remedy available to the Trustee or in the sale of any or all of the Assets; provided that (i) such direction will not

conflict with any rule of law or this Indenture; (ii) the Trustee may take any other action not inconsistent with such direction; (iii) the Trustee determines that such action will not involve it in liability (unless the Trustee has received satisfactory indemnity or reasonable security against any such liability); and (iv) any direction to undertake a sale of the Assets may be made only as described in Section 5.17.

(d) As security for the payment by the Issuer of the compensation and expenses of the Trustee and any sums the Trustee may be entitled to receive as indemnification by the Issuer, the Issuer hereby grants the Trustee a lien on the Assets, which lien is senior to the lien of the Noteholders. The Trustee's lien shall be subject to the Priority of Payments and exercisable by the Trustee only if the Notes have been declared due and payable following an Event of Default and such acceleration has not been rescinded or annulled.

(e) A Majority of the Aggregate Outstanding Amount of Notes of the Controlling Class, may, prior to the time a judgment or decree for the payment of amounts due has been obtained by the Trustee, waive any past Default on behalf of the holders of all the Notes and its consequences in accordance with Section 5.14.

Section 5.3 Collection of Indebtedness and Suits for Enforcement by Trustee.

(a) The Issuer covenants that if a Default shall occur in respect of the payment of any interest on any Class A Note, the payment of principal on any Class A Note (but only after interest with respect to the Class A Notes and any amounts payable pursuant to Section 11.1(a) having a higher priority have been paid in full), the payment of interest on any Class B Note (but only after interest with respect to the Class A Notes and any amounts payable pursuant to Section 11.1(a) having a higher priority have been paid in full) or the payment of principal on any Class B Note (but only after interest and principal with respect to the Class A Notes and interest with respect to the Class B Notes and any amounts payable pursuant to Section 11.1(a) having a higher priority have been paid in full), the Issuer and Co-Issuer shall, upon demand of the Trustee or any affected Noteholder, pay to the Trustee, for the benefit of the Holder of such Note, the whole amount, if any, then due and payable on such Note for principal and interest or other payment with interest on the overdue principal and, to the extent that payments of such interest shall be legally enforceable, upon overdue installments of interest, at the applicable interest rate and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee and such Noteholder and their respective agents and counsel.

If the Issuer or the Co-Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as Trustee of an express trust, may institute a Proceeding for the collection of the sums so due and unpaid, and may prosecute such Proceeding to judgment or final decree, and may enforce the same against the Issuer and the Co-Issuer or any other obligor upon the Notes and collect the amounts adjudged or decreed to be payable in the manner provided by law out of the Assets.

If an Event of Default occurs and is continuing, the Trustee shall proceed to protect and enforce its rights and the rights of the Noteholders by such Proceedings (x) as directed by a Majority of the Controlling Class or (y) in the absence of direction by a Majority of

the Controlling Class, as deemed most effectual by the Trustee; provided, that (a) such direction must not conflict with any rule of law or with any express provision of this Indenture, (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction, (c) the Trustee has been provided with security or indemnity reasonably satisfactory to it, and (d) notwithstanding the foregoing, any direction to the Trustee to undertake a sale of Assets may be given only in accordance with the preceding paragraph, in connection with any sale and liquidation of all or a portion of the Assets, the preceding sentence, and, in all cases, the applicable provisions of this Indenture. Such Proceedings shall be used for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy or legal or equitable right vested in the

Trustee by this Indenture or by law.

In the case where (x) there shall be pending Proceedings relative to the Issuer or the Co-Issuer under the Bankruptcy Code, any bankruptcy, insolvency, reorganization or similar law enacted under the laws of the Cayman Islands, or any other applicable bankruptcy, insolvency or other similar law, (y) a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or the Co-Issuer, or their respective property, or (z) there shall be any other comparable Proceedings relative to the Issuer or the Co-Issuer, or the creditors or property of the Issuer or the Co-Issuer, regardless of whether the principal of any Notes shall then be due and payable as therein expressed or by declaration, or otherwise and regardless of whether the Trustee shall have made any demand pursuant to the provisions of this Section 5.3, the Trustee shall be entitled and empowered, by intervention in such Proceedings or otherwise:

(b) to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Notes and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Noteholders allowed in any Proceedings relative to the Issuer, the Co-Issuer or other obligor upon the Notes or to the creditors or property of the Issuer, the Co-Issuer or such other obligor;

(c) unless prohibited by applicable law and regulations, to vote on behalf of the Noteholders in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or of a Person performing similar functions in comparable Proceedings; and

(d) to collect and receive any amounts or other property payable to or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Noteholders and of the Trustee on their behalf; and any trustee, receiver or liquidator, custodian or other similar official is hereby authorized by each of the Noteholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Noteholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other reasonable expenses and liabilities incurred, and all

advances made, by the Trustee and each predecessor Trustee except as a result of its own negligence, willful misconduct or bad faith.

Nothing herein contained shall be deemed to authorize the Trustee to authorize, consent to, vote for, accept or adopt, on behalf of any Noteholder, any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Noteholder in any such Proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar Person.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes or the production thereof in any trial or other Proceedings relative thereto, and any action or Proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, shall be applied as set forth in Section 5.7.

In any Proceedings brought by the Trustee on behalf of the Noteholders, the Trustee shall be held to represent all the Holders of the Notes.

Notwithstanding anything in this Section 5.3 to the contrary, the Trustee may not sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.3 unless the conditions specified in Section 5.5(a) are met.

Section 5.4 Remedies.

(a) If an Event of Default has occurred and is continuing, and the Notes have been declared due and payable and such declaration and its consequences have not been rescinded and annulled, the Issuer and the Co-Issuer agree that the Trustee may, after notice to the Noteholders, and shall, upon direction by a Majority of the Controlling Class, to the extent permitted by applicable law, exercise one or more of the following rights, privileges and remedies:

(i) institute Proceedings for the collection of all amounts then payable on the Notes or otherwise payable under this Indenture (whether by declaration or otherwise), enforce any judgment obtained and collect from the Assets any amounts adjudged due;

(ii) sell all or a portion of the Assets or rights of interest therein, at one or more public or private sales called and conducted in any manner permitted by law and in accordance with Section 5.17 hereof;

(iii) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture with respect to the Assets;

(iv) exercise any remedies of a secured party under the UCC and take any other appropriate action to protect and enforce the rights and remedies of the Secured Parties hereunder; and

(v) exercise any other rights and remedies that may be available at law or in equity;

provided, however, that the Trustee may not sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.4 unless either of the conditions specified in Section 5.5(a) is met.

The Trustee may, but need not, obtain and rely upon an opinion of an Independent investment banking firm of national reputation with demonstrated capabilities in structuring and distributing notes or certificates similar to the Notes as to the feasibility of any action proposed to be taken in accordance with this Section 5.4 and as to the sufficiency of the proceeds and other amounts receivable with respect to the Assets to make the required payments of principal of and interest on the Notes and other amounts payable hereunder, which opinion shall be conclusive evidence as to such feasibility or sufficiency.

(b) If an Event of Default as described in Section 5.1(e) hereof shall have occurred and be continuing, the Trustee may, and at the request of the Holders of not less than 25% of the Aggregate Outstanding Amount of the Controlling Class shall, institute a Proceeding solely to compel performance of the covenant or agreement or to cure the representation or warranty, the breach of which gave rise to the Event of Default under such Section, and enforce any equitable decree or order arising from such Proceeding.

(c) Upon any Sale, whether made under the power of sale hereby given or by virtue of judicial proceedings, any Noteholder, Preferred Shareholder or the Loan Obligation Manager or any of its Affiliates may bid for and purchase the Assets or any part thereof and, upon compliance with the terms of Sale, may hold, retain, possess or dispose of such property in its or their own absolute right without accountability; and any purchaser at any such Sale may, in paying the purchase money, turn in any of the Notes in lieu of Cash equal to the amount which shall, upon distribution of the net proceeds of such sale, be payable on the Notes so turned in by such Holder (taking into account the Class of such Notes). Such Notes, in case the amounts so payable thereon shall be less than the amount due thereon, shall be returned to the Holders thereof after proper notation has been made thereon to show partial payment.

Upon any Sale, whether made under the power of sale hereby given or by virtue of judicial proceedings, the receipt of the Trustee or of the Officer making a sale under judicial proceedings shall be a sufficient discharge to the purchaser or purchasers at any sale for its or their purchase money and such purchaser or purchasers shall not be obliged to see to the application thereof.

Any such Sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall (x) bind the Issuer, the Co-Issuer, the Trustee, the Noteholders and the Preferred Shareholders, shall operate to divest all right, title and interest whatsoever, either at law or in equity, of each of them in and to the property sold and (y) be a perpetual bar, both at law and in equity, against each of them and their successors and assigns, and against any and all Persons claiming through or under them.

(d) Notwithstanding any other provision of this Indenture or any other Transaction Document, none of the Advancing Agent, the Trustee or any other Secured Party, any other party to any Transaction Document or third party beneficiary of this Indenture may, prior to the date which is one year and one day, or, if longer, the applicable preference period then in effect (including any period established pursuant to the laws of the Cayman Islands) after the payment in full of all Notes, institute against, or join any other Person in instituting against, the Issuer, the Co-Issuer or any Issuer Permitted Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under federal or State bankruptcy or similar laws of any jurisdiction. Nothing in this Section 5.4 shall preclude, or be deemed to stop, the Advancing Agent, the Trustee or any other Secured Party or any other party to any Transaction Document (i) from taking any action prior to the expiration of the aforementioned one year and one day period, or, if longer, the applicable preference period then in effect (including any period established pursuant to the laws of the Cayman Islands) period in (A) any case or proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency proceeding filed or commenced by a Person other than the Trustee or any other Secured Party or any other party to any Transaction Document, or (ii) from commencing against the Issuer or the Co-Issuer or any of their respective properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding.

Section 5.5 Preservation of Assets.

(a) Notwithstanding anything to the contrary herein, if an Event of Default shall have occurred and be continuing when any of the Notes are Outstanding, the Trustee shall (except as otherwise expressly permitted or required under this Indenture) retain the Assets securing the Notes, collect and cause the collection of the proceeds thereof and make and apply all payments and deposits and maintain all accounts in respect of the Assets and the Notes in accordance with the Priority of Payments and the provisions of Articles 10, 12 and 13 and shall not sell or liquidate the Assets, unless either:

(i) the Trustee, pursuant to Section 5.5(c), determines that the anticipated proceeds of a sale or liquidation of the Assets (after deducting the reasonable expenses of such sale or liquidation) would be sufficient to discharge in full the amounts then due and unpaid on the Notes, Company Administrative Expenses due and payable pursuant to the Priority of Payments, the Loan Obligation Manager Fees due and payable pursuant to the Priority of Payments and amounts due and payable to the Advancing Agent and the Backup Advancing Agent, in respect of unreimbursed Interest Advances and Reimbursement Interest, and the holders of a Majority of the Controlling Class agrees with such determination; or

(ii) the Holders of at least 66-$^2/_3$% of the Aggregate Outstanding Amount of each Class of Notes (each voting as a separate Class) direct, subject to the provisions of this Indenture, the sale and liquidation of all or a portion of the Assets.

In the event of a sale of a portion of the Assets pursuant to clause (ii) above, the Trustee shall sell those Assets identified by requisite Noteholders pursuant to a written direction

in form and substance satisfactory to the Trustee and all proceeds of such sale shall be distributed in the order set forth in Section 11.1(a)(iii).

The Trustee shall give written notice of the retention of the Assets to the Issuer, the Co-Issuer, the Loan Obligation Manager and the Rating Agency. So long as such Event of Default is continuing, any such retention pursuant to this Section 5.5(a) may be rescinded at any time when the conditions specified in clause (i) or (ii) above exist.

(b) Nothing contained in Section 5.5(a) shall be construed to require the Trustee to sell the Assets securing the Notes if the conditions set forth in Section 5.5(a) are not satisfied. Nothing contained in Section 5.5(a) shall be construed to require the Trustee to preserve the Assets securing the Notes if prohibited by applicable law.

(c) To assist the Trustee in determining whether the condition specified in Section 5.5(a)(i) exists, the Loan Obligation Manager shall obtain bid prices with respect to each Pledged Loan Obligation from two dealers (Independent of the Loan Obligation Manager and any of its Affiliates) at the time making a market in such Loan Obligations (or, if there is only one market maker, then the Loan Obligation Manager shall obtain a bid price from that market maker or, if no market maker, from a pricing service). The Loan Obligation Manager shall compute the anticipated proceeds of sale or liquidation on the basis of the lowest of such bid prices for each such Pledged Loan Obligation and provide the Trustee with the results thereof. For the purposes of determining issues relating to the market value of any Pledged Loan Obligation and the execution of a sale or other liquidation thereof, the Trustee may, but need not, retain at the expense of the Issuer and rely on an opinion of an Independent investment banking firm of national reputation in connection with a determination (notwithstanding that such opinion will not be the basis for such determination) as to whether the condition specified in Section 5.5(a)(i) exists.

The Trustee shall promptly deliver to the Noteholders a report stating the results of any determination required to be made pursuant to Section 5.5(a)(i). If requested by a Majority of the Controlling Class, the Trustee shall make the determinations required by Section 5.5(a)(i) within 30 days of such request.

Section 5.6 Trustee May Enforce Claims Without Possession of Notes.

All rights of action and claims under this Indenture or under any of the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any trial or other Proceeding relating thereto, and any such action or Proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment in respect of the Notes shall be applied as set forth in Section 5.7 hereof.

In any Proceedings brought by the Trustee (and in any Proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) in respect of the Notes, the Trustee shall be held to represent all the Holders of the Notes.

Section 5.7 Application of Amounts Collected.

Any amounts collected by the Trustee with respect to the Notes pursuant to this Article 5 and any amounts that may then be held or thereafter received by the Trustee with respect to the Notes hereunder shall be applied subject to Section 13.1 hereof and in accordance with the Priority of Payments set forth in Section 11.1 hereof, at the date or dates fixed by the Trustee.

Section 5.8 Limitation on Suits.

No Holder of any Notes shall have any right to institute any Proceedings, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given to the Trustee written notice of an Event of Default;

(b) except as otherwise provided in Section 5.9 hereof, the Holders of at least 25% of the then Aggregate Outstanding Amount of the Controlling Class shall have made written request to the Trustee to institute Proceedings in respect of such Event of Default in its own name as Trustee hereunder and such Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(c) the Trustee for 30 days after its receipt of such notice, request and offer of indemnity has failed to institute any such Proceeding; and

(d) no direction inconsistent with such written request has been given to the Trustee during such 30-day period by a Majority of the Controlling Class; it being understood and intended that no one or more Holders of Notes shall have any right in any manner whatsoever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Notes of the same Class or to obtain or to seek to

obtain priority or preference over any other Holders of the Notes of the same Class or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders of Notes of the same Class subject to and in accordance with Section 13.1 hereof and the Priority of Payments.

In the event the Trustee shall receive conflicting or inconsistent requests and indemnity from two or more groups of Holders of the Controlling Class, each representing less than a Majority of the Controlling Class, the Trustee in its sole discretion may determine what action, if any, shall be taken, notwithstanding any other provisions of this Indenture.

Section 5.9 Unconditional Rights of Noteholders to Receive Principal and Interest .

Notwithstanding any other provision in this Indenture (except for Section 2.7(d) and 2.7(m)), the Holder of any Class of Note shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest on such Class of Note as such

principal, interest and other amounts become due and payable in accordance with the Priority of Payments and Section 13.1, and, subject to the provisions of Sections 5.4 and 5.8 to institute Proceedings for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder; provided, however, that the right of such Holder to institute proceedings for the enforcement of any such payment shall not be subject to the 25% threshold requirement set forth in Section 5.8(b).

Section 5.10 Restoration of Rights and Remedies .

If the Trustee or any Noteholder has instituted any Proceeding to enforce any right or remedy under this Indenture and such Proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Noteholder, then (and in every such case) the Issuer, the Co-Issuer, the Trustee, and the Noteholder shall, subject to any determination in such Proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Noteholders shall continue as though no such Proceeding had been instituted.

Section 5.11 Rights and Remedies Cumulative .

No right or remedy herein conferred upon or reserved to the Trustee or to the Noteholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.12 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Noteholder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein or a waiver of a subsequent Event of Default. Every right and remedy given by this Article 5 or by law to the Trustee, or to the Noteholders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee, or by the Noteholders, as the case may be.

Section 5.13 Control by the Controlling Class .

Notwithstanding any other provision of this Indenture, if an Event of Default shall have occurred and be continuing when any of the Notes are Outstanding, a Majority of the Controlling Class shall have the right to cause the institution of, and direct the time, method and place of conducting, any Proceeding for any remedy available to the Trustee and for exercising any trust, right, remedy or power conferred on the Trustee in respect of the Notes; provided that:

(a) such direction shall not conflict with any rule of law or with this Indenture;

(b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction; provided, however, that, subject to Section 6.1, the Trustee

need not take any action that it determines might involve it in liability (unless the Trustee has received satisfactory indemnity against such liability as set forth below);

(c) the Trustee shall have been provided with indemnity satisfactory to it; and

(d) any direction to the Trustee to undertake a Sale of the Assets shall be by the Holders of Notes secured thereby representing at least 6 $6^{2}/_{3}$% of the Aggregate Outstanding Amount of each Class of Notes.

Section 5.14 Waiver of Past Defaults.

Prior to the time a judgment or decree for payment of the amounts due has been obtained by the Trustee, as provided in this Article 5, a Majority of each and every Class of Notes (voting as a separate Class) may, on behalf of the Holders of all the Notes, waive any past Default in respect of the Notes and its consequences, except a Default:

(a) in the payment of principal of any Note;

(b) in the payment of interest in respect of the Controlling Class;

(c) in respect of a covenant or provision hereof that, under Section 8.2, cannot be modified or amended without the waiver or consent of the Holder of each Outstanding Note adversely affected thereby; or

(d) in respect of any covenant or provision hereof for the individual protection or benefit of the Trustee, without the Trustee's express written consent thereto.

In the case of any such waiver, the Issuer, the Co-Issuer, the Trustee, and the Holders of the Notes shall be restored to their respective former positions and rights hereunder, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto. The Trustee shall promptly give written notice of any such waiver to the Loan Obligation Manager and each Noteholder.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto.

Section 5.15 Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.15 shall not apply to any suit instituted by (x) the

Trustee, (y) any Noteholder, or group of Noteholders, holding in the aggregate more than 10% of the Aggregate Outstanding Amount of the Controlling Class or (z) any Noteholder for the enforcement of the payment of the principal of or interest on any Note or any other amount payable hereunder on or after the Stated Maturity Date (or, in the case of redemption, on or after the applicable Redemption Date).

Section 5.16 Waiver of Stay or Extension Laws.

Each of the Issuer and the Co-Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force (including but not limited to filing a voluntary petition under Chapter 11 of the Bankruptcy Code and by the voluntary commencement of a proceeding or the filing of a petition seeking winding up, liquidation, reorganization or other relief under any bankruptcy, insolvency, reorganization, moratorium, receivership, conservatorship or other similar laws now or hereafter in effect), which may affect the covenants, the performance of or any remedies under this Indenture; and each of the Issuer and the Co-Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 5.17 Sale of Assets.

(a) The power to effect any sale (a "Sale") of any portion of the Assets pursuant to Sections 5.4 and 5.5 hereof shall not be exhausted by any one or more Sales as to any portion of such Assets remaining unsold, but shall continue unimpaired until all amounts secured by the Assets shall have been paid or if there are insufficient proceeds to pay such amount until the entire Assets shall have been sold. The Trustee may, upon notice to the Securityholders, and shall, upon direction of a Majority of the Controlling Class, from time to time postpone any Sale by public announcement made at the time and place of such Sale; provided, however, that if the Sale is rescheduled for a date more than three Business Days after the date of the determination by the Trustee pursuant to Section 5.5(a)(i) hereof, such Sale shall not occur unless and until the Trustee has again made the determination required by Section 5.5(a)(i) hereof. The Trustee hereby expressly waives its rights to any amount fixed by law as compensation for any Sale; provided that the Trustee shall be authorized to deduct the reasonable costs, charges and expenses incurred by it in connection with such Sale from the proceeds thereof notwithstanding the provisions of Section 6.7 hereof.

(b) The Trustee may bid for and acquire any portion of the Assets in connection with a public Sale thereof, and may pay all or part of the purchase price by crediting against amounts owing on the Notes or other amounts secured by the Assets, all or part of the net proceeds of such Sale after deducting the reasonable costs, charges and expenses incurred by the Trustee in connection with such Sale notwithstanding the provisions of Section 6.7 hereof. The Notes need not be produced in order to complete any such Sale, or in order for the net proceeds of such Sale to be credited against amounts owing on the Notes. The Trustee may hold, lease, operate, manage or otherwise deal with any property so acquired in any manner permitted by law in accordance with this Indenture.

(c) If any portion of the Assets consists of securities issued without registration under the Securities Act (" Unregistered Securities"), the Trustee may seek an Opinion of Counsel, or, if no such Opinion of Counsel can be obtained and with the consent of a Majority of the Controlling Class, seek a no action position from the SEC or any other relevant federal or State regulatory authorities, regarding the legality of a public or private Sale of such Unregistered Securities. In no event shall the Trustee be required to register Unregistered Securities under the Securities Act.

(d) The Trustee shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Assets in connection with a Sale thereof. In addition, the Trustee is hereby irrevocably appointed the agent and attorney in fact of the Issuer to transfer and convey its interest in any portion of the Assets in connection with a Sale thereof, and to take all action necessary to effect such Sale. No purchaser or transferee at such a Sale shall be bound to ascertain the Trustee's authority, to inquire into the satisfaction of any conditions precedent or to see to the application of any amounts.

(e) In the event of any Sale of the Assets pursuant to Section 5.4 or Section 5.5, payments shall be made in the order and priority set forth in Section 11.1(a) in the same manner as if the Notes had been accelerated.

Section 5.18 Action on the Notes.

The Trustee's right to seek and recover judgment on the Notes or under this Indenture shall not be affected by the application for or obtaining of any other relief under or with respect to this Indenture. Neither the lien of this Indenture nor any rights or remedies of the Trustee or the Noteholders shall be impaired by the recovery of any judgment by the Trustee against the Issuer or the Co-Issuer or by the levy of any execution under such judgment upon any portion of the Assets or upon any of the assets of the Issuer or the Co-Issuer.

ARTICLE 6

THE TRUSTEE

Section 6.1 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of manifest error, or bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; provided, however, that in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to

determine whether or not they substantially conform to the requirements of this Indenture and shall promptly, but in any event within three Business Days in the case of an Officer's Certificate furnished by the Loan Obligation Manager, notify the party delivering the same if such certificate or opinion does not conform. If a corrected form shall not have been delivered to the Trustee within 15 days after such notice from the Trustee, the Trustee shall so notify the Noteholders.

(b) In case an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall, prior to the receipt of directions, if any, from a Majority of the Controlling Class (or other Noteholders to the extent provided in Article 5 hereof), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) If, in performing its duties under this Indenture, the Trustee is required to decide between alternative courses of action, the Trustee may request written instructions from the Loan Obligation Manager as to courses of action desired by it. If the Trustee does not receive such instructions within two Business Days after it has requested them, it may, but shall be under no duty to, take or refrain from taking such action. The Trustee shall act in accordance with instructions received after such two-Business Day period except to the extent it has already taken, or committed itself to take, action inconsistent with such instructions. The Trustee shall be entitled to rely on the advice of legal counsel and Independent accountants in performing its duties hereunder and be deemed to have acted in good faith if it acts in accordance with such advice.

(d) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of Section 6.1(a);

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer, unless it shall be proven that the

Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Issuer in accordance with this Indenture and/or the Controlling Class relating to the time, method and place of conducting any Proceeding for any remedy available to the Trustee in respect of any Note or exercising any trust or power conferred upon the Trustee under this Indenture;

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers contemplated hereunder, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it (if the amount of such funds or risk or liability does not exceed the amount payable to the Trustee pursuant

to Section 11.1(a)(i)(3) and Section 11.1(a)(ii)(1) net of the amounts specified in Section 6.7(a)(i), the Trustee shall be deemed to be reasonably assured of such repayment) unless such risk or liability relates to its ordinary services under this Indenture, except where this Indenture provides otherwise; and

(v) the Trustee shall not be liable to the Noteholders for any action taken or omitted by it at the direction of the Issuer, the Co-Issuer, the Loan Obligation Manager, the Controlling Class and/or a Noteholder under circumstances in which such direction is required or permitted by the terms of this Indenture.

(e) For all purposes under this Indenture, the Trustee shall not be deemed to have notice or knowledge of any Event of Default described in Section 5.1(d), 5.1(f), 5.1(g), 5.1(h) or 5.1(i) or any Default described in Section 5.1(e) unless a Trust Officer assigned to and working in the Corporate Trust Office has actual knowledge thereof or unless written notice of any event which is in fact such an Event of Default or Default is received by the Trustee at the Corporate Trust Office, and such notice references, as applicable, the Notes generally, the Issuer, the Assets or this Indenture. For purposes of determining the Trustee's responsibility and liability hereunder, whenever reference is made in this Indenture to such an Event of Default or a Default, such reference shall be construed to refer only to such an Event of Default or Default of which the Trustee is deemed to have notice as described in this Section 6.1.

(f) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of Sections 6.1(a), (b), (c), (d) and (e).

(g) The Trustee shall, upon reasonable prior written notice to the Trustee, permit the Issuer, the Co-Issuer, the Loan Obligation Manager or the Rating Agency, during the Trustee's normal business hours, to examine all books of account, records, reports and other papers of the Trustee relating to the Notes, to make copies and extracts therefrom (the reasonable out-of-pocket expenses incurred in making any such copies or extracts to be reimbursed to the Trustee by such Person) and to discuss the Trustee's actions, as such actions relate to the Trustee's duties with respect to the Notes, with the Trustee's officers and employees responsible for carrying out the Trustee's duties with respect to the Notes.

Section 6.2 Notice of Default.

Promptly (and in no event later than three Business Days) after the occurrence of any Default known to the Trustee or after any declaration of acceleration has been made or delivered to the Trustee pursuant to Section 5.2, the Trustee shall transmit by mail to the Loan Obligation Manager, the Rating Agency (for so long as any Class of Notes is Outstanding and rated by the Rating Agency) and to all Holders of Notes as their names and addresses appear on the Notes Register, notice of all Defaults hereunder known to the Trustee, unless such Default shall have been cured or waived.

Section 6.3 Certain Rights of Trustee.

Except as otherwise provided in Section 6.1:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Issuer or the Co-Issuer mentioned herein shall be sufficiently evidenced by an Issuer Request or Issuer Order, as the case may be;

(c) whenever in the administration of this Indenture the Trustee shall (i) deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate or (ii) be required to determine the value of any Assets or funds hereunder or the cash flows projected to be received therefrom, the Trustee may, in the absence of bad faith on its part, rely on reports of nationally recognized accountants, investment bankers or other persons qualified to provide the information required to make such determination, including nationally recognized dealers in securities of the type being valued and securities quotation services;

(d) as a condition to the taking or omitting of any action by it hereunder, the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel (including with respect to any matters, other than factual matters, in connection with the execution by the Trustee of a supplemental indenture pursuant to Section 8.3) shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise or to honor any of the rights or powers vested in it by this Indenture at the request or direction of any of the Noteholders pursuant to this Indenture, unless such Noteholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might reasonably be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note or other paper documents, but the Trustee, in its discretion, may and, upon the written direction of a Majority of the Controlling Class or of a Rating Agency, shall make such further inquiry or investigation into such facts or matters as it may see fit or as it shall be directed and shall have received indemnification reasonably acceptable to the Trustee, and, the Trustee shall be entitled, on reasonable prior notice to the Issuer, the Co-Issuer, the Loan Obligation Manager and the CLO Servicer, to examine the books and records relating to the Notes and the Assets, as applicable, at the premises of the Issuer, the Co-Issuer and the Loan Obligation Manager, personally or by agent or attorney during the Issuer's, the Co-Issuer's or the Loan Obligation Manager's normal business hours upon not less than three Business Days' prior written notice; provided that the Trustee shall, and shall cause its

agents to, hold in confidence all such information, except (i) to the extent disclosure may be required by law by any regulatory authority and (ii) to the extent that the Trustee, in its sole judgment, may determine that such disclosure is consistent with its obligations hereunder;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder (except with respect to its duty to make any Interest Advance under the circumstances specified in Section 10.9) either directly or by or through agents or attorneys; provided that the Trustee shall not be responsible for any willful misconduct or negligence on the part of any agent appointed and supervised, or attorney appointed, with due care by it hereunder;

(h) the Trustee shall not be liable for any action it takes or omits to take in good faith that it reasonably and prudently believes to be authorized or within its rights or powers hereunder;

(i) the Trustee shall not be responsible for the accuracy of the books or records of, or for any acts or omissions of, the Depository, any Transfer Agent (other than the Trustee itself acting in that capacity), Clearstream, Luxembourg, Euroclear, any Calculation Agent (other than the Trustee itself acting in that capacity) or any Paying Agent (other than the Trustee itself acting in that capacity);

(j) the Trustee shall not be liable for the actions or omissions of the Loan Obligation Manager; and without limiting the foregoing, the Trustee shall not (except to the extent, if at all, otherwise expressly stated in this Indenture) be under any obligation to monitor, evaluate or verify compliance by the Loan Obligation Manager with the terms hereof or the Loan Obligation Management Agreement, or to verify or independently determine the accuracy of information received by it from the Loan Obligation Manager (or from any selling institution, agent bank, trustee or similar source) with respect to the Loan Obligations;

(k) to the extent any defined term hereunder, or any calculation required to be made or determined by the Trustee hereunder, is dependent upon or defined by reference to generally accepted accounting principles in the United States in effect from time to time (" GAAP"), the Trustee shall be entitled to request and receive (and rely upon) instruction from the Issuer or the accountants appointed pursuant to Section 10.12 as to the application of GAAP in such connection, in any instance; and

(l) neither the Trustee nor the Collateral Administrator shall have any responsibility to the Issuer or the Secured Parties hereunder to make any inquiry or investigation as to, and shall have no obligation in respect of, the terms of any engagement of Independent accountants by the Issuer (or the Loan Obligation Manager on behalf of the Issuer); provided, however, that the Trustee shall be authorized, upon receipt of an Issuer Order directing the same, to execute any acknowledgement or other agreement with the Independent accountants required for the Trustee to receive any of the reports or instructions provided for herein, which acknowledgement or agreement may include, among other things, (i) acknowledgement that the Issuer has agreed that the "agreed upon procedures" between the Issuer and the Independent accountants are sufficient for its purposes, (ii) releases by the Trustee (on behalf of itself and the Holders) of claims and acknowledgement of other limitation of liability in favor of the Independent accounts, and (iii) restrictions or prohibitions on the disclosure of information or

documents provided to it by such firm of Independent accounts (including to the Holders). Notwithstanding the foregoing, in no event shall the Trustee be required to execute any agreement in respect of the Independent accountants that the Trustee determines adversely affects it in its individual capacity.

Section 6.4 Not Responsible for Recitals or Issuance of Notes.

The recitals contained herein and in the Notes, other than the Certificate of Authentication thereon, shall be taken as the statements of the

Issuer and the Co-Issuer, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representation as to the validity or sufficiency of this Indenture (except as may be made with respect to the validity of the Trustee's obligations hereunder), the Assets or the Notes. The Trustee shall not be accountable for the use or application by the Issuer or the Co-Issuer of the Notes or the proceeds thereof or any amounts paid to the Issuer or the Co-Issuer pursuant to the provisions hereof.

Section 6.5 May Hold Notes.

The Trustee, the Paying Agent, the Notes Registrar or any other agent of the Issuer or the Co-Issuer, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Issuer and the Co-Issuer with the same rights it would have if it were not Trustee, Paying Agent, Notes Registrar or such other agent.

Section 6.6 Amounts Held in Trust.

Amounts held by the Trustee hereunder shall be held in trust to the extent required herein. The Trustee shall be under no liability for interest on any amounts received by it hereunder except as otherwise agreed upon with the Issuer and except to the extent of income or other gain on investments which are deposits in or certificates of deposit of the Trustee in its commercial capacity and income or other gain actually received by the Trustee on Eligible Investments.

Section 6.7 Compensation and Reimbursement.

(a) The Issuer agrees:

(i) to pay the Trustee on each Payment Date in accordance with the Priority of Payments reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(ii) except as otherwise expressly provided herein, to reimburse the Trustee (subject to any written agreement between the Issuer and the Trustee) in a timely manner upon its request for all reasonable expenses, disbursements and advances (except as otherwise provided herein with respect to Interest Advances) incurred or made by the Trustee in accordance with any provision of this Indenture (including securities transaction charges to the extent not waived due to the Trustee's receipt of payments from a financial institution with respect to certain Eligible Investments, as specified by the Loan Obligation Manager and the reasonable compensation and expenses and

disbursements of its agents and legal counsel and of any accounting firm or investment banking firm employed by the Trustee pursuant to Section 5.4, 5.5, 10.11 or 10.13 hereof, except any such expense, disbursement or advance as may be attributable to its negligence, willful misconduct or bad faith);

(iii) to indemnify the Trustee and its Officers, directors, employees and agents for, and to hold them harmless against, any loss, liability or expense incurred without negligence, willful misconduct or bad faith on their part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending themselves against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder; and

(iv) to pay the Trustee reasonable additional compensation together with its expenses (including reasonable counsel fees) for any collection action taken pursuant to Section 6.13 hereof.

(b) The Issuer may remit payment for such fees and expenses to the Trustee or, in the absence thereof, the Trustee may from time to time deduct payment of its fees and expenses hereunder from amounts on deposit in the Payment Account in accordance with the Priority of Payments.

(c) The Trustee, in its capacity as Trustee, Paying Agent, Calculation Agent, Transfer Agent, Custodial Securities Intermediary, Backup Advancing Agent and Notes Registrar, hereby agrees not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Permitted Subsidiary until at least one year and one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes issued under this Indenture. This provision shall survive termination of this Indenture.

(d) The Trustee agrees that the payment of all amounts to which it is entitled pursuant to Sections 6.7(a)(i), (a)(ii), (a)(iii) and (a)(iv) shall be subject to the Priority of Payments, shall be payable only to the extent funds are available in accordance with such Priority of Payments, shall be payable solely from the Assets and following realization of the Assets, any such claims of the Trustee against the Issuer, and all obligations of the Issuer, shall be extinguished. The Trustee will have a lien upon the Assets to secure the payment of such payments to it in accordance with the Priority of Payments; provided that the Trustee shall not institute any proceeding for enforcement of such lien except in connection with an action taken pursuant to Section 5.3 hereof for enforcement of the lien of this Indenture for the benefit of the Noteholders.

Fees shall be accrued on the actual number of days in the related Interest Accrual Period. The Trustee shall receive amounts pursuant to this Section 6.7 and Section 11.1(a) only to the extent that such payment is made in accordance with the Priority of Payments and the failure to pay such amounts to the Trustee will not, by itself, constitute an Event of Default. Subject to Section 6.9, the Trustee shall continue to serve as Trustee under this Indenture notwithstanding the fact that the Trustee shall not have received amounts due to it hereunder. No direction by a Majority of the Controlling Class shall affect the right of the Trustee to collect amounts owed to it under this Indenture.

If on any Payment Date when any amount shall be payable to the Trustee pursuant to this Indenture is not paid because there are insufficient funds available for the payment thereof, all or any portion of such amount not so paid shall be deferred and payable on any later Payment Date on which a fee shall be payable and sufficient funds are available therefor in accordance with the Priority of Payments.

Section 6.8 Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which shall be a corporation organized and doing business under the laws of the United States of America or of any State thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least U.S.$200,000,000, subject to supervision or examination by federal or State authority, having a rating of at least "Baa1" by Moody's (or such other lower rating as may be approved by the Rating Agency from time to time) and having an office within the United States. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 6.8, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.8, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 6.

Section 6.9 Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article 6 shall become effective until the acceptance of appointment by the successor Trustee under Section 6.10.

(b) The Trustee may resign at any time by giving written notice thereof to the Issuer, the Co-Issuer, the Loan Obligation Manager, the Noteholders and the Rating Agency. Upon receiving such notice of resignation, the Issuer and the Co-Issuer shall promptly appoint a successor trustee or trustees by written instrument, in duplicate, executed by an Authorized Officer of the Issuer and an Authorized Officer of the Co-Issuer, one copy of which shall be delivered to the Trustee so resigning and one copy to the successor Trustee or Trustees, together with a copy to each Noteholder and the Loan Obligation Manager; provided that such successor Trustee shall be appointed only upon the written consent of a Majority of the Notes (or if there are no Notes Outstanding, a Majority of Preferred Shareholders) or, at any time when an Event of Default shall have occurred and be continuing or when a successor Trustee has been appointed pursuant to Section 6.10, by Act of a Majority of the Controlling Class. If no successor Trustee shall have been appointed and an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee, the Controlling Class of Notes or any Holder of a Note, on behalf of himself and all others similarly situated, may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed (i) at any time by Act of at least 66-$^{2}/_{3}$% of the Notes (or if there are no Notes Outstanding, a Majority of Preferred Shareholders) or (ii) at

any time when an Event of Default shall have occurred and be continuing or when a successor Trustee has been appointed pursuant to Section 6.10, by Act of a Majority of the Controlling Class, in each case, upon written notice delivered to the Trustee and to the Issuer and the Co-Issuer.

(d) If at any time:

(i) the Trustee shall cease to be eligible under Section 6.8 and shall fail to resign after written request therefor by the Issuer, the Co-Issuer, or by any Holder; or

(ii) the Trustee shall become incapable of acting or there shall be instituted any proceeding pursuant to which it could be adjudged as bankrupt or insolvent or a receiver or liquidator of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case (subject to Section 6.9(a)), (a) the Issuer or the Co-Issuer, by Issuer Order, may remove the Trustee or (b) subject to Section 5.15, a Majority of the Controlling Class or any Holder may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any reason, the Issuer and the Co-Issuer, by Issuer Order, subject to the written consent of the Loan Obligation Manager, shall promptly appoint a successor Trustee. If the Issuer and the Co-Issuer shall fail to appoint a successor Trustee within 60 days after such resignation, removal or incapability or the occurrence of such vacancy, a successor Trustee may be appointed by Act of a Majority of the Controlling Class delivered to the Issuer, the Co-Issuer, the Loan Obligation Manager and the retiring Trustee. The successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede any successor Trustee proposed by the Issuer and the Co-Issuer. If no successor Trustee shall have been so appointed by the Issuer and the Co-Issuer or a Majority of the Controlling Class and shall have accepted appointment in the manner hereinafter provided, subject to Section 5.15, the Controlling Class or any Holder may, on behalf of itself or himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Issuer and the Co-Issuer shall give prompt notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to the Rating Agency, the Preferred Shares Paying Agent, the Loan Obligation Manager and to the Holders of the Notes as their names and addresses appear in the Notes Register. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office. If the Issuer or the Co-Issuer fail to mail such notice within ten days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be given at the expense of the Issuer or the Co-Issuer, as the case may be.

Section 6.10 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer, the Co-Issuer, the Loan Obligation Manager, the CLO Servicer and the retiring Trustee an instrument accepting such appointment. Upon delivery of the required instruments, the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of the retiring Trustee; but, on request of the Issuer and the Co-Issuer or a Majority of the Controlling Class or the Loan Obligation Manager or the successor Trustee, such retiring Trustee shall, upon payment of its charges then unpaid, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and amounts held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Section 6.7(d). Upon request of any such successor Trustee, the Issuer and the Co-Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

No successor Trustee shall accept its appointment unless (a) at the time of such acceptance such successor shall be qualified and eligible under this Article 6, (b) such successor shall have long term debt rated within the four highest rating categories by the Rating Agency, and (c) the Rating Agency Condition is satisfied.

Section 6.11 Merger, Conversion, Consolidation or Succession to Business of Trustee.

Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder; provided such corporation or banking association shall be otherwise qualified and eligible under this Article 6, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any of the Notes have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes.

Section 6.12 Co-Trustees and Separate Trustee.

At any time or times, including for the purpose of meeting the legal requirements of any jurisdiction in which any part of the Assets may at the time be located, the Issuer, the Co-Issuer and the Trustee shall have power to appoint, one or more Persons to act as co-trustee jointly with the Trustee of all or any part of the Assets, with the power to file such proofs of claim and take such other actions pursuant to Section 5.6 herein and to make such claims and enforce such rights of action on behalf of the Holders of the Notes as such Holders themselves may have the right to do, subject to the other provisions of this Section 6.12.

Each of the Issuer and the Co-Issuer shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint a co-trustee. If the Issuer and the Co-Issuer do not both join in such appointment within 15 days after the receipt by them of a request to do so, the Trustee shall have power to make such appointment.

Should any written instrument from the Issuer or the Co-Issuer be required by any co-trustee, so appointed, more fully confirming to such co-trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Issuer or the Co-Issuer, as the case may be. The Issuer agrees to pay (but only from and to the extent of the Assets) to the extent funds are available therefor under the Priority of Payments, for any reasonable fees and expenses in connection with such appointment.

Every co-trustee, shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms:

(a) the Notes shall be authenticated and delivered and all rights, powers, duties and obligations hereunder in respect of the custody of securities, Cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely by the Trustee;

(b) the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by the appointment of a co-trustee shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee jointly in the case of the appointment of a co-trustee as shall be provided in the instrument appointing such co-trustee, except to the extent that under any law of any

jurisdiction in which any particular act is to be performed, the Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by a co-trustee;

(c) the Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Issuer and the Co-Issuer evidenced by an Issuer Order, may accept the resignation of, or remove, any co-trustee appointed under this Section 6.12, and in case an Event of Default has occurred and is continuing, the Trustee shall have the power to accept the resignation of, or remove, any such co-trustee without the concurrence of the Issuer or the Co-Issuer. A successor to any co-trustee so resigned or removed may be appointed in the manner provided in this Section 6.12;

(d) no co-trustee hereunder shall be personally liable by reason of any act or omission of the Trustee hereunder;

(e) the Trustee shall not be liable by reason of any act or omission of a co-trustee; and

(f) any Act of Securityholders delivered to the Trustee shall be deemed to have been delivered to each co-trustee.

Section 6.13 Certain Duties of Trustee Related to Delayed Payment of Proceeds.

In the event that in any month the Trustee shall not have received a Scheduled Distribution, (a) the Trustee shall promptly notify the Issuer and the Loan Obligation Manager in writing and (b) unless within three Business Days (or the end of the applicable grace period for such payment, if longer) after such notice such payment shall have been received by the Trustee, or the Issuer, in its absolute discretion (but only to the extent permitted by Section 10.2(a)), shall have made provision for such payment satisfactory to the Trustee in accordance with Section 10.2(a), the Trustee shall request the obligor of such Asset, the trustee under the related Underlying Instrument or paying agent designated by either of them, as the case may be, to make such payment as soon as practicable after such request but in no event later than three Business Days after the date of such request. In the event that such payment is not made within such time period, the Trustee, subject to the provisions of Section 6.1(d)(iv), shall take such action as the Loan Obligation Manager reasonably shall direct in writing. Any such action shall be without prejudice to any right to claim a Default or Event of Default under this Indenture. In the event that the Issuer or the Loan Obligation Manager requests a release of an Asset in connection with any such action under the Loan Obligation Management Agreement, such release shall be subject to Section 10.12 and Article 12 of this Indenture, as the case may be. Notwithstanding any other provision hereof, the Trustee shall deliver to the Issuer or its designee any payment with respect to any Asset received after the Due Date thereof to the extent the Issuer previously made provisions for such payment satisfactory to the Trustee in accordance with this Section 6.13 and such payment shall not be deemed part of the Assets.

Section 6.14 Representations and Warranties of the Trustee.

The Trustee represents and warrants that:

(a) the Trustee is a national banking association with trust powers, duly and validly existing under the laws of the United States of America, with corporate power and authority to execute, deliver and perform its obligations under this Indenture, and is duly eligible and qualified to act as trustee under this Indenture;

(b) this Indenture has been duly authorized, executed and delivered by the Trustee and constitutes the valid and binding obligation of the Trustee, enforceable against it in accordance with its terms except (i) as limited by bankruptcy, fraudulent conveyance, fraudulent transfer, insolvency, reorganization, liquidation, receivership, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and by general equitable principles, regardless of whether considered in a proceeding in equity or at law, and (ii) that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought;

(c) neither the execution or delivery by the Trustee of this Indenture nor the performance by the Trustee of its obligations under this Indenture requires the consent or approval of, the giving of notice to or the registration or filing with, any governmental authority or agency under any existing law of the United States of America governing the banking or trust powers of the Trustee;

(d) neither the execution, delivery and performance of this Indenture, nor the consummation of the transactions contemplated by this Indenture, (i) is prohibited by, or requires the Trustee to obtain any consent, authorization, approval or registration under, any law, statute, rule, regulation, or any judgment, order, writ, injunction or decree that is binding upon the Trustee or any of its properties or assets, (ii) will violate the provisions of the Governing Documents of the Trustee or (iii) will violate any provision of, result in any default or acceleration of any obligations under, result in the creation or imposition of any lien pursuant to, or require any consent under, any material agreement to which the Trustee is a party or by which it or any of its property is bound, the violation of which would have a material adverse effect on the Trustee or its property; and

(e) there are no proceedings pending or, to the best knowledge of the Trustee, threatened against the Trustee before any Federal, state or other governmental agency, authority, administrator or regulatory body, arbitrator, court or other tribunal, foreign or domestic, which could have a material adverse effect on the Assets or the performance by the Trustee of its obligations under this Indenture.

Section 6.15 Requests for Consents.

In the event that the Trustee receives written notice of any proposed amendment, consent or waiver under the Underlying Instruments of any Loan Obligation (before or after any default) or in the event any action is required to be taken in respect to an Underlying Instrument, the Trustee shall promptly contact the Issuer and the Loan Obligation Manager. The Loan Obligation Manager may, on behalf of the Issuer, instruct the Trustee pursuant to an Issuer Order to, and the Trustee shall, with respect to which a Loan Obligation as to which a consent or waiver under the Underlying Instruments of such Loan Obligation (before or after any default) has been proposed or with respect to action required to be taken in respect of an Underlying Instrument, give consent, grant a waiver, vote or exercise any or all other rights or remedies with respect to any such Loan Obligation in accordance with such Issuer Order. In the absence of any instruction from the Loan Obligation Manager, the Trustee shall not engage in any vote or take any action with respect to such a Loan Obligation.

Section 6.16 Withholding.

If any amount is required to be deducted or withheld from any payment to any Noteholder, such amount shall reduce the amount otherwise distributable to such Noteholder. The Trustee is hereby authorized to withhold or deduct from amounts otherwise distributable to any Noteholder sufficient funds for the payment of any tax that is legally required to be withheld or deducted (but such authorization shall not prevent the Trustee from contesting any such tax in appropriate proceedings and legally withholding payment of such tax, pending the outcome of such proceedings). The amount of any withholding tax imposed with respect to any Noteholder shall be treated as Cash distributed to such Noteholder at the time it is deducted or withheld by the Issuer or the Trustee, as applicable, and remitted to the appropriate taxing authority. If there is a possibility that withholding tax is payable with respect to a distribution, the Trustee may in its sole discretion withhold such amounts in accordance with this Section 6.16. If any Noteholder wishes to apply for a refund of any such withholding tax, the Trustee shall reasonably cooperate with such Noteholder in making such claim so long as such Noteholder

agrees to reimburse the Trustee for any out-of-pocket expenses incurred. Nothing herein shall impose an obligation on the part of the Trustee to determine the amount of any tax or withholding obligation on the part of the Issuer or in respect of the Notes.

ARTICLE 7

COVENANTS

Section 7.1 Payment of Principal and Interest.

The Issuer and the Co-Issuer shall duly and punctually pay the principal of and interest on each Class of Notes in accordance with the terms of such Notes and this Indenture. Amounts properly withheld under the Code or other applicable law by any Person from a payment to any Noteholder of interest and/or principal shall be considered as having been paid by the Issuer and the Co-Issuer, and, with respect to the Preferred Shares, by the Issuer, to such Preferred Shareholder for all purposes of this Indenture.

The Trustee shall, unless prevented from doing so for reasons beyond its reasonable control, give notice to each Securityholder of any such withholding requirement no later than ten days prior to the related Payment Date from which amounts are required (as directed by the Issuer (or the Loan Obligation Manager on behalf of the Issuer)) to be withheld, provided that, despite the failure of the Trustee to give such notice, amounts withheld pursuant to applicable tax laws shall be considered as having been paid by the Issuer and the Co-Issuer, as provided above.

Section 7.2 Maintenance of Office or Agency.

The Issuer and the Co-Issuer hereby appoint the Trustee as a Paying Agent for the payment of principal of and interest on the Notes and where Notes may be surrendered for registration of transfer or exchange and the Issuer and the Co-Issuer hereby appoint CT Corporation System, 111 Eighth Avenue, 13th Floor, New York, New York 10011, as their agent where notices and demands to or upon the Co-Issuer in respect of the Notes or this Indenture, or the Issuer in respect of the Notes or this Indenture, may be served.

The Issuer or the Co-Issuer may at any time and from time to time vary or terminate the appointment of any such agent or appoint any additional agents for any or all of such purposes; provided, however, that the Issuer and the Co-Issuer, if applicable, will maintain in the Borough of Manhattan, The City of New York, an office or agency where notices and demands to or upon the Issuer and the Co-Issuer in respect of the Notes and this Indenture may be served, and, subject to any laws or regulations applicable thereto, an office or agency outside of the United States where Notes may be presented and surrendered for payment; provided, further, that no paying agent shall be appointed in a jurisdiction which subjects payments on the Notes to withholding tax. The Issuer or the Co-Issuer, as the case may be, shall give prompt written notice to the Trustee, the Rating Agency and the Noteholders of the appointment or termination of any such agent and of the location and any change in the location of any such office or agency.

If at any time the Issuer and the Co-Issuer, if applicable, shall fail to maintain any such required office or agency in the Borough of Manhattan, The City of New York, or outside the United States, or shall fail to furnish the Trustee with the address thereof, presentations and surrenders may be made (subject to the limitations described in the preceding paragraph) at and notices and demands may be served on the Issuer and the Co-Issuer, and Notes may be presented and surrendered for payment to the appropriate Paying Agent at its main office and the Issuer and the Co-Issuer hereby appoint the same as their agent to receive such respective presentations, surrenders, notices and demands.

Section 7.3 Amounts for Note Payments to be Held in Trust.

(a) All payments of amounts due and payable with respect to any Notes that are to be made from amounts withdrawn from the Payment Account shall be made on behalf of the Issuer and the Co-Issuer by the Trustee or a Paying Agent (in each case, from and to the extent of available funds in the Payment Account and subject to the Priority of Payments) with respect to payments on the Notes.

When the Paying Agent is not also the Notes Registrar, the Issuer and the Co-Issuer shall furnish, or cause the Notes Registrar to furnish, no later than the fifth calendar day after each Record Date a list, if necessary, in such form as such Paying Agent may reasonably request, of the names and addresses of the Holders of Notes and of the certificate numbers of individual Notes held by each such Holder.

Whenever the Paying Agent is not also the Trustee, the Issuer, the Co-Issuer, and such Paying Agent shall, on or before the Business Day next preceding each Payment Date or Redemption Date, as the case may be, direct the Trustee to deposit on such Payment Date with such Paying Agent, if necessary, an aggregate sum sufficient to pay the amounts then becoming due pursuant to the terms of this Indenture (to the extent funds are then available for such purpose in the Payment Account, and subject to the Priority of Payments), such sum to be held for the benefit of the Persons entitled thereto and (unless such Paying Agent is the Trustee) the Issuer and the Co-Issuer shall promptly notify the Trustee of its action or failure so to act. Any amounts deposited with a Paying Agent (other than the Trustee) in excess of an amount sufficient to pay the amounts then becoming due on the Notes with respect to which such deposit was made shall be paid over by such Paying Agent to the Trustee for application in accordance with Article 11. Any such Paying Agent shall be deemed to agree by assuming such role not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Permitted Subsidiary for the non-payment to the Paying Agent of any amounts payable thereto until at least one year and one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes issued under this Indenture.

The initial Paying Agent shall be as set forth in Section 7.2. Any additional or successor Paying Agents shall be appointed by Issuer Order of the Issuer and Issuer Order of the Co-Issuer with written notice thereof to the Trustee; provided, however, that so long as any Class of the Notes are rated by a Rating Agency and with respect to any additional or successor Paying Agent for the Notes, either (i) such Paying Agent has a long-term debt rating of "Aa3" or higher by Moody's, "AA-"or higher by Fitch and "AA-" or higher by S&P or a short-term debt rating of "P-1" by Moody's, "F1+" by Fitch and "A-1+" by S&P or (ii) the Rating Agency confirms that

employing such Paying Agent shall not adversely affect the then-current ratings of the Notes. In the event that such successor Paying Agent ceases to have a long-term debt rating of "Aa3" or higher by Moody's, "AA-"or higher by Fitch or "AA-" or higher by S&P or a short-term debt rating of at least "P-1" by Moody's, "F1+" by Fitch and "A-1+" by S&P, the Issuer and the Co-Issuer shall promptly remove such Paying Agent and appoint a successor Paying Agent. The Issuer and the Co-Issuer shall not appoint any Paying Agent that is not, at the time of such appointment, a depository institution or trust company subject to supervision and examination by federal and/or state and/or national banking authorities. The Issuer and the Co-Issuer shall cause the Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee (and if the Trustee acts as Paying Agent, it hereby so agrees), subject to the provisions of this Section 7.3, that such Paying Agent will:

(a) allocate all sums received for payment to the Holders of Notes for which it acts as Paying Agent on each Payment Date and Redemption Date among such Holders in the proportion specified in the applicable report or Redemption Date Statement, as the case may be, in each case to the extent permitted by applicable law;

(b) hold all sums held by it for the payment of amounts due with respect to the Notes for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided and pay such sums to such Persons as herein provided;

(c) if such Paying Agent is not the Trustee, immediately resign as a Paying Agent and forthwith pay to the Trustee all sums held by it for the payment of Notes if at any time it ceases to meet the standards set forth above required to be met by a Paying Agent at the time of its appointment;

(d) if such Paying Agent is not the Trustee, immediately give the Trustee notice of any Default by the Issuer or the Co-Issuer (or any other obligor upon the Notes) in the making of any payment required to be made; and

(e) if such Paying Agent is not the Trustee at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held by such Paying Agent.

The Issuer or the Co-Issuer may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Issuer Order direct the Paying Agent to pay, to the Trustee all sums held by the Issuer or the Co-Issuer or held by the Paying Agent for payment of the Notes, such sums to be held by the Trustee in trust for the same Noteholders as those upon which such sums were held by the Issuer, the Co-Issuer or the Paying Agent; and, upon such payment by the Paying Agent to the Trustee, the Paying Agent shall be released from all further liability with respect to such amounts.

Except as otherwise required by applicable law, any amounts deposited with the Trustee in trust or deposited with the Paying Agent for the payment of the principal of or interest on any Note and remaining unclaimed for two years after such principal or interest has become due and payable shall be paid to the Issuer; and the Holder of such Note shall thereafter, as an

unsecured general creditor, look only to the Issuer for payment of such amounts and all liability of the Trustee or the Paying Agent with respect to such amounts (but only to the extent of the amounts so paid to the Issuer or the Co-Issuer, as applicable) shall thereupon cease. The Trustee or the Paying Agent, before being required to make any such release of payment, may, but shall not be required to, adopt and employ, at the expense of the Issuer or the Co-Issuer, as the case may be, any reasonable means of notification of such release of payment, including, but not limited to, mailing notice of such release to Holders whose Notes have been called but have not been surrendered for redemption or whose right to or interest in amounts due and payable but not claimed is determinable from the records of the Paying Agent, at the last address of record of each such Holder.

Section 7.4 Existence of the Issuer and Co-Issuer.

(a) So long as any Note is Outstanding, the Issuer shall, to the maximum extent permitted by applicable law, maintain in full force and effect its existence and rights as an exempted company incorporated with limited liability under the laws of the Cayman Islands and shall obtain and preserve its qualification to do business as a foreign limited liability company in each jurisdiction in which such qualifications are or shall be necessary to protect the validity and enforceability of this Indenture, the Notes or any of the Assets; provided that the Issuer shall be entitled to change its jurisdiction of registration from the Cayman Islands to any other jurisdiction reasonably selected by the Issuer so long as (i) such change is not disadvantageous in any material respect to the Holders of the Notes or the Preferred Shares, (ii) written notice of such change shall have been given by the Trustee to the Holders of the Notes or Preferred Shares, the Preferred Shares Paying Agent and the Rating Agency 15 Business Days prior to such change and (iii) on or prior to the 15th Business Day following such notice the Trustee shall not have received written notice from a Majority of the Controlling Class or a Majority of Preferred Shareholders objecting to such change. So long as any Note is Outstanding, the Issuer will maintain at all times at least one director who is Independent of the Loan Obligation Manager and its Affiliates.

(b) So long as any Note is Outstanding, the Co-Issuer shall maintain in full force and effect its existence and rights as a limited liability company organized under the laws of Delaware and shall obtain and preserve its qualification to do business as a foreign limited liability company in each jurisdiction in which such qualifications are or shall be necessary to protect the validity and enforceability of this Indenture or the Notes; provided, however, that the Co-Issuer shall be entitled to change its jurisdiction of formation from Delaware to any other jurisdiction reasonably selected by the Co-Issuer so long as (i) such change is not disadvantageous in any material respect to the Holders of the Notes, (ii) written notice of such change shall have been given by the Trustee to the Holders of the Notes and the Rating Agency 15 Business Days prior to such change and (iii) on or prior to the 15th Business Day following such notice the Trustee shall not have received written notice from a Majority of the Controlling Class objecting to such change. So long as any Note is Outstanding, the Co-Issuer shall maintain at all times at least one manager who is Independent of the Loan Obligation Manager and its Affiliates.

(c) So long as any Note is Outstanding, the Issuer shall ensure that all corporate or other formalities regarding its existence are followed (including correcting any

known misunderstanding regarding its separate existence). So long as any Note is Outstanding, the Issuer shall not take any action or conduct its affairs in a manner that is likely to result in its separate existence being ignored or its assets and liabilities being substantively consolidated with any other Person in a bankruptcy, reorganization or other insolvency proceeding. So long as any Note is Outstanding, the Issuer shall maintain and implement administrative and operating procedures reasonably necessary in the performance of the Issuer's obligations hereunder, and the Issuer shall at all times keep and maintain, or cause to be kept and maintained, separate books, records, accounts and other information customarily maintained for the performance of the Issuer's obligations hereunder. Without limiting the foregoing, so long as any Note is Outstanding, (i) the Issuer shall (A) pay its own liabilities only out of its own funds and (B) use separate stationery, invoices and checks, (C) hold itself out and identify itself as a separate and distinct entity under its own name and (ii) the Issuer shall not (A) have any subsidiaries (other than a Permitted Subsidiary and, in the case of the Issuer, the Co-Issuer), (B) have any employees (other than its directors), (C) engage in any transaction with any shareholder that is not permitted under the terms of the Loan Obligation Management Agreement, (D) pay dividends other than in accordance with the terms of this Indenture, its governing documents and the Preferred Share Paying Agency Agreement, (E) conduct business under an assumed name (i.e., no "DBAs"), (F) commingle its funds or assets with those of any other Person, or (G) enter into any contract or agreement with any of its Affiliates, except upon terms and conditions that are commercially reasonable and substantially similar to those available in arm's-length transactions; provided that the foregoing shall not prohibit the Issuer from entering into the transactions contemplated by the Registered Office Agreement with the registered office provider, the Company Administration Agreement with the Company Administrator, the Preferred Share Paying Agency Agreement with the Share Registrar and any other agreement contemplated or permitted by the Loan Obligation Management Agreement or this Indenture.

(d) So long as any Note is Outstanding, the Co-Issuer shall ensure that all limited liability company or other formalities regarding its existence are followed, as well as correcting any known misunderstanding regarding its separate existence. The Co-Issuer shall not take any action or conduct its affairs in a manner, that is likely to result in its separate existence being ignored or its assets and liabilities being substantively consolidated with any other Person in a bankruptcy, reorganization or other insolvency proceeding. The Co-Issuer shall maintain and implement administrative and operating procedures reasonably necessary in the performance of the Co-Issuer's obligations hereunder, and the Co-Issuer shall at all times keep and maintain, or cause to be kept and maintained, books, records, accounts and other information customarily maintained for the performance of the Co-Issuer's obligations hereunder. Without limiting the foregoing, the Co-Issuer shall not (A) have any subsidiaries, (B) have any employees (other than its managers), (C) join in any transaction with any member that is not permitted under the terms of the Loan Obligation Management Agreement, (D) pay dividends other than in accordance with the terms of this Indenture, (E) commingle its funds or assets with those of any other Person, or (F) enter into any contract or agreement with any of its Affiliates, except upon terms and conditions that are commercially reasonable and substantially similar to those available in arm's-length transactions with an unrelated party.

Section 7.5 Protection of Assets.

(a) The Trustee, on behalf of the Issuer, pursuant to any Opinion of Counsel received pursuant to Section 7.5(d) shall execute and deliver all such Financing Statements, continuation statements, instruments of further assurance and other instruments, and shall take such other action as may be necessary or advisable or desirable to secure the rights and remedies of the Holders and to:

(i) Grant more effectively all or any portion of the Assets;

(ii) maintain or preserve the lien (and the priority thereof) of this Indenture or to carry out more effectively the purposes hereof;

(iii) perfect, publish notice of or protect the validity of any Grant made or to be made by this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations);

(iv) enforce any of the Assets or other instruments or property included in the Assets;

(v) preserve and defend title to the Assets and the rights of the Trustee, the Holders of the Notes in the Assets against the claims of all persons and parties; and

(vi) pursuant to Sections 11.1(a)(i)(1) and 11.1(a)(ii)(1), pay or cause to be paid any and all taxes levied or assessed upon all or any part of the Assets.

The Issuer hereby designates the Trustee as its agent and attorney-in-fact to execute any Financing Statement, continuation statement or other instrument required pursuant to this Section 7.5. The Trustee agrees that it will from time to time execute and cause to be filed Financing Statements and continuation statements (it being understood that the Trustee shall be entitled to rely upon an Opinion of Counsel described in Section 7.5(d), at the expense of the Issuer, as to the need to file such Financing Statements and continuation statements, the dates by which such filings are required to be made and the jurisdictions in which such filings are required to be made).

(b) The Trustee shall not (except in accordance with Section 10.12(a), (b) or (c) and except for payments, deliveries and distributions otherwise expressly permitted under this Indenture) (i) remove any portion of the Assets that consists of Cash or is evidenced by an instrument, certificate or other writing (A) from the jurisdiction in which it was held at the date as described in the Opinion of Counsel delivered at the Closing Date pursuant to Section 3.1(d) or (B) from the possession of the Person who held it on such date or (ii) cause or permit the Custodial Account or the Custodial Securities Intermediary to be located in a different jurisdiction from the jurisdiction in which such securities accounts and Custodial Securities Intermediary were located on the Closing Date, unless the Trustee shall have first received an Opinion of Counsel to the effect that the lien and security interest created by this Indenture with respect to such property will continue to be maintained after giving effect to such action or actions.

(c) The Issuer shall (i) pay or cause to be paid taxes, if any, levied on account of the beneficial ownership by the Issuer of any Assets that secure the Notes and timely file all tax returns and information statements as required, and (ii) if required to prevent the withholding or imposition of United States income tax, deliver or cause to be delivered a United States Internal Revenue Service Form W-9 (or the applicable form W-8, if appropriate) or successor applicable form, to each borrower, counterparty or paying agent with respect to (as applicable) an item included in the Assets at the time such item is purchased or entered into and thereafter prior to the expiration or obsolescence of such form.

(d) For so long as the Notes are Outstanding, (i) on December 31, 2013 and (ii) every 60 months after such date, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall deliver to the Trustee for the benefit of the Trustee, the Loan Obligation Manager and the Rating Agency, at the expense of the Issuer, an Opinion of Counsel stating what is required, in the opinion of such counsel, as of the date of such opinion, to maintain the lien and security interest created by this Indenture with respect to the Assets, and confirming the matters set forth in the Opinion of Counsel, furnished pursuant to Section 3.1(d), with regard to the perfection and priority of such security interest (and such Opinion of Counsel may likewise be subject to qualifications and assumptions similar to those set forth in the Opinion of Counsel delivered pursuant to Section 3.1(d)).

Section 7.6 Notice of Any Amendments.

Each of the Issuer and the Co-Issuer shall give notice to the Rating Agency of, and satisfy the Rating Agency Condition with respect to, any amendments to its Governing Documents.

Section 7.7 Performance of Obligations.

(a) Each of the Issuer and the Co-Issuer shall not take any action, and will use commercially reasonable efforts not to permit any action to be taken by others, that would release any Person from any of such Person's covenants or obligations under any instrument included in the Assets, except in the case of enforcement action taken with respect to any Defaulted Obligation in accordance with the provisions hereof and as otherwise required hereby.

(b) The Issuer or the Co-Issuer may, with the prior written consent of the Majority of the Notes (or if there are no Notes Outstanding, a Majority of Preferred Shareholders), contract with other Persons, including the Loan Obligation Manager or the Trustee, for the performance of actions and obligations to be performed by the Issuer or the Co-Issuer, as the case may be, hereunder by such Persons and the performance of the actions and other

obligations with respect to the Assets of the nature set forth in the Loan Obligation Management Agreement by the Loan Obligation Manager. Notwithstanding any such arrangement, the Issuer or the Co-Issuer, as the case may be, shall remain primarily liable with respect thereto. In the event of such contract, the performance of such actions and obligations by such Persons shall be deemed to be performance of such actions and obligations by the Issuer or the Co-Issuer; and the Issuer or the Co-Issuer shall punctually perform, and use commercially reasonable efforts to cause the Loan Obligation Manager or such other Person to perform, all of

their obligations and agreements contained in the Loan Obligation Management Agreement or such other agreement.

(c) Unless the Rating Agency Condition is satisfied with respect thereto, the Issuer shall maintain the Servicing Agreement in full force and effect so long as any Notes remain Outstanding and shall not terminate the Servicing Agreement with respect to any Loan Obligation except upon the sale or other liquidation of such Loan Obligation in accordance with the terms and conditions of this Indenture.

(d) If the Co-Issuers receive a notice from the Rating Agency stating that they are not in compliance with Rule 17g-5, the Co-Issuers shall take such action as mutually agreed between the Co-Issuers and the Rating Agency in order to comply with Rule 17g-5.

Section 7.8 Negative Covenants.

(a) The Issuer and the Co-Issuer shall not:

(i) sell, assign, participate, transfer, exchange or otherwise dispose of, or pledge, mortgage, hypothecate or otherwise encumber (or permit such to occur or suffer such to exist), any part of the Assets, except as otherwise expressly permitted by this Indenture or the Loan Obligation Management Agreement;

(ii) claim any credit on, make any deduction from, or dispute the enforceability of, the payment of the principal or interest payable in respect of the Notes (other than amounts required to be paid, deducted or withheld in accordance with any applicable law or regulation of any governmental authority) or assert any claim against any present or future Noteholder by reason of the payment of any taxes levied or assessed upon any part of the Assets;

(iii) (A) incur or assume or guarantee any indebtedness, other than the Notes and this Indenture and the transactions contemplated hereby; (B) issue any additional class of securities, other than the Notes, the Preferred Shares, the ordinary shares of the Issuer and the limited liability company membership interests of the Co-Issuer; or (C) issue any additional shares of stock, other than the ordinary shares of the Issuer and the Preferred Shares;

(iv) (A) permit the validity or effectiveness of this Indenture or any Grant hereunder to be impaired, or permit the lien of this Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to this Indenture or the Notes, except as may be expressly permitted hereby; (B) permit any lien, charge, adverse claim, security interest, mortgage or other encumbrance (other than the lien of this Indenture) to be created on or extend to or otherwise arise upon or burden the Assets or any part thereof, any interest therein or the proceeds thereof, except as may be expressly permitted hereby; or (C) take any action that would permit the lien of this Indenture not to constitute a valid first priority security interest in the Assets, except as may be expressly permitted hereby;

(v) amend the Loan Obligation Management Agreement, except pursuant to the terms thereof;

(vi) amend the Preferred Share Paying Agency Agreement, except pursuant to the terms thereof;

(vii) to the maximum extent permitted by applicable law, dissolve or liquidate in whole or in part, except as permitted hereunder;

(viii) make or incur any capital expenditures, except as reasonably required to perform its functions in accordance with the terms of this Indenture and, in the case of the Issuer, the Preferred Share Paying Agency Agreement;

(ix) become liable in any way, whether directly or by assignment or as a guarantor or other surety, for the obligations of the lessee under any lease, hire any employees or pay any dividends to its shareholders, except with respect to the Preferred Shares in accordance with the Priority of Payments;

(x) maintain any bank accounts other than the Accounts and the bank account in the Cayman Islands in which (*inter alia*) the proceeds of the Issuer's issued share capital and the transaction fees paid to the Issuer for agreeing to issue the Securities will be kept;

(xi) conduct business under an assumed name, or change its name without first delivering at least 30 days' prior written notice to the Trustee, the Noteholders and the Rating Agency and an Opinion of Counsel to the effect that such name change will not adversely affect the security interest hereunder of the Trustee or the Secured Parties;

(xii) take any action that would result in it failing to qualify as a Qualified REIT Subsidiary of the Arbor Parent for federal income tax purposes (including, but not limited to, an election to treat the Issuer as a "taxable REIT subsidiary," as defined in Section 856(l) of the Code), unless (A) based on an Opinion of Counsel, the Issuer will be treated as a Qualified REIT Subsidiary of a REIT other than Arbor Parent, or (B) based on an Opinion of Counsel, the Issuer will be treated as a foreign corporation that is not engaged in a trade or business in the United States for U.S. federal income tax purposes;

(xiii) except for any agreements involving the purchase and sale of Loan Obligations having customary purchase or sale terms and documented with customary loan trading documentation, enter into any agreements unless such agreements contain "non-petition" and "limited recourse" provisions;

(xiv) amend their respective organizational documents without satisfaction of the Rating Agency Condition in connection therewith; or

(xv) with respect to any Loan Obligation that by its terms permits the conversion from a LIBOR-based interest rate to a fixed interest rate, convert such Loan Obligation from a LIBOR-based interest rate to a fixed interest rate.

(b) Neither the Issuer nor the Trustee shall sell, transfer, exchange or otherwise dispose of Assets, or enter into or engage in any business with respect to any part of the Assets, except as expressly permitted or required by this Indenture or the Loan Obligation Management Agreement.

(c) The Co-Issuer shall not invest any of its assets in "securities" (as such term is defined in the 1940 Act) and shall keep all of the Co-Issuer's assets in Cash.

(d) For so long as any of the Notes are Outstanding, the Co-Issuer shall not issue any limited liability company membership interests of the Co-Issuer to any Person other than the Arbor Parent or a wholly-owned subsidiary of the Arbor Parent.

(e) The Issuer shall not enter into any material new agreements (other than any Loan Obligation, Loan Obligation Purchase Agreement or other agreement (including, without limitation, in connection with the sale of Assets by the Issuer) contemplated by this Indenture) without the prior written consent of the Holders of a Majority of the Notes (or if there are no Notes Outstanding, a Majority of Preferred Shareholders) and shall provide notice of all new agreements (other than any Loan Obligation or other agreement specifically contemplated by this Indenture) to the Holders of the Notes. The foregoing notwithstanding, the Issuer may agree to any material new agreements; provided that (i) the Issuer (or the Loan Obligation Manager on behalf of the Issuer) determines that such new agreements would not, upon or after becoming effective, adversely affect the rights or interests of any Class or Classes of Noteholders and (ii) subject to satisfaction of the Rating Agency Condition.

(f) As long as any Note is Outstanding, ARMS Equity may not transfer the Preferred Shares or ordinary shares of the Issuer to any other Person (except to an affiliate that is wholly-owned by the Arbor Parent and is disregarded for U.S. federal income tax purposes) unless the Issuer receives an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters that such transfer will not cause the Issuer to be treated as a foreign corporation engaged in a trade or business in the United States for federal income tax purposes, or has previously received an opinion of Cadwalader, Wickersham & Taft LLP or another nationally recognized tax counsel experienced in such matters that the Issuer will be treated as a foreign corporation that is not engaged in a trade or business in the United States for federal income tax purposes.

Section 7.9 Statement as to Compliance.

On or before January 31, in each calendar year, commencing in 2013 or immediately if there has been a Default in the fulfillment of an obligation under this Indenture, the Issuer shall deliver to the Trustee (which will deliver a copy to the Rating Agency) an Officer's Certificate given on behalf of the Issuer and without personal liability stating, as to each signer thereof, that, since the date of the last certificate or, in the case of the first certificate, the Closing Date, to the best of the knowledge, information and belief of such Officer, the Issuer has fulfilled all of its obligations under this Indenture or, if there has been a Default in the fulfillment of any such obligation, specifying each such Default known to them and the nature and status thereof.

Section 7.10 Issuer and Co-Issuer May Consolidate or Merge Only on Certain Terms.

(a) The Issuer shall not consolidate or merge with or into any other Person or transfer or convey all or substantially all of its assets to any Person, unless permitted by the Governing Documents and Cayman Islands law and unless:

(i) the Issuer shall be the surviving entity, or the Person (if other than the Issuer) formed by such consolidation or into which the Issuer is merged or to which all or substantially all of the assets of the Issuer are transferred shall be an entity organized and existing under the laws of the Cayman Islands or such other jurisdiction approved by a Majority of each and every Class of the Notes (each voting as a separate Class), and a Majority of Preferred Shareholders; provided that no such approval shall be required in connection with any such transaction undertaken solely to effect a change in the jurisdiction of registration pursuant to Section 7.4 hereof; and provided, further, that the surviving entity shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee and each Noteholder, the due and punctual payment of the principal of and interest on all Notes and other amounts payable hereunder and under the Loan Obligation Management Agreement and the performance and observance of every covenant of this Indenture and the Loan Obligation Management Agreement on the part of the Issuer to be

performed or observed, all as provided herein;

(ii) the Rating Agency Condition shall be satisfied;

(iii) if the Issuer is not the surviving entity, the Person formed by such consolidation or into which the Issuer is merged or to which all or substantially all of the assets of the Issuer are transferred shall have agreed with the Trustee (A) to observe the same legal requirements for the recognition of such formed or surviving entity as a legal entity separate and apart from any of its Affiliates as are applicable to the Issuer with respect to its Affiliates and (B) not to consolidate or merge with or into any other Person or transfer or convey all or substantially all of the Assets or all or substantially all of its assets to any other Person except in accordance with the provisions of this Section 7.10, unless in connection with a sale of the Assets pursuant to Article 5, Article 9 or Article 12;

(iv) if the Issuer is not the surviving entity, the Person formed by such consolidation or into which the Issuer is merged or to which all or substantially all of the assets of the Issuer are transferred shall have delivered to the Trustee, the Loan Obligation Manager and the Rating Agency an Officer's Certificate and an Opinion of Counsel each stating that such Person is duly organized, validly existing and in good standing in the jurisdiction in which such Person is organized; that such Person has sufficient power and authority to assume the obligations set forth in Section 7.10(a)(i) above and to execute and deliver an indenture supplemental hereto for the purpose of assuming such obligations; that such Person has duly authorized the execution, delivery and performance of an indenture supplemental hereto for the purpose of assuming such obligations and that such supplemental indenture is a valid, legal and binding obligation of such Person, enforceable in accordance with its terms, subject only to bankruptcy,

reorganization, insolvency, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); that, immediately following the event which causes such Person to become the successor to the Issuer, (A) such Person has good and marketable title, free and clear of any lien, security interest or charge, other than the lien and security interest of this Indenture, to the Assets securing, in the case of a consolidation or merger of the Issuer, all of the Notes or, in the case of any transfer or conveyance of the Assets securing any of the Notes, such Notes, (B) the Trustee continues to have a valid perfected first priority security interest in the Assets securing, in the case of a consolidation or merger of the Issuer, all of the Notes, or, in the case of any transfer or conveyance of the Assets securing any of the Notes, such Notes and (C) such other matters as the Trustee, the Loan Obligation Manager or any Noteholder may reasonably require;

(v) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(vi) the Issuer shall have delivered to the Trustee, the Preferred Shares Paying Agent, the Loan Obligation Manager and each Noteholder, an Officer's Certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer or conveyance and such supplemental indenture comply with this Article 7 and that all conditions precedent in this Article 7 provided for relating to such transaction have been complied with;

(vii) the Issuer has received an opinion from Cadwalader, Wickersham & Taft LLP or an opinion of other nationally recognized U.S. tax counsel experienced in such matters that the Issuer or the Person referred to in clause (a) either will (a) be treated as a Qualified REIT Subsidiary or (b) be treated as a foreign corporation not engaged in a U.S. trade or business or otherwise not subject to U.S. federal income tax on a net income tax basis;

(viii) the Issuer has received an opinion from Cadwalader, Wickersham & Taft LLP or an opinion of other nationally recognized U.S. tax counsel experienced in such matters that such action will not adversely affect the tax treatment of the Noteholders as described in the Offering Memorandum under the heading "Certain U.S. Federal Income Tax Considerations" to any material extent; and

(ix) after giving effect to such transaction, the Issuer shall not be required to register as an investment company under the 1940 Act.

(b) The Co-Issuer shall not consolidate or merge with or into any other Person or transfer or convey all or substantially all of its assets to any Person, unless no Notes remain Outstanding or:

(i) the Co-Issuer shall be the surviving entity, or the Person (if other than the Co-Issuer) formed by such consolidation or into which the Co-Issuer is merged or to which all or substantially all of the assets of the Co-Issuer are transferred shall be a

company organized and existing under the laws of Delaware or such other jurisdiction approved by a Majority of the Controlling Class; provided that no such approval shall be required in connection with any such transaction undertaken solely to effect a change in the jurisdiction of formation pursuant to Section 7.4; and provided, further, that the surviving entity shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee and each Noteholder, the due and punctual payment of the principal of and interest on all Notes and the performance and observance of every covenant of this Indenture on the part of the Co-Issuer to be performed or observed, all as provided herein;

(ii) the Rating Agency Condition has been satisfied;

(iii) if the Co-Issuer is not the surviving entity, the Person formed by such consolidation or into which the Co-Issuer is merged or to which all or substantially all of the assets of the Co-Issuer are transferred shall have agreed with the Trustee (A) to observe the same legal requirements for the recognition of such formed or surviving entity as a legal entity separate and apart from any of its Affiliates as are applicable to the Co-Issuer with respect to its Affiliates and (B) not to consolidate or merge with or into any other Person or transfer or convey all or substantially all of its assets to any other Person except in accordance with the provisions of this Section 7.10;

(iv) if the Co-Issuer is not the surviving entity, the Person formed by such consolidation or into which the Co-Issuer is merged or to which all or substantially all of the assets of the Co-Issuer are transferred shall have delivered to the Trustee and the Rating Agency an Officer's Certificate and an Opinion of Counsel each stating that such Person is duly organized, validly existing and in good standing in the jurisdiction in which such Person is organized; that such Person has sufficient power and authority to assume the obligations set forth in Section 7.10(b)(i) above and to execute and deliver an indenture supplemental hereto for the purpose of assuming such obligations; that such Person has duly authorized the execution, delivery and performance of an indenture supplemental hereto for the purpose of assuming such obligations and that such supplemental indenture is a valid, legal and binding obligation of such Person, enforceable in accordance with its terms, subject only to bankruptcy, reorganization, insolvency, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); such other matters as the Trustee or any Noteholder may reasonably require;

(v) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(vi) the Co-Issuer shall have delivered to the Trustee, the Preferred Shares Paying Agent and each Noteholder an Officer's Certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer or conveyance and such supplemental indenture comply with this Article 7 and that all conditions precedent in this Article 7 provided for relating to such transaction have been complied with and that

no adverse tax consequences will result therefrom to the Holders of the Notes or the Preferred Shareholders; and

(vii) after giving effect to such transaction, the Co-Issuer shall not be required to register as an investment company under the 1940 Act.

Section 7.11 Successor Substituted.

Upon any consolidation or merger, or transfer or conveyance of all or substantially all of the assets of the Issuer or the Co-Issuer, in accordance with Section 7.10 hereof, the Person formed by or surviving such consolidation or merger (if other than the Issuer or the Co-Issuer), or the Person to which such consolidation, merger, transfer or conveyance is made, shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer or the Co-Issuer, as the case may be, under this Indenture with the same effect as if such Person had been named as the Issuer or the Co-Issuer, as the case may be, herein. In the event of any such consolidation, merger, transfer or conveyance, the Person named as the "Issuer" or the "Co-Issuer" in the first paragraph of this Indenture or any successor which shall theretofore have become such in the manner prescribed in this Article 7 may be dissolved, wound-up and liquidated at any time thereafter, and such Person thereafter shall be released from its liabilities as obligor and maker on all the Notes and from its obligations under this Indenture.

Section 7.12 No Other Business.

The Issuer shall not engage in any business or activity other than issuing and selling the Notes pursuant to this Indenture and any supplements thereto, issuing its ordinary shares and issuing and selling the Preferred Shares in accordance with its Governing Documents, the Loan Obligation Management Agreement, and acquiring, owning, holding, disposing of and pledging the Assets in connection with the Notes and such other activities which are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith. The Co-Issuer shall not engage in any business or activity other than issuing and selling the Notes pursuant to this Indenture and any supplements thereto and such other activities which are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith.

Section 7.13 Reporting.

At any time when the Issuer and/or the Co-Issuer is not subject to Section 13 or 15(d) of the Exchange Act and is not exempt from reporting pursuant to Rule 12g3-2(b) under the Exchange Act, upon the request of a Holder or beneficial owner of a Note, the Issuer and/or the Co-Issuer shall promptly furnish or cause to be furnished "Rule 144A Information" (as defined below) to such Holder or beneficial owner, to a prospective purchaser of such Note designated by such Holder or beneficial owner or to the Trustee for delivery to such Holder or beneficial owner or a prospective purchaser designated by such Holder or beneficial owner, as the case may be, in order to permit compliance by such Holder or beneficial owner with Rule 144A under the Securities Act in connection with the resale of such Note by such Holder or beneficial owner. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act (or any successor provision thereto). The Trustee shall

reasonably cooperate with the Issuer and/or the Co-Issuer in mailing or otherwise distributing (at the Issuer's expense) to such Noteholders or prospective purchasers, at and pursuant to the Issuer's and/or the Co-Issuer's written direction the foregoing materials prepared by or on behalf of the Issuer and/or the Co-

Issuer; provided, however, that the Trustee shall be entitled to prepare and affix thereto or enclose therewith reasonable disclaimers to the effect that such Rule 144A Information was not assembled by the Trustee, that the Trustee has not reviewed or verified the accuracy thereof, and that it makes no representation as to such accuracy or as to the sufficiency of such information under the requirements of Rule 144A or for any other purpose.

Section 7.14 Calculation Agent.

(a) The Issuer and the Co-Issuer hereby agree that for so long as any Notes remain Outstanding there shall at all times be an agent appointed to calculate LIBOR in respect of each Interest Accrual Period in accordance with the terms of Schedule B attached hereto (the "Calculation Agent"). The Issuer and the Co-Issuer initially have appointed the Trustee as Calculation Agent for purposes of determining LIBOR for each Interest Accrual Period. The Calculation Agent may be removed by the Issuer at any time. The Calculation Agent may resign at any time by giving written notice thereof to the Issuer, the Co-Issuer, the Loan Obligation Manager, the Noteholders and the Rating Agency. If the Calculation Agent is unable or unwilling to act as such or is removed by the Issuer in respect of any Interest Accrual Period, the Issuer and the Co-Issuer shall promptly appoint as a replacement Calculation Agent a leading bank which is engaged in transactions in Eurodollar deposits in the international Eurodollar market and which does not control or is not controlled by or under common control with the Issuer or its Affiliates. The Calculation Agent may not resign its duties without a successor having been duly appointed. If no successor Calculation Agent shall have been appointed within 30 days after giving of a notice of resignation, the resigning Calculation Agent, a Majority of the Notes or any Holder of a Note, on behalf of himself and all others similarly situated, may petition a court of competent jurisdiction for the appointment of a successor Calculation Agent.

(b) The Calculation Agent shall be required to agree that, as soon as practicable after 11:00 a.m. (London time) on each LIBOR Determination Date (as defined in Schedule B attached hereto), but in no event later than 11:00 a.m. (New York time) on the London Banking Day immediately following each LIBOR Determination Date, the Calculation Agent shall calculate LIBOR for the next Interest Accrual Period and will communicate such rates to the Issuer, the Co-Issuer, the Trustee, the Loan Obligation Manager, the Paying Agent and, if any Note is in the form of a Regulation S Global Security, to Euroclear and Clearstream, Luxembourg. The Calculation Agent shall also specify to the Issuer and the Co-Issuer the quotations upon which LIBOR is based, and in any event the Calculation Agent shall notify the Issuer and the Co-Issuer before 5:00 p.m. (New York time) on each LIBOR Determination Date if it has not determined and is not in the process of determining LIBOR and the Interest Distribution Amounts for each Class of Notes, together with the reasons therefor. The determination of the Class A Rate and Class B Rate and the related Class A Interest Distribution Amount and Class B Interest Distribution Amount, respectively, by the Calculation Agent shall, absent manifest error, be final and binding on all parties.

Section 7.15 REIT Status.

(a) The Arbor Parent shall not take any action that results in the Issuer failing to qualify as a Qualified REIT Subsidiary of the Arbor Parent for federal income tax purposes, unless (A) based on an Opinion of Counsel, the Issuer will be treated as a Qualified REIT Subsidiary of a REIT other than Arbor Parent, or (B) based on an Opinion of Counsel, the Issuer will be treated as a foreign corporation that is not engaged in a trade or business in the United States for U.S. federal income tax purposes.

(b) If the Issuer is no longer a Qualified REIT Subsidiary, prior to the time that:

(i) any Loan Obligation would cause the Issuer to be treated as engaged in a trade or business in the United States or to become subject to U.S. federal tax on a net income basis,

(ii) the Issuer would acquire or receive any asset in connection with a workout or restructuring of a Loan Obligation that could cause the Issuer to be treated as engaged in a trade or business in the United States or to become subject to U.S. federal tax on a net income basis,

(iii) the Issuer would acquire the real property underlying any Loan Obligation pursuant to a foreclosure or deed-in-lieu of foreclosure, or

(iv) any Loan Obligation is modified in such a manner that could cause the Issuer to be treated as engaged in a trade or business in the United States or to become subject to U.S. federal tax on a net income basis,

the Issuer will either (x) organize one or more Permitted Subsidiaries and contribute the subject property to such Permitted Subsidiary, (y) contribute such Loan Obligation to an existing Permitted Subsidiary, or (z) sell such Loan Obligation in accordance with Section 12.1.

Section 7.16 Permitted Subsidiaries.

Notwithstanding any other provision of this Indenture, the Loan Obligation Manager on behalf of the Issuer shall be permitted to sell to a Permitted Subsidiary at any time any Sensitive Asset for consideration consisting entirely of the equity interests of such Permitted Subsidiary (or for an increase in the value of equity interests already owned). The Trustee shall, upon receipt of an Issuer Order certifying that the sale of a Sensitive Asset is being made in accordance with satisfaction of all requirements of this Indenture, release such Sensitive Asset and shall deliver such Sensitive Asset as specified in such Issuer Order. The following provisions shall apply to all Sensitive Assets and Permitted Subsidiaries:

(a) For all purposes under this Indenture, any Sensitive Asset transferred to a Permitted Subsidiary shall be treated as if it were an asset owned directly by the Issuer.

(b) Any distribution of Cash by a Permitted Subsidiary to the Issuer shall be characterized as Interest Proceeds or Principal Proceeds

to the same extent that such Cash would

have been characterized as Interest Proceeds or Principal Proceeds if received directly by the Issuer and each Permitted Subsidiary shall cause all proceeds of and collections on each Sensitive Asset owned by such Permitted Subsidiary to be deposited into the applicable Collection Account.

(c) To the extent applicable, the Issuer shall form one or more Securities Accounts with the Custodial Securities Intermediary for the benefit of each Permitted Subsidiary and shall, to the extent applicable, cause Sensitive Assets to be credited to such Securities Accounts.

(d) Notwithstanding the complete and absolute transfer of a Sensitive Asset to a Permitted Subsidiary, for purposes of measuring compliance with the Note Protection Tests, the ownership interests of the Issuer in a Permitted Subsidiary or any property distributed to the Issuer by a Permitted Subsidiary shall be treated as a continuation of its ownership of the Sensitive Asset that was transferred to such Permitted Subsidiary (and shall be treated as having the same characteristics as such Sensitive Asset).

(e) If the Trustee or any other authorized party takes any action under this Indenture to sell, liquidate or dispose of all or substantially all of the Assets, the Issuer or the Loan Obligation Manager on the Issuer's behalf shall cause each Permitted Subsidiary to sell each Sensitive Asset and all other assets held by such Permitted Subsidiary and distribute the proceeds of such sale, net of any amounts necessary to satisfy any related expenses and tax liabilities, to the Issuer in exchange for the equity interest in such Permitted Subsidiary held by the Issuer.

Section 7.17 Repurchase Requests.

If the Issuer, the Trustee or the Loan Obligation Manager receives or otherwise becomes aware of any request or demand whether oral or written that a Loan Obligation be repurchased or replaced arising from any breach of a representation or warranty made with respect to such Loan Obligation (any such request or demand, a "Repurchase Request") or a withdrawal of a Repurchase Request from any Person other than the CLO Servicer, then the Trustee or the Loan Obligation Manager on behalf of the Issuer, as applicable, shall promptly forward or otherwise provide written notice of such Repurchase Request or withdrawal of a Repurchase Request, as the case may be, to the CLO Servicer, and include the following statement in the related correspondence: "This is a "[Repurchase Request]/[withdrawal of a Repurchase Request]" under Section 3.01(c) of the Servicing Agreement relating to Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. requiring action by you as the "Repurchase Request Recipient" thereunder." Upon receipt of such Repurchase Request or withdrawal of a Repurchase Request by the Trustee or Loan Obligation Manager pursuant to the prior sentence, the CLO Servicer shall be deemed to be the Repurchase Request Recipient in respect of such Repurchase Request or withdrawal of a Repurchase Request, as the case may be, and shall be responsible for complying with the procedures set forth in Section 3.01(c) of the Servicing Agreement with respect to such Repurchase Request. If the Trustee, the Issuer or the Loan Obligation Manager receives notice or has knowledge of a withdrawal of a Repurchase Request of which notice has been previously received or given, and such notice was not received from or

copied to the CLO Servicer, then the Trustee or the Loan Obligation Manager on behalf of the Issuer, as applicable, shall promptly give notice of such withdrawal to the CLO Servicer.

Section 7.18 Purchase of Additional Loan Obligations.

The Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall, prior to the Portfolio Finalization Date, use commercially reasonable efforts to apply amounts on deposit in the Unused Proceeds Account to purchase Additional Loan Obligations in accordance with Section 10.4(d) (which shall be, and hereby are, Granted to the Trustee pursuant to the Granting Clause of this Indenture) for inclusion in the Assets upon receipt by the Trustee of an Issuer Order executed by the Issuer (or the Loan Obligation Manager on behalf of the Issuer) with respect thereto directing the Trustee to pay out the amount specified therein against delivery of the Additional Loan Obligation specified therein and a certificate of an Authorized Officer of the Issuer (or the Loan Obligation Manager), dated as of the trade date, and delivered to the Trustee on or prior to the date of such purchase and Grant, to the effect that after giving effect to such purchase and Grant of the Additional Loan Obligations, except for Closing Date Loan Obligations acquired during the Post-Closing Acquisition Period, the Eligibility Criteria are met with respect to the Additional Loan Obligations purchased. Each Additional Loan Obligation, except for Closing Date Loan Obligations acquired during the Post-Closing Acquisition Period, shall satisfy the applicable Eligibility Criteria.

Section 7.19 Portfolio Finalization Date Actions.

(a) The Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall cause to be delivered to the Trustee and the Rating Agency on the Portfolio Finalization Date an amended Schedule A listing all Loan Obligations Granted to the Trustee pursuant to Section 7.18 on or before the Portfolio Finalization Date and included in the Assets on the Portfolio Finalization Date, which schedule shall supersede any prior Schedule A delivered to the Trustee.

(b) Within 30 Business Days after the Portfolio Finalization Date, the Issuer shall provide, or (at the Issuer's expense) cause the Loan Obligation Manager to provide, the following documents to the Trustee and the Rating Agency: (A) a report of the Collateral Administrator (x) confirming the name of the borrower, the unpaid principal balance, coupon, maturity date and Moody's Rating with respect to each Additional Loan Obligation owned by the Issuer as of the Portfolio Finalization Date, and (y) confirming that, as of the Portfolio Finalization Date, the Note Protection Tests were satisfied (the " Portfolio Finalization Date Report") and (B) a certificate of the Loan Obligation Manager on behalf of the Issuer (x) certifying the receipt of an accountants' report that

specifies the agreed-upon procedures performed, at the request of the Issuer, on the items set forth in the Portfolio Finalization Date Report and (y) certifying that each Additional Loan Obligation, except for any Closing Date Loan Obligation acquired during the Post-Closing Acquisition Period, satisfied all of the Eligibility Criteria applicable to Additional Loan Obligations. If the Portfolio Finalization Date Report provided by the Collateral Administrator confirms that the immediately foregoing subclause (A) have been met, then a Moody's Portfolio Finalization Date Deemed Rating Confirmation shall occur. If, within such 30 Business Day period the Issuer, or the Loan Obligation Manager on behalf of the Issuer, fails to provide the items described in foregoing

subclauses (A) and (B) or any rating assigned as of the Closing Date to any Class of Notes has been downgraded or withdrawn, a " Rating Confirmation Failure" shall occur.

For the avoidance of doubt, the Loan Obligation Manager's certificate described in the foregoing clause (B) shall not include the Accountants' Report.

ARTICLE 8

SUPPLEMENTAL INDENTURES

Section 8.1 Supplemental Indentures Without Consent of Securityholders.

(a) Without the consent of the Holders of any Notes or any Preferred Shareholders, the Issuer, the Co-Issuer, when authorized by Board Resolutions of the Co-Issuers, and when authorized by the Trustee, the Trustee and, at any time and from time to time subject to the requirement provided below in this Section 8.1, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(i) evidence the succession of any Person to the Issuer or the Co-Issuer and the assumption by any such successor of the covenants of the Issuer or the Co-Issuer, as applicable, herein and in the Notes;

(ii) add to the covenants of the Issuer, the Co-Issuer or the Trustee for the benefit of the Holders of the Notes, Preferred Shareholders or to surrender any right or power herein conferred upon the Issuer or the Co-Issuer, as applicable;

(iii) convey, transfer, assign, mortgage or pledge any property to or with the Trustee, or add to the conditions, limitations or restrictions on the authorized amount, terms and purposes of the issue, authentication and delivery of the Notes;

(iv) evidence and provide for the acceptance of appointment hereunder of a successor Trustee and to add to or change any of the provisions of this Indenture as shall be necessary to facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Sections 6.9, 6.10 and 6.12 hereof;

(v) correct or amplify the description of any property at any time subject to the lien of this Indenture, or to better assure, convey and confirm unto the Trustee any property subject or required to be subject to the lien of this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations) or to subject any additional property to the lien of this Indenture;

(vi) modify the restrictions on and procedures for resales and other transfers of Notes to reflect any changes in applicable law or regulation (or the interpretation thereof) or to enable the Issuer and the Co-Issuer to rely upon any exemption from registration under the Securities Act, the Exchange Act or the 1940 Act or to remove restrictions on resale and transfer to the extent not required thereunder;

(vii) accommodate the issuance, if any, of Notes in global or book-entry form through the facilities of DTC or otherwise;

(viii) otherwise correct any inconsistency or cure any ambiguity, omission or mistake;

(ix) take any action commercially reasonably necessary or advisable to prevent the Issuer from failing to qualify as a Qualified REIT Subsidiary or other disregarded entity of a REIT for U.S. federal income tax purposes or otherwise being treated as a foreign corporation engaged in a trade or business in the United States for federal income tax purposes, or to prevent the Issuer, the Holders of the Notes, the Holders of the Preferred Shares or the Trustee from being subject to withholding or other taxes, fees or assessments or otherwise subject to U.S. federal, state, local or foreign income or franchise tax on a net income tax basis;

(x) evidence any waiver or elimination by the Rating Agency of any requirement or condition of the Rating Agency set forth herein or to amend or supplement any provision of this Indenture to the extent necessary to maintain the then-current ratings assigned to the Notes;

(xi) accommodate the settlement of the Notes in book-entry form through the facilities of DTC, Euroclear or Clearstream, Luxembourg or otherwise;

(xii) authorize the appointment of any listing agent, transfer agent, paying agent or additional registrar for any Class of Notes required or advisable in connection with the listing of any Class of Notes on any stock exchange, and otherwise to amend this Indenture to incorporate any changes required or requested by any governmental authority, stock exchange authority, listing agent, transfer agent, paying agent or additional registrar for any Class of Notes in connection therewith;

(xiii) evidence changes to applicable laws and regulations;

(xiv) reduce the minimum denominations required for transfer of the Notes;

(xv) modify the provisions of this Indenture with respect to reimbursement of Nonrecoverable Interest Advances if (a) the Loan Obligation Manager determines that the commercial mortgage securitization industry standard for such provisions has changed, in order to conform to such industry standard and (b) such modification does not adversely affect the status of Issuer for federal income tax purposes, as evidenced by an Opinion of Counsel;

(xvi) modify the procedures set forth in this Indenture relating to compliance with Rule 17g-5 of the Exchange Act; provided that the change would not materially increase the obligations of the Loan Obligation Manager, the Trustee, any paying agent, the servicer or the special servicer and would not adversely affect in any material respect the interests of any Noteholder or holder of the Preferred Shares; provided, further, that the Loan Obligation Manager must provide a copy of any such amendment to the

Information Agent for posting to the Rule 17g-5 Website and provide notice of any such amendment to the Rating Agency; and

(xvii) make any change to any other provisions with respect to matters or questions arising under this Indenture; provided that the required action will not adversely affect in any material respect the interests of any Noteholder not consenting thereto, as evidenced by (A) an Opinion of Counsel or (B) satisfaction of the Rating Agency Condition.

The Trustee is hereby authorized to join in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties, liabilities or immunities under this Indenture or otherwise, except to the extent required by law.

If any Class of Notes is Outstanding and rated, the Trustee shall not enter into any such supplemental indenture unless the Rating Agency Condition has been satisfied, the notice of which may be in electronic form. At the cost of the Issuer, the Trustee shall provide to each Noteholder and each holder of Preferred Shares and, for so long as any Class of Notes shall remain Outstanding and is rated, the Trustee shall provide to the Rating Agency a copy of any proposed supplemental indenture at least 15 Business Days prior to the execution thereof by the Trustee, and, for so long as such Notes are Outstanding and so rated, request written confirmation, which may be in electronic form, from each noteholder and holder of Preferred Shares, that such proposed supplemental indenture will not materially and adversely affect such Noteholder or holder of Preferred Shares, and, as soon as practicable after the execution by the Trustee, the Issuer and the Co-Issuer of any such supplemental indenture, provide to the Rating Agency a copy of the executed supplemental indenture. Following such initial 15 Business Day period, the Trustee will provide an additional 15 Business Days' notice to any Noteholder or holder of Preferred Shares that did not respond to the initial notice and, unless the Trustee is notified (after giving such initial 15 Business Days' notice and second 15 Business Days' notice, as applicable) by such Noteholder or such holder of Preferred Shares that such Person will be materially and adversely affected by the proposed supplemental indenture, the interests of such Person will be deemed not to be materially and adversely affected by such proposed supplemental indenture.

The Trustee shall not enter into any such supplemental indenture if (i) as a result of such supplemental indenture, the interests of any Holder of Securities would be materially and adversely affected thereby, unless the Majority of each and every Class of Notes or the Preferred Shares so affected have approved such supplemental indenture (but, in each case, disregarding any Securities beneficially owned by the Loan Obligation Manager or any of its affiliates) or (ii) such action would adversely affect the tax treatment of the Holders of the Notes as described in the Offering Memorandum under the heading "Certain U.S. Federal Income Tax Considerations" to any material extent or otherwise cause any of the statements described in the Offering Memorandum under the heading "Certain U.S. Federal Income Tax Considerations" to be inaccurate or incorrect to any material extent. The Trustee shall be entitled to rely upon (i) the receipt of notice from the Rating Agency or the Requesting Party, which may be in electronic form, that the Rating Agency Condition has been satisfied and (ii) receipt of an

Officer's Certificate of the Loan Obligation Manager certifying that, following provision of notice of such supplemental indenture to the Noteholders and holders of the Preferred Shares and expiry of the time period set forth in the above paragraph, that the Holders of Securities would not be materially and adversely affected by such supplemental indenture. Such determination shall be conclusive and binding on all present and future Holders of Securities. The Trustee shall not be liable for any such determination made in good faith and in reliance upon such Officer's Certificate.

Furthermore, the Trustee shall not enter into any such supplemental indenture unless the Trustee has received an Opinion of Counsel from Cadwalader, Wickersham & Taft LLP or other nationally recognized U.S. tax counsel experienced in such matters that the proposed supplemental indenture will not cause the Issuer to (x) fail to be treated as a Qualified REIT Subsidiary or other disregarded entity of a REIT for U.S. federal income tax purposes or (y) be treated as a foreign corporation that is engaged in a trade or business in the United States for U.S. federal income tax purposes.

(b) Notwithstanding Section 8.1(a) or any other provision of this Indenture, without the consent of the Holders of any Notes or any Preferred Shareholders, the Issuer, the Co-Issuer, when authorized by Board Resolutions of the Co-Issuers, and when authorized by the Trustee, the Trustee, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(i) conform this Indenture to the provisions described in this Offering Memorandum (or any supplement thereto);

(ii) to correct any defect or ambiguity in this Indenture in order to address any manifest error in any provision of this Indenture; and

(iii) to update this Indenture for any Moody's Test Modification in the manner set forth in Section 12.4 hereof.

Section 8.2 Supplemental Indentures with Consent of Securityholders .

Except as set forth below, the Trustee and the Co-Issuers may enter into one or more indentures supplemental hereto to add any provisions to, or change in any manner or eliminate any of the provisions of, this Indenture or modify in any manner the rights of the Holders of any Class of Notes or the Preferred Shares under this Indenture only (x) with the written consent of the Holders of a Majority in Aggregate Outstanding Amount of the Notes of each Class materially and adversely affected thereby (excluding any Notes owned by the Loan Obligation Manager or any of its Affiliates or by any accounts managed by them) and the Holder of Preferred Shares if materially and adversely affected thereby, by Act of said Securityholders delivered to the Trustee and the Co-Issuers, and (y) subject to satisfaction of the Rating Agency Condition, notice of which may be in electronic form. Unless the Trustee is notified (after giving (x) 15 Business Days' notice of such change to the Holders of each Class of Notes and the Holder of the Preferred Shares requesting notification by such Noteholders and holders of the Preferred Shares if any such Noteholders or holders of the Preferred Shares would be materially and adversely affected by the proposed supplemental indenture and (y) following such initial 15

Business Day period, an additional 15 Business Days' notice to any holder of Notes or Preferred Shares that did not respond to the initial notice) by Holders of a Majority in Aggregate Outstanding Amount of the Notes of any Class that such Class of Notes will be materially and adversely affected by the proposed supplemental indenture (and upon receipt of an Officer's Certificate of the Loan Obligation Manager), the interests of such Class and the interests of the Preferred Shares will be deemed not to be materially and adversely affected by such proposed supplemental indenture and the Trustee will be permitted to enter into such supplemental indenture. Such determinations shall be conclusive and binding on all present and future Noteholders. The consent of the Holders of the Preferred Shares shall be binding on all present and future Holders of the Preferred Shares. The Trustee shall not be liable for any such determination made in good faith and in reliance upon an Officer's Certificate of the Loan Obligation Manager.

Without the consent of (x) all of the Holders of each Outstanding Class of Notes materially adversely affected and (y) all of the Holders of the Preferred Shares materially adversely affected thereby, no supplemental indenture may:

(a) change the Stated Maturity Date of the principal of or the due date of any installment of interest on any Note, reduce the principal amount thereof or the Note Interest Rate thereon or the Redemption Price with respect to any Note, change the date of any scheduled distribution on the Preferred Shares, or the Redemption Price with respect thereto, change the earliest date on which any Note may be redeemed at the option of the Issuer, change the provisions of this Indenture that apply proceeds of any Assets to the payment of principal of or interest on Notes or of distributions to the Preferred Shares Paying Agent for the payment of distributions in respect of the Preferred Shares or change any place where, or the coin or currency in which, any Note or the principal thereof or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity Date thereof (or, in the case of redemption, on or after the applicable Redemption Date);

(b) reduce the percentage of the Aggregate Outstanding Amount of Holders of Notes of each Class or the Notional Amount of Preferred Shares of the Holders thereof whose consent is required for the authorization of any such supplemental indenture or for any waiver of compliance with certain provisions of this Indenture or certain Defaults hereunder or their consequences provided for in this Indenture;

(c) impair or adversely affect the Assets except as otherwise permitted in this Indenture;

(d) permit the creation of any lien ranking prior to or on a parity with the lien of this Indenture with respect to any part of the Assets or terminate such lien on any property at any time subject hereto or deprive the Holder of any Note, or the Holder of any Preferred Share as an indirect beneficiary, of the security afforded to such Holder by the lien of this Indenture;

(e) reduce the percentage of the Aggregate Outstanding Amount of Holders of Notes of each Class whose consent is required to request the Trustee to preserve the Assets or rescind the Trustee's election to preserve the Assets pursuant to Section 5.5 or to sell or liquidate the Assets pursuant to Section 5.4 or 5.5 hereof;

(f) modify any of the provisions of this Section 8.2, except to increase any percentage of Outstanding Notes whose holders' consent is required for any such action or to provide that other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby;

(g) modify the definition of the term "Outstanding" or the provisions of Section 11.1 or Section 13.1 hereof;

(h) modify any of the provisions of this Indenture in such a manner as to affect the calculation of the amount of any payment of interest on or principal of any Note on any Payment Date or of distributions to the Preferred Shares Paying Agent for the payment of distributions in respect of the Preferred Shares on any Payment Date (or any other date) or to affect the rights of the Holders of Securities to the benefit of any provisions for the redemption of such Securities contained herein;

(i) reduce the permitted minimum denominations of the Notes below the minimum denomination necessary to maintain an exemption from the registration requirements of the Securities Act or the 1940 Act; or

(j) modify any provisions regarding non- recourse or non-petition covenants with respect to the Issuer and the Co-Issuer.

The Trustee shall be entitled to rely upon an Officer's Certificate of the Issuer or the Loan Obligation Manager on behalf of the Issuer in determining whether or not the Holders of Securities would be adversely affected by such change (after giving notice of such change to the Holders of Securities). Such determination shall be conclusive and binding on all present and future Holders of Securities. The Trustee shall not be liable for any such determination made in good faith and in reliance upon such Officer's Certificate of the Issuer or the Loan Obligation Manager on behalf of the Issuer, as described in Section 8.3 hereof.

It shall not be necessary for any Act of Securityholders under this Section 8.2 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Promptly after the execution by the Issuer, the Co-Issuer and the Trustee of any supplemental indenture pursuant to this Section 8.2, the Trustee, at the expense of the Issuer, shall mail to the Securityholders, the Preferred Shares Paying Agent, the Loan Obligation Manager, and, so long as the Notes are Outstanding and so rated, the Rating Agency a copy thereof based on an outstanding rating. Any failure of the Trustee to publish or mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 8.3 Execution of Supplemental Indentures.

In executing or accepting the additional trusts created by any supplemental indenture permitted by this Article 8 or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an Officer's Certificate of the Issuer or the Loan Obligation Manager on behalf of the Issuer stating

that the execution of such supplemental indenture is authorized or permitted by this Indenture and that all conditions precedent thereto have been satisfied. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise. The Loan Obligation Manager will be bound to follow any amendment or supplement to this Indenture of which it has received written notice at least ten Business Days prior to the execution and delivery of such amendment or supplement; provided, however, that with respect to any amendment or supplement to this Indenture which may, in the judgment of the Loan Obligation Manager adversely affect the Loan Obligation Manager, the Loan Obligation Manager shall not be bound (and the Issuer agrees that it will not permit any such amendment to become effective) unless the Loan Obligation Manager gives written consent to the Trustee and the Issuer to such amendment. The Issuer and the Trustee shall give written notice to the Loan Obligation Manager of any amendment made to this Indenture pursuant to its terms. In addition, the Loan Obligation Manager's written consent shall be required prior to any amendment to this Indenture by which it is adversely affected.

Section 8.4 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article 8, this Indenture shall be modified in accordance therewith, such supplemental indenture shall form a part of this Indenture for all purposes and every Holder of Notes theretofore and thereafter authenticated and delivered hereunder, and every Holder of Preferred Shares, shall be bound thereby.

Section 8.5 Reference in Notes to Supplemental Indentures.

Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 8 may, and if required by the Trustee shall, bear a notice in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Issuer and the Co-Issuer shall so determine, new Notes, so modified as to conform in the opinion of the Trustee and the Issuer and the Co-Issuer to any such supplemental indenture, may be prepared and executed by the Issuer and the Co-Issuer and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

ARTICLE 9

REDEMPTION OF SECURITIES; REDEMPTION PROCEDURES

Section 9.1 Clean-up Call; Tax Redemption and Optional Redemption.

(a) The Notes may be redeemed by the Issuer at the option of and at the direction of the Loan Obligation Manager (such redemption, a "Clean-up Call"), in whole but not in part, at a price equal to the applicable Redemption Prices on any Payment Date (the " Clean-up Call Date") on or after the Payment Date on which the Aggregate Outstanding Amount of the Notes has been reduced to 10% of the Aggregate Outstanding Amount of the Notes on the Closing Date; provided that that the funds available to be used for such Clean-up Call will be sufficient to pay the Total Redemption Price.

(b) The Notes and the Preferred Shares shall be redeemable, in whole but not in part, by Act of a Majority of Preferred Shareholders delivered to the Trustee, on the Payment Date (the "Tax Redemption Date") following the occurrence of a Tax Event if the Tax Materiality Condition is satisfied at a price equal to the applicable Redemption Prices (such redemption, a " Tax Redemption"); provided that that the funds available to be used for such Tax Redemption will be sufficient to pay the Total Redemption Price. Upon the occurrence of a Tax Event, the Issuer and the Co-Issuer, at the direction of the Loan Obligation Manager shall provide written notice thereof to the Trustee and the Rating Agency.

(c) The Notes and the Preferred Shares shall be redeemable, in whole but not in part, at a price equal to the applicable Redemption Prices, on any Payment Date after the end of the Non-call Period, at the direction of the Issuer (such redemption, an " Optional Redemption") by Act of a Majority of Preferred Shareholders delivered to the Trustee; provided, however, that the funds available to be used for such Optional Redemption will be sufficient to pay the Total Redemption Price. Notwithstanding anything herein to the contrary, the Issuer shall not sell any Asset to the Loan Obligation Manager or any Affiliate of the Loan Obligation Manager other than ARMS Equity in connection with an Optional Redemption.

(d) The election by the Loan Obligation Manager to redeem the Notes pursuant to a Clean-up Call shall be evidenced by an Officer's Certificate from the Loan Obligation Manager directing the Trustee to make the payment to the Paying Agent of the applicable Redemption Price of all of the Notes to be redeemed from funds in the Payment Account in accordance with the Priority of Payments. In connection with a Tax Redemption, the occurrence of a Tax Event and satisfaction of the Tax Materiality Condition shall be evidenced by an Issuer Order from the Issuer or from the Loan Obligation Manager on behalf of the Issuer certifying that such conditions for a Tax Redemption have occurred. The election by the Loan Obligation Manager to redeem the Notes pursuant to an Optional Redemption shall be evidenced by an Officer's Certificate from the Loan Obligation Manager on behalf of the Issuer certifying that the conditions for an Optional Redemption have occurred.

(e) A redemption pursuant to Section 9.1(a), 9.1(b) or 9.1(c) shall not occur unless (i) at least six Business Days before the scheduled Redemption Date, (A) the Loan Obligation Manager shall have certified to the Trustee that the Loan Obligation Manager, on behalf of the Issuer, has entered into a binding agreement or agreements with (1) one or more financial institutions whose long-term unsecured debt obligations (other than such obligations whose rating is based on the credit of a person other than such institution) have a credit rating from the Rating Agency at least equal to the highest rating of any Notes then Outstanding or whose short-term unsecured debt obligations have a credit rating of "P-1" by Moody's (as long as the term of such agreement is 90 days or less) and "A-1" by S&P or (2) one or more Affiliates of the Loan Obligation Manager, to sell all or part of the Assets not later than the Business Day immediately preceding the scheduled Redemption Date or (B) the Trustee shall have received written confirmation that the method of redemption satisfies the Rating Agency Condition and (ii) the related Sale Proceeds (in immediately available funds), together with all other available funds (including proceeds from the sale of the Assets, Eligible Investments maturing on or prior to the scheduled Redemption Date, all amounts in the Collection Accounts and available Cash), shall be an aggregate amount sufficient to pay all amounts, payments, fees and expenses in accordance with the Priority of Payments due and owing on such Redemption Date.

Section 9.2 Notice of Redemption.

(a) In connection with an Optional Redemption, a Clean-up Call or a Tax Redemption pursuant to Section 9.1, the Trustee on behalf of the Issuer and the Co-Issuer shall (i) set the applicable Record Date and (ii) at least 45 days prior to the proposed Redemption Date, notify the Loan Obligation Manager, the Rating Agency, the Preferred Share Paying Agent and each Preferred Shareholder at such Preferred Shareholder's address in the register maintained by the Share Registrar, of such proposed Redemption Date, the applicable Record Date, the principal amount of Notes to be redeemed on such Redemption Date and the Redemption Price of such Notes in accordance with Section 9.1. The Redemption Price shall be determined no earlier than 60 days prior to the proposed Redemption Date.

(b) Any such notice of an Optional Redemption, a Clean-up Call or a Tax Redemption may be withdrawn by the Issuer and the Co-Issuer at the direction of the Loan Obligation Manager up to the fourth Business Day prior to the scheduled Redemption Date by written notice to the Trustee, the Preferred Share Paying Agent, to each Holder of Notes to be redeemed, and the Loan Obligation Manager only if the Loan Obligation Manager is unable to deliver the sale agreement or agreements or certifications referred to in Section 9.1(e), as the case may be.

Section 9.3 Notice of Redemption or Maturity by the Issuer.

Notice of redemption pursuant to Section 9.1 or the Maturity of any Notes shall be given by first class mail, postage prepaid, mailed not less than ten Business Days (or four Business Days where the notice of an Optional Redemption, a Clean-up Call or a Tax Redemption is withdrawn pursuant to Section 9.2(b)) prior to the applicable Redemption Date or Maturity, to each Holder of Notes to be redeemed, at its address in the Notes Register.

All notices of redemption shall state:

(a) the applicable Redemption Date;

(b) the applicable Redemption Price;

(c) that all the Notes are being paid in full and that interest on the Notes shall cease to accrue on the Redemption Date specified in the

notice; and

(d) the place or places where such Notes to be redeemed in whole are to be surrendered for payment of the Redemption Price which shall be the office or agency of the Paying Agent as provided in Section 7.2.

Notice of redemption shall be given by the Issuer and Co-Issuer, or at their request, by the Trustee in their names, and at the expense of the Issuer. Failure to give notice of redemption, or any defect therein, to any Holder of any Note shall not impair or affect the validity of the redemption of any other Notes.

Section 9.4 Notes Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Notes to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer shall Default in the payment of the Redemption Price and accrued interest thereon) the Notes shall cease to bear interest on the Redemption Date. Upon final payment on a Note to be redeemed, the Holder shall present and surrender such Note at the place specified in the notice of redemption on or prior to such Redemption Date; provided, however, that if there is delivered to the Issuer, the Co-Issuer and the Trustee such security or indemnity as may be required by them to hold each of them harmless (an unsecured indemnity agreement delivered to the Issuer, the Co-Issuer and the Trustee by an institutional investor with a net worth of at least U.S.$200,000,000 being deemed to satisfy such security or indemnity requirement) and an undertaking thereafter to surrender such Note, then, in the absence of notice to the Issuer, the Co-Issuer and the Trustee that the applicable Note has been acquired by a bona fide purchaser, such final payment shall be made without presentation or surrender. Payments of interest on Notes of a Class so to be redeemed whose Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Notes, or one or more predecessor Notes, registered as such at the close of business on the relevant Record Date according to the terms and provisions of Section 2.7(f).

If any Note called for redemption shall not be paid upon surrender thereof for redemption, the principal thereof shall, until paid, bear interest from the Redemption Date at the applicable Note Interest Rate for each successive Interest Accrual Period the Note remains Outstanding.

Section 9.5 Mandatory Redemption.

On any Payment Date on which any of the Note Protection Tests applicable to any Class of Notes is not satisfied as of the most recent Measurement Date, the Notes shall be redeemed (a "Mandatory Redemption"), first from Interest Proceeds, net of amounts set forth in Section 11.1(a)(i)(1) through (6), and then from Principal Proceeds, as set forth in clause (1) of Section 11.1(a)(ii), in an amount necessary, and only to the extent necessary, to cause each of the Note Protection Tests to be satisfied). Such Principal Proceeds and Interest Proceeds shall be applied to each of the Outstanding Classes of Notes in accordance with its relative seniority in accordance with the Priority of Payments. On or promptly after such Mandatory Redemption, the Issuer and the Co-Issuer shall certify or cause to be certified to the Rating Agency and the Trustee whether the Note Protection Tests have been met.

ARTICLE 10

ACCOUNTS, ACCOUNTINGS AND RELEASES

Section 10.1 Collection of Amounts; Custodial Account.

(a) Except as otherwise expressly provided herein, the Trustee may demand payment or delivery of, and shall receive and collect, directly and without intervention or assistance of any fiscal agent or other intermediary, all amounts and other property payable to or

receivable by the Trustee pursuant to this Indenture, including all payments due on the Assets in accordance with the terms and conditions of such Assets. The Trustee shall segregate and hold all such amounts and property received by it in trust for the Secured Parties, and shall apply it as provided in this Indenture.

(b) The Trustee shall credit all Loan Obligations and Eligible Investments to an account in the name of the Issuer for the benefit of the Secured Parties designated as the "Custodial Account."

Section 10.2 Collection Accounts.

(a) The Trustee shall, prior to the Closing Date, establish a Securities Account with the Custodial Securities Intermediary which shall be designated as the "Collection Account" (which may be a subaccount of the Custodial Account) and shall consist of two subaccounts, the " Interest Collection Account" and the "Principal Collection Account" (collectively, the "Collection Accounts"), which shall be held in trust in the name of the Trustee for the benefit of the Secured Parties, into which Collection Accounts, as applicable, the Trustee shall from time to time deposit (i) all Sale Proceeds (unless simultaneously reinvested in Replacement Loan Obligations in accordance with terms set forth in Section 12.2(a)) and (ii) all Interest Proceeds and all Principal Proceeds. In addition, the Issuer may, but under no circumstances shall, be required to, deposit from time to time such amounts in the Collection

Accounts as it deems, in its sole discretion, to be advisable. All amounts deposited from time to time in the Collection Accounts pursuant to this Indenture shall be held by the Trustee as part of the Assets and shall be applied to the purposes herein provided. The Collection Accounts shall remain at all times with the Corporate Trust Office or a financial institution having a long-term debt rating at least equal to "Aa3" by Moody's and a short-term debt rating at least equal to "P-1" by Moody's.

(b) All distributions of principal or interest received in respect of the Assets, and any Sale Proceeds from the sale or disposition of a Loan Obligation or other Assets received by the Trustee shall be immediately credited to the Interest Collection Account or the Principal Collection Account, as Interest Proceeds or Principal Proceeds, respectively (unless, in the case of proceeds received from the sale or disposition of any Assets, such proceeds are simultaneously reinvested pursuant to Section 10.2(d) in Replacement Loan Obligations, in accordance with Section 12.2(a)). Subject to Sections 10.2(d), 10.2(e) and 11.2, all such property, together with any securities in which funds included in such property are or will be invested or reinvested during the term of this Indenture, and any income or other gain realized from such investments, shall be held by the Trustee in the Collection Accounts as part of the Assets subject to disbursement and withdrawal as provided in this Section 10.2. Subject to Section 10.2(e) by Issuer Order (which may be in the form of standing instructions), the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall at all times direct the Trustee to, and, upon receipt of such Issuer Order, the Trustee shall, invest all funds received into the Collection Accounts during a Due Period, and amounts received in prior Due Periods and retained in the Collection Accounts, as so directed in Eligible Investments having stated maturities no later than the Business Day immediately preceding the next Payment Date. The Trustee, within one Business Day after receipt of any Scheduled Distribution or other proceeds in respect of the Assets which is not Cash, shall so notify the Issuer and the Loan Obligation Manager and the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall, within

five Business Days of receipt of such notice from the Trustee, sell such Scheduled Distribution or other non-Cash proceeds for Cash in an arm's length transaction to a Person which is not an Affiliate of the Issuer or the Loan Obligation Manager and deposit the proceeds thereof in the applicable Collection Account for investment pursuant to this Section 10.2; provided, however, that the Issuer (or the Loan Obligation Manager on behalf of the Issuer) need not sell such Scheduled Distributions or other non-Cash proceeds if it delivers an Officer's Certificate to the Trustee certifying that such Scheduled Distributions or other proceeds constitute Loan Obligations or Eligible Investments.

(c) If prior to the occurrence of an Event of Default, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall not have given any investment directions pursuant to Section 10.2(b), the Trustee shall seek instructions from the Issuer (or the Loan Obligation Manager on behalf of the Issuer) within three Business Days after transfer of such funds to the applicable Collection Account. If the Trustee does not thereupon receive written instructions from the Issuer (or the Loan Obligation Manager on behalf of the Issuer) within five Business Days after transfer of such funds to the applicable Collection Account, it shall invest and reinvest the funds held in the applicable Collection Account in one or more Eligible Investments described in clause (ii) of the definition of Eligible Investments maturing no later than the Business Day immediately preceding the next Payment Date. If after the occurrence of an Event of Default, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall not have given investment directions to the Trustee pursuant to Section 10.2(b) for three consecutive days, the Trustee shall invest and reinvest such amounts as fully as practicable in Eligible Investments described in clause (ii) of the definition of Eligible Investments with maturities of less than 30 days and that are sold by the Issuer not later than two Business Days immediately preceding the next Payment Date. All interest and other income from such investments shall be deposited in the applicable Collection Account, any gain realized from such investments shall be credited to the applicable Collection Account, and any loss resulting from such investments shall be charged to the applicable Collection Account. The Trustee shall not in any way be held liable (except as a result of negligence, willful misconduct or bad faith) by reason of any insufficiency of such applicable Collection Account resulting from any loss relating to any such investment, except with respect to investments in obligations of the Trustee or any Affiliate thereof.

(d) During the Replacement Period (and up to 60 days thereafter to the extent necessary to acquire Loan Obligations pursuant to binding commitments entered into during the Replacement Period using Principal Proceeds received during or after the Replacement Period), the Loan Obligation Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, reinvest Principal Proceeds in Loan Obligations selected by the Loan Obligation Manager as permitted under and in accordance with the requirements of Article 12 and such Issuer Order. Any Principal Proceeds standing to the credit of the Principal Collection Account may be designated by the Loan Obligation Manager for application to reinvestment in Replacement Loan Obligations (such Principal Proceeds, " Designated Principal Proceeds") and, if and for so long as such Principal Proceeds are Designated Principal Proceeds, such Principal Proceeds shall remain in the Principal Collection Account (or invested in Eligible Investments) until the earlier of (i) the time the Loan Obligation Manager notifies the Trustee in writing that such Principal Proceeds are no longer so designated, (ii) the Loan Obligation Manager notifies the Trustee in writing that such Principal Proceeds are to be applied to the purchase of Replacement Loan Obligations in accordance with Section

12.2(a) and (iii) the later of (x) the first Business Day after the last day of the Replacement Period and (y) if after the last day of the Replacement Period, the last settlement date within 60 days of the last day of the Replacement Period with respect to the last Replacement Loan Obligation that the Issuer has entered into an irrevocable commitment to purchase. Any Principal Proceeds that are not Designated Principal Proceeds as of the Determination Date related to any Payment Date shall be applied pursuant to clauses (4) through (7) of Section 11.1(a)(ii) or pursuant to Section 11.1(a)(iii), as applicable.

(e) The Trustee shall transfer to the Payment Account for application pursuant to Section 11.1(a) and in accordance with the calculations and the instructions contained in the Monthly Report prepared by the Trustee on behalf of the Issuer pursuant to Section 10.11(e), on or prior to the Business Day prior to each Payment Date, any amounts then held in the Collection Accounts other than (i) Interest Proceeds or Principal Proceeds received after the end of the Due Period with respect to such Payment Date and (ii) amounts that the Issuer is entitled to reinvest in accordance with Section 12.2 and which the Issuer so elects to reinvest in accordance with the terms of this Indenture, except that, to the extent that Principal Proceeds in the Principal Collection

Account as of such date are in excess of the amounts required to be applied pursuant to the Priority of Payments up to and including the next Payment Date as shown in the Monthly Report with respect to such Payment Date, the Issuer may direct the Trustee to retain such excess amounts in the Principal Collection Account and not to transfer such excess amounts to the Payment Account and the Trustee shall do so.

Section 10.3 Payment Account.

The Trustee shall, prior to the Closing Date, establish a Securities Account with the Custodial Securities Intermediary which shall be designated as the "Payment Account," which shall be held in trust for the benefit of the Secured Parties and over which the Trustee shall have exclusive control and the sole right of withdrawal. Any and all funds at any time on deposit in, or otherwise to the credit of, the Payment Account shall be held in trust by the Trustee for the benefit of the Secured Parties. Except as provided in Sections 11.1 and 11.2, the only permitted withdrawal from or application of funds on deposit in, or otherwise to the credit of, the Payment Account shall be (i) to pay the interest on and the principal on the Notes and make other payments in respect of the Notes in accordance with their terms and the provisions of this Indenture, (ii) to pay the Preferred Shares Paying Agent for deposit into the Preferred Share Distribution Account for distributions to the Preferred Shareholders in accordance with the terms and the provisions of the Preferred Share Paying Agency Agreement, (iii) upon Issuer Order, to pay other amounts specified therein, and (iv) otherwise to pay amounts payable pursuant to and in accordance with the terms of this Indenture, each in accordance with the Priority of Payments. The Trustee agrees to give the Issuer and the Co-Issuer immediate notice if it becomes aware that the Payment Account or any funds on deposit therein, or otherwise to the credit of the Payment Account, shall become subject to any writ, order, judgment, warrant of attachment, execution or similar process. Neither the Issuer nor the Co-Issuer shall have any legal, equitable or beneficial interest in the Payment Account other than in accordance with the Priority of Payments. The Payment Account shall remain at all times with the Corporate Trust Office or a financial institution having a long-term debt rating of at least "Aa3" by Moody's or a short-term debt rating of at least "P-1" by Moody's. Amounts in the Payment Account shall not be invested.

Section 10.4 Unused Proceeds Account.

(a) The Trustee shall, on or prior to the Closing Date, establish a single, segregated trust account which shall be designated as the "Unused Proceeds Account" which shall be held in trust in the name of the Trustee for the benefit of the Secured Parties, into which the amount specified in Section 3.2(f) shall be deposited. All amounts credited from time to time to the Unused Proceeds Account pursuant to this Indenture shall be held by the Trustee as part of the Assets and shall be applied to the purposes herein provided.

(b) The Trustee agrees to give the Issuer immediate notice if it becomes aware that the Unused Proceeds Account or any funds on deposit therein, or otherwise to the credit of the Unused Proceeds Account, becomes subject to any writ, order, judgment, warrant of attachment, execution or similar process. The Unused Proceeds Account shall remain at all times with the Corporate Trust Office or a financial institution having a long-term debt rating of at least "Aa3" by Moody's or a short-term debt rating of at least "P-1" by Moody's.

(c) Amounts remaining in the Unused Proceeds Account shall, on the Business Day after the Portfolio Finalization Date, be transferred by the Trustee to the Principal Collection Account (for subsequent transfer to the Payment Account) and treated as Principal Proceeds and applied in accordance with the Priority of Payments on the next Payment Date after the Portfolio Finalization Date.

(d) During the Post-Closing Acquisition Period, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, apply amounts on deposit in the Unused Proceeds Account to acquire Additional Loan Obligations selected by the Loan Obligation Manager as permitted under and in accordance with the requirements of Section 7.18 and such Issuer Order.

(e) To the extent not applied pursuant to Section 7.18, the Loan Obligation Manager, on behalf of the Issuer, may direct the Trustee to, and upon such direction the Trustee shall, invest all funds in the Unused Proceeds Account in Eligible Investments designated by the Loan Obligation Manager. All interest and other income from such investments shall be deposited in the Unused Proceeds Account, any gain realized from such investments shall be credited to the Unused Proceeds Account, and any loss resulting from such investments shall be charged to the Unused Proceeds Account. The Trustee shall not in any way be held liable (except as a result of negligence, willful misconduct or bad faith) by reason of any insufficiency of the Unused Proceeds Account resulting from any loss relating to any such investment, except with respect to investments in obligations of the Trustee or any Affiliate thereof. If the Trustee does not receive investment instructions from an Authorized Officer of the Loan Obligation Manager, the Trustee may invest funds received in the Unused Proceeds Account in Eligible Investments of the type described in clause (ii) of the definition thereto.

Section 10.5 Reserved.

Section 10.6 RDD Funding Account.

(a) In the event any RDD Obligation is purchased by the Issuer, the Trustee will establish a Securities Account with the Custodial Securities Intermediary (the "RDD

Funding Account") which shall be held in trust for the benefit of the Secured Parties, into which the Issuer will be required to deposit the full amount of all funding amounts with respect to such RDD Obligation. All amounts in the RDD Funding Account shall be deposited in overnight funds in Eligible

Investments and released to fulfill such commitments. If a RDD Obligation is sold or otherwise disposed before the full commitment thereunder has been drawn, or if excess funds remain following the termination of the funding obligation giving rise to the deposit of such funds in the RDD Funding Account, such Eligible Investments on deposit in the RDD Funding Account for the purpose of fulfilling such commitment shall be transferred to the Principal Collection Account as Principal Proceeds. The RDD Funding Account shall remain at all times with the Corporate Trust Office or a financial institution having a long-term debt rating from the Rating Agency at least equal to "A-" or "A2," as applicable, or a short-term debt rating at least equal to "A-1," "P-1" or "F1," as applicable.

(b) Except as provided in Section 10.6(c) below, funds in the RDD Funding Account shall be available solely to fund RDD Funding Advances under any RDD Obligations included in the Loan Obligations.

(c) The Loan Obligation Manager or the CLO Servicer, as applicable, shall direct the Trustee to withdraw funds from the RDD Funding Account to fund any required RDD Funding Advances for any RDD Obligation. Pursuant to an Issuer Order, all or a portion of the funds, as specified in such Issuer Order, on deposit in the RDD Funding Account in respect of amounts previously held on deposit in respect of unfunded commitments for RDD Obligations that have been sold or otherwise disposed of before such commitments thereunder have been drawn or as to which excess funds remain shall be transferred by the Trustee to the Collection Account as Principal Proceeds.

Section 10.7 Expense Account.

(a) The Trustee shall prior to the Closing Date establish a Securities Account with the Custodial Securities Intermediary which shall be designated as the "Expense Account" which shall be held in trust in the name of the Trustee for the benefit of the Secured Parties. The only permitted withdrawal from or application of funds on deposit in, or otherwise standing to the credit of, the Expense Account shall be to pay (on any day other than a Payment Date, accrued and unpaid Company Administrative Expenses (other than accrued and unpaid expenses and indemnities payable to the Loan Obligation Manager under the Loan Obligation Management Agreement); provided that the Trustee shall be entitled (but not required) without liability on its part, to refrain from making any such payment of a Company Administrative Expense on any day other than a Payment Date if, in its reasonable determination, taking into account the Priority of Payments, the payment of such amounts is likely to leave insufficient funds available to pay in full each of the items payable prior thereto in the Priority of Payments on the next succeeding Payment Date. On the Closing Date, Arbor Parent or its Affiliates shall deposit into the Expense Account an amount equal to U.S.$200,000. On or after the first Payment Date, any amount remaining in the Expense Account may, at the election of the Loan Obligation Manager be designated as Interest Proceeds. On the date on which substantially all of the Issuer's assets have been sold or otherwise disposed of, the Issuer by Issuer Order executed by an Authorized Officer of the Loan Obligation Manager shall direct the Trustee to, and, upon receipt of such Issuer Order, the Trustee shall, transfer all amounts on deposit in the Expense

Account to the Interest Collection Account for application pursuant to Section 11.1(a)(i) as Interest Proceeds. Amounts credited to the Expense Account may be applied on or prior to the Determination Date preceding the first Payment Date to pay amounts due in connection with the offering of the Notes.

(b) On each Payment Date, the Loan Obligation Manager may designate Interest Proceeds (in an amount not to exceed U.S.$100,000 on such Payment Date) after application of amounts payable pursuant to clauses (1) through (9) of Section 11.1(a)(i) for deposit into the Expense Account.

(c) The Trustee agrees to give the Issuer immediate notice if it becomes aware that the Expense Account or any funds on deposit therein, or otherwise to the credit of the Expense Account, shall become subject to any writ, order, judgment, warrant of attachment, execution or similar process. The Issuer shall not have any legal, equitable or beneficial interest in the Expense Account. The Expense Account shall remain at all times with the Corporate Trust Office or a financial institution having capital and surplus of at least U.S.$200,000,000 and a long-term debt rating at least equal to "Baa1" by Moody's.

(d) The Loan Obligation Manager, on behalf of the Issuer, may direct the Trustee to, and upon such direction the Trustee shall, invest all funds in the Expense Account in Eligible Investments designated by the Loan Obligation Manager. All interest and other income from such investments shall be deposited in the Expense Account, any gain realized from such investments shall be credited to the Expense Account, and any loss resulting from such investments shall be charged to the Expense Account. The Trustee shall not in any way be held liable (except as a result of negligence, willful misconduct or bad faith) by reason of any insufficiency of such Expense Account resulting from any loss relating to any such investment, except with respect to investments in obligations of the Trustee or any Affiliate thereof. If the Trustee does not receive investment instructions from an Authorized Officer of the Loan Obligation Manager, the Trustee shall invest funds received in the Expense Account in Eligible Investments of the type described in clause (ii) of the definition thereto.

Section 10.8 Reserved.

Section 10.9 Interest Advances.

(a) With respect to each Determination Date for which the sum of Interest Proceeds and, if applicable, Principal Proceeds, collected during the related Due Period that are available to pay interest on the Notes in accordance with the Priority of Payments, are insufficient to remit the interest due and payable with respect to the Notes on the following Payment Date as a result of interest shortfalls on the Loan Obligations (the amount of such insufficiency, an "Interest Shortfall"), the Trustee shall provide the Advancing Agent with written notice of such Interest Shortfall no later than the close of business on the Business Day following such Determination Date. The Trustee shall provide the Advancing Agent with notice, prior to any funding of an Interest Advance by the Advancing Agent, of any additional interest remittances received by the Trustee after delivery of such initial notice that reduce such Interest Shortfall. No later than 5:00 p.m. (New York time) on the Business Day immediately preceding the related Payment Date (but in any event no earlier than one Business Day following the

Advancing Agent's receipt of notice of such Interest Shortfall), the Advancing Agent shall advance the difference between such amounts (each such advance, an "Interest Advance") by deposit of an amount equal to such Interest Advance in the Payment Account, subject to a determination of recoverability by the Advancing Agent as described in Section 10.9(b), and subject to a maximum limit in respect of any Payment Date equal to the lesser of (i) the aggregate of such Interest Shortfalls that would otherwise occur on the Notes and (ii) the aggregate of the interest payments not received in respect of Loan Obligations. Notwithstanding the foregoing, in no circumstance will the Advancing Agent be required to make an Interest Advance in respect of a Loan Obligation to the extent that the aggregate outstanding amount of all unreimbursed Interest Advances would exceed the aggregate outstanding principal amount of the Notes. Any Interest Advance made by the Advancing Agent with respect to a Payment Date that is in excess of the actual Interest Shortfall for such Payment Date shall be refunded to the Advancing Agent by the Trustee on the same Business Day that such Interest Advance was made (or, if such Interest Advance is made prior to final determination by the Trustee of such Interest Shortfall, on the Business Day of such final determination). The Advancing Agent shall provide the Trustee written notice of a determination by the Advancing Agent that a proposed Interest Advance would constitute a Nonrecoverable Interest Advance no later than the close of business on the Business Day immediately preceding the related Payment Date (or, in the event that the Advancing Agent did not receive notice of the related Interest Shortfall on the related Determination Date, no later than the close of business on the Business Day immediately following the Advancing Agent's receipt of notice of such Interest Shortfall). If the Advancing Agent shall fail to make any required Interest Advance at or prior to the time at which distributions are to be made pursuant to Section 11.1(a), the Backup Advancing Agent shall be required to make such Interest Advance, subject to a determination of recoverability by the Backup Advancing Agent as described in Section 10.9(b). The Backup Advancing Agent shall be entitled to conclusively rely on any affirmative determination by the Advancing Agent that an Interest Advance would constitute a Nonrecoverable Interest Advance. Based upon available information at the time, the Backup Advancing Agent, the Loan Obligation Manager or the Advancing Agent will provide 15 days prior notice to the Rating Agency if recovery of a Nonrecoverable Interest Advance would result in an Interest Shortfall on the next succeeding Payment Date. No later than the close of business on the Determination Date related to a Payment Date on which the recovery of a Nonrecoverable Interest Advance would result in an Interest Shortfall, the Loan Obligation Manager will provide the Rating Agency notice of such recovery.

(b) Notwithstanding anything herein to the contrary, neither the Advancing Agent nor the Backup Advancing Agent, as applicable, shall be required to make any Interest Advance unless such Person determines, in its sole discretion, exercised in good faith that such Interest Advance, or such proposed Interest Advance, plus interest expected to accrue thereon at the Reimbursement Rate, will be recoverable from subsequent payments or collections with respect to all Loan Obligations and has determined in its reasonable judgment that the recovery would not result in an Interest Shortfall. In determining whether any proposed Interest Advance will be, or whether any Interest Advance previously made is, a Nonrecoverable Interest Advance, the Advancing Agent or the Backup Advancing Agent, as applicable, will take into account:

(i) amounts that may be realized on each Underlying Mortgaged Property in its "as is" or then-current condition and occupancy;

(ii) the potential length of time before such Interest Advance may be reimbursed and the resulting degree of uncertainty with respect to such reimbursement; and

(iii) the possibility and effects of future adverse changes with respect to the Underlying Mortgaged Properties, and

(iv) the fact that Interest Advances are intended to provide liquidity only and not credit support to the Holders of the Class A Notes and the Class B Notes.

For purposes of any such determination of whether an Interest Advance constitutes or would constitute a Nonrecoverable Interest Advance, an Interest Advance will be deemed to be nonrecoverable if the Advancing Agent or the Backup Advancing Agent, as applicable, determines that future Interest Proceeds and Principal Proceeds may be ultimately insufficient to fully reimburse such Interest Advance, plus interest thereon at the Reimbursement Rate within a reasonable period of time. Absent bad faith, the determination by the Advancing Agent or the Backup Advancing Agent, as applicable, as to the nonrecoverability of any Interest Advance shall be conclusive and binding on the Holders of the Notes.

(c) Each of the Advancing Agent and the Backup Advancing Agent will each be entitled to recover any previously unreimbursed Interest Advance made by it (including any Nonrecoverable Interest Advance), together with interest thereon, *first*, from Interest Proceeds and *second* (to the extent that there are insufficient Interest Proceeds for such reimbursement), from Principal Proceeds to the extent that such reimbursement would not trigger an additional Interest Shortfall; provided that if at any time an Interest Advance is determined to be a Nonrecoverable Interest Advance, the Advancing Agent or the Backup Advancing Agent shall be entitled to recover all outstanding Interest Advances from the Collection Accounts on any Business Day during any Interest Accrual Period prior to the related Determination Date (or on a Payment Date prior to any payment of interest on or principal of the Notes in accordance with the Priority of Payments). The Advancing Agent shall be permitted (but not obligated) to defer or otherwise structure the timing of recoveries of Nonrecoverable Interest Advances in such manner as the Advancing Agent determines is in the best interest of the Class A Notes and the Class B Notes, as a collective whole, which may include being reimbursed for Nonrecoverable Interest Advances in installments.

(d) The Advancing Agent and the Backup Advancing Agent will each be entitled with respect to any Interest Advance made by it (including Nonrecoverable Interest Advances) to interest accrued on the amount of such Interest Advance for so long as it is outstanding at the Reimbursement Rate.

(e) The obligations of the Advancing Agent and the Backup Advancing Agent to make Interest Advances in respect of the Loan Obligations will continue through the Stated Maturity Date, unless the Class A Notes and the Class B Notes are previously redeemed or repaid in full.

(f) In no event will the Advancing Agent, in its capacity as such hereunder or the Trustee, in its capacity as Backup Advancing Agent hereunder, be required to advance any amounts in respect of payments of principal of any Loan Obligation.

(g) In consideration of the performance of its obligations hereunder, the Advancing Agent shall be entitled to receive, at the times set forth herein and subject to the Priority of Payments, to the extent funds are available therefor, the Advancing Agent Fee. In consideration of the Backup Advancing Agent's obligations hereunder, the Backup Advancing Agent shall be entitled to receive, at the times set forth herein and subject to the Priority of Payments, to the extent funds are available therefor, the Backup Advancing Agent Fee. If the Backup Advancing Agent makes an Interest Advance that the Advancing Agent failed to make and did not determine to be nonrecoverable, the Backup Advancing Agent will be entitled to receive the Advancing Agent's Fee for so long as such Interest Advance is outstanding.

(h) The determination by the Advancing Agent or the Backup Advancing Agent, as applicable, (i) that it has made a Nonrecoverable Interest Advance or (ii) that any proposed Interest Advance, if made, would constitute a Nonrecoverable Interest Advance, shall be evidenced by an Officer's Certificate delivered promptly to the Trustee (or, if applicable, retained thereby), the Issuer and Moody's, setting forth the basis for such determination; provided that failure to give such notice, or any defect therein, shall not impair or affect the validity of, or the Advancing Agent or the Backup Advancing Agent, entitlement to reimbursement with respect to, any Interest Advance.

(i) If a Scheduled Distribution on any Loan Obligation is not paid to the Trustee on the Due Date therefor, the Trustee shall provide the Advancing Agent with notice of such default on the Business Day immediately following such default. In addition, upon request, the Trustee shall provide the Advancing Agent (either electronically or in hard-copy format), with copies of all reports received from any trustee, trust administrator, master servicer or similar administrative entity with respect to the Loan Obligations and the Trustee shall promptly make available to the Advancing Agent any other information reasonably available to the Trustee by reason of its acting as Trustee hereunder to permit the Advancing Agent to make a determination of recoverability with respect to any Interest Advance and to otherwise perform its advancing functions under this Indenture.

Section 10.10 Reports by Parties.

(a) The Trustee shall supply, in a timely fashion, to the Issuer, the Co-Issuer, the Preferred Shares Paying Agent and the Loan Obligation Manager any information regularly maintained by the Trustee that the Issuer, the Co-Issuer, the Preferred Shares Paying Agent or the Loan Obligation Manager may from time to time request with respect to the Assets or the Accounts and provide any other information reasonably available to the Trustee by reason of its acting as Trustee hereunder and required to be provided by Section 10.11 or to permit the Loan Obligation Manager to perform its obligations under the Loan Obligation Management Agreement. The Trustee shall forward to the Loan Obligation Manager copies of notices and other writings received by it from the borrower with respect to any Loan Obligation advising the holders of such Loan Obligation of any rights that the holders might have with respect thereto as well as all periodic financial reports received from such borrower with respect to such borrower.

Each of the Issuer and Loan Obligation Manager shall promptly forward to the Trustee any information in their possession or reasonably available to them concerning any of the Assets that the Trustee reasonably may request or that reasonably may be necessary to enable the Trustee to prepare any report or perform any duty or function on its part to be performed under the terms of this Indenture.

Section 10.11 Reports; Accountings.

(a) The Collateral Administrator shall monitor the Assets on an ongoing basis and provide access to the information maintained by the Collateral Administrator to, and upon reasonable request of the Loan Obligation Manager, shall assist the Loan Obligation Manager in performing its duties under the Loan Obligation Management Agreement, each in accordance with this Indenture.

(b) The Collateral Administrator shall perform the following functions during the term of this Indenture:

(i) create and maintain a database with respect to the Loan Obligations (the "Database");

(ii) permit access to the information contained in the Database by the Loan Obligation Manager and the Issuer;

(iii) on a monthly basis monitor and update the Database for ratings changes;

(iv) update the Database for Loan Obligations or Eligible Investments acquired or sold or otherwise disposed of;

(v) prepare and arrange for the delivery to the Rating Agency, the Loan Obligation Manager, the Placement Agent and upon request therefor, any Holder of a Note shown on the Note Registrar, any Preferred Shareholder shown on the register maintained by the Share Registrar;

(vi) prepare and arrange for the delivery to the Loan Obligation Manager and upon request therefor, any Holder of a Note shown on the Notes Register, any Preferred Shareholder shown on the register maintained by the Share Registrar, the firm of Independent certified public accountants appointed pursuant to Section 10.13(a) hereof, the Rating Agency, the Depository (with instructions to forward it to each of its

participants who are holders of any Notes);

(vii) assist in preparing and arrange for the delivery to the Loan Obligation Manager of the Redemption Date Statement;

(viii) arrange for the delivery to the Rating Agency of all information or reports required under this Indenture, including, but not limited to, providing Moody's with (A) written notice of (1) any breaches under any of the Transaction Documents and (2) the termination or change of any parties to the Transaction Documents, in each case, for which the Collateral Administrator has received prior written notice pursuant to the terms

of the Transaction Document and (B) each Monthly Report in Microsoft Excel spreadsheet format; and

(ix) assist the Independent certified public accountants in the preparation of those reports required under Section 10.13 hereof by providing access to the information contained in the Database.

(c) The Collateral Administrator, on behalf of the Issuer, shall compile and provide or make available on its website initially located at www.trustinvestorreporting.usbank.com to the Rating Agency, the Trustee, the Loan Obligation Manager, the Placement Agent and upon request therefor, any Holder of a Note shown on the Notes Register, any Preferred Shareholder shown on the register maintained by the Share Registrar, the firm of Independent certified public accountants appointed pursuant to Section 10.13(a) hereof and the Depositary, on each Payment Date, determined as of the preceding Determination Date, a monthly report (the "Monthly Report"). The Monthly Report shall contain the following information and instructions with respect to the Assets included in the Assets based in part on information provided by the Loan Obligation Manager:

(i) the Aggregate Principal Balance of all Loan Obligations, together with a calculation, in reasonable detail, of the sum of (A) the Aggregate Principal Balance of all Loan Obligations (other than Defaulted Obligations) plus (B) the Principal Balance of each Asset which is a Defaulted Obligation;

(ii) the balance of all Eligible Investments and Cash in each of the Interest Collection Account, the Principal Collection Account, the RDD Funding Account and the Expense Account;

(iii) the nature, source and amount of any proceeds in the Collection Accounts, including Interest Proceeds, Principal Proceeds, Unscheduled Principal Payments and Sale Proceeds, received since the date of determination of the last Monthly Report;

(iv) with respect to each Loan Obligation and each Eligible Investment that is part of the Assets, its Principal Balance, annual interest rate, average life, borrower and Moody's Rating;

(v) the identity of each Loan Obligation that was sold or disposed of pursuant to Section 12.1 (indicating whether such Loan Obligation is a Defaulted Obligation or a Credit Risk Obligation (in each case, as reported in writing to the Issuer by the Loan Obligation Manager) and whether such Loan Obligation was sold pursuant to Section 12.1(a)(i) or (ii)) or Granted to the Trustee since the date of determination of the most recent Monthly Report;

(vi) the identity of each Loan Obligation which became a Defaulted Obligation or a Credit Risk Obligation since the date of determination of the last Monthly Report;

(vii) the Aggregate Principal Balance of all Loan Obligations that are backed or otherwise invested in properties located in any single U.S. state (for each such state) based on information provided by the Loan Obligation Manager;

(viii) the Par Value Ratio and the Interest Coverage Ratio, and a statement as to whether the Interest Coverage Test and the Par Value Test are satisfied;

(ix) the Weighted Average Spread;

(x) based upon information supplied by the Loan Obligation Manager, the Average Life of each Loan Obligation and the Weighted Average Life of all the Loan Obligations;

(xi) based upon information supplied by the Loan Obligation Manager, the Moody's Rating Factor of each Loan Obligation and the Moody's Weighted Average Rating Factor;

(xii) the Principal Balance of each Loan Obligation that is on credit watch with negative implications;

(xiii) the Principal Balance of each Loan Obligation that is on credit watch with positive implications;

(xiv) the amount of the current portion and the unpaid and unwaived portion, if any, of the Loan Obligation Manager Fee with respect

to the related Payment Date;

(xv) the amount of all RDD Funding Advances that were advanced;

(xvi) the percentage (based on the outstanding Aggregate Principal Balances of the Loan Obligations) of the Loan Obligations which have a maturity date occurring on or prior to each Payment Date;

(xvii) Principal Proceeds and Interest Proceeds received by the Issuer received in the related Due Period;

(xviii) the Net Outstanding Portfolio Balance as of the close of business on the last Business Day of each Due Period after giving effect to the Principal Proceeds as of the last Business Day of such Due Period, principal collections received from Loan Obligations in the related Due Period, the reinvestment of such proceeds in Eligible Investments during such Due Period and the Loan Obligations that were released during such Due Period;

(xix) the Aggregate Outstanding Amount of the Notes of each Class at the beginning of the Due Period and such Aggregate Outstanding Amount as a percentage of the original Aggregate Outstanding Amount of the Notes of such Class, the amount of principal payments to be made on the Notes of each Class on the next Payment Date, the Aggregate Outstanding Amount of the Notes of each Class after giving effect to the payment of principal on the related Payment Date and such Aggregate Outstanding Amount as a percentage of the original Aggregate Outstanding Amount of the Notes of such Class;

(xx) the Class A Interest Distribution Amount and the Class B Interest Distribution Amount for the related Payment Date and the aggregate amount paid for all prior Payment Dates in respect of such amounts;

(xxi) with the assistance of the Loan Obligation Manager, the Company Administrative Expenses on an itemized basis, the Loan Obligation Manager Fee payable by the Issuer on the related Payment Date;

(xxii) with the assistance of the Loan Obligation Manager as set forth in Section 10.11(f), (A) the balance on deposit in the Interest Collection Account and the Principal Collection Account at the end of the related Due Period, (B) the amounts payable from the Collection Accounts to the Payment Account in order to make payments pursuant to Section 11.1(a) on the related Payment Date (the amounts payable pursuant to each such clause to be set forth and identified separately) and (C) the balance of Principal Proceeds and the balance of Interest Proceeds remaining in the Collection Accounts immediately after all payments and deposits to be made on the related Payment Date;

(xxiii) the amount to be paid to the Advancing Agent or the Backup Advancing Agent, as applicable, as reimbursement of Interest Advances and Reimbursement Interest and calculate the amount of the Nonrecoverable Interest Advances to be paid to the Advancing Agent or the Backup Advancing Agent, as applicable;

(xxiv) the amount on deposit in the Expense Account, the Unused Proceeds Account and the RDD Funding Account;

(xxv) the nature, source and amount of any proceeds in the Collection Accounts, including Interest Proceeds, Principal Proceeds, Unscheduled Principal Payments and Sale Proceeds, received since the date of determination of the last Monthly Report; and

(xxvi) with respect to each Loan Obligation and each Eligible Investment that is part of the Assets, its Principal Balance, annual interest rate, average life, issuer and Moody's Rating;

(xxvii) the identity of each Loan Obligation that was sold or disposed of pursuant to Section 12.1 (indicating whether such Loan Obligation is a Defaulted Obligation or Credit Risk Obligation or otherwise (in each case, as reported in writing to the Issuer by the Loan Obligation Manager) and whether such Loan Obligation was sold pursuant to Section 12.1(a) or (b)) or Granted to the Trustee since the date of determination of the most recent Monthly Report;

(xxviii) the identity of each Loan Obligation which became a Defaulted Obligation or a Credit Risk Obligation since the date of determination of the last Monthly Report; and

(xxix) subject to the availability of such information to the Loan Obligation Manager and the delivery of such information by the Loan Obligation Manager to the Collateral Administrator, with respect to each Loan Obligation on a semi-annual basis,

the net cash flow on each real property underlying or related to such Loan Obligation; and

(xxx) such other information as the Loan Obligation Manager, the Collateral Administrator or the Trustee may reasonably request.

(d) The Collateral Administrator, on behalf of the Issuer and upon request of the Loan Obligation Manager shall calculate the Par

Value Ratio and the Interest Coverage Ratio in respect of each Measurement Date and indicate pursuant to clause (viii) of each Monthly Report whether the Par Value Test and the Interest Coverage Test are met and report to the Issuer, the Co-Issuer and the Loan Obligation Manager on each Measurement Date.

(e) Upon receipt of each Monthly Report and each Redemption Date Statement, the Loan Obligation Manager shall compare the information contained in its records with respect to the Assets and shall, within five Business Days after receipt of each such Monthly Report or such Redemption Date Statement, notify the Issuer and the Collateral Administrator whether such information contained in the Monthly Report or the Redemption Date Statement, as the case may be, conforms to the information maintained by the Loan Obligation Manager with respect to the Assets, or detail any discrepancies. If any discrepancy exists, the Collateral Administrator, the Issuer and the Loan Obligation Manager shall attempt to resolve the discrepancy. If such discrepancy cannot be promptly resolved, the Collateral Administrator shall cause the firm of Independent certified public accountants appointed by the Issuer pursuant to Section 10.13 hereof to review such Monthly Report or Redemption Date Statement, as the case may be, and the Loan Obligation Manager's records and the Collateral Administrator's records to determine the cause of such discrepancy. If such review reveals an error in the Monthly Report or Redemption Date Statement, as the case may be, or the Collateral Administrator's or the Loan Obligation Manager's records, the Monthly Report or Redemption Date Statement, as the case may be, or the Collateral Administrator's or the Loan Obligation Manager's records, shall be revised accordingly and, as so revised, shall be utilized in making all calculations pursuant to this Indenture. The Rating Agency (in each case only so long as any Class of Notes is rated), the Placement Agent and the Loan Obligation Manager shall be notified in writing of any such revisions by the Collateral Administrator, on behalf of the Issuer.

(f) All information made available on the Collateral Administrator's website will be restricted and the Collateral Administrator will only provide access to such reports to those parties entitled thereto pursuant to this Indenture. In connection with providing access to its website, the Collateral Administrator may require registration and the acceptance of a disclaimer.

The Monthly Report shall also contain the following statements:

"Instruction to Participant: Please send
this to the beneficial owners of the Notes"

Reminder to Owners of each Class of Notes:

Each owner or beneficial owner of Notes must be (A) either (1) a U.S. Person who is a QIB or (2) solely with respect to Notes issued as Definitive Notes, a U.S. Person who is

an IAI that is, in each case, also a Qualified Purchaser as defined by the Investment Company Act of 1940 or not a U.S. Person, and if a U.S. Person, can represent as follows:

(i) it is acting for its own account or for the account of another person who is a QIB and a Qualified Purchaser that is not included in (i) or (ii) above;

(ii) it is not formed for the purpose of investing in the Notes;

(iii) it, and each account for which it holds the Notes, shall hold at least the minimum denomination therefor; and

(iv) it will provide notice of these transfer restrictions to any transferee from it.

(g) Each Monthly Report (after approval by the Loan Obligation Manager after giving effect to any revisions thereto in accordance with Section 10.11(f)) shall constitute instructions from the Loan Obligation Manager, on behalf of the Issuer, to the Trustee to transfer funds from the Collection Accounts to the Payment Account pursuant to Section 10.2(d) and to withdraw on the related Payment Date from the Payment Account and pay or transfer the amounts set forth in the Monthly Report, as applicable, in the manner specified, and in accordance with the priorities established, in Section 11.1 hereof.

(h) Not more than five Business Days after receiving an Issuer Request requesting information regarding a redemption of the Notes of a Class as of a proposed Redemption Date set forth in such Issuer Request, the Trustee shall compute the following information and provide such information in a statement (the "Redemption Date Statement") delivered to the Loan Obligation Manager (which shall review such statement in the manner provided for in Section 10.11(f)), the Preferred Shares Paying Agent:

(i) the Aggregate Outstanding Amount of the Notes of the Class or Classes to be redeemed as of such Redemption Date;

(ii) the amount of accrued interest due on such Notes as of the last day of the Interest Accrual Period immediately preceding such Redemption Date;

(iii) the Redemption Price;

(iv) the sum of all amounts due and unpaid under Section 11.1(a) (other than amounts payable on the Notes being redeemed or to the Noteholders thereof); and

(v) the amount in the Accounts (other than the Preferred Share Distribution Account) available for application to the redemption of such Notes.

Section 10.12 Release of Loan Obligations; Release of Assets .

(a) If no Event of Default has occurred and is continuing and subject to Article 12 hereof, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) may direct the Trustee to release such Pledged Loan Obligation from the lien of this Indenture, by Issuer Order delivered to the Trustee at least two Business Days prior to the settlement date for any sale

of a Pledged Loan Obligation certifying that (i) it has sold such Pledged Loan Obligation pursuant to and in compliance with Article 12 or (ii) in the case of a redemption pursuant to Section 9.1, the proceeds from any such sale of Loan Obligations are sufficient to redeem the Notes pursuant to Section 9.1, and, upon receipt of such Issuer Order, the Trustee shall deliver any such Pledged Loan Obligation, if in physical form, duly endorsed to the broker or purchaser designated in such Issuer Order or to the Issuer if so requested in the Issuer Order, or, if such Pledged Loan Obligation is represented by a Security Entitlement, cause an appropriate transfer thereof to be made, in each case against receipt of the sales price therefor as set forth in such Issuer Order. If requested, the Trustee may deliver any such Pledged Loan Obligation in physical form for examination (prior to receipt of the sales proceeds) in accordance with street delivery custom. The Trustee shall (i) deliver any agreements and other documents in its possession relating to such Pledged Loan Obligation and (ii) if applicable, duly assign each such agreement and other document, in each case, to the broker or purchaser designated in such Issuer Order or to the Issuer if so requested in the Issuer Order.

(b) The Issuer (or the Loan Obligation Manager on behalf of the Issuer) may, by Issuer Order, delivered to the Trustee at least three Business Days prior to the date set for redemption or payment in full of a Pledged Loan Obligation, certifying that such Pledged Loan Obligation is being paid in full, direct the Trustee, or at the Trustee's instructions, the Custodial Securities Intermediary, to deliver such Pledged Loan Obligation and the related Loan Obligation File therefor on or before the date set for redemption or payment, in each case against receipt of the applicable redemption price or payment in full thereof.

(c) With respect to any Loan Obligation subject to a workout or restructured, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) may, by Issuer Order delivered to the Trustee at least two Business Days prior to the date set for an exchange, tender or sale, certifying that a Loan Obligation is subject to a workout or restructuring and setting forth in reasonable detail the procedure for response thereto, direct the Trustee or at the Trustee's instructions, the Custodial Securities Intermediary, to deliver any Assets in accordance with such Issuer Order, in each case against receipt of payment therefor.

(d) The Trustee shall deposit any proceeds received by it from the disposition of a Pledged Loan Obligation in the Principal Collection Account unless simultaneously applied to the purchase of Replacement Loan Obligations, subject to the Replacement Criteria, or Eligible Investments under and in accordance with the requirements of Article 12 and this Article 10. Neither the Trustee nor the Custodial Securities Intermediary shall be responsible for any loss resulting from delivery or transfer of any such proceeds prior to receipt of payment in accordance herewith.

(e) The Trustee shall, upon receipt of an Issuer Order at such time as there are no Notes Outstanding and all obligations of the Issuer hereunder have been satisfied, release the Assets from the lien of this Indenture.

(f) Upon receiving actual notice of any offer or any request for a waiver, consent, amendment or other modification with respect to any Loan Obligation, the Trustee on behalf of the Issuer will promptly notify the Loan Obligation Manager and the CLO Servicer of such request, and the Trustee shall grant any waiver or consent, and enter into any amendment or

other modification as instructed in writing by the CLO Servicer in accordance with the Servicing Agreement. In the case of any modification or amendment that results in the release of the related Loan Obligation, notwithstanding anything to the contrary in Section 5.5(a), the Trustee shall release of the related Loan Obligation and the related Loan Obligation File from the lien of this Indenture upon the written instruction of the CLO Servicer in accordance with the Servicing Agreement. In the absence of such instruction from the CLO Servicer, the Trustee shall have no obligation to take any such action.

Section 10.13 Reports by Independent Accountants .

(a) On or about the Closing Date, the Issuer shall appoint a firm of Independent certified public accountants of recognized national reputation for purposes of preparing and delivering the reports or certificates of such accountants required by this Indenture. The Loan Obligation Manager, on behalf of the Issuer, shall have the right to remove such firm or any successor firm. Upon any resignation by or removal of such firm, the Loan Obligation Manager, on behalf of the Issuer, shall promptly appoint, by Issuer Order delivered to the Trustee, a successor thereto that shall also be a firm of Independent certified public accountants of recognized national reputation. If the Loan Obligation Manager, on behalf of the Issuer, shall fail to appoint a successor to a firm of Independent certified public accountants which has resigned or been removed, within 30 days after such resignation or removal, the Issuer shall promptly notify the Trustee of such failure in writing. If the Loan Obligation Manager, on behalf of the Issuer, shall not have appointed a successor within ten days thereafter, the Trustee shall promptly appoint a successor firm of Independent certified public accountants of recognized national reputation. The fees of such Independent certified public accountants and its successor shall be payable by the Issuer as provided in the Priority of Payments.

(b) Within 60 days after December 31 of each year (commencing with December 31, 2013), the Issuer shall cause to be delivered to

the Trustee and the Loan Obligation Manager an Accountants' Report specifying the procedures applied and the associated findings with respect to the Monthly Reports and any Redemption Date Statements prepared in the year ending on such date. If at any time a successor firm of Independent certified public accountants is appointed, prior to the Payment Date following the date of such appointment), the Issuer shall deliver to the Trustee a draft of an (or form of) Accountant's Report specifying in advance the procedures that such firm will be applying in making the aforementioned findings throughout the term of its service as accountants to the Issuer. The Trustee shall promptly forward a copy of such draft of an (or form of) Accountant's Report to the Loan Obligation Manager.

Section 10.14 Reports to Rating Agency.

(a) In addition to the information and reports specifically required to be provided to the Rating Agency pursuant to the terms of this Indenture, the Trustee shall provide the Rating Agency with all information or reports delivered by the Trustee hereunder, and such additional information as the Rating Agency may from time to time reasonably request and the Trustee determines in its sole discretion may be obtained and provided without unreasonable burden or expense. The Issuer shall promptly notify the Trustee and the Preferred Shares Paying

Agent if a Rating Agency's rating of any Class of Notes has been, or it is known by the Issuer that such rating will be, downgraded or withdrawn.

(b) The Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall provide the Rating Agency with all information and reports delivered to the Trustee hereunder.

(c) All additional reports to be sent to the Rating Agency pursuant to clause (a) above shall be reviewed prior to such transmission by the Loan Obligation Manager.

(d) The Issuer shall cause to be provided all 17g-5 Information to the Rating Agency in the manner specified in Section 14.13.

For the avoidance of doubt, any such information referred to in this Section 10.14 shall not include any of the Accountants' Reports.

Section 10.15 Certain Procedures.

(a) For so long as the Notes may be transferred only in accordance with Rule 144A or another exemption from registration under the Securities Act, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) will ensure that any Bloomberg screen containing information about the Rule 144A Global Securities includes the following (or similar) language:

(i) the "Note Box" on the bottom of the "Security Display" page describing the Rule 144A Global Securities will state: "Iss'd Under 144A/3c7";

(ii) the "Security Display" page will have the flashing red indicator "See Other Available Information"; and

(iii) the indicator will link to the "Additional Security Information" page, which will state that the Notes "are being offered in reliance on the exemption from registration under Rule 144A of the Securities Act to persons who are both (i) qualified institutional buyers (as defined in Rule 144A under the Securities Act) and (ii) qualified purchasers (as defined under Section 3(c)(7) under the 1940 Act of 1940).

(b) For so long as the Rule 144A Global Securities are registered in the name of DTC or its nominee, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) will instruct DTC to take these or similar steps with respect to the Rule 144A Global Securities:

(i) the DTC 20-character security descriptor and 48-character additional descriptor will indicate with marker "3c7" that sales are limited to (i) QIBs and (ii) Qualified Purchasers;

(ii) where the DTC deliver order ticket sent to purchasers by DTC after settlement is physical, it will have the 20-character security descriptor printed on it. Where the DTC deliver order ticket is electronic, it will have a "3c7" indicator and a related user manual for participants, which will contain a description of the relevant restriction; and

(iii) DTC will send an "Important Notice" outlining the 3(c)(7) restrictions applicable to the Rule 144A Global Securities to all DTC participants in connection with the initial offering of Notes by the Co-Issuers.

ARTICLE 11

APPLICATION OF AMOUNTS

Section 11.1 Disbursements of Amounts from Payment Account.

(a) Notwithstanding any other provision in this Indenture, but subject to the other subsections of this Section 11.1 hereof, on each Payment Date, the Trustee shall disburse amounts transferred to the Payment Account from the Interest Collection Account and the Principal Collection Account pursuant to Section 10.2 hereof in accordance with the following priorities (the "Priority of Payments"):

(i) Interest Proceeds. On each Payment Date that is not a Redemption Date or a Payment Date following an acceleration of the Notes as a result of the occurrence and continuation of an Event of Default, Interest Proceeds with respect to the related Due Period shall be distributed in the following order of priority:

(1) to the payment of taxes and filing fees (including any registered office and government fees) owed by the Issuer, if any;

(2) (a) *first*, to the extent not previously reimbursed, to the Advancing Agent or the Backup Advancing Agent, the aggregate amount of any Nonrecoverable Interest Advances due and payable to such party, (b) *second*, to the Advancing Agent or the Backup Advancing Agent (if the Advancing Agent has failed to make any Interest Advance required to be made by the Advancing Agent pursuant to the terms hereof), the Advancing Agent Fee and any previously due but unpaid Advancing Agent Fee (unless waived by the Advancing Agent) (provided that the Advancing Agent or Backup Advancing Agent, as applicable, has not failed to make any Interest Advance required to be made in respect of any Payment Date pursuant to the terms of this Indenture) and (c) *third*, to the Advancing Agent and the Backup Advancing Agent, (i) to the extent due and payable to such party, Reimbursement Interest and (ii) reimbursement of any outstanding Interest Advances not (in the case of this clause (ii)) to exceed the amount that would result in an Interest Shortfall with respect to such Payment Date;

(3) (a) *first*, to the Backup Advancing Agent, the Backup Advancing Agent Fee and any previously due but unpaid Backup Advancing Agent Fees (provided that the Backup Advancing Agent has not failed to make any Interest Advance required to be made in respect of any Payment Date pursuant to the terms of this Indenture), (b) *second*, to the payment to the Trustee of the accrued and unpaid fees in respect of its services equal to the greater of (i) 0.019% *per annum* of the Aggregate Collateral Balance and (ii) U.S.$7,500 *per annum*, (c)

third, to the payment of other accrued and unpaid Company Administrative Expenses of the Trustee, the Collateral Administrator, the Custodial Securities Intermediary, the Paying Agent, the Preferred Shares Paying Agent and the Calculation Agent, (d) *fourth*, to the CLO Servicer for payment of the Servicing Fee under the Servicing Agreement (but only in the event that Arbor Commercial Mortgage LLC or an affiliate thereof is not acting as the servicer of the Loan Obligations and only to the extent such fees were not previously retained by the CLO Servicer out of amounts collected in respect of the Loan Obligations in accordance with the terms of the Servicing Agreement) and (e) *fifth*, to the payment of any other accrued and unpaid Company Administrative Expenses, the aggregate of all such amounts in clauses (c), (d) and (e) above (including such amounts paid since the previous Payment Date from the Expense Account) not to exceed the greater of (x) 0.10% *per annum* of the Aggregate Collateral Balance and (y) U.S.$125,000 *per annum*;

(4) to the payment of the Loan Obligation Manager Fee and any previously due but unpaid Loan Obligation Manager Fees (but only in the event that Arbor Realty Collateral Management, LLC or an affiliate thereof is not acting as Loan Obligation Manager);

(5) to the payment of the Class A Interest Distribution Amount, plus, any Class A Defaulted Interest Amount;

(6) to the payment of the Class B Interest Distribution Amount, plus, any Class B Defaulted Interest Amount;

(7) if either of the Note Protection Tests are not satisfied as of the Determination Date relating to such Payment Date, to the payment of, *first*, principal on the Class A Notes and, *second*, principal on the Class B Notes, in each case to the extent necessary to cause each of the Note Protection Tests to be satisfied or, if sooner, until the Class A Notes and Class B Notes have been paid in full;

(8) on each Payment Date following the occurrence of a Rating Confirmation Failure, to the payment of principal of each Class of Notes, (i) *first*, to the Class A Notes and (ii) *second*, to the Class B Notes, in each case until the rating assigned on the Closing Date to each Class of Notes has been reinstated or such Class has been paid in full;

(9) to the payment of any Company Administrative Expenses not paid pursuant to clause (3) above in the order specified therein;

(10) upon direction of the Loan Obligation Manager, for deposit into the Expense Account in an amount not to exceed U.S.$100,000 in respect of such Payment Date; and

(11) any remaining Interest Proceeds to be released from the lien of this Indenture and paid (upon standing order of the Issuer) to the Preferred Shares

Paying Agent for deposit into the Preferred Share Distribution Account for distribution to the Holder of the Preferred Shares as payments of

the Preferred Shares Distribution Amount subject to and in accordance with the provisions of the Preferred Share Paying Agency Agreement.

(ii) Principal Proceeds. On each Payment Date that is not a Redemption Date or a Payment Date following an acceleration of the Notes as a result of the occurrence and continuation of an Event of Default, Principal Proceeds with respect to the related Due Period shall be distributed in the following order of priority:

(1) to the payment of the amounts referred to in clauses (1) through (7) of Section 11.1(a)(i) in the same order of priority specified therein, without giving effect to any limitations on amounts payable set forth therein, but only to the extent not paid in full thereunder;

(2) on the Payment Date following the Portfolio Finalization Date, to the payment of principal, in an amount equal to all amounts remaining in the Unused Proceeds Account as of the Portfolio Finalization Date, (i) *first*, to the Class A Notes and (ii) *second*, to the Class B Notes, in each case until such Class has been paid in full;

(3) on each Payment Date following the occurrence of a Rating Confirmation Failure, to the extent that application of Interest Proceeds pursuant to Section 11.1(a)(i)(8) is insufficient to cause the ratings assigned to each Class of Notes to be reinstated or any affected Class to be paid in full, to the payment of principal (i) *first*, to the Class A Notes and (ii) *second*, to the Class B Notes, in each case until the rating assigned on the Closing Date to each Class of Notes has been reinstated or such Class has been paid in full;

(4) during the Replacement Period, so long as the Issuer is permitted to purchase Replacement Loan Obligations in accordance with Section 12.2, at the direction of the Loan Obligation Manager, the amount designated by the Loan Obligation Manager during the related Interest Accrual Period for payment of the purchase price of Replacement Loan Obligations;

(5) to the payment of principal of the Class A Notes until the Class A Notes have been paid in full;

(6) to the payment of principal of the Class B Notes until the Class B Notes have been paid in full; and

(7) any remaining Principal Proceeds to be released from the lien of this Indenture and paid (upon standing order of the Issuer) to the Preferred Shares Paying Agent for deposit into the Preferred Share Distribution Account for distribution to the Holders of the Preferred Shares as payments of the Preferred Shares Distribution Amount subject to and in accordance with the provisions of the Preferred Share Paying Agency Agreement.

(iii) Redemption Dates During Events of Default. On any Redemption Date or a Payment Date following the occurrence and continuation of an acceleration of the Notes as result of an Event of Default, Interest Proceeds and Principal Proceeds with respect to the related Due Period will be distributed in the following order of priority:

(1) to the payment of the amounts referred to in clauses (1) through (4) of Section 11.1(a)(i) in the same order of priority specified therein, but without giving effect to any limitations on amounts payable set forth therein;

(2) to the payment of any out-of-pocket fees and expenses of the Issuer and Trustee (including legal fees and expenses) incurred in connection with an acceleration of the Notes following an Event of Default, including in connection with sale and liquidation of any of the Assets in connection therewith;

(3) to the payment of the Class A Interest Distribution Amount, plus, any Class A Defaulted Interest Amount;

(4) to the payment in full of principal of the Class A Notes;

(5) to the payment of the Class B Interest Distribution Amount, plus, any Class B Defaulted Interest Amount;

(6) to the payment in full of principal of the Class B Notes; and

(7) any remaining Principal Proceeds to be released from the lien of this Indenture and paid (upon standing order of the Issuer) to the Preferred Shares Paying Agent for deposit into the Preferred Share Distribution Account for distribution to the holder of the Preferred Shares as payments of the Preferred Shares Distribution Amount subject to and in accordance with the provisions of the Preferred Share Paying Agency Agreement.

(b) On or before the Business Day prior to each Payment Date, the Issuer shall, pursuant to Section 10.2(e), remit or cause to be remitted to the Trustee for deposit in the Payment Account an amount of Cash sufficient to pay the amounts described in Section 11.1(a) required to be paid on such Payment Date.

(c) If on any Payment Date the amount available in the Payment Account from amounts received in the related Due Period is insufficient to make the full amount of the disbursements required by the statements furnished by the Trustee pursuant to Section 10.11(e) hereof, the Trustee shall make the disbursements called for in the order and according to the priority set forth under Section 11.1(a) above, subject to Section 13.1 hereof, to the extent funds are available therefor.

(d) If on any Payment Date the amount available in the Payment Account from amounts received in the related Due Period are insufficient to make the full amount of the disbursements required by any lettered clause of Section 11.1(a)(i), Section 11.1(a)(ii) or Section 11.1(a)(iii), the Trustee shall make the disbursements called for by such clause ratably in

accordance with the respective amounts of such disbursements then due and payable to the extent funds are available therefor.

(e) In the event that Interest Proceeds or Principal Proceeds on any Payment Date are to be applied to the payment of principal of or interest on any Class of Notes pursuant to Section 11.1(a)(i), Section 11.1(a)(ii) or Section 11.1(a)(iii), such payments will be made to Noteholders of each applicable Class, as to each such Section, *pro rata* based on the amounts thereof then due and payable.

(f) In connection with any required payment by the Issuer to the CLO Servicer pursuant to the Servicing Agreement of any amount scheduled to be paid from time to time between Payment Dates from amounts received with respect to the Loan Obligations, such amounts shall be distributed to the CLO Servicer pursuant to the terms of the Servicing Agreement.

Section 11.2 Securities Accounts.

All amounts held by, or deposited with the Trustee in the Collection Accounts, the Payment Account, the Expense Account, the Unused Proceeds Account or the RDD Funding Account pursuant to the provisions of this Indenture, and not invested in Eligible Investments as herein provided, shall be credited one or more securities accounts established and maintained pursuant to the Securities Account Control Agreement at the Corporate Trust Office of the Trustee, in its capacity as Custodial Securities Intermediary or at another financial institution whose long-term rating is at least equal to, "A2" by Moody's and agrees to act as a Securities Intermediary on behalf of the Trustee on behalf of the Secured Parties pursuant to an account control agreement in form and substance similar to the Securities Account Control Agreement. To the extent amounts deposited in such trust account exceed amounts insured by the Bank Insurance Fund or Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation, or any agencies succeeding to the insurance functions thereof, and are not fully collateralized by direct obligations of the United States of America, such excess shall be invested in Eligible Investments as directed by Issuer Order.

ARTICLE 12

SALE OF LOAN OBLIGATIONS

Section 12.1 Sales of Loan Obligations.

(a) Except as otherwise expressly permitted or required by this Indenture, the Issuer shall not sell or otherwise dispose of any Loan Obligation. The Loan Obligation Manager, on behalf of the Issuer, acting pursuant to the Loan Obligation Management Agreement may direct the Trustee in writing to sell:

(i) any Defaulted Obligation at any time;

(ii) a Buy/Sell Interest at any time; and

(iii) any Credit Risk Obligation on or prior to the last day of the Replacement Period unless (x) either of the Note Protection Tests were not satisfied as of the immediately preceding Determination Date and have not been cured as of the proposed sale date or (y) the Trustee, upon written direction of a majority of the Controlling Class, has provided written notice to the Loan Obligation Manager that no further sales of Credit Risk Obligations shall be permitted. The Trustee shall sell any Loan Obligation in any sale permitted pursuant to this Section 12.1(a), as directed by the Loan Obligation Manager.

(b) In addition with respect to any Defaulted Obligation or Credit Risk Obligation permitted to be sold pursuant to Section 12.1(a), the Loan Obligation Manager may, on behalf of the Issuer, instruct the Trustee to dispose of such Defaulted Obligation or Credit Risk Obligation in one of the following additional manners:

(i) by purchasing or causing its affiliate to purchase (x) such Credit Risk Obligation or Defaulted Obligation from the Issuer for a cash purchase price that will be equal to the sum of (i) the Principal Balance thereof plus (ii) all accrued and unpaid interest thereon (such purchase, a "Credit Risk/Defaulted Obligation Cash Purchase") (and no Advisory Committee consent will be required in connection with a Credit Risk/Defaulted Obligation Cash Purchase); or

(ii) upon disclosure to, and with the prior consent of, the Advisory Committee, directing the Issuer to exchange such Defaulted Obligation for (1) a substitute Loan Obligation owned by an affiliate of the Loan Obligation Manager that satisfies the Eligibility Criteria (such Replacement Loan Obligation, an "Exchange Obligation") or (2) a combination of an Exchange Obligation and cash (such exchange, a " Defaulted Obligation Exchange"); provided that:

(1) the sum of (1) the Principal Balance of such Exchange Obligation plus (2) all accrued and unpaid interest thereon plus (3) the Cash amount (if any) to be paid to the Issuer in respect of such exchange by such affiliate of the Loan Obligation Manager, shall be equal to or greater than:

(2) the sum of (1) the Principal Balance of the Defaulted Obligation sought to be exchanged plus (2) all accrued and unpaid interest thereon.

If a Loan Obligation that is a Defaulted Obligation is not sold by the Issuer (at the direction of the Loan Obligation Manager) within three years of such Loan Obligation becoming a Defaulted Obligation, the Loan Obligation Manager, on behalf of the Issuer, will use its commercially reasonable efforts to sell such Loan Obligation as soon as commercially practicable thereafter.

(c) After the Issuer has notified the Trustee of an Optional Redemption, a Clean-Up Call or a Tax Redemption in accordance with Section 9.1, the Loan Obligation Manager, on behalf of the Issuer, and acting pursuant to the Loan Obligation Management Agreement, may at any time direct the Trustee in writing to sell, and the Trustee shall sell in the

manner directed by the Loan Obligation Manager in writing, any Loan Obligation without regard to the foregoing limitations in Section 12.1(a); provided that:

(i) the Sale Proceeds therefrom must be used to pay certain expenses and redeem all of the Notes in whole but not in part pursuant to Section 9.1, and upon any such sale the Trustee shall release such Loan Obligation pursuant to Section 10.12;

(ii) the Issuer may not direct the Trustee to sell (and the Trustee shall not be required to release) a Loan Obligation pursuant to this Section 12.1(b) unless:

(1) the Loan Obligation Manager certifies to the Trustee that, in the Loan Obligation Manager's reasonable business judgment based on calculations included in the certification (which shall include the sales prices of the Loan Obligations), the Sale Proceeds from the sale of one or more of the Loan Obligations and all Cash and proceeds from Eligible Investments will be at least equal to the Total Redemption Price; and

(2) the Independent accountants appointed by the Issuer pursuant to Section 10.13 shall recalculate the calculations made in clause (1) above and prepare an agreed-upon procedures report.

(iii) in connection with an Optional Redemption, a Clean-up Call or a Tax Redemption, all the Loan Obligations to be sold pursuant to this Section 12.1(b) must be sold in accordance with the requirements set forth in Section 9.1(e).

(d) In the event that any Notes remain Outstanding as of the Payment Date occurring six months prior to the Stated Maturity Date of the Notes, the Loan Obligation Manager will be required to determine whether the proceeds expected to be received on the Assets prior to the Stated Maturity Date of the Notes will be sufficient to pay in full the principal amount of (and accrued interest on) the Notes on the Stated Maturity Date. If the Loan Obligation Manager determines, in its sole discretion, that such proceeds will not be sufficient to pay the outstanding principal amount of and accrued interest on the Notes (a "Note Liquidation Event") on the Stated Maturity Date of the Notes, the Issuer will, at the direction of the Loan Obligation Manager, be obligated to liquidate the portion of Loan Obligations sufficient to pay the remaining principal amount of and interest on the Notes on or before the Stated Maturity Date. The Loan Obligations to be liquidated by the Issuer will be selected by the Loan Obligation Manager.

(e) Notwithstanding anything herein to the contrary, (a) in the event that a "buy/sell" arrangement has been initiated with respect to a Buy/Sell Interest, or (b) a Loan Obligation is subject to a workout and, in either case, the Loan Obligation Manager determines in accordance with the Loan Obligation Manager Servicing Standard that the sale of any such Loan Obligation is in the best interest of the Noteholders, the Loan Obligation Manager may, on behalf of the Issuer, direct the Trustee to sell such Loan Obligation in accordance with the terms of the related Underlying Instruments; provided that, in the event any such sale is to be made to an Affiliate of the Issuer or the Loan Obligation Manager, such sale may be made only upon disclosure to, and with the prior consent of, the Advisory Committee.

(f) Notwithstanding anything herein to the contrary, the Loan Obligation Manager on behalf of the Issuer shall be permitted to sell to a Permitted Subsidiary any Sensitive Asset for consideration consisting of equity interests in such Permitted Subsidiary (or an increase in the value of equity interests already owned).

(g) Notwithstanding anything herein to the contrary, to the extent the Loan Obligation Manager deems necessary or advisable in accordance with the Loan Obligation Manager Standard, the Issuer may, at the direction of the Loan Obligation Manager (but only upon disclosure to, and with the prior consent of, the Advisory Committee), assign its right to purchase under a "buy/sell" arrangement in respect of a Loan Obligation to the Holder of the Preferred Shares or any Affiliate thereof.

Section 12.2 Replacement Loan Obligations.

(a) Except as provided in Section 12.3(c), during the Replacement Period (or within 60 days after the end of the Replacement Period with respect to reinvestments made pursuant to binding commitments to purchase entered into during the Replacement Period), Principal Proceeds received may, but are not required to, be reinvested in Replacement Loan Obligations (which shall be, and hereby are upon acquisition by the Issuer, Granted to the Trustee pursuant to the Granting Clause of this Indenture) that satisfy the applicable Eligibility Criteria and the following additional criteria (the " Replacement Criteria"), as evidenced by an Officer's Certificate of the Loan Obligation Manager on behalf of the Issuer delivered to the Trustee, as of the date of the commitment to purchase such Replacement Loan Obligations:

(i) the Note Protection Tests are satisfied; and

(ii) no Event of Default has occurred and is continuing.

(b) Notwithstanding the foregoing provisions, (i) Cash on deposit in the Collection Accounts may be invested in Eligible Investments, pending investment in Replacement Loan Obligations and (ii) if an Event of Default shall have occurred and be continuing, no Replacement Loan Obligation may be acquired unless it was the subject of a commitment entered into by the Issuer prior to the occurrence of such Event of Default.

(c) Notwithstanding the foregoing provisions, at any time when ARMS Equity holds 100% of the Preferred Shares, it may contribute additional Cash and/or Loan Obligations to the Issuer so long as any such Loan Obligations satisfy the Eligibility Criteria at the time of such contribution. Cash contributed to the Issuer by ARMS Equity (whether before or after the Replacement Period) may be reinvested by the Issuer in Replacement Loan Obligations in accordance with the requirements set forth in Section 12.2(a).

Section 12.3 Conditions Applicable to all Transactions Involving Sale or Grant .

(a) Any transaction effected after the Closing Date under this Article 12 or Section 10.12 shall be conducted in accordance with the requirements of the Loan Obligation Management Agreement; provided that (1) the Loan Obligation Manager shall not direct the Trustee to acquire any Replacement Loan Obligation for inclusion in the Assets from the Loan Obligation Manager or any of its Affiliates as principal or to sell any Loan Obligation from the

Assets to the Loan Obligation Manager or any of its Affiliates as principal unless the transaction is effected in accordance with the Loan Obligation Management Agreement and (2) the Loan Obligation Manager shall not direct the Trustee to acquire any Replacement Loan Obligation for inclusion in the Assets from any account or portfolio for which the Loan Obligation Manager serves as investment adviser or direct the Trustee to sell any Loan Obligation to any account or portfolio for which the Loan Obligation Manager serves as investment adviser unless such transactions comply with the Loan Obligation Management Agreement and Section 206(3) of the Advisers Act. The Trustee shall have no responsibility to oversee compliance with this clause by the other parties.

(b) Upon any Grant pursuant to this Article 12, all of the Issuer's right, title and interest to the Asset or Securities shall be Granted to the Trustee pursuant to this Indenture, such Asset or Securities shall be registered in the name of the Trustee, and, if applicable, the Trustee shall receive such Pledged Loan Obligation or Securities. The Trustee also shall receive, not later than the date of delivery of any Loan Obligation delivered after the Closing Date, an Officer's Certificate of the Loan Obligation Manager certifying that, as of the date of such Grant, such Grant complies with the applicable conditions of and is permitted by this Article 12 (and setting forth, to the extent appropriate, calculations in reasonable detail necessary to determine such compliance).

(c) Notwithstanding anything contained in this Article 12 to the contrary, the Issuer shall, subject to this Section 12.3(c), have the right to effect any transaction which has been consented to by the Holders of Notes evidencing 100% of the Aggregate Outstanding Amount of each and every Class of Notes (or if there are no Notes Outstanding, 100% of the Preferred Shares).

Section 12.4 Modifications to Moody's Tests.

In the event Moody's modifies the definitions or calculations relating to any of the Eligibility Criteria or either of the Note Protection Tests (each, a "Moody's Test Modification"), in any case in order to correspond with published changes in the guidelines, methodology or standards established by Moody's, the Issuer may, but is under no obligation solely as a result of this Section 12.4 to, incorporate corresponding changes into this Indenture by an amendment or supplement hereto without the consent of the Holders of the Notes (except as provided below) (but with written notice to the Noteholders) or the Preferred Shares if (x) the Rating Agency Condition is satisfied and (y) written notice of such modification is delivered by the Loan Obligation Manager to the Trustee and the Holders of the Notes and Preferred Shares (which notice may be included in the next regularly scheduled report to Noteholders). Any such Moody's Test Modification shall be effected without execution of a supplemental indenture; provided, however, that such amendment shall be (i) evidenced by a written instrument executed and delivered by each of the Co-Issuers and the Loan Obligation Manager and delivered to the Trustee, (ii) accompanied by delivery by the Issuer to the Trustee of an Officer's Certificate of the Issuer (or the Loan Obligation Manager on behalf of the Issuer) certifying that such amendment has been made pursuant to and in compliance with this Section 12.4.

ARTICLE 13

NOTEHOLDERS' RELATIONS

Section 13.1 Subordination.

(a) Anything in this Indenture or the Notes to the contrary notwithstanding, the Issuer and the Holders of the Class B Notes agree for the benefit of the Holders of the Class A Notes that the Class B Notes (the "Subordinate Interests") shall be subordinate and junior to the Class A Notes to the extent and in the manner set forth in Article XI of this Indenture. On each Redemption Date and each Payment Date as a result of the occurrence and continuation of the acceleration of the Notes following the occurrence of an Event of Default, all accrued and unpaid interest on and outstanding principal on the Class A Notes shall be paid pursuant to Section 11.1(a)(iii) in full in Cash or, to the extent 100% of Holders of the Class A Notes consent, other than in Cash, before any further payment or distribution is made on account of the Class B Notes, to the extent and in the manner provided in Section 11.1(a)(iii).

(b) In the event that notwithstanding the provisions of this Indenture, any holder of any Subordinate Interests shall have received any payment or distribution in respect of such Subordinate Interests contrary to the provisions of this Indenture, then, unless and until all accrued and unpaid interest on and outstanding principal of the Class A Notes has been paid in full in accordance with this Indenture, such payment or distribution shall be received and held in trust for the benefit of, and shall forthwith be paid over and delivered to, the Trustee, which shall pay and deliver the same to the Holders of the Class A Notes in accordance with this Indenture.

(c) Each Holder of Class A Notes agrees with the Trustee on behalf of the Secured Parties that such Holder shall not demand, accept, or receive any payment or distribution in respect of the Class A Notes in violation of the provisions of this Indenture including this Section 13.1. Nothing in this Section 13.1 shall affect the obligation of the Issuer to pay Holders of the Class A Notes any amounts due and payable hereunder.

(d) Each Holder of Subordinate Interests agrees with the Trustee on behalf of the Secured Parties that such Holder of Subordinate Interests shall not demand, accept, or receive any payment or distribution in respect of such Subordinate Interests in violation of the provisions of this Indenture including this Section 13.1; provided, however, that after all accrued and unpaid interest on, and principal of, the Class A Notes have been paid in full, the Holders of Subordinate Interests shall be fully subrogated to the rights of the Holders of the Class A Notes. Nothing in this Section 13.1 shall affect the obligation of the Issuer to pay Holders of Subordinate Interests any amounts due and payable hereunder.

(e) The Holders of each Class of Notes agree, for the benefit of all Holders of each Class of Notes, not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any Permitted Subsidiary until the payment in full of the Notes and not before one year and a day, or if longer, the applicable preference period then in effect, has elapsed since such payment.

Section 13.2 Standard of Conduct.

In exercising any of its or their voting rights, rights to direct and consent or any other rights as a Securityholder under this Indenture, a Securityholder or Securityholders shall not have any obligation or duty to any Person or to consider or take into account the interests of any Person and shall not be liable to any Person for any action taken by it or them or at its or their direction or any failure by it or them to act or to direct that an action be taken, without regard to whether such action or inaction benefits or adversely affects any Securityholder, the Issuer, or any other Person, except for any liability to which such Securityholder may be subject to the extent the same results from such Securityholder's taking or directing an action, or failing to take or direct an action, in bad faith or in violation of the express terms of this Indenture.

ARTICLE 14

MISCELLANEOUS

Section 14.1 Form of Documents Delivered to the Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Authorized Officer of the Issuer or the Co-Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Authorized Officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate of an Authorized Officer of the Issuer or the Co-Issuer or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, the Issuer, the Co-Issuer, the Loan Obligation Manager or any other Person, stating that the information with respect to such factual matters is in the possession of the Issuer, the Co-Issuer, the Loan Obligation Manager or such other Person, unless such Authorized Officer of the Issuer or the Co-Issuer or such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous. Any Opinion of Counsel also may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Authorized Officer of the Issuer or the Co-Issuer, or the Loan Obligation Manager on behalf of the Issuer, certifying as to the factual matters that form a basis for such Opinion of Counsel and stating that the information with respect to such matters is in the possession of the Issuer or the Co-Issuer or the Loan Obligation Manager on behalf of the Issuer, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Whenever in this Indenture it is provided that the absence of the occurrence and continuation of a Default or Event of Default is a condition precedent to the taking of any action by the Trustee at the request or direction of the Issuer or the Co-Issuer, then notwithstanding that the satisfaction of such condition is a condition precedent to the Issuer's or the Co-Issuer's rights to make such request or direction, the Trustee shall be protected in acting in accordance with such request or direction if it does not have knowledge of the occurrence and continuation of such Default or Event of Default as provided in Section 6.1(e).

Section 14.2 Acts of Securityholders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Securityholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Securityholders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer and/or the Co-Issuer. Such instrument or instruments (and the action or actions embodied therein and evidenced thereby) are herein sometimes referred to as the " Act" of the Securityholders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee, the Issuer and the Co-Issuer, if made in the manner provided in this Section 14.2.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any manner which the Trustee deems sufficient.

(c) The principal amount and registered numbers of Notes held by any Person, and the date of his holding the same, shall be proved by the Notes Register. The Notional Amount and registered numbers of the Preferred Shares held by any Person, and the date of his holding the same, shall be proved by the register maintained with respect to the Preferred Shares.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Securityholder shall bind such Securityholder (and any transferee thereof) of such Security and of every Security issued upon the registration thereof or in exchange therefor or in lieu thereof, in respect of anything done, omitted or suffered to be done by the Trustee, the Preferred Shares Paying Agent, the Share Registrar, the Issuer or the Co-Issuer in reliance thereon, whether or not notation of such action is made upon such Security.

Section 14.3 Notices, etc., to the Trustee, the Issuer, the Co-Issuer, the Advancing Agent, the Loan Obligation Manager, the Placement Agent and the Rating Agency.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Securityholders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

(a) the Trustee by any Securityholder or by the Issuer or the Co-Issuer shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier

service guaranteeing next day delivery or by facsimile in legible form, to the Trustee addressed to it at its Corporate Trust Office, or at any other address previously furnished in writing to the Issuer, the Co-Issuer or Securityholders by the Trustee;

(b) the Issuer by the Trustee or by any Securityholder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Issuer addressed to it at Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. at c/o MaplesFS Limited, P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1104 Cayman Islands, facsimile number: 345-945-7100, Attention: The Directors, or at any other address previously furnished in writing to the Trustee by the Issuer, with a copy to the Loan Obligation Manager at its address set forth below;

(c) the Co-Issuer by the Trustee or by any Securityholder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Co-Issuer addressed to it in c/o Puglisi & Associates, 850 Library Avenue, Suite 204, Newark, Delaware 19711, Attention: Donald J. Puglisi, facsimile number: (302) 738-7210, or at any other address previously furnished in writing to the Trustee by the Co-Issuer, with a copy to the Loan Obligation Manager at its address set forth below;

(d) the Advancing Agent by the Trustee, the Issuer or the Co-Issuer shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Advancing Agent addressed to it at Arbor Realty SR, Inc., 333 Earle Ovington Boulevard, 9th Floor, Uniondale, New York 11553, Attention: Executive Vice President — Structured Securitization, or at any other address previously furnished in writing to the Trustee and the Co-Issuers, with a copy to the Loan Obligation Manager at its address set forth below.

(e) the Preferred Shares Paying Agent shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to

and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier service guaranteeing next day delivery or by facsimile in legible form, to the Preferred Shares Paying Agent addressed to it at its Corporate Trust Office or at any other address previously furnished in writing by the Trustee;

(f) the Loan Obligation Manager by the Issuer, the Co-Issuer or the Trustee shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Loan Obligation Manager addressed to it at Arbor Realty Collateral Management, LLC, 333 Earle Ovington Boulevard, 9th Floor, Uniondale, New York 11553, Attention: Executive Vice President — Structured Securitization, or at any other address previously furnished in writing to the Issuer, the Co-Issuer or the Trustee;

(g) the Rating Agency, as applicable, by the Issuer, the Co-Issuer, the Loan Obligation Manager or the Trustee shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand

delivered, sent by overnight courier service or by facsimile in legible form, to the Rating Agency addressed to it at Moody's Investor Services, Inc., 7 World Trade Center, 250 Greenwich Street, New York, New York 10007, Attention: CMBS Surveillance (or by electronic mail at moodys_cre_cdo_monitoring@moodys.com) or such other address that a Rating Agency shall designate in the future; provided that any request, demand, authorization, direction, order, notice, consent, waiver or Act of Securityholders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with the Rating Agency ("17g-5 Information") shall be given in accordance with, and subject to, the provisions of Section 14.13 hereof; and

(h) the Placement Agent by the Issuer, the Co-Issuer, the Trustee or the Loan Obligation Manager shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form to the Placement Agent at Sandler O'Neill & Partners, L.P., 1251 Avenue of the Americas — 6th Floor, New York, New York 10020, Attention: General Counsel, Telephone: (212) 466-7800, Fax: (212) 466-7996.

Section 14.4 Notices to Noteholders; Waiver.

Except as otherwise expressly provided herein, where this Indenture provides for notice to Holders of Notes of any event,

(a) such notice shall be sufficiently given to Holders of Notes if in writing and mailed, first class postage prepaid, to each Holder of a Note affected by such event, at the address of such Holder as it appears in the Notes Register, not earlier than the earliest date and not later than the latest date, prescribed for the giving of such notice;

(b) such notice shall be in the English language; and

(c) all reports or notices to Preferred Shareholders shall be sufficiently given if provided in writing and mailed, first class postage prepaid, to the Preferred Shares Paying Agent.

Notwithstanding clause (a) above, a Holder of Notes may give the Trustee written notice that it is requesting that notices to it be given by facsimile transmissions and stating the facsimile number for such transmission. Thereafter, the Trustee shall give notices to such Holder by facsimile transmission; provided that if such notice also requests that notices be given by mail, then such notice shall also be given by mail in accordance with clause (a) above.

The Trustee shall deliver to the Holders of the Notes any information or notice requested to be so delivered by at least 25% of the Holders of any Class of Notes.

Neither the failure to mail any notice, nor any defect in any notice so mailed, to any particular Holder of a Note shall affect the sufficiency of such notice with respect to other Holders of Notes. In case by reason of the suspension of regular mail service or by reason of any other cause, it shall be impracticable to give such notice by mail, then such notification to Holders of Notes shall be made with the approval of the Trustee and shall constitute sufficient notification to such Holders of Notes for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by any Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Noteholders shall be filed with the Trustee but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In the event that, by reason of the suspension of the regular mail service as a result of a strike, work stoppage or similar activity, it shall be impractical to mail notice of any event to Noteholders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

Section 14.5 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 14.6 Successors and Assigns.

All covenants and agreements in this Indenture by the Issuer and the Co-Issuer shall bind their respective successors and assigns, whether so expressed or not.

Section 14.7 Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.8 Benefits of Indenture.

Nothing in this Indenture or in the Securities, expressed or implied, shall give to any Person, other than (i) the parties hereto and their successors hereunder and (ii) the Loan Obligation Manager, the Preferred Shareholders, the Preferred Shares Paying Agent, the Share Registrar and the Noteholders (each of whom, in the case of this clause (ii), shall be an express third party beneficiary hereunder), any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 14.9 Governing Law.

THIS INDENTURE AND EACH NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES.

Section 14.10 Submission to Jurisdiction.

Each of the Issuer and the Co-Issuer hereby irrevocably submits to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of

Manhattan in The City of New York in any action or proceeding arising out of or relating to the Notes or this Indenture, and each of the Issuer and the Co-Issuer hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such New York State or federal court. Each of the Issuer and the Co-Issuer hereby irrevocably waives, to the fullest extent that they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Each of the Issuer and the Co-Issuer irrevocably consents to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it at the office of the Issuer's and the Co-Issuer's agent set forth in Section 7.2. Each of the Issuer and the Co-Issuer agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 14.11 Counterparts.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 14.12 Liability of Co-Issuers.

Notwithstanding any other terms of this Indenture, the Notes or any other agreement entered into between, *inter alios*, the Issuer and the Co-Issuer or otherwise, neither the Issuer nor the Co-Issuer shall have any liability whatsoever to the Co-Issuer or the Issuer, respectively, under this Indenture, the Notes, any such agreement or otherwise and, without prejudice to the generality of the foregoing, neither the Issuer nor the Co-Issuer shall be entitled to take any steps to enforce, or bring any action or proceeding, in respect of this Indenture, the Notes, any such agreement or otherwise against the other Co-Issuer or the Issuer, respectively. In particular, neither the Issuer nor the Co-Issuer shall be entitled to petition or take any other steps for the winding up or bankruptcy of the Co-Issuer or the Issuer, respectively or shall have any claim in respect of any assets of the Co-Issuer or the Issuer, respectively.

Section 14.13 17g-5 Information.

(a) The parties hereto agree that all 17g-5 Information provided to the Rating Agency, or any of its officers, directors or employees, to be given or provided to the Rating Agency pursuant to, in connection with or related, directly or indirectly, to this Indenture, any other Transaction Document, the Assets or the Notes, shall be in each case furnished directly to the Rating Agency at the address set forth in clause Section 14.3(h) with a prior electronic copy to the Issuer or the Information Agent, as provided in Section 2A of the Collateral Administration Agreement (for forwarding to the 17g-5 Website in accordance with the Collateral Administration Agreement). The Co-Issuers also shall furnish such other information regarding the Co-Issuers or the Assets as may be reasonably requested by the Rating Agency to the extent such party has or can obtain such information without unreasonable effort or expense. Notwithstanding the foregoing, the failure to deliver such notices or copies shall not constitute an Event of Default under this Indenture. Any confirmation of the rating by the Rating Agency required hereunder shall be in writing. For the avoidance of doubt, such information under this Section 14.13 shall not include any Accountants' Reports.

(b) The Co-Issuers shall comply with their obligations under Rule 17g-5 promulgated under the Exchange Act (" Rule 17g-5"), by their or their agent's posting on the 17g-5 Website, no later than the time such information is provided to the Rating Agency, all 17g-5 Information. At all times while any Notes are rated by the Rating Agency or any other NRSRO, the Co-Issuers shall engage a third-party to post 17g-5 Information to the 17g-5 Website, which shall initially be the Collateral Administrator (in such capacity, the "Information Agent").

(c) To the extent any of the Co-Issuers, the Trustee or the Loan Obligation Manager are engaged in oral communications with the Rating Agency, for the purposes of determining the initial credit rating of the Notes or credit rating surveillance of the Notes, the party communicating with the Rating Agency shall cause such oral communication to either be (x) recorded and an audio file containing the recording to be promptly delivered to the Information Agent for posting to the 17g-5 Website or (y) summarized in writing and the summary to be promptly delivered to the Information Agent for posting to the 17g-5 Website.

(d) Notwithstanding the requirements herein, the Trustee shall have no obligation to engage in or respond to any oral communications, for the purposes of determining the initial credit rating of the Notes or undertaking credit rating surveillance of the Notes, with the Rating Agency or any of their respective officers, directors or employees.

(e) Notwithstanding anything to the contrary in this Indenture, a breach of this Section 14.13 shall not constitute a Default or Event of Default.

Section 14.14 Rating Agency Condition.

Any request for satisfaction of the Rating Agency Condition made by the Issuer, Co-Issuer or Trustee, as applicable, pursuant to this Indenture, shall be made in writing, which writing shall contain a cover page indicating the nature of the request for satisfaction of the Rating Agency Condition, and shall contain all back-up material necessary for the Rating Agency to process such request. Such written request for satisfaction of the Rating Agency Condition shall be provided in electronic format to the Information Agent for posting on the 17g-5 Website in accordance with Section 14.13 hereof and after receiving actual knowledge of such posting (which may be in the form of an automatic email notification of posting delivered by the 17g-5 Website to such party), the Requesting Party shall send the request for satisfaction of such Condition to the Rating Agency in accordance with the instructions for notices set forth in Section 14.3(h) hereof.

ARTICLE 15

ASSIGNMENT OF LOAN OBLIGATION PURCHASE AGREEMENTS AND LOAN MANAGEMENT AGREEMENT

Section 15.1 Assignment of Loan Obligation Purchase Agreements and the Loan Obligation Management Agreement.

(a) The Issuer, in furtherance of the covenants of this Indenture and as security for the Notes and amounts payable to the Secured Parties hereunder and the performance and observance of the provisions hereof, hereby collaterally assigns, transfers, conveys and sets over to the Trustee, for the benefit of the Noteholders, all of the Issuer's estate, right, title and interest in, to and under each Loan Obligation Purchase Agreement (now or hereafter entered into) and the Loan Obligation Management Agreement (each, an "Article 15 Agreement"), including, without limitation, (i) the right to give all notices, consents and releases thereunder, (ii) the right to give all notices of termination and to take any legal action upon the breach of an obligation of a Seller or the Loan Obligation Manager thereunder, including the commencement, conduct and consummation of proceedings at law or in equity, (iii) the right to receive all notices, accountings, consents, releases and statements thereunder and (iv) the right to do any and all other things whatsoever that the Issuer is or may be entitled to do thereunder; provided, however, that the Trustee hereby grants the Issuer a license to exercise all of the Issuer's rights pursuant to the Article 15 Agreements without notice to or the consent of the Trustee (except as otherwise expressly required by this Indenture, including, without limitation, as set forth in Section 15.1(f)) which license shall be and is hereby deemed to be automatically revoked upon the occurrence of an Event of Default hereunder until such time, if any, that such Event of Default is cured or waived.

(b) The assignment made hereby is executed as collateral security, and the execution and delivery hereby shall not in any way impair or diminish the obligations of the Issuer under the provisions of each of the Article 15 Agreements, nor shall any of the obligations contained in each of the Article 15 Agreements be imposed on the Trustee.

(c) Upon the retirement of the Notes and the release of the Assets from the lien of this Indenture, this assignment and all rights herein assigned to the Trustee for the benefit of the Noteholders shall cease and terminate and all the estate, right, title and interest of the Trustee in, to and under each of the Article 15 Agreements shall revert to the Issuer and no further instrument or act shall be necessary to evidence such termination and reversion.

(d) The Issuer represents that it has not executed any assignment of any of the Article 15 Agreements other than this collateral assignment.

(e) The Issuer agrees that this assignment is irrevocable, and that it shall not take any action which is inconsistent with this assignment or make any other assignment inconsistent herewith. The Issuer shall, from time to time upon the request of the Trustee, execute all instruments of further assurance and all such supplemental instruments with respect to this assignment as the Trustee may specify.

(f) The Issuer hereby agrees, and hereby undertakes to obtain the agreement and consent of the Sellers and the Loan Obligation Manager, as applicable, in the Loan Obligation Purchase Agreements and the Loan Obligation Management Agreement, as applicable, to the following:

(i) each of the Sellers and the Loan Obligation Manager consents to the provisions of this collateral assignment and agrees to perform any provisions of this Indenture made expressly applicable to each of the Sellers and the Loan Obligation Manager pursuant to the applicable Article 15 Agreement;

(ii) each of the Sellers and the Loan Obligation Manager, as applicable, acknowledges that the Issuer is collaterally assigning all of its right, title and interest in, to and under the Loan Obligation Purchase Agreements and the Loan Obligation Management Agreement, as applicable, to the Trustee for the benefit of the Noteholders, and each of the Sellers and the Loan Obligation Manager, as applicable, agrees that all of the representations, covenants and agreements made by each of the Sellers and the Loan Obligation Manager, as applicable, in the applicable Article 15 Agreement are also for the benefit of, and enforceable by, the Trustee and the Noteholders;

(iii) each of the Sellers and the Loan Obligation Manager, as applicable, shall deliver to the Trustee duplicate original copies of all notices, statements, communications and instruments delivered or required to be delivered to the Issuer pursuant to the applicable Article 15 Agreement;

(iv) none of the Issuer, the Sellers or the Loan Obligation Manager shall enter into any agreement amending, modifying or terminating the applicable Article 15 Agreement, (other than in respect of an amendment or modification to cure any inconsistency, ambiguity or manifest error) or selecting or consenting to a successor Loan Obligation Manager, as applicable, without notifying the Rating Agency and without the prior written consent and written confirmation of the Rating Agency that such amendment, modification or termination will not cause its then-current ratings of the Notes to be downgraded or withdrawn;

(v) except as otherwise set forth herein and therein (including, without limitation, pursuant to Section 12 of the Loan Obligation Management Agreement), the Loan Obligation Manager shall continue to serve as Loan Obligation Manager under the Loan Obligation Management Agreement, notwithstanding that the Loan Obligation Manager shall not have received amounts due it under the Loan Obligation Management Agreement because sufficient funds were not then available hereunder to pay such amounts pursuant to the Priority of Payments. The Loan Obligation Manager agrees not to cause the filing of a petition in bankruptcy against the Issuer for the nonpayment of the fees or other amounts payable to the Loan Obligation Manager under the Loan Obligation Management Agreement until the payment in full of all Notes issued under this Indenture and the expiration of a period equal to the applicable preference period under the Bankruptcy Code plus ten days following such payment; and

(vi) the Loan Obligation Manager irrevocably submits to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to the Notes or this Indenture, and the Loan Obligation Manager irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such New York State or federal court. The Loan Obligation Manager irrevocably waives, to the fullest extent it may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The Loan Obligation Manager irrevocably consents to the service of any and all process in any action or Proceeding by the mailing by certified mail, return receipt requested, or delivery requiring signature and proof of delivery of copies of such initial process to it at Arbor Realty Trust, Inc., 333 Earle Ovington Boulevard, 9th Floor, Uniondale, New York 11553, Attention: Executive Vice President—Structured Securitization. The Loan Obligation Manager agrees that a final and non-appealable judgment by a court of competent jurisdiction in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

ARTICLE 16

CURE RIGHTS; PURCHASE RIGHTS; REPLACEMENT LOAN OBLIGATIONS

Section 16.1 Reserved.

Section 16.2 Loan Obligation Purchase Agreements.

Following the Closing Date, unless a Loan Obligation Purchase Agreement is necessary to comply with the provisions of this Indenture, the Issuer may acquire Loan Obligations in accordance with customary settlement procedures in the relevant markets. In any event, the Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall obtain from any seller of a Loan Obligation, all Underlying Instruments with respect to each Loan Obligation that govern, directly or indirectly, the rights and obligations of the owner of the Loan Obligation with respect to the Loan Obligation and any certificate evidencing the Loan Obligation.

Section 16.3 Representations and Warranties Related to Replacement Loan Obligations.

(a) Upon the acquisition of a Replacement Loan Obligation by the Issuer, the related seller shall be required to make representations

and warranties substantially in the form attached as Exhibit H hereto.

(b) The representations and warranties in Section 16.3(a) with respect to the acquisition of a Replacement Loan Obligation may be subject to any modification, limitation or qualification that the Loan Obligation Manager determines to be reasonably acceptable in accordance with the Loan Obligation Manager Servicing Standard; provided that the Loan Obligation Manager will provide the Rating Agency with a report attached to each Monthly Report identifying each such affected representation or warranty and the modification, exception, limitation or qualification received with respect to the acquisition of any Replacement Loan

Obligation during the period covered by the Monthly Report, which report may contain explanations by the Loan Obligation Manager as to its determinations.

(c) The Issuer (or the Loan Obligation Manager on behalf of the Issuer) shall obtain a covenant from the Person making any representation or warranty to the Issuer pursuant to Section 16.3(a) that such Person shall repurchase the related Loan Obligation if any such representation or warranty is breached (but only after the expiration of any permitted cure periods and failure to cure such breach). The purchase price for any Loan Obligation repurchased (the "Repurchase Price") shall be a price equal to the sum of the following (in each case, without duplication) as of the date of such repurchase: (i) the then outstanding Principal Balance of such Loan Obligation, discounted based on the percentage amount of any discount that was applied when such Loan Obligation was purchased by the Issuer, *plus* (ii) accrued and unpaid interest on such Loan Obligation, *plus* (iii) any unreimbursed advances, *plus* (iv) accrued and unpaid interest on advances on the Loan Obligation, *plus* (v) any reasonable costs and expenses (including, but not limited to, the cost of any enforcement action, incurred by the Issuer or the Trustee in connection with any such purchase by a seller).

Section 16.4 Operating Advisor.

If the Issuer, as holder of a Senior Participation has the right pursuant to the related Underlying Instruments to appoint the operating advisor, directing holder or Person serving a similar function under the Underlying Instruments, each of the Issuer, the Trustee and the Loan Obligation Manager shall take such actions as are reasonably necessary to appoint the Loan Obligation Manager to such position.

ARTICLE 17

ADVANCING AGENT

Section 17.1 Liability of the Advancing Agent.

The Advancing Agent shall be liable in accordance herewith only to the extent of the obligations specifically imposed upon and undertaken by the Advancing Agent.

Section 17.2 Merger or Consolidation of the Advancing Agent.

(a) The Advancing Agent will keep in full effect its existence, rights and franchises as a corporation under the laws of the jurisdiction in which it was formed, and will obtain and preserve its qualification to do business as a foreign corporation in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Indenture to perform its duties under this Indenture.

(b) Any Person into which the Advancing Agent may be merged or consolidated, or any corporation resulting from any merger or consolidation to which the Advancing Agent shall be a party, or any Person succeeding to the business of the Advancing Agent shall be the successor of the Advancing Agent, hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the

contrary notwithstanding (it being understood and agreed by the parties hereto that the consummation of any such transaction by the Advancing Agent shall have no effect on the Trustee's obligations under Section 10.9, which obligations shall continue pursuant to the terms of Section 10.9).

Section 17.3 Limitation on Liability of the Advancing Agent and Others.

None of the Advancing Agent or any of its affiliates, directors, officers, employees or agents shall be under any liability for any action taken or for refraining from the taking of any action in good faith pursuant to this Indenture, or for errors in judgment; provided, however, that this provision shall not protect the Advancing Agent against liability to the Issuer or Noteholders for any breach of warranties or representations made herein or any liability which would otherwise be imposed by reason of willful misfeasance, bad faith or gross negligence in the performance of duties or by reason of negligent disregard of obligations and duties hereunder. The Advancing Agent and any director, officer, employee or agent of the Advancing Agent may rely in good faith on any document of any kind prima facie properly executed and submitted by any Person respecting any matters arising hereunder. The Advancing Agent and any director, officer, employee or agent of the Advancing Agent shall be indemnified by the Issuer pursuant to the priorities set forth in Section 11.1(a) and held harmless against any loss, liability or expense incurred in connection with any legal action relating to this Indenture or the Notes, other than any loss, liability or expense (i) specifically required to be borne by the Advancing Agent pursuant to the terms hereof or otherwise incidental to the performance of obligations and duties hereunder (except as any such loss, liability or expense shall be otherwise reimbursable pursuant to this Indenture); or (ii) incurred by reason of any breach of a representation, warranty or covenant made herein, any misfeasance, bad faith or gross negligence by the Advancing

Agent in the performance of or negligent disregard of, obligations or duties hereunder or any violation of any state or federal securities law.

Section 17.4 Representations and Warranties of the Advancing Agent.

The Advancing Agent represents and warrants that:

(a) the Advancing Agent (i) has been duly organized, is validly existing and is in good standing under the laws of the State of Maryland, (ii) has full power and authority to own the Advancing Agent's assets and to transact the business in which it is currently engaged, and (iii) is duly qualified and in good standing under the laws of each jurisdiction where the Advancing Agent's ownership or lease of property or the conduct of the Advancing Agent's business requires, or the performance of this Indenture would require, such qualification, except for failures to be so qualified that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Advancing Agent or the ability of the Advancing Agent to perform its obligations under, or on the validity or enforceability of, the provisions of this Indenture applicable to the Advancing Agent;

(b) the Advancing Agent has full power and authority to execute, deliver and perform this Indenture; this Indenture has been duly authorized, executed and delivered by the Advancing Agent and constitutes a legal, valid and binding agreement of the Advancing Agent, enforceable against it in accordance with the terms hereof, except that the enforceability hereof

may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(c) neither the execution and delivery of this Indenture nor the performance by the Advancing Agent of its duties hereunder conflicts with or will violate or result in a breach or violation of any of the terms or provisions of, or constitutes a default under: (i) the Articles of Incorporation and bylaws of the Advancing Agent, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement or other evidence of indebtedness or other agreement, obligation, condition, covenant or instrument to which the Advancing Agent is a party or is bound, (iii) any law, decree, order, rule or regulation applicable to the Advancing Agent of any court or regulatory, administrative or governmental agency, body or authority or arbitrator having jurisdiction over the Advancing Agent or its properties, and which would have, in the case of any of (i), (ii) or (iii) of this Section 17.4(c), either individually or in the aggregate, a material adverse effect on the business, operations, assets or financial condition of the Advancing Agent or the ability of the Advancing Agent to perform its obligations under this Indenture;

(d) no litigation is pending or, to the best of the Advancing Agent's knowledge, threatened, against the Advancing Agent that would materially and adversely affect the execution, delivery or enforceability of this Indenture or the ability of the Advancing Agent to perform any of its obligations under this Indenture in accordance with the terms hereof; and

(e) no consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person is required for the performance by the Advancing Agent of its duties hereunder, except such as have been duly made or obtained.

Section 17.5 Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Advancing Agent and no appointment of a successor Advancing Agent pursuant to this Article 17 shall become effective until the acceptance of appointment by the successor Advancing Agent under Section 17.6.

(b) The Advancing Agent may resign at any time by giving written notice thereof to the Issuer, the Co-Issuer, the Trustee, the Loan Obligation Manager, the Noteholders and the Rating Agency.

(c) The Advancing Agent may be removed at any time by Act of at least 66-2/3% of the Preferred Shares upon written notice delivered to the Trustee and to the Issuer and the Co-Issuer.

(d) If the Advancing Agent fails to make an Interest Advance required by this Indenture with respect to a Payment Date, the Backup Advancing Agent shall be required to make such Interest Advance and shall be entitled to receive, in consideration thereof, the Advancing Agent Fee (in lieu of the Backup Advancing Agent Fee) in accordance with the Priority of Payments. If the Advancing Agent fails to make a required Interest Advance and it has not determined such Interest Advance to be a Nonrecoverable Interest Advance, the Loan

Obligation Manager may, and at the direction of the Controlling Class shall, terminate such Advancing Agent and replace such Advancing Agent with a successor advancing agent, subject to the satisfaction of the Rating Agency Condition. In the event that the Loan Obligation Manager has not terminated and replaced such Advancing Agent within 30 days of such Advancing Agent's failure to make a required Interest Advance, the Trustee may terminate such Advancing Agent and appoint a successor Advancing Agent.

(e) Subject to Section 17.5(d), if the Advancing Agent shall resign or be removed, upon receiving such notice of resignation or removal, the Issuer and the Co-Issuer shall promptly appoint a successor advancing agent by written instrument, in duplicate, executed by an Authorized Officer of the Issuer and an Authorized Officer of the Co-Issuer, one copy of which shall be delivered to the Advancing Agent so resigning and one copy to the

successor Advancing Agent, together with a copy to each Noteholder, the Trustee and the Loan Obligation Manager; provided that such successor Advancing Agent shall be appointed only subject to satisfaction of the Rating Agency Condition, upon the written consent of a Majority of Preferred Shareholders. If no successor Advancing Agent shall have been appointed and an instrument of acceptance by a successor Advancing Agent shall not have been delivered to the Advancing Agent within 30 days after the giving of such notice of resignation, the resigning Advancing Agent, the Trustee or any Preferred Shareholder, on behalf of himself and all others similarly situated, may petition any court of competent jurisdiction for the appointment of a successor Advancing Agent.

(f) The Issuer and the Co-Issuer shall give prompt notice of each resignation and each removal of the Advancing Agent and each appointment of a successor Advancing Agent by mailing written notice of such event by first class mail, postage prepaid, to the Rating Agency and to the Holders of the Notes as their names and addresses appear in the Notes Register.

Section 17.6 Acceptance of Appointment by Successor Advancing Agent .

(a) Every successor Advancing Agent appointed hereunder shall execute, acknowledge and deliver to the Issuer, the Co-Issuer, the Loan Obligation Manager, the Trustee and the retiring Advancing Agent an instrument accepting such appointment. Upon delivery of the required instruments, the resignation or removal of the retiring Advancing Agent shall become effective and such successor Advancing Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of the retiring Advancing Agent.

(b) No appointment of a successor Advancing Agent shall become effective unless the Rating Agency has confirmed in writing that the employment of such successor would not adversely affect the rating on the Notes.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the day and year first above written.

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., as Issuer

By: /s/ Jarladth Travers
Name: Jarladth Travers
Title: Director

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, as Co-Issuer

By: /s/ Donald J. Puglisi
Name: Donald J. Puglisi
Title: Independent Manager

U.S. BANK NATIONAL ASSOCIATION, solely as Trustee, Paying Agent, Calculation Agent, Transfer Agent, Custodial Securities Intermediary, Backup Advancing Agent and Notes Registrar and not in its individual capacity

By: /s/ Vincent Paglio
Name: Vincent Paglio
Title: Assistant Vice President

ARBOR REALTY SR, INC., as Advancing Agent

By: /s/ Valerie Rubin
Name: Valerie Rubin
Title: Authorized Signatory

Schedule A

Closing Date Loan Obligations

Part 1 — Loan Obligations Acquired on the Closing Date

Loan Obligation		Unpaid Principal Balance(1)
Riverfront Towers	$	30,000,000
Victory Road	$	18,000,000
Vintage Pointe	$	15,000,000
Edentree	$	12,000,000
Alphabet Portfolio	$	9,000,000
Keller Oaks	$	8,250,000
Central Pointe	$	7,500,000
Iris Gardens	$	7,312,000
Ventana	$	7,000,000
Summerlyn	$	6,950,000
Birchwood & Quail Run	$	6,500,000
Southwest Oaks	$	4,800,000
The Elms	$	4,500,000
Avery Park	$	4,125,000
Edge at White Rock	$	3,700,000
Summerhill	$	3,250,000
Kunkel Square	$	3,900,000
St. Ives	$	27,000,000
Total	**$**	**178,787,000**

Part 2—Loan Obligations Expected to be Acquired During the Post-Closing Acquisition Period

Loan Obligation		Unpaid Principal Balance(1)
West Palm Beach Multifamily Portfolio	$	18,000,000
Orlando Multifamily Portfolio	$	13,200,000
Total	**$**	**31,200,000**

(1) As of January 28, 2013.

Schedule B

LIBOR

The London interbank offered rate ("LIBOR") shall be determined by the Calculation Agent in accordance with the following provisions:

(1) On the second London Banking Day preceding the first Business Day of an Interest Accrual Period (each such day, a "LIBOR Determination Date"), LIBOR (other than for the initial Interest Accrual Period) will equal the rate, as obtained by the Calculation Agent, for deposits in U.S. Dollars for a period of one month, which appears on the Reuters Page LIBOR01 (or such other page that may replace that page on such service for the purpose of displaying comparable rates) as reported by Bloomberg Financial Markets Commodities News as of 11:00 a.m., London time, on the LIBOR Determination Date. "London Banking Day" means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, England.

(2) If, on any LIBOR Determination Date, such rate does not appear on Reuters Screen LIBOR01, the Calculation Agent will determine LIBOR on the basis of the rates at which deposits in U.S. Dollars are offered by Reference Banks at approximately 11:00 a.m. (London time) on the LIBOR Determination Date to prime banks in the London interbank market for a period of one month commencing on the LIBOR Determination Date and in a representative amount of U.S.$1,000. The Calculation Agent will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two such quotations are provided, the rate for that LIBOR Determination Date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for that LIBOR Determination Date will be the arithmetic mean of the rates quoted by major banks in New York City, selected by the Calculation Agent, at approximately 11:00 a.m. (New York City time) on the LIBOR Determination Date for loans in U.S. Dollars to leading European banks for a period of three months commencing on the LIBOR Determination Date and in a representative amount of U.S.$1,000. As used herein, "Reference Banks" means four major banks in the London interbank market selected by the Calculation Agent and approved by the Loan Obligation Manager.

(3) In respect of the initial Interest Accrual Period, LIBOR will be determined on the second London Banking Day preceding the Closing Date.

In making the above calculations, (A) all percentages resulting from the calculation (other than the calculation determined pursuant to clause (c) above) will be rounded, if necessary, to the nearest one hundred thousandth of a percentage point (0.00001%) and (B) all percentages determined pursuant to clause

(c) above will be rounded, if necessary, in accordance with the method set forth in (A), but to the same degree of accuracy as the two rates used to make the determination (except that such percentages will not be rounded to a lower degree of accuracy than the nearest one thousandth of a percentage point (0.001%)).

Schedule C

List of Authorized Officers of Loan Obligation Manager

1. Ivan Kaufman
2. Paul Elenio
3. Fred Weber
4. Gene Kilgore
5. Andrew Guziewicz

EXHIBIT A-1

FORM OF CLASS A SENIOR SECURED FLOATING RATE NOTE DUE 2023
[REGULATION S] [RULE 144A] GLOBAL SECURITY

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT (A)(1) TO A QUALIFIED INSTITUTIONAL BUYER (A "QIB") WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, OR (2) TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S UNDER THE SECURITIES ACT ("REGULATION S") IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME, THE ISSUER AND THE CO-ISSUER, IF APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF THIS NOTE OR SUCH INTEREST IN SUCH SECURITY VOID AND REQUIRE THAT THIS NOTE OR SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, IF APPLICABLE.

ANY TRANSFER, PLEDGE OR OTHER USE OF THIS NOTE FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO. HAS AN INTEREST HEREIN, UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC"), NEW YORK, NEW YORK, TO THE CO-ISSUERS OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR OF SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO.).

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS NOTE MAY NOT BE EXCHANGED OR TRANSFERRED IN WHOLE OR IN PART FOR A NOTE REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THAT DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

PRINCIPAL OF THIS NOTE IS PAYABLE AS SET FORTH HEREIN. ACCORDINGLY, THE OUTSTANDING PRINCIPAL OF THIS NOTE AT ANY TIME MAY BE LESS THAN THE AMOUNT SHOWN ON THE face HEREOF. ANY PERSON ACQUIRING THIS NOTE MAY ASCERTAIN ITS CURRENT PRINCIPAL AMOUNT BY INQUIRY OF THE TRUSTEE.

[AN INTEREST IN THIS NOTE MAY NOT BE HELD BY A PERSON THAT IS A U.S. PERSON (AS DEFINED IN REGULATION S) AT ANY TIME. IN ADDITION, AN INTEREST IN THIS NOTE MAY ONLY BE HELD THROUGH EUROCLEAR OR CLEARSTREAM, LUXEMBOURG AT ANY TIME.] (1)

(1) Regulation S Global Securities.

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.
ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC

CLASS A SENIOR SECURED FLOATING RATE NOTE DUE 2023

No. [Reg. S][144A]- Up to
CUSIP No. G04475 AA0(2)03878D AA2(3) U.S.$156,000,000
ISIN: USG04475AA08(4)US03878DAA28(5)

Each of ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., a Cayman Islands exempted company with limited liability (the "Issuer") and ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, a Delaware limited liability company (the "Co-Issuer") for value received, hereby promises to pay to CEDE & CO. or its registered assigns (a) upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of up to ONE HUNDRED FIFTY SIX MILLION United States Dollars (U.S.$156,000,000), or such other principal sum as is equal to the aggregate principal amount of the Class A Notes identified from time to time on the records of the Trustee and Schedule A hereto as being represented by this [Rule 144A] [Regulation S] Global Security, on the Payment Date occurring in February 2023 (the "Stated Maturity"), to the extent not previously paid, in accordance with the Indenture referred to below unless the unpaid principal of this Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise and (b) the Class A Interest Distribution Amount allocable to this Note in accordance with the Indenture payable initially on March 15, 2013, and thereafter monthly on the 15 th day of each calendar month (or if such day is not a Business Day, then on the next succeeding Business Day) (each, a "Payment Date"). Interest on the Class A Notes shall accrue at the Class A Note Interest Rate and shall be computed on the basis of the actual number of days in the related Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to the applicable Payment Date.

The obligations of the Issuer and the Co-Issuer under this Note and the Indenture are limited recourse obligations of the Issuer and non-recourse obligations of the Co-Issuer payable solely from the Loan Obligations and other Assets pledged by the Issuer as security for the Notes under the Indenture, and in the event the Loan Obligations and such other Assets are insufficient to satisfy such obligations, any claims of the Holders of the Notes shall be extinguished, all in accordance with the Indenture.

The payment of interest on this Note is senior to the payments of the principal of, and interest on, the Class B Notes and the Preferred Shares. So long as any Class A Notes are Outstanding, the Class B Notes and the Preferred Shares will receive payments only in accordance with the Priority of Payments. The principal of this Note shall be due and payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

Payments in respect of principal and interest and any other amounts due on any Payment Date on this Note shall be payable by the Trustee or a Paying Agent, subject to any laws or regulations applicable thereto, by wire transfer in immediately available funds to a Dollar account maintained by the Registered Holder hereof; *provided* that the Registered Holder shall have provided wiring instructions to the Trustee on or before the related Record Date, or, if wire transfer cannot be effected, by Dollar check drawn on a bank as provided in the Indenture and mailed to the Registered Holder at its address in the Notes Register.

(2) For Regulation S Global Security.

(3) For Rule 144A Global Security.

(4) For Regulation S Global Security.

(5) For Rule 144A Global Security.

Interest will cease to accrue on this Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a Default is otherwise made with respect to such payments of principal.

Notwithstanding the foregoing, the final payment of interest and principal due on this Note shall be made only upon presentation and surrender of this Note (except as otherwise provided in the Indenture) at the Corporate Trust Office of the Trustee or at any Paying Agent.

The Registered Holder of this Note shall be treated as the owner hereof for all purposes.

Except as specifically provided herein and in the Indenture, neither the Issuer nor the Co-Issuer shall be required to make any payment with respect to any tax, assessment or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Unless the certificate of authentication hereon has been executed by the Trustee by the manual signature of one of its authorized officers, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class A Senior Secured Floating Rate Notes Due 2023, of the Issuer and the Co-Issuer (the "Class A Notes"), limited in aggregate principal amount to U.S.$156,000,000 issued under an indenture dated as of January 28, 2013 (the "Indenture") by and among the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee (in such capacity and together with any successor trustee permitted under the Indenture, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar and Arbor Realty SR, Inc., as advancing agent. Also authorized under the Indenture are (a) up to U.S.$21,000,000 Class B Secured Floating Rate Notes Due 2023 (the "Class B Notes" and, together with the Class A Notes, the "Notes").

Concurrently with the issuance of the Notes, the Issuer also will issue preferred shares (the "Preferred Shares"), under the Issuer's Memorandum and Articles of Association as part of its issued share capital.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Co-Issuer, the Trustee, the Advancing Agent, the Holders of the Notes and the Preferred Shares and the terms upon which the Notes and the Preferred Shares are, and are to be, executed, authenticated and delivered.

Payments of principal of the Class A Notes shall be payable in accordance with Section 11.1(a) of the Indenture.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

Pursuant to Section 9.1(a) of the Indenture, the Notes are subject to redemption by the Issuer at the direction of the Loan Obligation Manager (such redemption, a "Clean-up Call Redemption"), in whole but not in part, at a price equal to the applicable Redemption Price, upon notice given in the manner provided in the Indenture, on any Payment Date on or after the Payment Date on which the Aggregate Outstanding Amount of the Notes has been reduced to 10% of the Aggregate Outstanding Amount of the Notes on the Closing Date; *provided*, that the funds available to be used for such redemption will be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(b) of the Indenture, the Notes and the Preferred Shares shall be redeemable, in whole but not in part, by Act of a Majority of the Preferred Shares delivered to the Trustee, on the Payment Date following the occurrence of a Tax Event if the Tax Materiality Condition is satisfied at a price equal to the applicable Redemption Prices; provided that that the funds available to be used for such Tax Redemption will be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(c) of the Indenture, the Notes and the Preferred Shares are subject to redemption, in whole but not in part, by the Issuer at a price equal to the applicable Redemption Prices, on any Payment Date occurring after the end of the Non-call Period at the direction of the Issuer (such redemption, an "Optional Redemption") by Act of a Majority of the Preferred Shares delivered to the Trustee; *provided* that the funds available to be used for such Optional Redemption will be sufficient to pay the Total Redemption Price.

Notes for whose redemption and payment provision is made in accordance with the Indenture shall cease to bear interest on the applicable Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest thereon).

Pursuant to Section 9.5 of the Indenture, if any of the Note Protection Tests applicable to any Class of Notes is not satisfied as of the most recent Measurement Date the Notes shall be redeemed from in accordance with Section 9.6 and the Priority of Payments set forth in the Indenture, only, and to the extent necessary, to cause each of the Note Protection Tests to be satisfied.

If an Event of Default shall occur and be continuing, the Class A Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture may be amended and supplemented under the circumstances, and in accordance with the conditions, set forth therein.

The Notes are issuable in minimum denominations of $500,000 and integral multiples of $500 in excess thereof.

The principal of each Note shall be payable on the Stated Maturity Date, unless the unpaid principal of such Note becomes due and

payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

The term "Issuer" as used in this Note includes any successor-in-interest to the Issuer under the Indenture and the term "Co-Issuer" as used in this Note includes any successor-in-interest to the Co-Issuer under the Indenture.

Each purchaser and any subsequent transferee of this Note or any interest herein shall, by virtue of its purchase or other acquisition of this Note or any interest herein, be deemed to have agreed to treat this Note as debt for U.S. federal income tax purposes.

In connection with the purchase of this Note, the Holder and each beneficial owner thereof agrees that: (A) none of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Placement Agent, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment advisor for such Holder or beneficial owner; (B) such Holder or beneficial owner is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates other than any statements in the final offering memorandum for such Notes, and such Holder or beneficial owner has read and understands such final offering memorandum; (C) such Holder or beneficial owner has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent it has deemed necessary and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates.

Each Holder, by its acquisition of an interest in the Notes, shall be deemed to have represented to the Issuer, the Co-Issuer, the Loan Obligation Manager, the CLO Servicer, the Placement Agent and the Trustee that either (A) no part of the funds being used to pay the purchase price for such Notes constitutes an asset of any "employee benefit plan" (as defined in Section 3(3) of ERISA) or "plan" (as defined in Section 4975(e)(1) of the

Code) that is subject to Title I of ERISA or Section 4975 of the Code or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan"), or an entity whose underlying assets include plan assets of any such Benefit Plan, or (B) if the funds being used to pay the purchase price for such Notes include plan assets of any Benefit Plan, its purchase and holding will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or in the case of any Benefit Plan subject to Similar Law, will not constitute or result in a non-exempt violation of Similar Law.

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Trust Office.

No service charge shall be made to a Holder for any registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

No right or remedy conferred herein or in the Indenture upon or reserved to the Trustee or to the Holder hereof is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or thereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or under the Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

THE HOLDER OF THIS NOTE AGREES NOT TO CAUSE THE FILING OF A PETITION IN BANKRUPTCY AGAINST THE ISSUER OR THE CO-ISSUER IN ANY APPLICABLE OR RELEVANT JURISDICTION UNTIL AT LEAST ONE YEAR AND ONE DAY (OR, IF LONGER, THE APPLICABLE PREFERENCE PERIOD THEN IN EFFECT), AFTER THE PAYMENT IN FULL OF ALL NOTES ISSUED UNDER THE INDENTURE.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

IN WITNESS WHEREOF, the Co-Issuers have caused this Note to be duly executed.

Dated as of January 28, 2013

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., as Issuer

By: _____
Name:
Title:

ARBOR REALTY COLLATERALIZED LOAN
OBLIGATION 2013-1, LLC, as Co-Issuer

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authenticating Agent

ASSIGNMENT FORM

For value received _____

hereby sell, assign and transfer unto

_____

_____
Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

_____

_____

_____

_____

the within Note and does hereby irrevocably constitute and appoint _____ Attorney to transfer the Note on the books of the Issuer with full power of substitution in the premises.

Date: Your Signature: _____
(Sign exactly as your name
appears on this Note)

SCHEDULE A

EXCHANGES IN GLOBAL SECURITY

This Note shall be issued in the original principal balance of U.S.$[•](6)[•](7) on the Closing Date. The following exchanges of a part of this [Rule 144A][Regulation S] Global Security have been made:

Date of Exchange	Amount of Decrease in Principal Amount of this Global Security	Amount of Increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such decrease (or increase)	Signature of authorized officer of Trustee or securities Custodian

(6) Rule 144A Global Security

(7) Regulation S Global Security

EXHIBIT A-2

FORM OF CLASS A SENIOR SECURED FLOATING RATE NOTE DUE 2023
DEFINITIVE NOTE

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT (A)(1) TO A QUALIFIED INSTITUTIONAL BUYER (A "QIB") WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, OR (2) TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S UNDER THE SECURITIES ACT ("REGULATION S") IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME, THE ISSUER AND THE CO-ISSUER, IF APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF THIS NOTE OR SUCH INTEREST IN SUCH SECURITY VOID AND REQUIRE THAT THIS NOTE OR SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, IF APPLICABLE.

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.
ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC

CLASS A SENIOR SECURED FLOATING RATE NOTE DUE 2023

No. IAI-
CUSIP No. 03878D AB0
ISIN: US03878DAB01

U.S.$[ ]

Each of ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., a Cayman Islands exempted company with

limited liability (the "Issuer") and ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, a Delaware limited liability company (the "Co-Issuer") for value received, hereby promises to pay to [ ] or its registered assigns (a) upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of [ ] United States Dollars (U.S.$[ ]) on the Payment Date occurring in February, 2023 (the "Stated Maturity"), to the extent not previously paid, in accordance with the Indenture referred to below unless the unpaid principal of this Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise and (b) the Class A Interest Distribution Amount allocable to this Note in accordance with the Indenture payable initially on March 15, 2013, and thereafter monthly on the 15 th day of each calendar month (or if such day is not a Business Day, then on the next succeeding Business Day) (each, a "Payment Date"). Interest on the Class A Notes shall accrue at the Class A Note Interest Rate and shall be computed on the basis of the actual number of days in the related Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to the applicable Payment Date.

The obligations of the Issuer and the Co-Issuer under this Note and the Indenture are limited recourse obligations of the Issuer and non-recourse obligations of the Co-Issuer payable solely from the Loan Obligations and other Assets pledged by the Issuer as security for the Notes under the Indenture, and in the event the Loan Obligations and such other Assets are insufficient to satisfy such obligations, any claims of the Holders of the Notes shall be extinguished, all in accordance with the Indenture.

The payment of interest on this Note is senior to the payments of the principal of, and interest on, the Class B Notes and the Preferred Shares. So long as any Class A Notes are Outstanding, the Class B Notes and the Preferred Shares will receive payments only in accordance with the Priority of Payments. The principal of this Note shall be due and payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

Payments in respect of principal and interest and any other amounts due on any Payment Date on this Note shall be payable by the Trustee or a Paying Agent, subject to any laws or regulations applicable thereto, by wire transfer in immediately available funds to a Dollar account maintained by the Registered Holder hereof; *provided* that the Registered Holder shall have provided wiring instructions to the Trustee on or before the related Record Date, or, if wire transfer cannot be effected, by Dollar check drawn on a bank as provided in the Indenture and mailed to the Registered Holder at its address in the Notes Register.

Interest will cease to accrue on this Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a Default is otherwise made with respect to such payments of principal.

Notwithstanding the foregoing, the final payment of interest and principal due on this Note shall be made only upon presentation and surrender of this Note (except as otherwise provided in the Indenture) at the Corporate Trust Office of the Trustee or at any Paying Agent.

The Registered Holder of this Note shall be treated as the owner hereof for all purposes.

Except as specifically provided herein and in the Indenture, neither the Issuer nor the Co-Issuer shall be required to make any payment with respect to any tax, assessment or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Unless the certificate of authentication hereon has been executed by the Trustee by the manual signature of one of its authorized officers, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class A Senior Secured Floating Rate Notes Due 2023, of the Issuer and the Co-Issuer (the "Class A Notes"), limited in aggregate principal amount to U.S.$156,000,000 issued under an indenture dated as of January 28, 2013 (the "Indenture") by and among the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee (in such capacity and together with any successor trustee permitted under the Indenture, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar and Arbor Realty SR, Inc., as advancing agent. Also authorized under the Indenture are (a) up to U.S.$21,000,000 Class B Secured Floating Rate Notes Due 2023 (the "Class B Notes" and, together with the Class A Notes, the "Notes").

Concurrently with the issuance of the Notes, the Issuer also will issue preferred shares (the "Preferred Shares"), under the Issuer's Memorandum and Articles of Association as part of its issued share capital.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Co-Issuer, the Trustee, the Advancing Agent, the Holders of the Notes and the Preferred Shares and the terms upon which the Notes and the Preferred Shares are, and are to be, executed, authenticated and delivered.

Payments of principal of the Class A Notes shall be payable in accordance with Section 11.1(a) of the Indenture.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

Pursuant to Section 9.1(a) of the Indenture, the Notes are subject to redemption by the Issuer at the direction of the Loan Obligation Manager (such redemption, a "Clean-up Call Redemption"), in whole but not in part, at a price equal to the applicable Redemption Price, upon notice given in the manner provided in the Indenture, on any Payment Date on or after the Payment Date on which the Aggregate Outstanding Amount of the Notes has been reduced to 10% of the Aggregate Outstanding Amount of the Notes on the Closing Date; *provided*, that the funds available to be used for such redemption will

be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(b) of the Indenture, the Notes and the Preferred Shares shall be redeemable, in whole but not in part, by Act of a Majority of the Preferred Shares delivered to the Trustee, on the Payment Date following the occurrence of a Tax Event if the Tax Materiality Condition is satisfied at a price equal to the applicable Redemption Prices; provided that that the funds available to be used for such Tax Redemption will be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(c) of the Indenture, the Notes and the Preferred Shares are subject to redemption, in whole but not in part, by the Issuer at a price equal to the applicable Redemption Prices, on any Payment Date occurring after the end of the Non-call Period at the direction of the Issuer (such redemption, an "Optional Redemption") by Act of a Majority of the Preferred Shares delivered to the Trustee; *provided* that the funds available to be used for such Optional Redemption will be sufficient to pay the Total Redemption Price.

Notes for whose redemption and payment provision is made in accordance with the Indenture shall cease to bear interest on the applicable Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest thereon).

Pursuant to Section 9.5 of the Indenture, if any of the Note Protection Tests applicable to any Class of Notes is not satisfied as of the most recent Measurement Date the Notes shall be redeemed from in accordance with Section 9.6 and the Priority of Payments set forth in the Indenture, only, and to the extent necessary, to cause each of the Note Protection Tests to be satisfied.

If an Event of Default shall occur and be continuing, the Class A Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

At any time after a declaration of acceleration of Maturity of the Notes has been made, and before a judgment or decree for payment of the amounts due has been obtained by the Trustee as provided in the Indenture, a Majority of each Class of Notes (voting as a separate Class), other than with respect to an Event of Default specified in Section 5.1(d), 5.1(e), 5.1(h) or 5.1(i), by written notice to the Issuer, the Co-Issuer and the Trustee, may rescind and annul such declaration and its consequences if certain conditions set forth in the Indenture are satisfied.

The Indenture may be amended and supplemented under the circumstances, and in accordance with the conditions, set forth therein.

The Notes are issuable in minimum denominations of $500,000 and integral multiples of $500 in excess thereof.

The principal of each Note shall be payable on the Stated Maturity Date, unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

The term "Issuer" as used in this Note includes any successor-in-interest to the Issuer under the Indenture and the term "Co-Issuer" as used in this Note includes any successor-in-interest to the Co-Issuer under the Indenture.

Each purchaser and any subsequent transferee of this Note or any interest herein shall, by virtue of its purchase or other acquisition of this Note or any interest herein, be deemed to have agreed to treat this Note as debt for U.S. federal income tax purposes.

In connection with the purchase of this Note, the Holder and each beneficial owner thereof agrees that: (A) none of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Placement Agent, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment advisor for such Holder or beneficial owner; (B) such Holder or beneficial owner is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates other than any statements in the final offering memorandum for such Notes, and such Holder or beneficial owner has read and understands such final offering memorandum; (C) such Holder or beneficial owner has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent it has deemed necessary and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates.

Each Holder, by its acquisition of an interest in the Notes, shall be deemed to have represented to the Issuer, the Co-Issuer, the Loan Obligation Manager, the CLO Servicer, the Placement Agent and the Trustee that either (A) no part of the funds being used to pay the purchase price for such Notes constitutes an asset of any "employee benefit plan" (as defined in Section 3(3) of ERISA) or "plan" (as defined in Section 4975(e)(1) of the Code) that is subject to Title I of ERISA or Section 4975 of the Code or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan"), or an entity whose underlying assets include plan assets of any such Benefit Plan, or (B) if the funds being used to pay the purchase price for such Notes include plan assets

of any Benefit Plan, its purchase and holding will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or in the case of any Benefit Plan subject to Similar Law, will not constitute or result in a non-exempt violation of Similar Law.

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Trust Office.

No service charge shall be made to a Holder for any registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

No right or remedy conferred herein or in the Indenture upon or reserved to the Trustee or to the Holder hereof is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or thereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or under the Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

THE HOLDER OF THIS NOTE AGREES NOT TO CAUSE THE FILING OF A PETITION IN BANKRUPTCY AGAINST THE ISSUER OR THE CO-ISSUER IN ANY APPLICABLE OR RELEVANT JURISDICTION UNTIL AT LEAST ONE YEAR AND ONE DAY (OR, IF LONGER, THE APPLICABLE PREFERENCE PERIOD THEN IN EFFECT), AFTER THE PAYMENT IN FULL OF ALL NOTES ISSUED UNDER THE INDENTURE.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

IN WITNESS WHEREOF, the Co-Issuers have caused this Note to be duly executed.

Dated as of January 28, 2013

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., as Issuer

By: _____
Name:
Title:

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, as Co-Issuer

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authenticating Agent

ASSIGNMENT FORM

For value received _____

hereby sell, assign and transfer unto

_____

_____

Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

_____

_____

_____

_____

the within Note and does hereby irrevocably constitute and appoint _____ Attorney to transfer the Note on the books of the Issuer with full power of substitution in the premises.

Date: Your Signature: _____

(Sign exactly as your name
appears on this Note)

EXHIBIT B-1

FORM OF CLASS B SECURED FLOATING RATE NOTE DUE 2023
[REGULATION S] [RULE 144A] GLOBAL SECURITY

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT (A)(1) TO A QUALIFIED INSTITUTIONAL BUYER (A "QIB") WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, OR (2) TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S UNDER THE SECURITIES ACT ("REGULATION S") IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME, THE ISSUER AND THE CO-ISSUER, IF APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF THIS NOTE OR SUCH INTEREST IN SUCH SECURITY VOID AND REQUIRE THAT THIS NOTE OR SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, IF APPLICABLE.

ANY TRANSFER, PLEDGE OR OTHER USE OF THIS NOTE FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO. HAS AN INTEREST HEREIN, UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC"), NEW YORK, NEW YORK, TO THE CO-ISSUERS OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE ISSUED IS REGISTERED IN

THE NAME OF CEDE & CO. OR OF SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO.).

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS NOTE MAY NOT BE EXCHANGED OR TRANSFERRED IN WHOLE OR IN PART FOR A NOTE REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THAT DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

PRINCIPAL OF THIS NOTE IS PAYABLE AS SET FORTH HEREIN. ACCORDINGLY, THE OUTSTANDING PRINCIPAL OF THIS NOTE AT ANY TIME MAY BE LESS THAN THE AMOUNT SHOWN

ON THE face HEREOF. ANY PERSON ACQUIRING THIS NOTE MAY ASCERTAIN ITS CURRENT PRINCIPAL AMOUNT BY INQUIRY OF THE TRUSTEE.

[AN INTEREST IN THIS NOTE MAY NOT BE HELD BY A PERSON THAT IS A U.S. PERSON (AS DEFINED IN REGULATION S) AT ANY TIME. IN ADDITION, AN INTEREST IN THIS NOTE MAY ONLY BE HELD THROUGH EUROCLEAR OR CLEARSTREAM, LUXEMBOURG AT ANY TIME.](1)

(1) Regulation S Global Securities.

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.
ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC

CLASS B SECURED FLOATING RATE NOTE DUE 2023

No. [Reg. S][144A] - Up to
CUSIP No. G04475 AB8(2) 03878D AC8(3) U.S.$ 21,000,000
ISIN: USG04475AB80(4) US03878DAC83(5)

Each of ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., a Cayman Islands exempted company with limited liability (the "Issuer") and ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, a Delaware limited liability company (the "Co-Issuer") for value received, hereby promises to pay to CEDE & CO. or its registered assigns (a) upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of up to TWENTY-ONE MILLION United States Dollars (U.S.$ 21,000,000), or such other principal sum as is equal to the aggregate principal amount of the Class B Notes identified from time to time on the records of the Trustee and Schedule A hereto as being represented by this [Rule 144A] [Regulation S] Global Security, on the Payment Date occurring in February, 2023 (the "Stated Maturity"), to the extent not previously paid, in accordance with the Indenture referred to below unless the unpaid principal of this Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise and (b) the Class B Interest Distribution Amount allocable to this Note in accordance with the Indenture payable initially on March 15, 2013, and thereafter monthly on the 15 th day of each calendar month (or if such day is not a Business Day, then on the next succeeding Business Day) (each, a "Payment Date"). Interest on the Class B Notes shall accrue at the Class B Note Interest Rate and shall be computed on the basis of the actual number of days in the related Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to the applicable Payment Date.

The obligations of the Issuer and the Co-Issuer under this Note and the Indenture are limited recourse obligations of the Issuer and non-recourse obligations of the Co-Issuer payable solely from the Loan Obligations and other Assets pledged by the Issuer as security for the Notes under the Indenture, and in the event the Loan Obligations and such other Assets are insufficient to satisfy such obligations, any claims of the Holders of the Notes shall be extinguished, all in accordance with the Indenture.

The payment of interest on this Note is senior to the payments of the principal of, and interest on, the Preferred Shares. Except as set forth in the Indenture, the payment of principal of this Note is subordinate to the payments of principal of and interest on the Class A Notes and no payments of principal on the Class B Notes will be made until the Class A Notes are paid in full. The principal of this Note shall be due and payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise; *provided*, *however*, that, except as set forth in the Indenture, the payment of principal of this Note may only occur after principal on the Class A Notes has been paid in full and is subordinated to the payment on each Payment Date of the principal and interest due and payable on the Class A Notes and other amounts in accordance with the Priority of Payments, all in accordance with the Indenture.

Payments in respect of principal and interest and any other amounts due on any Payment Date on this Note shall be payable by the Trustee or a Paying Agent, subject to any laws or regulations applicable thereto, by wire transfer in immediately available funds to a Dollar account maintained by the Registered Holder hereof;

(2) For Regulation S Global Security.

(3) For Rule 144A Global Security.

(4) For Regulation S Global Security.

(5) For Rule 144A Global Security.

provided that the Registered Holder shall have provided wiring instructions to the Trustee on or before the related Record Date, or, if wire transfer cannot be effected, by Dollar check drawn on a bank as provided in the Indenture and mailed to the Registered Holder at its address in the Notes Register.

Interest will cease to accrue on this Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a Default is otherwise made with respect to such payments of principal.

Notwithstanding the foregoing, the final payment of interest and principal due on this Note shall be made only upon presentation and surrender of this Note (except as otherwise provided in the Indenture) at the Corporate Trust Office of the Trustee or at any Paying Agent.

The Registered Holder of this Note shall be treated as the owner hereof for all purposes.

Except as specifically provided herein and in the Indenture, neither the Issuer nor the Co-Issuer shall be required to make any payment with respect to any tax, assessment or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Unless the certificate of authentication hereon has been executed by the Trustee by the manual signature of one of its authorized officers, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class B Secured Floating Rate Notes Due 2023, of the Issuer and the Co-Issuer (the "Class B Notes"), limited in aggregate principal amount to U.S.$21,000,000 issued under an indenture dated as of January 28, 2013 (the "Indenture") by and among the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee(in such capacity and together with any successor trustee permitted under the Indenture, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar and Arbor Realty SR, Inc., as advancing agent. Also authorized under the Indenture are (a) U.S. 156,000,000 Class A Senior Secured Floating Rate Notes Due 2023, (the "Class A Notes" and, together with the Class B Notes, the "Notes").

Concurrently with the issuance of the Notes, the Issuer also will issue preferred shares (the "Preferred Shares"), under the Issuer's Memorandum and Articles of Association as part of its issued share capital.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Co-Issuer, the Trustee, the Advancing Agent, the Holders of the Notes and the Preferred Shares and the terms upon which the Notes and the Preferred Shares are, and are to be, executed, authenticated and delivered.

Payments of principal of the Class B Notes shall be payable in accordance with Section 11.1(a) of the Indenture.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

Pursuant to Section 9.1(a) of the Indenture, the Notes are subject to redemption by the Issuer at the direction of the Loan Obligation Manager (such redemption, a "Clean-up Call Redemption"), in whole but not in part, at a price equal to the applicable Redemption Price, upon notice given in the manner provided in the Indenture, on any Payment Date on or after the Payment Date on which the Aggregate Outstanding Amount of the Notes has been reduced to 10% of the Aggregate Outstanding Amount of the Notes on the Closing Date; *provided*, that the funds available to be used for such redemption will be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(b) of the Indenture, the Notes and the Preferred Shares shall be redeemable, in whole but not in part, by Act of a Majority of the Preferred Shares delivered to the Trustee, on the Payment Date following the occurrence of a Tax Event if the Tax Materiality Condition is satisfied at a price equal

to the applicable Redemption Prices; provided that that the funds available to be used for such Tax Redemption will be sufficient to pay the Total Redemption Price

Pursuant to Section 9.1(c) of the Indenture, the Notes and the Preferred Shares are subject to redemption, in whole but not in part, by the Issuer at a price equal to the applicable Redemption Prices, on any Payment Date occurring after the end of the Non-call Period at the direction of the Issuer

(such redemption, an "Optional Redemption") by Act of a Majority of the Preferred Shares delivered to the Trustee; *provided*, that the funds available to be used for such Optional Redemption will be sufficient to pay the Total Redemption Price.

Notes for whose redemption and payment provision is made in accordance with the Indenture shall cease to bear interest on the applicable Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest thereon).

Pursuant to Section 9.5 of the Indenture, if any of the Note Protection Tests applicable to any Class of Notes is not satisfied as of the most recent Measurement Date the Notes shall be redeemed from in accordance with Section 9.6 and the Priority of Payments set forth in the Indenture, only, and to the extent necessary, to cause each of the Note Protection Tests to be satisfied.

If an Event of Default shall occur and be continuing, the Class B Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

At any time after a declaration of acceleration of Maturity of the Notes has been made, and before a judgment or decree for payment of the amounts due has been obtained by the Trustee as provided in the Indenture, a Majority of each Class of Notes (voting as a separate Class), other than with respect to an Event of Default specified in Section 5.1(d), 5.1(e), 5.1(h) or 5.1(i), by written notice to the Issuer, the Co-Issuer and the Trustee, may rescind and annul such declaration and its consequences if certain conditions set forth in the Indenture are satisfied.

The Indenture may be amended and supplemented under the circumstances, and in accordance with the conditions, set forth therein.

The Notes are issuable in minimum denominations of $500,000 and integral multiples of $500 in excess thereof.

The principal of each Note shall be payable on the Stated Maturity, unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

The term "Issuer" as used in this Note includes any successor-in-interest to the Issuer under the Indenture and the term "Co-Issuer" as used in this Note includes any successor-in-interest to the Co-Issuer under the Indenture.

Each purchaser and any subsequent transferee of this Note or any interest herein shall, by virtue of its purchase or other acquisition of this Note or any interest herein, be deemed to have agreed to treat this Note as debt for U.S. federal income tax purposes.

In connection with the purchase of this Note, the Holder and each beneficial owner thereof agrees that: (A) none of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Placement Agent, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment advisor for such Holder or beneficial owner; (B) such Holder or beneficial owner is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates other than any statements in the final offering memorandum for such Notes, and such Holder or beneficial owner has read and understands such final offering memorandum; (C) such Holder or beneficial owner has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent it has deemed necessary and has made its own investment decisions (including

decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates.

Each Holder, by its acquisition of an interest in the Notes, shall be deemed to have represented to the Issuer, the Co-Issuer, the Loan Obligation Manager, the CLO Servicer, the Placement Agent and the Trustee that either (A) no part of the funds being used to pay the purchase price for such Notes constitutes an asset of any "employee benefit plan" (as defined in Section 3(3) of ERISA) or "plan" (as defined in Section 4975(e)(1) of the Code) that is subject to Title I of ERISA or Section 4975 of the Code or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan"), or an entity whose underlying assets include plan assets of any such Benefit Plan, or (B) if the funds being used to pay the purchase price for such Notes include plan assets of any Benefit Plan, its purchase and holding will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or in the case of any Benefit Plan subject to Similar Law, will not constitute or result in a non-exempt violation of Similar Law.

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Trust Office.

No service charge shall be made to a Holder for any registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

No right or remedy conferred herein or in the Indenture upon or reserved to the Trustee or to the Holder hereof is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or thereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or under the Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such

counterparts shall together constitute but one and the same instrument.

THE HOLDER OF THIS NOTE AGREES NOT TO CAUSE THE FILING OF A PETITION IN BANKRUPTCY AGAINST THE ISSUER OR THE CO-ISSUER IN ANY APPLICABLE OR RELEVANT JURISDICTION UNTIL AT LEAST ONE YEAR AND ONE DAY (OR, IF LONGER, THE APPLICABLE PREFERENCE PERIOD THEN IN EFFECT), AFTER THE PAYMENT IN FULL OF ALL NOTES ISSUED UNDER THE INDENTURE.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

IN WITNESS WHEREOF, the Co-Issuers have caused this Note to be duly executed.

Dated as of January 28, 2013

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., as Issuer

By: _____
Name:
Title:

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, as Co-Issuer

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authenticating Agent

ASSIGNMENT FORM

For value received _____

hereby sell, assign and transfer unto

_____

_____
Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

the within Note and does hereby irrevocably constitute and appoint Attorney to transfer the Note on the books of the Issuer with full power of substitution in the premises.

Date: Your Signature:

(Sign exactly as your name
appears on this Note)

SCHEDULE A

This Note shall be issued in the original principal balance of U.S.$[•](6)[•](7) on the Closing Date. The following exchanges of a part of this [Rule 144A][Regulation S] Global Security have been made:

Date of Exchange	Amount of Decrease in Principal Amount of this Global Security	Amount of Increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such decrease (or increase)	Signature of authorized officer of Trustee or securities Custodian

(6) Rule 144A Global Security

(7) Regulation S Global Security

EXHIBIT B-2

FORM OF CLASS B SECURED FLOATING RATE NOTE DUE 2023
DEFINITIVE NOTE

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT (A)(1) TO A QUALIFIED INSTITUTIONAL BUYER (A "QIB") WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, OR (2) TO A NON-U.S. PERSON IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S UNDER THE SECURITIES ACT ("REGULATION S") IN A PRINCIPAL AMOUNT OF NOT LESS THAN $500,000 (AND INTEGRAL MULTIPLES OF $500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO

TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME, THE ISSUER AND THE CO-ISSUER, IF APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF THIS NOTE OR SUCH INTEREST IN SUCH SECURITY VOID AND REQUIRE THAT THIS NOTE OR SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, IF APPLICABLE.

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.
ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC

CLASS B SECURED
FLOATING RATE NOTE DUE 2023

No. IAI -
CUSIP No. 03878D AD6 U.S.$[ ]
ISIN: US03878DAD66

Each of ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., a Cayman Islands exempted company with limited liability (the "Issuer") and ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, a Delaware limited liability company (the "Co-Issuer") for value received, hereby promises to pay to [ ] or its registered assigns (a) upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of [ ] United States Dollars (U.S.$[ ]) on the Payment Date occurring in February 2023 (the "Stated Maturity"), to the extent not previously paid, in accordance with the Indenture referred to below unless the unpaid principal of this Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise and (b) the Class B Interest Distribution Amount allocable to this Note in accordance with the Indenture payable initially on March 15, 2013, and thereafter monthly on the 15 th day of each calendar month (or if such day is not a Business Day, then on the next succeeding Business Day) (each, a "Payment Date"). Interest on the Class B Notes shall accrue at the Class B Note Interest Rate and shall be computed on the basis of the actual number of days in the related Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to the applicable Payment Date.

The obligations of the Issuer and the Co-Issuer under this Note and the Indenture are limited recourse obligations of the Issuer and non-recourse obligations of the Co-Issuer payable solely from the Loan Obligations and other Assets pledged by the Issuer as security for the Notes under the Indenture, and in the event the Loan Obligations and such other Assets are insufficient to satisfy such obligations, any claims of the Holders of the Notes shall be extinguished, all in accordance with the Indenture.

The payment of interest on this Note is senior to the payments of the principal of, and interest on, the Preferred Shares. Except as set forth in the Indenture, the payment of principal of this Note is subordinate to the payments of principal of and interest on the Class A Notes and no payments of principal on the Class B Notes will be made until the Class A Notes are paid in full. The principal of this Note shall be due and payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise; *provided*, *however*, that, except as set forth in the Indenture, the payment of principal of this Note may only occur after principal on the Class A Notes has been paid in full and is subordinated to the payment on each Payment Date of the principal and interest due and payable on the Class A Notes and other amounts in accordance with the Priority of Payments, all in accordance with the Indenture.

Payments in respect of principal and interest and any other amounts due on any Payment Date on this Note shall be payable by the Trustee or a Paying Agent, subject to any laws or regulations applicable thereto, by wire transfer in immediately available funds to a Dollar account maintained by the Registered Holder hereof; *provided* that the Registered Holder shall have provided wiring instructions to the Trustee on or before the related Record Date, or, if wire transfer cannot be effected, by Dollar check drawn on a bank as provided in the Indenture and mailed to the Registered Holder at its address in the Notes Register.

Interest will cease to accrue on this Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a Default is otherwise made with respect to such payments of principal.

Notwithstanding the foregoing, the final payment of interest and principal due on this Note shall be made only upon presentation and surrender of this Note (except as otherwise provided in the Indenture) at the Corporate Trust Office of the Trustee or at any Paying Agent.

The Registered Holder of this Note shall be treated as the owner hereof for all purposes.

Except as specifically provided herein and in the Indenture, neither the Issuer nor the Co-Issuer shall be required to make any payment with respect to any tax, assessment or other governmental charge imposed by any government or any political subdivision or taxing authority thereof or therein.

Unless the certificate of authentication hereon has been executed by the Trustee by the manual signature of one of its authorized officers, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class B Secured Floating Rate Notes Due 2023, of the Issuer and the Co-Issuer (the "Class B Notes"), limited in aggregate principal amount to U.S.$21,000,000 issued under an indenture dated as of January 28, 2013 (the "Indenture") by and among the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee (in such capacity and together with any successor trustee permitted under the Indenture, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar and Arbor Realty SR, Inc., as advancing agent. Also authorized under the Indenture are (a) U.S.$156,000,000 Class A Senior Secured Floating Rate Notes Due 2023, (the "Class A Notes" and, together with the Class B Notes, the "Notes").

Concurrently with the issuance of the Notes, the Issuer also will issue preferred shares (the "Preferred Shares"), under the Issuer's Memorandum and Articles of Association as part of its issued share capital.

Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Co-Issuer, the Trustee, the Advancing Agent, the Holders of the Notes and the Preferred Shares and the terms upon which the Notes and the Preferred Shares are, and are to be, executed, authenticated and delivered.

Payments of principal of the Class B Notes shall be payable in accordance with Section 11.1(a) of the Indenture.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

Pursuant to Section 9.1(a) of the Indenture, the Notes are subject to redemption by the Issuer at the direction of the Loan Obligation Manager (such redemption, a "Clean-up Call Redemption"), in whole but not in part, at a price equal to the applicable Redemption Price, upon notice given in the manner provided in the Indenture, on any Payment Date on or after the Payment Date on which the Aggregate Outstanding Amount of the Notes has been reduced to 10% of the Aggregate Outstanding Amount of the Notes on the Closing Date; *provided*, that the funds available to be used for such redemption will be sufficient to pay the Total Redemption Price.

Pursuant to Section 9.1(b) of the Indenture, the Notes and the Preferred Shares shall be redeemable, in whole but not in part, by Act of a Majority of the Preferred Shares delivered to the Trustee, on the Payment Date following the occurrence of a Tax Event if the Tax Materiality Condition is satisfied at a price equal to the applicable Redemption Prices; provided that that the funds available to be used for such Tax Redemption will be sufficient to pay the Total Redemption Price

Pursuant to Section 9.1(c) of the Indenture, the Notes and the Preferred Shares are subject to redemption, in whole but not in part, by the Issuer at a price equal to the applicable Redemption Prices, on any Payment Date occurring after the end of the Non-call Period at the direction of the Issuer (such redemption, an "Optional Redemption") by Act of a Majority of the Preferred Shares delivered to the Trustee; *provided*, that the funds available to be used for such Optional Redemption will be sufficient to pay the Total Redemption Price.

Notes for whose redemption and payment provision is made in accordance with the Indenture shall cease to bear interest on the applicable Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest thereon).

Pursuant to Section 9.5 of the Indenture, if any of the Note Protection Tests applicable to any Class of Notes is not satisfied as of the most recent Measurement Date the Notes shall be redeemed from in accordance with Section 9.6 and the Priority of Payments set forth in the Indenture, only, and to the extent necessary, to cause each of the Note Protection Tests to be satisfied.

If an Event of Default shall occur and be continuing, the Class B Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

At any time after a declaration of acceleration of Maturity of the Notes has been made, and before a judgment or decree for payment of the amounts due has been obtained by the Trustee as provided in the Indenture, a Majority of each Class of Notes (voting as a separate Class), other than with respect to an Event of Default specified in Section 5.1(d), 5.1(e), 5.1(h) or 5.1(i), by written notice to the Issuer, the Co-Issuer and the Trustee, may rescind and annul such declaration and its consequences if certain conditions set forth in the Indenture are satisfied.

The Indenture may be amended and supplemented under the circumstances, and in accordance with the conditions, set forth therein.

The Notes are issuable in minimum denominations of $500,000 and integral multiples of $500 in excess thereof.

The principal of each Note shall be payable on the Stated Maturity, unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

The term "Issuer" as used in this Note includes any successor-in-interest to the Issuer under the Indenture and the term "Co-Issuer" as used in this Note includes any successor-in-interest to the Co-Issuer under the Indenture.

Each purchaser and any subsequent transferee of this Note or any interest herein shall, by virtue of its purchase or other acquisition of this Note or any interest herein, be deemed to have agreed to treat this Note as debt for U.S. federal income tax purposes.

In connection with the purchase of this Note, the Holder and each beneficial owner thereof agrees that: (A) none of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Placement Agent, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment advisor for such Holder or beneficial owner; (B) such Holder or beneficial owner is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates other than any statements in the final offering memorandum for such Notes, and such Holder or beneficial owner has read and understands such final offering memorandum; (C) such Holder or beneficial owner has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisors to the extent it has deemed necessary and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the Co-Issuers, the Loan Obligation Manager, the CLO Servicer, the Trustee, the Collateral Administrator, the Placement Agent or any of their respective affiliates.

Each Holder, by its acquisition of an interest in the Notes, shall be deemed to have represented to the Issuer, the Co-Issuer, the Loan Obligation Manager, the CLO Servicer, the Placement Agent and the Trustee that either (A) no part of the funds being used to pay the purchase price for such Notes constitutes an asset of any "employee benefit plan" (as defined in Section 3(3) of ERISA) or "plan" (as defined in Section 4975(e)(1) of the

Code) that is subject to Title I of ERISA or Section 4975 of the Code or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan"), or an entity whose underlying assets include plan assets of any such Benefit Plan, or (B) if the funds being used to pay the purchase price for such Notes include plan assets of any Benefit Plan, its purchase and holding will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or in the case of any Benefit Plan subject to Similar Law, will not constitute or result in a non-exempt violation of Similar Law.

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Trust Office.

No service charge shall be made to a Holder for any registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

No right or remedy conferred herein or in the Indenture upon or reserved to the Trustee or to the Holder hereof is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or thereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder or under the Indenture, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

THE HOLDER OF THIS NOTE AGREES NOT TO CAUSE THE FILING OF A PETITION IN BANKRUPTCY AGAINST THE ISSUER OR THE CO-ISSUER IN ANY APPLICABLE OR RELEVANT JURISDICTION UNTIL AT LEAST ONE YEAR AND ONE DAY (OR, IF LONGER, THE APPLICABLE PREFERENCE PERIOD THEN IN EFFECT), AFTER THE PAYMENT IN FULL OF ALL NOTES ISSUED UNDER THE INDENTURE.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

IN WITNESS WHEREOF, the Co-Issuers have caused this Note to be duly executed.

Dated as of January 28, 2013

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD., as Issuer

By: _____
Name:
Title:

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LLC, as Co-Issuer

By: _____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Authenticating Agent

ASSIGNMENT FORM

For value received _____

hereby sell, assign and transfer unto

_____

_____
Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

_____

_____

_____

_____

the within Note and does hereby irrevocably constitute and appoint _____ Attorney to transfer the Note on the books of the Issuer with full power of substitution in the premises.

Date: Your Signature: _____
(Sign exactly as your name
appears on this Note)

EXHIBIT C-1

FORM OF TRANSFER CERTIFICATE
FOR (1) TRANSFER AT THE CLOSING TO A REGULATION S GLOBAL SECURITY OR
(2) SUBSEQUENT TRANSFER FROM A RULE 144A GLOBAL SECURITY TO A REGULATION S GLOBAL SECURITY
(Transfer pursuant to Article 2 of the Indenture)

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107
Attn: Corporate Trust Services — Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.

Re: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of: the Class A Senior Secured Floating Rate Notes, Due 2023 and the Class B Secured Floating Rate Notes, Due 2023 (the "Transferred Notes")

Reference is hereby made to the Indenture, dated as of January 28, 2013 (the "Indenture") by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of the Class A Notes and the Class B Notes, U.S. Bank National Association, as Trustee, and Arbor Realty SR, Inc., as Advancing Agent. Capitalized terms used but not defined herein will have the meanings assigned to such terms in the Indenture and if not defined in the Indenture then such terms will have the meanings assigned to them in Regulation S ("Regulation S"), or Rule 144A ("Rule 144A"), under the United States Securities Act of 1933, as amended (the "Securities Act"), and the rules promulgated thereunder, or as defined under the Investment Company Act of 1940, as amended (the "1940 Act"), and the rules promulgated thereunder.

This letter relates to the transfer of U.S.$[●] aggregate principal amount of [Class A][Class B] Notes being transferred for an equivalent beneficial interest in a Regulation S Global Security of the same Class in the name of [name of transferee] (the "Transferee").

In connection with such request, the Transferee hereby certifies that such transfer has been effected in accordance with the transfer restrictions set forth in the Indenture and the Offering Memorandum, dated as of January 25, 2013, and hereby represents, warrants and agrees for the benefit of the Issuer, the Co-Issuer, the Trustee, the Loan Obligation Manager and their counsel that:

(i)at the time the buy order was originated, the Transferee was outside the United States;

(ii)the Transferee is not a U.S. Person ("U.S. Person"), as defined in Regulation S;

(iii)the transfer is being made in an "offshore transaction" ("Offshore Transaction"), as defined in Regulation S, pursuant to Rule 903 or 904 of Regulation S;

(iv)the Transferee will notify future transferees of the transfer restrictions;

(v)the Transferee understands that the Notes, including the Transferred Notes, are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, the Notes, including the Transferred Notes, have not been and will not be registered or qualified under the Securities Act or the securities laws of any state or other jurisdiction, and, if in the future the owner decides to reoffer, resell, pledge or otherwise transfer the Transferred Notes, such Transferred Notes may only be reoffered, resold, pledged or otherwise transferred only in accordance with the Indenture and the legend on such Transferred Notes. The Transferee acknowledges that no representation is made by the Issuer, the Co-Issuer or the Placement Agent, as the case may be, as to the availability of any exemption from registration or qualification under the Securities Act or any state or other securities laws for resale of the Transferred Notes;

(vi)the Transferee is not purchasing the Transferred Notes with a view to the resale, distribution or other disposition thereof in violation of the Securities Act or the securities laws of any state or other jurisdiction. The Transferee understands that an investment in the Transferred Notes involves certain risks, including the risk of loss of all or a substantial part of its investment under certain circumstances. The Transferee has had access to such financial and other information concerning the Issuer, the Co-Issuer and the Transferred Notes as it deemed necessary or appropriate in order to make an informed investment decision with respect to its purchase of the Transferred Notes, including, without limitation, an opportunity to ask questions of and request information from the Loan Obligation Manager, the Placement Agent, the Issuer and the Co-Issuer, including without limitation, an opportunity to access to such legal and tax representation as the Transferee deemed necessary or appropriate;

(vii)in connection with the purchase of the Transferred Notes: (A) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment adviser for the Transferee; (B) the Transferee is not relying (for purposes of making any investment decision or otherwise) upon any written or oral advice, counsel or representations of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of its respective affiliates other than any statements in the final offering memorandum relating to such Transferred Notes and any representations expressly set forth in a written agreement with such party; (C) the Transferee has read and understands the final offering memorandum relating to the Transferred Notes (including, without limitation, the descriptions therein of the structure of the transaction in which the Transferred Notes are being issued and the risks to purchasers of the Notes); (D) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of its respective affiliates has given to the Transferee (directly or indirectly through any other person) any assurance, guarantee, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (including legal, regulatory, tax, financial, accounting, or otherwise) of the Transferee's purchase of the Transferred Notes; (E) the Transferee has consulted with its own legal, regulatory, tax, business, investment, financial, accounting and other advisers to the extent it has deemed necessary, and it has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Issuer, the Co-Issuer, the Placement Agent, the Trustee, the Collateral Administrator or any of its respective

affiliates; (F) the Transferee will hold and transfer at least the minimum denomination of such Transferred Notes; (G) the Transferee was not formed for the purpose of investing in the Transferred Notes; and (H) the Transferee is purchasing the Transferred Notes with a full understanding of all of the terms, conditions and risks thereof (economic and otherwise), and is capable of assuming and willing to assume (financially and otherwise) these risks;

(viii)the Transferee understands that the Transferred Notes will bear the applicable legend set forth on such Transferred Notes;

(ix)the Transferee represents that either (a) it is not an "employee benefit plan" (as defined in Section 3(3) of ERISA) or "plan" (as defined in Section 4975(e)(1) of the Code) that is subject to Title I of ERISA or Section 4975 of the Code, or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan") or an entity whose underlying assets include plan assets of any such Benefit Plan or (b) its purchase and holding of the Transferred Notes will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or, in the case of a Benefit Plan subject to Similar Law, do not result in a non-exempt violation of Similar Law;

(x)Except to the extent permitted by the Securities Act and the 1940 Act and any rules thereunder as in effect and applicable at the time of any such offer, the Transferee will not, at any time, offer to buy or offer to sell the Transferred Notes by any form of general solicitation or advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio or at a seminar or meeting whose attendees have been invited by general solicitations or advertising;

(xi)the Transferee is not a member of the public in the Cayman Islands, within the meaning of Section 175 of the Cayman Islands Companies Law (2011 Revision);

(xii)the Transferee understands that (A) the Issuer, the Co-Issuer, the Trustee or the Paying Agent will require certification acceptable to them (1) as a condition to the payment of principal of and interest on any Notes without, or at a reduced rate of, U.S. withholding or backup withholding tax, and (2) to enable the Issuer, the Co-Issuer, the Trustee and the Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to pay, deduct or withhold from payments in respect of such Notes or the holder of such Notes under any present or future law or regulation of the Cayman Islands or the United States or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation, which certification may include U.S. federal income tax forms (such as IRS Form W-8BEN (Certification of Foreign Status of Beneficial Owner), IRS Form W-8IMY (Certification of Foreign Intermediary Status), IRS Form W-9 (Request for Taxpayer Identification Number and Certification), or IRS Form W-8ECI (Certification of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with Conduct of a U.S. Trade or Business) or any successors to such IRS forms); (B) the Issuer, the Co-Issuer, the Trustee or the Paying Agent may require certification acceptable to them to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets; (C) if the Issuer is no longer a Qualified REIT Subsidiary but is instead considered to be a foreign corporation for U.S. federal income tax purposes, the Issuer, the Co-Issuer, the Trustee or the Paying Agent will require the Transferee to provide the Issuer, the Co-Issuer, the Trustee or the Paying Agent with any correct, complete and accurate information that may be required for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and will take any other actions necessary for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and, in the event the Transferee fails to provide such information or take such actions, (1) the Issuer, the Co-Issuer, the Trustee and the Paying Agent are authorized to withhold amounts otherwise distributable to the Transferee as compensation for any amount withheld from payments to the Issuer, the Co-Issuer, the Trustee or the Paying Agent as a result of such failure, (2) to the extent necessary to avoid an adverse effect on the Issuer or any other holder of Notes as a result of such failure, the Issuer, the Co-Issuer, the Trustee and the Paying Agent will have the right to compel the Transferee to sell its Notes or, if the Transferee does not sell its Notes within 10 business days after notice from the Issuer, the Co-Issuer, the Trustee or the Paying Agent, to sell such Notes at a public or private sale called and conducted in any manner permitted by law, and to remit the net proceeds of such sale (taking into account any taxes incurred by the Issuer in connection with such sale) to the Transferee as payment in full for such Notes and (3) the Issuer may also assign each such Note a separate CUSIP or CUSIPs in the Issuer's sole discretion; (D) if the Transferee is a "foreign financial institution" or other foreign financial entity subject to FATCA and does not provide the Issuer, Co-Issuer, Trustee or Paying Agent with evidence that it has complied with the applicable FATCA requirements, the Issuer, Co-Issuer, Trustee or Paying Agent will be required to withhold amounts under FATCA on payments to the Transferee; and (E) the Transferee agrees to provide any certification requested pursuant to this paragraph and to update or replace such form or certification in accordance with its terms or its subsequent amendments;

(xiii)the Transferee acknowledges that it is its intent and that it understands it is the intent of the Issuer that, for purposes of U.S. federal, state and local income and franchise tax and any other income taxes, for so long as a direct or indirect wholly owned subsidiary of the Arbor Parent owns 100% of the Preferred Shares and the Issuer Ordinary Shares, the Issuer will be treated as a Qualified REIT Subsidiary and the Notes will be treated as indebtedness solely of the Arbor Parent; the Transferee agrees to such treatment and agrees to take no action inconsistent with such treatment;

(xiv)the Transferee, if not a "United States person" (as defined in Section 7701(a)(30) of the Code), either: (A) is not a bank (within the meaning of Section 881(c)(3)(A) of the Code); (B) is a bank that has provided an IRS Form W-8ECI representing that all payments received or to be received by it from the Issuer are effectively connected with the conduct of a trade or business in the United States, or (C) is a bank and is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and the Issuer is treated as a fiscally transparent entity (as defined in Treasury regulations

section 1.894-1(d)(3)(iii)) under the laws of Transferee's jurisdiction with respect to payments made on the Loan Obligations held by the Issuer;

(xv)the Transferee understands that the Notes have not been approved or disapproved by the SEC or any other governmental authority or agency or any jurisdiction and that neither the SEC nor any other governmental authority or agency has passed upon the adequacy or accuracy of the final offering memorandum relating to the Notes. The Transferee further understands that any representation to the contrary is a criminal offense;

(xvi)the Transferee will, prior to any sale, pledge or other transfer by such Transferee of any Note (or interest therein), obtain from the prospective transferee, and deliver to the Trustee, a duly executed transferee certificate addressed to each of the Trustee, the Issuer, the Co-Issuer and the Loan Obligation Manager in the form of the relevant exhibit attached to the Indenture, and such other certificates and other information as the Issuer, the Co-Issuer, the Loan Obligation Manager or the Trustee may reasonably require to confirm that the proposed transfer complies with the transfer restrictions contained in the Indenture;

(xvii)the Transferee agrees that no Note may be purchased, sold, pledged or otherwise transferred in an amount less than the minimum denomination set forth in the Indenture. In addition, the Transferee understands that the Notes will be transferable only upon registration of the transferee in the Note Register of the Issuer following delivery to the Note Registrar of a duly executed transfer certificate and any other certificates and other information required by the Indenture;

(xviii)the Transferee is aware and agrees that no Note (or beneficial interest therein) may be reoffered or resold, pledged or otherwise transferred (i) to a transferee taking delivery of such Note represented by a Rule 144A Global Security except (A) to a transferee that the Transferee reasonably believes is a QIB, purchasing for its account or the account of another QIB, to which notice is given that the resale, pledge or other transfer is being made in reliance on the exemption from the registration requirements of the Securities Act provided by Rule 144A or another person the sale to which is exempt under the Securities Act, (B) to a transferee that is a Qualified Purchaser, and (C) if such transfer is made in accordance with any applicable securities laws of any state of the United States and any other relevant jurisdiction, (ii) to a transferee taking delivery of such Note represented by a Regulation S Global Security except (A) to a transferee that is a non-U.S. Person acquiring such interest in an Offshore Transaction in accordance with Rule 903 or Rule 904 of Regulation S, (B) to a transferee that is not a U.S. resident (within the meaning of the 1940 Act) unless such transferee is a Qualified Purchaser, (C) such transfer is made in compliance with the other requirements set forth in the Indenture and (D) if such transfer is made in accordance with any applicable securities laws of any state of the United States and any other jurisdiction or (iii) if such transfer would have the effect of requiring the Issuer, the Co-Issuer or the pool of Assets to register as an "investment company" under the 1940 Act;

(xix)the Transferee understands that there is no secondary market for the Notes and that no assurances can be given as to the liquidity of any trading market for the Notes and that it is unlikely that a trading market for the Notes will develop. The Transferee further understands that, although the Placement Agent may from time to time make a market in the Notes, the Placement Agent is not under any obligation to do so and, following the commencement of any market-making, may discontinue the same at any time. Accordingly, the Transferee must be prepared to hold the Notes until the Stated Maturity Date;

(xx)the Transferee agrees that (i) any sale, pledge or other transfer of a Note (or any beneficial interest therein) made in violation of the transfer restrictions contained in the Indenture, or made based upon any false or inaccurate representation made by the Transferee or a transferee to the Issuer, the Trustee or the Note Registrar, will be void and of no force or effect and (ii) none of the Issuer, the Trustee and the Note Registrar has any obligation to recognize any sale, pledge or other transfer of a Note (or any beneficial interest therein) made in violation of any such transfer restriction or made based upon any such false or inaccurate representation;

(xxi)the Transferee approves and consents to any direct trades between the Issuer and the Loan Obligation Manager and/or its affiliates that is permitted under the terms of the Indenture and the Loan Obligation Management Agreement; and

(xxii)the Transferee acknowledges that the Issuer, the Co-Issuer, the Trustee, the Note Registrar, the Loan Obligation Manager, the Placement Agent and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements and agrees that, if any of the acknowledgments, representations or warranties made or deemed to have been made by it in connection with its purchase of the Notes are no longer accurate, the Transferee will promptly notify the Issuer, the Co-Issuer, the Trustee, Note Registrar, the Loan Obligation Manager and the Placement Agent.

(xxiii)The Notes will bear a legend to the following effect unless the Issuer and the Co-Issuer determine otherwise in compliance with applicable law:

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED OR QUALIFIED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR OTHER JURISDICTION, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT: (A)(1) TO A (X) "QUALIFIED INSTITUTIONAL BUYER" (A "QIB"), AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT AND THE RULES THEREUNDER (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QIB WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN U.S.$500,000 (AND INTEGRAL MULTIPLES

OF U.S.$500 IN EXCESS THEREOF) FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE; OR (Y) AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT TAKING SUCH INTEREST IN THE FORM OF A DEFINITIVE NOTE REGISTERED IN THE NAME OF THE LEGAL AND BENEFICIAL HOLDER THEREOF, IN EACH CASE IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OR (2) TO A NON-"U.S. PERSON" IN AN "OFFSHORE TRANSACTION," AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT ("REGULATION S"), IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S IN EACH CASE, IN A PRINCIPAL AMOUNT OF NOT LESS THAN U.S.$500,000 (AND INTEGRAL MULTIPLES OF U.S.$500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME THE ISSUER AND THE CO-ISSUER, AS APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH GLOBAL SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF SUCH INTEREST IN SUCH GLOBAL SECURITY VOID AND REQUIRE THAT SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, AS APPLICABLE.

ANY TRANSFER, PLEDGE OR OTHER USE OF THIS NOTE FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO. HAS AN INTEREST HEREIN, UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC"), NEW YORK, NEW YORK, TO THE CO-ISSUERS OR

THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR OF SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO.).

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS NOTE MAY NOT BE EXCHANGED OR TRANSFERRED IN WHOLE OR IN PART FOR A NOTE REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THAT DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

PRINCIPAL OF THIS NOTE IS PAYABLE AS SET FORTH HEREIN. ACCORDINGLY, THE OUTSTANDING PRINCIPAL OF THIS NOTE AT ANY TIME MAY BE LESS THAN THE AMOUNT SHOWN ON THE face HEREOF. ANY PERSON ACQUIRING THIS NOTE MAY ASCERTAIN ITS CURRENT PRINCIPAL AMOUNT BY INQUIRY OF THE TRUSTEE.

(xxiv)The owner understands and agrees that an additional legend in substantially the following form will be placed on each Note in the form of a Regulation S Global Security:

AN INTEREST IN THIS NOTE MAY NOT BE HELD BY A PERSON THAT IS A U.S. PERSON (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT) AT ANY TIME. IN ADDITION, AN INTEREST IN THIS NOTE MAY BE HELD ONLY THROUGH EUROCLEAR OR CLEARSTREAM, LUXEMBOURG AT ANY TIME.

You, the Issuer, the Co-Issuer and the Loan Obligation Manager are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Name of Transferee]

By: _____
Name:
Title:

cc: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
Arbor Realty Collateralized Loan Obligation 2013-1, LLC

FORM OF TRANSFER CERTIFICATE
FOR (1) TRANSFER AT THE CLOSING TO A RULE 144A GLOBAL SECURITY OR
(2) SUBSEQUENT TRANSFER FROM A REGULATION S GLOBAL SECURITY TO A RULE 144A GLOBAL SECURITY
(Transfers pursuant to Article 2 of the Indenture)

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107
Attn: Corporate Trust Services — Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.

Re: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of: the Class A Senior Secured Floating Rate Notes, Due 2023 and the Class B Secured Floating Rate Notes, Due 2023 (the "Transferred Notes")

Reference is hereby made to the Indenture dated as of January 28, 2013 (the "Indenture"), by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of the Class A Notes and the Class B Notes, U.S. Bank National Association, as Trustee, and Arbor Realty SR, Inc., as Advancing Agent. Capitalized terms used but not defined herein will have the meanings assigned to such terms in the Indenture and if not defined in the Indenture then such terms will have the meanings assigned to them in Regulation S ("Regulation S"), or Rule 144A ("Rule 144A"), under the Securities Act of 1933, as amended (the "Securities Act"), and the rules promulgated thereunder or as defined under the Investment Company Act of 1940, as amended (the "1940 Act") and the rules promulgated thereunder.

This letter relates to the transfer of U.S.$[•] aggregate principal amount of [Class A][Class B] Notes being transferred in exchange for an equivalent beneficial interest in a Rule 144A Global Security of the same Class in the name of [name of transferee] (the "Transferee").

In connection with such request, the Transferee hereby certifies that such transfer has been effected in accordance with the transfer restrictions set forth in the Indenture and the Offering Memorandum dated as of January 25, 2013 and hereby represents, warrants and agrees for the benefit of the Issuer, the Co-Issuer and the Trustee that:

(i)the Transferee is a "qualified institutional buyer" as defined in Rule 144A (a "QIB"), and a Qualified Purchaser as defined in the 1940 Act and the rules promulgated thereunder (a "Qualified Purchaser");

(ii)(A) the Transferee is acquiring a beneficial interest in such Transferred Notes for its own account or for an account that is both a QIB and a Qualified Purchaser and as to each of which the Transferee exercises sole investment discretion, and (B) the Transferee and each such account is acquiring not less than the minimum denomination of the Transferred Notes;

(iii)the Transferee will notify future transferees of the transfer restrictions;

(iv)the Transferee is obtaining the Transferred Notes in a transaction pursuant to Rule 144A;

(v)the Transferee is obtaining the Transferred Notes in accordance with any applicable securities laws of any state of the United States and any other applicable jurisdiction;

(vi)the Transferee understands that the Notes, including the Transferred Notes, are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, the Notes, including the Transferred Notes, have not been and will not be registered or qualified under the Securities Act or the securities laws of any state or other jurisdiction, and, if in the

future the owner decides to reoffer, resell, pledge or otherwise transfer the Transferred Notes, such Transferred Notes may only be reoffered, resold, pledged or otherwise transferred only in accordance with the Indenture and the legend on such Transferred Notes. The Transferee acknowledges that no representation is made by the Issuer, the Co-Issuer or the Placement Agent, as the case may be, as to the availability of any exemption from registration or qualification under the Securities Act or any state or other securities laws for resale of the Transferred Notes;

(vii)the Transferee is not purchasing the Transferred Notes with a view to the resale, distribution or other disposition thereof in violation of the Securities Act or the securities laws of any state or other jurisdiction. The Transferee understands that an investment in the Transferred Notes involves certain risks, including the risk of loss of all or a substantial part of its investment under certain circumstances. The Transferee has had access to such financial and other information concerning the Issuer, the Co-Issuer and the Transferred Notes as it deemed necessary or appropriate in order to make an informed investment decision with respect to its purchase of the Transferred Notes, including, without limitation, an opportunity to ask questions of and request information from the Loan Obligation Manager, the Placement Agent, the Issuer and the Co-Issuer, including without limitation, an opportunity to access to such legal and tax representation as the Transferee deemed necessary or appropriate;

(viii)in connection with the purchase of the Transferred Notes: (A) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment adviser for the Transferee; (B) the Transferee is not relying (for purposes of making any investment decision or otherwise) upon any written or oral advice, counsel or representations of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral

Administrator or any of their respective affiliates other than any statements in the final offering memorandum relating to such Transferred Notes and any representations expressly set forth in a written agreement with such party; (C) the Transferee has read and understands the final offering memorandum relating to the Transferred Notes (including, without limitation, the descriptions therein of the structure of the transaction in which the Transferred Notes are being issued and the risks to purchasers of the Notes); (D) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates has given to the Transferee (directly or indirectly through any other person) any assurance, guarantee, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (including legal, regulatory, tax, financial, accounting, or otherwise) of the Transferee's purchase of the Transferred Notes; (E) the Transferee has consulted with its own legal, regulatory, tax, business, investment, financial, accounting and other advisers to the extent it has deemed necessary, and it has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates; (F) the Transferee will hold and transfer at least the minimum denomination of such Transferred Notes; (G) the Transferee was not formed for the purpose of investing in the Transferred Notes; and (H) the Transferee is purchasing the Transferred Notes with a full understanding of all of the terms, conditions and risks thereof (economic and otherwise), and is capable of assuming and willing to assume (financially and otherwise) these risks;

(ix)the Transferee understands that the Transferred Notes will bear the applicable legend set forth on such Transferred Notes;

(x)the Transferee represents that either (a) it is not and is not investing on behalf of an " ***employee benefit plan"*** (as defined in Section 3(3) of ERISA) or "***plan***" (as defined in Section 4975(e)(1) of the Code) that is subject to Title I of ERISA or Section 4975 of the Code, or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan") or an entity whose underlying assets include plan assets of any such Benefit Plan or (b) its purchase and holding of the Transferred Notes will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or

Section 4975 of the Code, or, in the case of a Benefit Plan subject to Similar Law, do not result in a non-exempt violation of Similar Law;

(xi)Except to the extent permitted by the Securities Act and the 1940 Act and any rules thereunder as in effect and applicable at the time of any such offer, the Transferee will not, at any time, offer to buy or offer to sell the Transferred Notes by any form of general solicitation or advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio or at a seminar or meeting whose attendees have been invited by general solicitations or advertising;

(xii)the Transferee is not a member of the public in the Cayman Islands, within the meaning of Section 175 of the Cayman Islands Companies Law (2011 Revision);

the Transferee understands that (A) the Issuer, the Co Issuer, the Trustee or the Paying Agent will require certification acceptable to them (1) as a condition to the payment of principal of and interest on any Notes without, or at a reduced rate of, U.S. withholding or backup withholding tax, and (2) to enable the Issuer, the Co-Issuer, the Trustee and the Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to pay, deduct or withhold from payments in respect of such Notes or the holder of such Notes under any present or future law or regulation of the Cayman Islands or the United States or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation, which certification may include U.S. federal income tax forms (such as IRS Form W-8BEN (Certification of Foreign Status of Beneficial Owner), IRS Form W-8IMY (Certification of Foreign Intermediary Status), IRS Form W-9 (Request for Taxpayer Identification Number and Certification), or IRS Form W-8ECI (Certification of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with Conduct of a U.S. Trade or Business) or any successors to such IRS forms); (B) the Issuer, the Co Issuer, the Trustee or the Paying Agent may require certification acceptable to them to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets; (C) if the Issuer is no longer a Qualified REIT Subsidiary but is instead considered to be a foreign corporation for U.S. federal income tax purposes, the Issuer, the Co-Issuer, the Trustee or the Paying Agent will require the Transferee to provide the Issuer, the Co-Issuer, the Trustee or the Paying Agent with any correct, complete and accurate information that may be required for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and will take any other actions necessary for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and, in the event the Transferee fails to provide such information or take such actions, (1) the Issuer, the Co-Issuer, the Trustee and the Paying Agent are authorized to withhold amounts otherwise distributable to the Transferee as compensation for any amount withheld from payments to the Issuer, the Co-Issuer, the Trustee or the Paying Agent as a result of such failure, (2) to the extent necessary to avoid an adverse effect on the Issuer or any other holder of Notes as a result of such failure, the Issuer, the Co-Issuer, the Trustee and the Paying Agent will have the right to compel the Transferee to sell its Notes or, if the Transferee does not sell its Notes within 10 business days after notice from the Issuer, the Co-Issuer, the Trustee or the Paying Agent, to sell such Notes at a public or private sale called and conducted in any manner permitted by law, and to remit the net proceeds of such sale (taking into account any taxes incurred by the Issuer in connection with such sale) to the Transferee as payment in full for such Notes and (3) the Issuer may also assign each such Note a separate CUSIP or CUSIPs in the Issuer's sole discretion; (D) if the Transferee is a "foreign financial institution" or other foreign financial entity subject to FATCA and does not provide the Issuer, Co-Issuer, Trustee or Paying Agent with evidence that it has complied with the applicable FATCA requirements, the Issuer, Co-Issuer, Trustee or Paying Agent will be required to withhold amounts under FATCA on payments to the Transferee; and (E) the Transferee agrees to provide any certification requested pursuant to this paragraph and to update or replace such form or certification in accordance with its terms or its subsequent amendments;

(xiv)the Transferee acknowledges that it is its intent and that it understands it is the intent of the Issuer that, for purposes of U.S. federal,

state and local income and franchise tax and any other income taxes, for so long as a direct or indirect wholly owned disregarded subsidiary of the Arbor Parent owns 100% of the Preferred Shares and the Issuer Ordinary Shares, the Issuer will be treated as a Qualified REIT

Subsidiary and the Notes will be treated as indebtedness solely of the Arbor Parent; the Transferee agrees to such treatment and agrees to take no action inconsistent with such treatment;

(xv)the Transferee, if not a "***United States person***" (as defined in Section 7701(a)(30) of the Code), either: (A) is not a bank (within the meaning of Section 881(c)(3)(A) of the Code); (B) is a bank that has provided an IRS Form W-8ECI representing that all payments received or to be received by it from the Issuer are effectively connected with the conduct of a trade or business in the United States, or (C) is a bank and is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and the Issuer is treated as a fiscally transparent entity (as defined in Treasury regulations section 1.894-1(d)(3)(iii)) under the laws of Transferee's jurisdiction with respect to payments made on the Loan Obligations held by the Issuer;

(xvi)the Transferee understands that the Notes have not been approved or disapproved by the SEC or any other governmental authority or agency or any jurisdiction and that neither the SEC nor any other governmental authority or agency has passed upon the adequacy or accuracy of the final offering memorandum relating to the Notes. The Transferee further understands that any representation to the contrary is a criminal offense;

(xvii)the Transferee will, prior to any sale, pledge or other transfer by such Transferee of any Note (or interest therein), obtain from the prospective transferee, and deliver to the Trustee, a duly executed transferee certificate addressed to each of the Trustee, the Issuer, the Co-Issuer and the Loan Obligation Manager in the form of the relevant exhibit attached to the Indenture, and such other certificates and other information as the Issuer, the Co-Issuer, the Loan Obligation Manager or the Trustee may reasonably require to confirm that the proposed transfer complies with the transfer restrictions contained in the Indenture;

(xviii)the Transferee agrees that no Note may be purchased, sold, pledged or otherwise transferred in an amount less than the minimum denomination set forth in the Indenture. In addition, the Transferee understands that the Notes will be transferable only upon registration of the transferee in the Note Register of the Issuer following delivery to the Note Registrar of a duly executed transfer certificate and any other certificates and other information required by the Indenture;

(xix)the Transferee is aware and agrees that no Note (or beneficial interest therein) may be reoffered or resold, pledged or otherwise transferred (i) to a transferee taking delivery of such Note represented by a Rule 144A Global Security except (A) to a transferee that the Transferee reasonably believes is a QIB, purchasing for its account or the account of another QIB, to which notice is given that the resale, pledge or other transfer is being made in reliance on the exemption from the registration requirements of the Securities Act provided by Rule 144A or another person the sale to which is exempt under the Securities Act, (B) to a transferee that is a Qualified Purchaser, and (C) if such transfer is made in accordance with any applicable securities laws of any state of the United States and any other relevant jurisdiction, (ii) to a transferee taking delivery of such Note represented by a Regulation S Global Security except (A) to a transferee that is a non-U.S. Person acquiring such interest in an Offshore Transaction in accordance with Rule 903 or Rule 904 of Regulation S, (B) to a transferee that is not a U.S. resident (within the meaning of the 1940 Act) unless such transferee is a Qualified Purchaser, (C) such transfer is made in compliance with the other requirements set forth in the Indenture and (D) if such transfer is made in accordance with any applicable securities laws of any state of the United States and any other jurisdiction or (iii) if such transfer would have the effect of requiring the Issuer, the Co-Issuer or the pool of Assets to register as an "investment company" under the 1940 Act;

(xx)the Transferee understands that there is no secondary market for the Notes and that no assurances can be given as to the liquidity of any trading market for the Notes and that it is unlikely that a trading market for the Notes will develop. The Transferee further understands that, although the Placement Agent may from time to time make a market in the Notes, the Placement Agent is not under any obligation to do so and, following the commencement of any market-making, may discontinue the same at any time. Accordingly, the Transferee must be prepared to hold the Notes until the Stated Maturity Date;

(xxi)the Transferee agrees that (i) any sale, pledge or other transfer of a Note (or any beneficial interest therein) made in violation of the transfer restrictions contained in the Indenture, or made based upon any false or inaccurate representation made by the Transferee or a transferee to the Issuer, the Trustee or the Note Registrar, will be void and of no force or effect and (ii) none of the Issuer, the Trustee and the Note Registrar has any obligation to recognize any sale, pledge or other transfer of a Note (or any beneficial interest therein) made in violation of any such transfer restriction or made based upon any such false or inaccurate representation;

(xxii)the Transferee approves and consents to any direct trades between the Issuer and the Loan Obligation Manager and/or its affiliates that is permitted under the terms of the Indenture and the Loan Obligation Management Agreement;

(xxiii)the Transferee acknowledges that the Issuer, the Co-Issuer, the Trustee, the Note Registrar, the Loan Obligation Manager, the Placement Agent and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations and agreements and agrees that, if any of the acknowledgments, representations or warranties made or deemed to have been made by it in connection with its purchase of the Notes are no longer accurate, the Transferee will promptly notify the Issuer, the Co-Issuer, the Trustee, Note Registrar, the Loan Obligation Manager and the

Placement Agent; and

The Notes will bear a legend to the following effect unless the Issuer and the Co-Issuer determine otherwise in compliance with applicable law:

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED OR QUALIFIED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR OTHER JURISDICTION, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "1940 ACT"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT: (A)(1) TO A (X) "QUALIFIED INSTITUTIONAL BUYER" (A "QIB"), AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") WHO IS A QUALIFIED PURCHASER AS DEFINED IN SECTION 2(A)(51) OF THE 1940 ACT AND THE RULES THEREUNDER (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QIB WHO IS A QUALIFIED PURCHASER, FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE; OR (Y) AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT TAKING SUCH INTEREST IN THE FORM OF A DEFINITIVE NOTE REGISTERED IN THE NAME OF THE LEGAL AND BENEFICIAL HOLDER THEREOF, IN EACH CASE IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OR (2) TO A NON-"U.S. PERSON" IN AN "OFFSHORE TRANSACTION," AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT ("REGULATION S"), IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S IN EACH CASE, IN A PRINCIPAL AMOUNT OF NOT LESS THAN U.S.$500,000 (AND INTEGRAL MULTIPLES OF U.S.$500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A GLOBAL SECURITY WILL BE DEEMED TO HAVE MADE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME THE ISSUER AND THE CO-ISSUER, AS APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH BENEFICIAL INTEREST IN SUCH GLOBAL SECURITY WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF SUCH INTEREST IN SUCH GLOBAL SECURITY VOID AND

REQUIRE THAT SUCH INTEREST HEREIN BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, AS APPLICABLE.

ANY TRANSFER, PLEDGE OR OTHER USE OF THIS NOTE FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO. HAS AN INTEREST HEREIN, UNLESS THIS NOTE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC"), NEW YORK, NEW YORK, TO THE CO-ISSUERS OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT AND ANY NOTE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR OF SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO.).

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE OF A DEPOSITARY. THIS NOTE MAY NOT BE EXCHANGED OR TRANSFERRED IN WHOLE OR IN PART FOR A NOTE REGISTERED IN THE NAME OF ANY PERSON OTHER THAN THAT DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

PRINCIPAL OF THIS NOTE IS PAYABLE AS SET FORTH HEREIN. ACCORDINGLY, THE OUTSTANDING PRINCIPAL OF THIS NOTE AT ANY TIME MAY BE LESS THAN THE AMOUNT SHOWN ON THE face HEREOF. ANY PERSON ACQUIRING THIS NOTE MAY ASCERTAIN ITS CURRENT PRINCIPAL AMOUNT BY INQUIRY OF THE TRUSTEE.

You, the Issuer, the Co-Issuer and the Loan Obligation Manager are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Name of Transferee]

By: _____
Name:
Title:

cc: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
Arbor Realty Collateralized Loan Obligation 2013-1, LLC

EXHIBIT C-3

FORM OF TRANSFER CERTIFICATE
FOR (1) TRANSFER AT THE CLOSING TO A DEFINITIVE NOTE OR
(2) SUBSEQUENT TRANSFER FROM A REGULATION S GLOBAL SECURITY OR A RULE 144A
GLOBAL SECURITY TO A DEFINITIVE NOTE
(Transfers pursuant to Article 2 of the Indenture)

U.S. Bank National Association
60 Livingston Avenue
St. Paul, Minnesota 55107
Attn: Corporate Trust Services — Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.

Re: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of: the Class A Senior Secured Floating Rate Notes, Due 2023 and the Class B Secured Floating Rate Notes, Due 2023 (the "Transferred Notes")

Reference is hereby made to the Indenture dated as of January 28, 2013 (the "Indenture"), by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., as Issuer and Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer of the Class A Notes and the Class B Notes, U.S. Bank National Association, as Trustee, and Arbor Realty SR, Inc., as Advancing Agent. Capitalized terms used but not defined herein will have the meanings assigned to such terms in the Indenture and if not defined in the Indenture then such terms will have the meanings assigned to them in Regulation S ("Regulation S"), or Rule 144A ("Rule 144A"), under the Securities Act of 1933, as amended (the "Securities Act"), and the rules promulgated thereunder, or as defined under the Investment Company Act of 1940, as amended (the "1940 Act"), and the rules promulgated thereunder.

This letter relates to the transfer of U.S.$[•] aggregate principal amount of [Class A][Class B] Notes being transferred in exchange for a Definitive Note of the same Class in the name of [name of transferee] (the "Transferee").

In connection with such request, the Transferee hereby certifies that such transfer has been effected in accordance with the transfer restrictions set forth in the Indenture and the Offering Memorandum dated as of January 25, 2013 and hereby represents, warrants and agrees for the benefit of the Issuer, the Co-Issuer and the Trustee that:

(i) the Transferee is an institutional "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act (an "IAI") who is also a qualified purchaser as defined in Section 2(a)(51) of the 1940 Act and the rules promulgated thereunder (a "Qualified Purchaser");

(ii) the Transferee is acquiring the Notes for its own account (and not for the account of any other Person) in a minimum denomination of U.S.$500,000 and in integral multiples of U.S.$500 in excess thereof;

(iii) the Transferee understands that the Notes have not been and will not be registered or qualified under the Securities Act or the securities laws of any state or other jurisdiction, and, if in the future the Transferee decides to reoffer, resell, pledge or otherwise transfer the Notes, such Notes may be reoffered, resold, pledged or otherwise transferred only in accordance with the provisions of the Indenture and the legends on such Notes, including the requirement for written certifications. In particular, the Transferee understands that the Notes may be transferred only to a person that is either (a) a Qualified Purchaser or a corporation, partnership, limited liability company or other entity (other than a trust), each shareholder, partner, member or other equity owner of which is a Qualified Purchaser, that in each case is either (i) a "qualified institutional buyer" as defined in Rule 144A (a "QIB") who purchases such Notes in reliance on the exemption from Securities Act registration provided by Rule 144A, or (ii) solely in the case of Notes that are issued in the form of Definitive Securities, an IAI; or (b) a person that is not a "U.S. person" as defined in Regulation S (a "U.S. Person"), and is acquiring the Notes in an "offshore transaction"

as defined in Regulation S (an "Offshore Transaction"), in reliance on the exemption from registration provided by Regulation S. The Transferee acknowledges that no representation is made as to the availability of any exemption from registration or qualification under the Securities Act or any state or other securities laws for resale of the Notes;

(iv) in connection with the Transferee's purchase of the Notes: (a) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates is acting as a fiduciary or financial or investment adviser for the Transferee; (b) the Transferee is not relying (for purposes of making any investment decision or otherwise) upon any written or oral advice, counsel or representations of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates other than any statements in the final Offering Memorandum relating to such Notes and any representations expressly set forth in a written agreement with such party; (c) the Transferee has read and understands the final Offering Memorandum relating to such Notes (including, without limitation, the descriptions therein of the structure of the transaction in which the Notes are being issued and the risks to purchasers of the Notes); (d) none of the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates has given to the Transferee (directly or indirectly through any other person) any assurance, guarantee, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (including legal, regulatory, tax, financial, accounting, or otherwise) of the Transferee's purchase of the Notes; (e) the Transferee has consulted with its own legal, regulatory, tax, business, investment, financial, accounting and other

advisers to the extent it has deemed necessary, and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Issuer, the Co-Issuer, the Placement Agent, the Loan Obligation Manager, the Trustee, the Collateral Administrator or any of their respective affiliates; (f) the Transferee will hold and transfer at least the minimum denomination of such Notes; (g) the Transferee was not formed for the purpose of investing in the Notes; and (h) the Transferee is a sophisticated investor and is purchasing the Notes with a full understanding of all of the terms, conditions and risks thereof, and it is capable of assuming and willing to assume those risks;

(v) the Transferee is acquiring the Notes as principal solely for its own account for investment and not with a view to the resale, distribution or other disposition thereof in violation of the Securities Act or the securities laws of any state or other jurisdiction; it is not a (A) partnership, (B) common trust fund, or (C) special trust, pension, profit sharing or other retirement trust fund or plan in which the partners, beneficiaries or participants may designate the particular investments to be made; it agrees that it shall not hold any Notes for the benefit of any other person, that it shall at all times be the sole beneficial owner thereof for purposes of the 1940 Act and all other purposes and that it shall not sell participation interests in the Notes or enter into any other arrangement pursuant to which any other person shall be entitled to a beneficial interest in the distributions on the Notes;

(vi) the Transferee represents that either (a) it is not and is not investing on behalf of an "***employee benefit plan***" (as defined in Section 3(3) of ERISA) or "***plan***" (as defined in Section 4975(e)(1) of the Code) that is subject to Title I of ERISA or Section 4975 of the Code, or any other employee benefit plan or plan which is subject to any federal, state or local law ("Similar Law") that is substantially similar to Section 406 of ERISA or Section 4975 of the Code (each a "Benefit Plan") or an entity whose underlying assets include plan assets of any such Benefit Plan or (b) its purchase and holding of the Transferred Notes will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, or, in the case of a Benefit Plan subject to Similar Law, do not result in a non-exempt violation of Similar Law;

(vii) the Transferee will treat its Notes as debt of the Issuer for United States federal and, to the extent permitted by law, state and local income and franchise tax purposes unless otherwise required by any relevant taxing authority;

(viii) the Transferee is a "United States person" within the meaning of Section 7701(a)(30) of the Code, and has submitted a properly completed and signed IRS Form W-9 containing its name, address and U.S. taxpayer identification number (or applicable successor form); or it is not a "United States person" within the meaning of Section 7701(a)(30) of the Code, and has submitted a properly completed and signed applicable IRS Form W-8 (or applicable successor form);

(ix) the Transferee acknowledges that it is its intent and that it understands it is the intent of the Issuer that, for purposes of U.S. federal, state and local income and franchise tax and any other income taxes, for so long as a direct or indirect wholly owned subsidiary of the Arbor Parent owns 100% of the Preferred Shares and the Issuer Ordinary Shares, the Issuer will be treated as a Qualified REIT Subsidiary and the Notes will be treated as indebtedness solely of the Arbor Parent; the Transferee agrees to such treatment and agrees to take no action inconsistent with such treatment;

(x) the Transferee is not a "United States person" (as defined in Section 7701(a)(30) of the Code), it hereby represents that (i) either (A) it is not a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(A) of the Code), a 10% shareholder of the Issuer within the meaning of Section 871(h)(3) of the Code or a controlled foreign corporation within the meaning of Section 957(a) of the Code that is related to the Issuer within the meaning of Section 881(c)(3) of the Code, or (B) it is a person that is eligible for benefits under an income tax treaty with the United States that completely eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States, and (ii) it is not purchasing the Notes in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan;

(xi) the Transferee understands that (A) the Issuer, the Co-Issuer, the Trustee or the Paying Agent will require certification acceptable to them (1) as a condition to the payment of principal of and interest on any Notes without, or at a reduced rate of, U.S. withholding or backup withholding tax, and (2) to enable the Issuer, the Co-Issuer, the Trustee and the Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to pay, deduct or withhold from payments in respect of such Notes or the holder of such Notes under any present or future law or regulation of the Cayman Islands or the United States or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation, which certification may include U.S. federal income tax forms (such as IRS Form W-8BEN (Certification of Foreign Status of Beneficial Owner), IRS Form W-8IMY (Certification of Foreign Intermediary Status), IRS Form W-9 (Request for Taxpayer Identification Number and Certification), or IRS Form W-8ECI (Certification of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with Conduct of a U.S. Trade or Business) or any successors to such IRS forms); (B) the Issuer, the Co-Issuer, the Trustee or the Paying Agent may require certification acceptable to them to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets; (C) if the Issuer is no longer a Qualified REIT Subsidiary but is instead considered to be a foreign corporation for U.S. federal income tax purposes, the Issuer, the Co-Issuer, the Trustee or the Paying Agent will require the Transferee to provide the Issuer, the Co-Issuer, the Trustee or the Paying Agent with any correct, complete and accurate information that may be required for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and will take any other actions necessary for the Issuer, the Co-Issuer, the Trustee or the Paying Agent to comply with FATCA requirements and, in the event the Transferee fails to provide such information or take such actions, (1) the Issuer, the Co-Issuer, the Trustee and the Paying Agent are authorized to withhold amounts otherwise distributable to the Transferee as compensation for any amount withheld from payments to the Issuer, the Co-Issuer, the Trustee or the Paying Agent as a result of such failure, (2) to the extent necessary to avoid an adverse effect on the Issuer or any other holder of Notes as a result of such failure, the Issuer, the Co-Issuer, the Trustee and the Paying Agent will have the right to compel the Transferee to sell its Notes or, if the Transferee does not sell its Notes within 10 business days after notice from the Issuer, the Co-Issuer, the Trustee or the Paying Agent, to sell such Notes at a public or private sale called and conducted in any manner permitted by law, and to remit the net proceeds of such sale (taking into account any taxes incurred by the Issuer in connection with such sale) to the Transferee as payment in full for such Notes and (3) the Issuer may also assign each such Note a separate CUSIP or CUSIPs in the Issuer's sole discretion; (D) if the Transferee is a

"foreign financial institution" or other foreign financial entity subject to FATCA and does not provide the Issuer, Co-Issuer, Trustee or Paying Agent with evidence that it has complied with the applicable FATCA requirements, the Issuer, Co-Issuer, Trustee or Paying Agent will be required to withhold amounts under FATCA on payments to the Transferee; and (E) the Transferee agrees to provide any certification requested pursuant to this paragraph and to update or replace such form or certification in accordance with its terms or its subsequent amendments;

(xii) the Transferee agrees not to seek to commence in respect of the Issuer, or cause the Issuer to commence, a bankruptcy proceeding before a year and a day has elapsed since the payment in full to the holders of

the Notes issued pursuant to the Indenture or, if longer, the applicable preference period (plus one day) then in effect;

(xiii) the Transferee acknowledges that, to the extent required by the Issuer, as determined by the Issuer or the Loan Obligation Manager on behalf of the Issuer, the Issuer may, upon notice to the Trustee, impose additional transfer restrictions on the Notes to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA PATRIOT Act") and other similar laws or regulations, including, without limitation, requiring each transferee of a Note to make representations to the Issuer in connection with such compliance;

(xiv) the Transferee acknowledges that, each investor or prospective investor will be required to make such representations to the Issuer, as determined by the Issuer or the Loan Obligation Manager on behalf of the Issuer, as the Issuer will require in connection with applicable AML/OFAC obligations, including, without limitation, representations to the Issuer that such investor or prospective investor (or any person controlling or controlled by the investor or prospective investor; if the investor or prospective investor is a privately held entity, any person having a beneficial interest in the investor or prospective investor; or any person for whom the investor or prospective investor is acting as agent or nominee in connection with the investment) is not (i) an individual or entity named on any available lists of known or suspected terrorists, terrorist organizations or of other sanctioned persons issued by the United States government and the government(s) of any jurisdiction(s) in which the Partnership is doing business, including the List of Specially Designated Nationals and Blocked Persons administered by OFAC, as such list may be amended from time to time; (ii) an individual or entity otherwise prohibited by the OFAC sanctions programs; or (iii) a current or former senior foreign political figure or politically exposed person , or an immediate family member or close associate of such an individual. Further, such investor or prospective investor must represent to the Issuer that it is not a prohibited foreign shell bank;

(xv) the Transferee acknowledges that, each investor or prospective investor will also be required to represent to the Issuer that amounts invested with the Issuer were not directly or indirectly derived from activities that may contravene U.S. Federal, state or international laws and regulations, including, without limitation, any applicable anti-money laundering laws and regulations;

(xvi) the Transferee acknowledges that, by law, the Issuer, the Placement Agent, the Loan Obligation Manager or other service providers acting on behalf of the Issuer, may be obligated to "freeze" any investment in a Note by such investor. The Issuer, the Placement Agent, the Loan Obligation Manager or other service providers acting on behalf of the Issuer may also be required to report such action and to disclose the investor's identity to OFAC or other applicable governmental and regulatory authorities;

(xvii) the Transferee understands that the Issuer, the Trustee and the Placement Agent will rely upon the accuracy and truth of the foregoing representations, and it hereby consents to such reliance; and

(xviii) the Definitive Notes will bear a legend to the following effect unless the Issuer and the Co-Issuer determine otherwise in compliance with applicable law:

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED OR QUALIFIED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT**"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR OTHER JURISDICTION, AND NEITHER THE ISSUER NOR THE CO-ISSUER HAS BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "**1940 ACT**"). THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED, EXCEPT: (A)(X) EITHER (1) TO A "QUALIFIED INSTITUTIONAL BUYER" (A "**QIB**"), AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT ("RULE 144A") OR (2) AN INSTITUTIONAL "ACCREDITED INVESTOR" (AS DEFINED IN RULE 501(a)(1), (2), (3) OR (7) OF REGULATION D UNDER THE SECURITIES ACT,) AND (Y) WHO IS A "QUALIFIED PURCHASER" AS DEFINED IN SECTION 2(a)(51) OF THE 1940 ACT AND THE RULES THEREUNDER (A "QUALIFIED PURCHASER") AND IS EITHER PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QIB, WHO IS A QUALIFIED PURCHASER, IN A PRINCIPAL AMOUNT OF NOT LESS THAN U.S.$500,000 (AND INTEGRAL MULTIPLES OF U.S.$500 IN EXCESS THEREOF) FOR THE PURCHASER AND FOR EACH SUCH ACCOUNT, IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, SO**

LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE; OR (2) TO A NON-"U.S. PERSON" IN AN "OFFSHORE TRANSACTION," AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT ("REGULATION S**") IN ACCORDANCE WITH RULE 903 OR RULE 904 (AS APPLICABLE) OF REGULATION S IN A PRINCIPAL AMOUNT OF NOT LESS THAN U.S.$500,000 (AND INTEGRAL MULTIPLES OF U.S.$500 IN EXCESS THEREOF), SUBJECT TO THE SATISFACTION OF CERTAIN CONDITIONS SPECIFIED IN THE INDENTURE, AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY**

OTHER APPLICABLE JURISDICTION. EACH PURCHASER OF A DEFINITIVE NOTE WILL BE REQUIRED TO MAKE THE REPRESENTATIONS AND AGREEMENTS SET FORTH IN SECTION 2.5 OF THE INDENTURE. ANY TRANSFER IN VIOLATION OF THE FOREGOING WILL BE OF NO FORCE AND EFFECT, WILL BE VOID AB INITIO, AND WILL NOT OPERATE TO TRANSFER ANY RIGHTS TO THE TRANSFEREE, NOTWITHSTANDING ANY INSTRUCTIONS TO THE CONTRARY TO THE ISSUER, THE CO-ISSUER, AS APPLICABLE, THE TRUSTEE OR ANY INTERMEDIARY. IF AT ANY TIME, THE ISSUER AND THE CO-ISSUER, AS APPLICABLE, DETERMINE OR ARE NOTIFIED THAT THE HOLDER OF SUCH NOTE WAS IN BREACH, AT THE TIME GIVEN, OF ANY OF THE REPRESENTATIONS SET FORTH IN THE INDENTURE, THE TRUSTEE MAY CONSIDER THE ACQUISITION OF THIS NOTE VOID AND REQUIRE THAT THIS NOTE BE TRANSFERRED TO A PERSON DESIGNATED BY THE ISSUER AND THE CO-ISSUER, AS APPLICABLE.

You, the Issuer, the Co-Issuer and the Loan Obligation Manager are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

[Name of Transferee]

By: _____
Name:
Title:

cc: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
Arbor Realty Collateralized Loan Obligation 2013-1, LLC

EXHIBIT D

FORM OF TRUSTEE REPORT REGARDING THE LOAN OBLIGATION FILE

LOAN OBLIGATION SCHEDULE / CLOSING DOCUMENT CHECKLIST

Loan Number Date
Check one: Initial delivery Trailing documents Final delivery

CRITICAL DOCUMENTS:

	DOCUMENT NAME	REQUIRED	ENCLOSED	STATUS
A.	Promissory Note	(1)	(2)	(3)
B.	Allonge(s)/Endorsement(s) Endorsed to List complete chain			
C.	Participation Certificate			
D.	Participation Agreement			
E.	Letter(s) of Credit (list separately) Beneficiary Is this an Essential Letter of Credit(4)			
F.	Letter of Credit Rider to the Closing Checklist List all terms including Beneficiary, Amount, Expiration Date, Transferability, Issuing Bank and Address			
G.	Assignment of Letters of Credit Assignee			
H.	Ground Lease Include Amendments, Modifications and Extensions			
I.	Memorandum of Lease (Ground Lease)			
J.	Ground Lease Estoppel			

BASIC AND TRANSFER DOCUMENTS

(1) Indicate whether or not the document is part of the loan structure.
(2) Applies to this delivery only - do not list if documents were previously sent.
(3) Indicate if the document is an original, jurisdiction certified copy or copy. For Recordable documents - Indicate if the document is recorded, sent for recordation, not sent for recordation.
(4) Essential Letters of Credit are in an amount greater to the lesser of (i) 5% of the principal amount of the loan or (ii) $500,000.

	DOCUMENT NAME	REQUIRED	ENCLOSED	STATUS
1.	Mortgage(s)/Deed(s) of Trust and Security Agreement			
2.	Interim Assignment of Mortgage/Deed of Trust Assignee (if any)			
3.	Assignment of Mortgage/Deed of Trust Assignee Blank or Trust			
4.	Consolidation Agreement List all underlying notes			
5.	Assignment(s) of Leases and Rents			
6.	Interim Assignment of Assignment of Leases and Rents Assignee (if any)			
7.	Assignment of Assignment of Leases and Rents Assignee Blank or Trust			
8.	Title Policy			
9.	Preliminary Evidence of Title Type			
10.	UCC-1 Financing Statement - State =			
11.	Interim UCC-3 Assignment State = Assignee =			
12.	Interim UCC-3 Assignment State = Assignee =			
13.	UCC-1 Financing Statement - Fixture Filing Jurisdiction =			
14.	UCC-3 Assignment Fixture Filing Jurisdiction = Assignee =			
15.	UCC-3 Assignment Jurisdiction = Assignee - Blank or Trust			
16.	UCC-1 Financing Statement - Other Filing Jurisdiction =			
17.	UCC-3 Assignment Other Filing Jurisdiction = Assignee =			
18.	UCC-3 Assignment Other filing Jurisdiction = Assignee - Blank or Trust			

19.	Loan Agreement			
20.	Reserve or Escrow Agreement List if multiple Agreements			
21.	Cash Management Arrangements			
	a. Cash Management Agreement			
	b. Lockbox Agreement			
	c. Property Account/Clearing Account Agreement			
	d. Investment Property/Deposit Account Control Agreement			
22.	Security Agreement (if separate from Mortgage)			
23.	Guaranty/Indemnity Agreement (applies to all non-recourse events)			
24.	Environmental Indemnity			

SPECIALIZED PROPERTY DOCUMENTS

	DOCUMENT NAME	REQUIRED	ENCLOSED	STATUS

	List all other collateral being 19 delivered such as:	
25.	For Franchise Loans Franchise Agreement	
26.	For Hotels Comfort Letters/Tri-Party Letters (list all parties)	

OTHER DOCUMENTS

	DOCUMENT NAME	REQUIRED	ENCLOSED	STATUS
27.	List each document			
28.	List each document			

5 The Checklist documents should match the headings listed on the individual documents. Documents should be sent in the order listed on the Checklist.

EXHIBIT E

FORM OF TRUST RECEIPT

Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
(the "Issuer")

Arbor Realty Collateral Management, LLC
(the "Loan Obligation Manager")

Re: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.

Ladies and Gentlemen:

In accordance with the provisions of the Indenture, dated as of January 28, 2013, by and among the Issuer, Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer, Arbor Realty SR, Inc., as Advancing Agent, and U.S. Bank National Association, as Trustee, Paying Agent, Calculation Agent, Transfer Agent, Custodial Securities Intermediary, Backup Advancing Agent and Notes Registrar (the "Indenture"), the undersigned, as the Custodial Securities Intermediary, hereby certifies that it has received the documents identified on Schedule A hereto with respect to the Initial Loan Obligations identified on such schedule and that it is holding all such documents in its capacity as the Custodial Securities Intermediary subject to the terms of the Indenture, Capitalized terms used but not defined in this Receipt have the meanings assigned to them in the Indenture.

The Custodial Securities Intermediary makes no representations as to, and shall not be responsible to verify, (i) the validity, legality, enforceability, due authorization, recordability, sufficiency, or genuineness of any of the documents in its custody relating to a Loan Obligation, or (ii) the collectability, insurability, effectiveness or suitability of any such documents in its custody relating to a Loan Obligation.

U.S. BANK NATIONAL ASSOCIATION, solely in its capacity
as Trustee and Custodial Securities Intermediary

By: _____
Name:
Title:

EXHIBIT F

FORM OF REQUEST FOR RELEASE

REQUEST FOR RELEASE OF DOCUMENTS AND RECEIPT

To: U.S. Bank National Association

In connection with the administration of the Loan Obligations held by you as the Custodial Securities Intermediary on behalf of the Issuer, we request the release, to the Loan Obligation Manager of [specify document] for the Loan Obligation described below, for the reason indicated.

Borrower's Name, Address & Zip Code:	**Ship Files To:**
•	• Name:

- • Address:
- • Telephone Number:
- • Loan Obligation Description: •
- • Current Outstanding Principal Balance: •

Reason for Requesting Documents (check one):

☐ 1. Purchased Asset Paid in Full. The Loan Obligation Manager hereby certifies that all amounts received in connection therewith that are required to be remitted by the borrower or other obligors thereunder have been paid in full and that any amounts in respect thereof required to be remitted to the Trustee pursuant to the Indenture have been so remitted.

☐ 2. Purchased Asset Liquidated By . The Loan Obligation Manager hereby certifies that all proceeds of insurance, condemnation or other liquidation have been finally received and that any amounts in respect thereof required to be remitted to the Trustee pursuant to the Indenture have been so remitted.

☐ 3. Other (explain) .

If box 1 or 2 above is checked, and if all or part of the Underlying Instruments was previously released to us, please release to us our previous request and receipt on file with you, as well as any additional documents in your possession relating to the specified Loan Obligation.

If box 3 above is checked, upon our return of all of the above documents to you as the Custodial Securities Intermediary, please acknowledge your receipt by signing in the space indicated below and returning this form.

If box 3 above is checked, it is hereby acknowledged that a security interest pursuant to the Uniform Commercial Code in the Loan Obligation described above and in the proceeds of said Loan Obligation has been granted to the Trustee pursuant to the Indenture.

If box 3 above is checked, in consideration of the aforesaid delivery by the Custodial Securities Intermediary, the Loan Obligation Manager hereby agrees to hold said Loan Obligation in trust for the Trustee, as provided under

and in accordance with all provisions of the Indenture and the Loan Obligation Management Agreement, and to return said Loan Obligation to the Custodial Securities Intermediary no later than the close of business on the twentieth (20th) Business Day following the date hereof or, if such day is not a Business Day, on the immediately preceding Business Day.

The Loan Obligation Manager hereby acknowledges that it shall hold the above-described Loan Obligation and any related Underlying Instruments in trust for, and as the bailee of, the Trustee, and shall return said Loan Obligation and any related documents only to the Custodial Securities Intermediary.

Capitalized terms used but not defined in this Request have the meanings assigned to them in the Indenture, dated as of January 28, 2013, by and among Arbor Realty Collateralized Loan Obligation 2013-1, LTD., as Issuer, Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer, Arbor Realty SR, Inc. as Advancing Agent, and U.S. Bank National Association, as Trustee, Paying Agent, Calculation Agent, Transfer Agent, Custodial Securities Intermediary, Backup Advancing Agent and Notes Registrar.

ARBOR REALTY COLLATERAL MANAGEMENT,LLC

By: _____
Name:
Title:

Acknowledgment of documents returned:

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name:
Title:

Date:

EXHIBIT G

FORM OF NRSRO CERTIFICATION

[Date]

Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
c/o MaplesFS Limited
P.O. Box 1093, Queensgate House
Grand Cayman, KY1-1102 Cayman Islands

U.S. Bank National Association
190 South LaSalle Street, 8th Floor
Chicago, Illinois 60603

Attention: Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. and Arbor Realty Collateralized Loan Obligation 2013-1, LLC

In accordance with the requirements for obtaining certain information pursuant to the Indenture, dated as of January 28, 2013 (the " Indenture"), by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd. (the " Issuer"), as Issuer, Arbor Realty Collateralized Loan Obligation 2013-1, LLC, as Co-Issuer, Arbor Realty SR, Inc., as Advancing Agent, and U.S. Bank National Association (the "Trustee"), as Trustee, the undersigned hereby certifies and agrees as follows:

1. The undersigned, a Nationally Recognized Statistical Rating Organization, has provided the Issuer with the appropriate certifications under Rule 17g-5(e) as promulgated under the Exchange Act.

2. The undersigned has access to the 17g-5 Website.

3. The undersigned shall be deemed to have recertified to the provisions herein each time it accesses the 17g-5 Information on the 17g-5 Website.

Capitalized terms used but not defined herein shall have the respective meanings assigned thereto in the Indenture.

IN WITNESS WHEREOF, the undersigned has caused its name to be signed hereto by its duly authorized signatory, as of the day and year written above.

Nationally Recognized Statistical Rating Organization

Name:
Title:

Company:
Phone:
Email:

Exhibit H

Representations and Warranties

All capitalized terms used in this schedule to Exhibit H will have the meanings assigned to such terms in the Loan Obligation Purchase Agreement.

(1) Whole Loan; Ownership of Loan Obligations. Each Closing Date Loan Obligation is a whole loan and not a participation interest in a Mortgage Loan. Each Additional Loan Obligation and Replacement Loan Obligation that is a Senior Participation is a senior portion (or a pari passu interest in a senior portion) of a whole mortgage loan. At the time of the sale, transfer and assignment to Purchaser, no Note, Mortgage or Senior Participation

was subject to any assignment (other than assignments to the Seller), participation (other than with respect to the Senior Participations) or pledge, and the Seller had good title to, and was the sole owner of, each Loan Obligation free and clear of any and all liens, charges, pledges, encumbrances, participations (other than with respect to the Senior Participations), any other ownership interests on, in or to such Loan Obligation other than any servicing rights appointment or similar agreement. Seller has full right and authority to sell, assign and transfer each Loan Obligation, and the assignment to Purchaser constitutes a legal, valid and binding assignment of such Loan Obligation free and clear of any and all liens, pledges, charges or security interests of any nature encumbering such Loan Obligation.

(2) Loan Document Status. Each related Note, Mortgage, Assignment of Leases, Rents and Profits (if a separate instrument), guaranty and other agreement executed by or on behalf of the related borrower, guarantor or other obligor in connection with such Mortgage Loan is the legal, valid and binding obligation of the related borrower, guarantor or other obligor (subject to any non-recourse provisions contained in any of the foregoing agreements and any applicable state anti-deficiency or market value limit deficiency legislation), as applicable, and is enforceable in accordance with its terms, except (i) as such enforcement may be limited by (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (b) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law) and (ii) that certain provisions in such Loan Documents (including, without limitation, provisions requiring the payment of default interest, late fees or prepayment/yield maintenance or prepayment fees, charges and/or premiums) are, or may be, further limited or rendered unenforceable by or under applicable law, but (subject to the limitations set forth in clause (i) above) such limitations or unenforceability will not render such Loan Documents invalid as a whole or materially interfere with the mortgagee's realization of the principal benefits and/or security provided thereby (clauses (i) and (ii) collectively, the " Standard Qualifications").

Except as set forth in the immediately preceding sentences, there is no valid offset, defense, counterclaim or right of rescission available to the related borrower with respect to any of the related Notes, Mortgages or other Loan Documents, including, without limitation, any such valid offset, defense, counterclaim or right based on intentional fraud by Seller in connection with the origination of the Mortgage Loan, that would deny the mortgagee the principal benefits intended to be provided by the Note, Mortgage or other Loan Documents.

(3) Mortgage Provisions. The Loan Documents for each Mortgage Loan contain provisions that render the rights and remedies of the holder thereof adequate for the practical realization against the Mortgaged Property of the principal benefits of the security intended to be provided thereby, including realization by judicial or, if applicable, nonjudicial foreclosure subject to the limitations set forth in the Standard Qualifications.

(4) Mortgage Status; Waivers and Modifications. Since origination and except prior to the Cut-off Date by written instruments set forth in the related Mortgage File (a) the material terms of such Mortgage, Note, Mortgage Loan guaranty, Participation Agreement, if applicable, and related Loan Documents have not been waived, impaired, modified, altered, satisfied, canceled, subordinated or rescinded in any respect which materially interferes with the security intended to be provided by such Mortgage; (b) no related Mortgaged Property or any portion thereof has been released from the lien of the related Mortgage in any

manner which materially interferes with the security intended to be provided by such Mortgage or the use or operation of the remaining portion of such Mortgaged Property; and (c) neither the related borrower nor the related guarantor nor the related Participating Institution has been released from its material obligations under the Mortgage Loan or Participation Agreement, if applicable.

(5) Lien; Valid Assignment. Subject to the Standard Qualifications, each assignment of Mortgage and assignment of Assignment of Leases, Rents and Profits from the Seller constitutes a legal, valid and binding assignment from the Seller. Each related Mortgage is a legal, valid and enforceable first lien on the related borrower's fee or leasehold interest in the Mortgaged Property in the principal amount of such Mortgage Loan or allocated loan amount subject to the Title Exceptions, Permitted Encumbrances and Standard Qualifications (each as defined herein). Each related Assignment of Mortgage and Assignment of Leases, Rents and Profits from the Seller to the Purchaser constitutes the legal, valid and binding first priority assignment from the Seller, except as such enforcement may be limited by the Standard Qualifications, any Permitted Encumbrances and any Title Exceptions (as defined herein). Each Mortgage and Assignment of Leases, Rents and Profits is freely assignable. Notwithstanding anything herein to the contrary, no representation is made as to the perfection of any security interest in rents or other personal property to the extent that possession or control of such items or actions other than the filing of Uniform Commercial Code (" UCC") financing statements is required in order to effect such perfection.

(6) Permitted Liens; Title Insurance. Each Mortgaged Property securing a Mortgage Loan is covered by an American Land Title Association loan title insurance policy or a comparable form of loan title insurance policy approved for use in the applicable jurisdiction (or, if such policy is yet to be issued, by a pro forma policy, a preliminary title policy with escrow instructions or a "marked up" commitment, in each case binding on the title insurer) (the "Title Policy") in the original principal amount of such Mortgage Loan (or with respect to a Mortgage Loan secured by multiple properties, an amount equal to at least the allocated loan amount with respect to the Title Policy for each such property) after all advances of principal (including any advances held in escrow or reserves), that insures for the benefit of the owner of the indebtedness secured by the Mortgage, the first priority lien of the Mortgage, which lien is subject only to the following title exceptions (each such title exception, including any exceptions set forth on Schedule 1 hereto, a "Title Exception" and collectively, the "Title Exceptions"): (a) the lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable; (b) covenants, conditions and restrictions, rights of way, easements and other matters of public record; (c) the exceptions (general and specific) and exclusions set forth in such Title Policy; (d) other matters to which like properties are commonly subject; (e) the rights of tenants (as tenants only) under leases (including subleases) pertaining to the related Mortgaged Property and condominium declarations; and (f) if the related Mortgage Loan is cross-collateralized and cross-defaulted with another Mortgage Loan (each a " Crossed Mortgage Loan"), the lien of the Mortgage for another Mortgage Loan that is cross-collateralized and cross-defaulted with such Crossed Mortgage Loan, provided that none of which items (a) through (f), individually or in the aggregate, materially and adversely interferes with the value or current use of the Mortgaged Property or the security intended to be provided by such Mortgage or the borrower's ability to pay its obligations when they become

due (collectively, the "Permitted Encumbrances"). Except as contemplated by clause (f) of the preceding sentence, none of the Permitted Encumbrances are mortgage liens that are senior to or coordinate and co-equal with the lien of the related Mortgage. Such Title Policy (or, if it has yet to be issued, the coverage to be provided thereby) is in full force and effect, all premiums thereon have been paid and no claims have been made by the Seller thereunder and no claims have been paid thereunder. Neither the Seller, nor to the Seller's knowledge, any other holder of the Mortgage Loan, has done, by act or omission, anything that would materially impair the coverage under such Title Policy.

(7) Junior Liens. It being understood that B notes and junior participation interests secured by the same Mortgage as a Mortgage Loan are not subordinate mortgages or junior liens, except for any Crossed Mortgage Loan, there are, as of origination, and to the Seller's knowledge, as of the Cut-off Date, no subordinate mortgages or junior liens securing the payment of money encumbering the related Mortgaged Property (other than Permitted Encumbrances and the Title Exceptions, taxes and assessments, mechanics and materialmens liens (which are the subject of the representation in paragraph (5) above), and equipment and other personal property financing). Except as set forth in the applicable Loan Obligations Purchase

Agreement, the Seller has no knowledge of any mezzanine debt secured directly by interests in the related borrower.

(8) Assignment of Leases, Rents and Profits. There exists as part of the related Mortgage File an Assignment of Leases, Rents and Profits (either as a separate instrument or incorporated into the related Mortgage). Subject to the Permitted Encumbrances and the Title Exceptions, each related Assignment of Leases, Rents and Profits creates a valid first-priority collateral assignment of, or a valid first-priority lien or security interest in, rents and certain rights under the related lease or leases, subject only to a license granted to the related borrower to exercise certain rights and to perform certain obligations of the lessor under such lease or leases, including the right to operate the related leased property, except as the enforcement thereof may be limited by the Standard Qualifications. The related Mortgage or related Assignment of Leases, Rents and Profits, subject to applicable law, provides that, upon an event of default under the Mortgage Loan, a receiver is permitted to be appointed for the collection of rents or for the related mortgagee to enter into possession to collect the rents or for rents to be paid directly to the mortgagee.

(9) UCC Filings. If the related Mortgaged Property is operated as a hospitality property, the Seller has filed and/or recorded or caused to be filed and/or recorded (or, if not filed and/or recorded, have been submitted in proper form for filing and/or recording), UCC financing statements in the appropriate public filing and/or recording offices necessary at the time of the origination of the Mortgage Loan to perfect a valid security interest in all items of physical personal property reasonably necessary to operate such Mortgaged Property owned by such borrower and located on the related Mortgaged Property (other than any non-material personal property, any personal property subject to a purchase money security interest, a sale and leaseback financing arrangement as permitted under the terms of the related Mortgage Loan documents or any other personal property leases applicable to such personal property), to the extent perfection may be effected pursuant to applicable law by recording or filing, as the case may be. Subject to the Standard Qualifications, each related Mortgage (or equivalent document) creates a valid and enforceable lien and security interest on the items of personalty described above. No representation is made as to the perfection of any security interest in rents or other personal property to the extent that possession or control of such items or actions other than the filing of UCC financing statements are required in order to effect such perfection.

(10) Condition of Property. Seller or the originator of the Mortgage Loan (i) inspected or caused to be inspected each related Mortgaged Property at least six months prior to origination of the Mortgage Loan and, (ii) if the term of the Mortgage Loan has already continued for at least twelve months, inspected or caused to be inspected each related Mortgaged Property at least once during the past twelve months.

An engineering report or property condition assessment was prepared in connection with the origination of each Mortgage Loan at least twelve months prior to the origination of such Mortgage Loan. To the Seller's knowledge, based solely upon due diligence customarily performed in connection with the origination of comparable mortgage loans, as of the Closing Date, each related Mortgaged Property was free and clear of any material damage (other than (i) deferred maintenance for which escrows were established at origination and (ii) any damage fully covered by insurance) that would affect materially and adversely the use or value of such Mortgaged Property as security for the Mortgage Loan.

(11) Taxes and Assessments. All taxes, governmental assessments and other outstanding governmental charges (including, without limitation, water and sewage charges), or installments thereof, that could be a lien on the related Mortgaged Property that would be of equal or superior priority to the lien of the Mortgage and that prior to the Cut-off Date have become delinquent in respect of each related Mortgaged Property have been paid, or an escrow of funds has been established in an amount sufficient to cover such payments and reasonably estimated interest and penalties, if any, thereon. For purposes of this representation and warranty, real estate taxes and governmental assessments and other outstanding governmental charges and installments thereof shall not be considered delinquent until the earlier of (a) the date on which interest and/or penalties would first be payable thereon and (b) the date on which enforcement action is entitled to be taken by the related taxing authority.

(12) Condemnation. As of the date of origination and to the Seller's knowledge as of the Cut-off Date, there is no proceeding pending, and, to the Seller's knowledge as of the date of origination and as of the Cut-off Date, there is no proceeding threatened, for the total or partial condemnation of such Mortgaged Property that would have a material adverse effect on the value, use or operation of the Mortgaged Property.

(13) Actions Concerning Mortgage Loan. As of the date of origination and to the Seller's knowledge as of the Cut-off Date, there was no pending or filed action, suit or proceeding, arbitration or governmental investigation involving any borrower, guarantor, or borrower's interest in the Mortgaged

Property, an adverse outcome of which would reasonably be expected to materially and adversely affect (a) such borrower's title to the Mortgaged Property, (b) the validity or enforceability of the Mortgage, (c) such borrower's ability to perform under the related Mortgage Loan, (d) such guarantor's ability to perform under the related guaranty, (e) the principal benefit of the security intended to be provided by the Mortgage Loan documents or (f) the current principal use of the Mortgaged Property.

(14) Escrow Deposits. All escrow deposits and payments required to be escrowed with lender pursuant to each Mortgage Loan are in the possession, or under the control, of the Seller or its servicer, and there are no deficiencies (subject to any applicable grace or cure periods) in connection therewith, and all such escrows and deposits (or the right thereto) that are required to be escrowed with lender under the related Loan Documents are being conveyed by the Seller to Purchaser or its servicer.

(15) No Holdbacks. The Stated Principal Balance as of the Cut-off Date of the Mortgage Loan set forth on the mortgage loan schedule attached as Exhibit A to the applicable Loan Obligations Purchase Agreement has been fully disbursed as of the Closing Date and there is no requirement for future advances thereunder (except in those cases where the full amount of the Mortgage Loan has been disbursed but a portion thereof is being held in escrow or reserve accounts pending the satisfaction of certain conditions relating to leasing, repairs or other matters with respect to the related Mortgaged Property, the borrower or other considerations determined by Seller to merit such holdback).

(16) Insurance. Each related Mortgaged Property is, and is required pursuant to the related Mortgage to be, insured by a property insurance policy providing coverage for loss in accordance with coverage found under a "special cause of loss form" or "all risk form" that includes replacement cost valuation issued by an insurer meeting the requirements of the related Loan Documents and having a claims-paying or financial strength rating of at least A or better and a financial class of X or better by A.M. Best Company, Inc. (collectively the "Insurance Rating Requirements"), in an amount (subject to a customary deductible) not less than the lesser of (1) the original principal balance of the Mortgage Loan and (2) the full insurable value on a replacement cost basis of the improvements, furniture, furnishings, fixtures and equipment owned by the borrower and included in the Mortgaged Property (with no deduction for physical depreciation), but, in any event, not less than the amount necessary or containing such endorsements as are necessary to avoid the operation of any coinsurance provisions with respect to the related Mortgaged Property.

Each related Mortgaged Property is also covered, and required to be covered pursuant to the related Loan Documents, by business interruption or rental loss insurance which (subject to a customary deductible) covers a period of not less than 12 months (or with respect to each Mortgage Loan on a single asset with a principal balance of $50 million or more, 18 months).

If any material part of the improvements, exclusive of a parking lot, located on a Mortgaged Property is in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, the related borrower is required to maintain insurance in the maximum amount available under the National Flood Insurance Program.

If the Mortgaged Property is located within 25 miles of the coast of the Gulf of Mexico or the Atlantic coast of Florida, Georgia, South Carolina or North Carolina, the related borrower is required to maintain coverage for windstorm and/or windstorm related perils and/or "named storms" issued by an insurer meeting the Insurance Rating Requirements or endorsement covering damage from windstorm and/or windstorm related perils and/or named storms.

The Mortgaged Property is covered, and required to be covered pursuant to the related Loan Documents, by a commercial general liability insurance policy issued by an insurer meeting the Insurance Rating Requirements including coverage for property damage, contractual damage and personal injury (including bodily injury and death) in amounts as are generally required by the Seller for loans originated for securitization, and in any event not less than $1 million per occurrence and $1 million in the aggregate.

An architectural or engineering consultant has performed an analysis of each of the Mortgaged Properties located in seismic zones 3 or 4 in order to evaluate the structural and seismic condition of such property, for the sole purpose of assessing the scenario expected limit (" SEL") for the Mortgaged Property in the event of an earthquake. In such instance, the SEL was based on a 475-year return period, an exposure period of 50 years and a 10% probability of exceedance. If the resulting report concluded that the SEL would exceed 20% of the amount of the replacement costs of the improvements, earthquake insurance on such Mortgaged Property was obtained by an insurer rated least "A:VIII" by A.M. Best Company or "A3" (or the equivalent) from Moody's Investors Service, Inc. or "A-" by Standard & Poor's Ratings Service in an amount not less than 100% of the SEL.

The Loan Documents provide that if a specified percentage (which is in no event greater than 20%) of the reasonably estimated aggregate fair market value of the Mortgaged Property is damaged or destroyed, the lender shall have the option, in its sole discretion, to apply the net casualty insurance proceeds received to the payment of the Mortgage Loan or to allow such proceeds to be used for the repair or restoration of the Mortgaged Property.

All premiums on all insurance policies referred to in this section required to be paid as of the Cut-off Date have been paid, and such insurance policies name the lender under the Mortgage Loan and its successors and assigns as a loss payee under a mortgagee endorsement clause or, in the case of the general liability insurance policy, as named or additional insured. Such insurance policies will inure to the benefit of the Trustee. Each related Mortgage Loan obligates the related borrower to maintain all such insurance and, at such borrower's failure to do so, authorizes the lender to maintain such insurance at the borrower's cost and expense and to charge such borrower for related premiums. All such insurance policies (other than commercial liability policies) require at least 30 days prior notice to the lender of termination or cancellation (or such lesser period, not less than 10 days, as may be required by applicable law) arising for any reason other than non-payment of a premium and no such notice has been received by Seller.

(17) Access; Utilities; Separate Tax Lots. Each Mortgaged Property (a) is located on or adjacent to a public road and has direct legal access to such road,

or has access via an irrevocable easement or irrevocable right of way permitting ingress and egress to/from a public road, (b) is served by or has uninhibited access rights to public or private water and sewer (or well and septic) and all required utilities, all of which are appropriate for the current use of the Mortgaged Property, and (c) constitutes one or more separate tax parcels which do not include any property which is not part of the Mortgaged Property or is subject to an endorsement under the related Title Policy insuring the Mortgaged Property, or in certain cases, an application has been, or will be, made to the applicable governing authority for creation of separate tax lots, in which case the Mortgage Loan requires the borrower to escrow an amount sufficient to pay taxes for the existing tax parcel of which the Mortgaged Property is a part until the separate tax lots are created.

(18) No Encroachments. To Seller's knowledge based solely on surveys obtained in connection with origination and the lender's Title Policy (or, if such policy is not yet issued, a pro forma title policy, a preliminary title policy with escrow instructions or a "marked up" commitment) obtained in connection with the origination of each Mortgage Loan, all material improvements that were included for the purpose of determining the appraised value of the related Mortgaged Property at the time of the origination of such Mortgage Loan are within the boundaries of the related Mortgaged Property, except encroachments that do not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements were obtained under the Title Policy. No improvements on adjoining parcels encroach onto the related Mortgaged Property except for encroachments that do not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements were obtained under the Title Policy. No improvements encroach upon any easements except for encroachments the

removal of which would not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements obtained with respect to the Title Policy.

(19) No Contingent Interest or Equity Participation. No Mortgage Loan has a shared appreciation feature, any other contingent interest feature or a negative amortization feature or an equity participation by Seller.

(20) Compliance with Usury Laws. The Mortgage Rate (exclusive of any default interest, late charges, yield maintenance charge, or prepayment premiums) of such Mortgage Loan complied as of the date of origination with, or was exempt from, applicable state or federal laws, regulations and other requirements pertaining to usury.

(21) Authorized to do Business. To the extent required under applicable law, as of the Cut-off Date or as of the date that such entity held the Note, each holder of the Note was authorized to transact and do business in the jurisdiction in which each related Mortgaged Property is located, or the failure to be so authorized does not materially and adversely affect the enforceability of such Mortgage Loan by the Trust.

(22) Trustee under Deed of Trust. With respect to each Mortgage which is a deed of trust, as of the date of origination and, to the Seller's knowledge, as of the Closing Date, a trustee, duly qualified under applicable law to serve as such, currently so serves and is named in the deed of trust or has been substituted in accordance with the Mortgage and applicable law or may be substituted in accordance with the Mortgage and applicable law by the related mortgagee.

(23) Local Law Compliance. To the Seller's knowledge, based upon any of a letter from any governmental authorities, a legal opinion, an architect's letter, a zoning consultant's report, an endorsement to the related Title Policy, or other affirmative investigation of local law compliance consistent with the investigation conducted by the Seller for similar commercial and multi-family mortgage loans intended for securitization, with respect to the improvements located on or forming part of each Mortgaged Property securing a Mortgage Loan as of the date of origination of such Mortgage Loan and as of the Cut-off Date, there are no material violations of applicable zoning ordinances, building codes and land laws (collectively " Zoning Regulations") other than those which (i) are insured by the Title Policy or a law and ordinance or other insurance policy or (ii) would not have a material adverse effect on the Mortgage Loan. The terms of the Loan Documents require the borrower to comply in all material respects with all applicable governmental regulations, zoning and building laws.

(24) Licenses and Permits. Each borrower covenants in the Loan Documents that it shall keep all material licenses, permits and applicable governmental authorizations necessary for its operation of the Mortgaged Property in full force and effect, and to the Seller's knowledge based upon a letter from any government authorities or other affirmative investigation of local law compliance consistent with the investigation conducted by the Seller for similar commercial and multi-family mortgage loans intended for securitization, all such material licenses, permits and applicable governmental authorizations are in effect. The Mortgage Loan requires the related borrower to be qualified to do business in the jurisdiction in which the related Mortgaged Property is located.

(25) Recourse Obligations. The Loan Documents for each Mortgage Loan provide that such Mortgage Loan is non-recourse to the related parties thereto except for certain carve-outs, including but not limited to the following: (a) the related borrower and at least one individual or entity shall be fully liable for actual losses, liabilities, costs and damages arising from certain acts of the related borrower and/or its principals specified in the related Loan Documents, which acts generally include the following: (i) acts of fraud or intentional material misrepresentation, (ii) misapplication or misappropriation of rents, insurance proceeds or condemnation awards, (iii) intentional material physical waste of the Mortgaged Property, and (iv) any breach of the environmental covenants contained in the related Loan Documents, and (b) the Mortgage Loan shall become full recourse to the related borrower and at least one individual or entity, if the related borrower files a voluntary petition under federal or state bankruptcy or insolvency law.

(26) Mortgage Releases. The terms of the related Mortgage or related Loan Documents do not provide for release of any material portion of the Mortgaged Property from the lien of the Mortgage except (a) a partial

release, accompanied by principal repayment of not less than a specified percentage at least equal to the lesser of (i) 110% of the related allocated loan amount of such portion of the Mortgaged Property and (ii) the outstanding principal balance of the Mortgage Loan, (b) upon payment in full of such Mortgage Loan, (c) releases of out-parcels that are unimproved or other portions of the Mortgaged Property which will not have a material adverse effect on the underwritten value of the Mortgaged Property and which were not afforded any value in the appraisal obtained at the origination of the Mortgage Loan and are not necessary for physical access to the Mortgaged Property or compliance with zoning requirements, or (d) as required pursuant to an order of condemnation.

(27) Financial Reporting and Rent Rolls. Each Mortgage requires the borrower to provide the owner or holder of the Mortgage with quarterly and annual operating statements, and quarterly rent rolls for properties and annual financial statements, which annual financial statements with respect to each Mortgage Loan with more than one borrower are in the form of an annual combined balance sheet of the borrower entities (and no other entities), together with the related combined statements of operations, members' capital and cash flows, including a combining balance sheet and statement of income for the Mortgaged Properties on a combined basis.

(28) Acts of Terrorism Exclusion. With respect to each Mortgage Loan over $20 million, the related special-form all-risk insurance policy and business interruption policy (issued by an insurer meeting the Insurance Rating Requirements) do not specifically exclude Acts of Terrorism, as defined in the Terrorism Risk Insurance Act of 2002, as amended by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (collectively referred to as "TRIA"), from coverage, or if such coverage is excluded, it is covered by a separate terrorism insurance policy. With respect to each other Mortgage Loan, the related special-form all-risk insurance policy and business interruption policy (issued by an insurer meeting the Insurance Rating Requirements) did not, as of the date of origination of the Mortgage Loan, and, to Seller's knowledge, do not, as of the Cut-off Date, specifically exclude Acts of Terrorism, as defined in TRIA, from coverage, or if such coverage is excluded, it is covered by a separate terrorism insurance policy. With respect to each Mortgage Loan, the related Loan Documents do not expressly waive or prohibit the mortgagee from requiring coverage for Acts of Terrorism, as defined in TRIA, or damages related thereto except to the extent that any right to require such coverage may be limited by commercial availability on commercially reasonable terms, or as otherwise indicated in the applicable Loan Obligations Purchase Agreement; provided, however, that if TRIA or a similar or subsequent statute is not in effect, then, provided that terrorism insurance is commercially available, the borrower under each Mortgage Loan is required to carry terrorism insurance, but in such event the borrower shall not be required to spend on terrorism insurance coverage more than two times the amount of the insurance premium that is payable in respect of the property and business interruption/rental loss insurance required under the related Loan Documents (without giving effect to the cost of terrorism and earthquake components of such casualty and business interruption/rental loss insurance) at the time of the origination of the Mortgage Loan, and if the cost of terrorism insurance exceeds such amount, the borrower is required to purchase the maximum amount of terrorism insurance available with funds equal to such amount.

(29) Due on Sale or Encumbrance. Subject to specific exceptions set forth below, each Mortgage Loan contains a "due on sale" or other such provision for the acceleration of the payment of the unpaid principal balance of such Mortgage Loan if, without the consent of the holder of the Mortgage (which consent, in some cases, may not be unreasonably withheld) and/or complying with the requirements of the related Loan Documents (which provide for transfers without the consent of the lender which are customarily acceptable to the Seller lending on the security of property comparable to the related Mortgaged Property, including, without limitation, transfers of worn-out or obsolete furnishings, fixtures, or equipment promptly replaced with property of equivalent value and functionality and transfers by leases entered into in accordance with the Loan Documents), (a) the related Mortgaged Property, or any equity interest of greater than 50% in the related borrower, is directly or indirectly pledged, transferred or sold, other than as related to (i) family and estate planning transfers or transfers upon death or legal incapacity, (ii) transfers to certain affiliates as defined in the related Loan Documents, (iii) transfers of less than, or other than, a controlling interest in the related borrower, (iv) transfers to another holder of direct or indirect equity in the borrower, a specific Person designated in the related Loan Documents or a Person satisfying specific criteria identified in the related Loan Documents, such as a qualified equityholder, (v) transfers of stock or similar equity units in

publicly traded companies or (vi) a substitution or release of collateral within the parameters of paragraph (26) herein or the exceptions thereto set forth in the applicable Loan Obligations Purchase Agreement, or (vii) as set forth on the applicable Loan Obligations Purchase Agreement by reason of any mezzanine debt that existed at the origination of the related Mortgage Loan, or future permitted mezzanine debt as set forth on Schedule 3 hereto or (b) the related Mortgaged Property is encumbered with a subordinate lien or security interest against the related Mortgaged Property, other than (i) any Companion Loan or any subordinate debt that existed at origination and is permitted under the related Loan Documents, (ii) purchase money security interests, (iii) any Crossed Mortgage Loan as set forth on Schedule 4 hereto, or (iv) Permitted Encumbrances. The Mortgage or other Loan Documents provide that to the extent any Rating Agency fees are incurred in connection with the review of and consent to any transfer or encumbrance, the borrower is responsible for such payment along with all other reasonable fees and expenses incurred by the Mortgagee relative to such transfer or encumbrance.

(30) Single-Purpose Entity. Each Mortgage Loan requires the borrower to be a Single-Purpose Entity for at least as long as the Mortgage Loan is outstanding. Both the Loan Documents and the organizational documents of the borrower with respect to each Mortgage Loan with a Cut-off Date Stated Principal Balance in excess of $5 million provide that the borrower is a Single-Purpose Entity, and each Mortgage Loan with a Cut-off Date Stated Principal Balance of $20 million or more has a counsel's opinion regarding non-consolidation of the borrower. For this purpose, a " Single-Purpose Entity" shall mean an entity, other than an individual, whose organizational documents (or if the Mortgage Loan has a Cut-off Date Stated Principal Balance equal to $5 million or less, its organizational documents or the related Loan Documents) provide substantially to the effect that it was formed or organized solely for the purpose of owning and operating one or more of the Mortgaged Properties securing the Mortgage Loans and

prohibit it from engaging in any business unrelated to such Mortgaged Property or Properties, and whose organizational documents further provide, or which entity represented in the related Loan Documents, substantially to the effect that it does not have any assets other than those related to its interest in and operation of such Mortgaged Property or Properties, or any indebtedness other than as permitted by the related Mortgage(s) or the other related Loan Documents, that it has its own books and records and accounts separate and apart from those of any other person (other than a borrower for a Crossed Mortgage Loan), and that it holds itself out as a legal entity, separate and apart from any other person or entity.

(31) Ground Leases. For purposes of each Loan Obligations Purchase Agreement, a " Ground Lease" shall mean a lease creating a leasehold estate in real property where the fee owner as the ground lessor conveys for a term or terms of years its entire interest in the land and buildings and other improvements, if any, comprising the premises demised under such lease to the ground lessee (who may, in certain circumstances, own the building and improvements on the land), subject to the reversionary interest of the ground lessor as fee owner and does not include industrial development agency (IDA) or similar leases for purposes of conferring a tax abatement or other benefit.

With respect to any Mortgage Loan where the Mortgage Loan is secured by a leasehold estate under a Ground Lease in whole or in part, and the related Mortgage does not also encumber the related lessor's fee interest in such Mortgaged Property, based upon the terms of the Ground Lease and any estoppel or other agreement received from the ground lessor in favor of Seller, its successors and assigns, Seller represents and warrants that:

(a) The Ground Lease or a memorandum regarding such Ground Lease has been duly recorded or submitted for recordation in a form that is acceptable for recording in the applicable jurisdiction. The Ground Lease or an estoppel or other agreement received from the ground lessor permits the interest of the lessee to be encumbered by the related Mortgage and does not restrict the use of the related Mortgaged Property by such lessee, its successors or assigns in a manner that would materially adversely affect the security provided by the related Mortgage;

(b) The lessor under such Ground Lease has agreed in a writing included in the related Mortgage File (or in such Ground Lease) that the Ground Lease may not be amended or modified, or canceled or terminated by agreement of lessor and lessee, without the prior written consent of the lender, and

no such consent has been granted by the Seller since the origination of the Mortgage Loan except as reflected in any written instruments which are included in the related Mortgage File;

(c) The Ground Lease has an original term (or an original term plus one or more optional renewal terms, which, under all circumstances, may be exercised, and will be enforceable, by either borrower or the mortgagee) that extends not less than 20 years beyond the stated maturity of the related Mortgage Loan, or 10 years past the stated maturity if such Mortgage Loan fully amortizes by the stated maturity (or with respect to a Mortgage Loan that accrues on an actual 360 basis, substantially amortizes);

(d) The Ground Lease either (i) is not subject to any liens or encumbrances superior to, or of equal priority with, the Mortgage, except for the related fee interest of the ground lessor and the Permitted Encumbrances, or (ii) is subject to a subordination, non-disturbance and attornment agreement to which the mortgagee on the lessor's fee interest in the Mortgaged Property is subject;

(e) The Ground Lease does not place commercially unreasonable restrictions on the identity of the Mortgagee and the Ground Lease is assignable to the holder of the Mortgage Loan and its successors and assigns without the consent of the lessor thereunder, and in the event it is so assigned, it is further assignable by the holder of the Mortgage Loan and its successors and assigns without the consent of the lessor;

(f) The Seller has not received any written notice of material default under or notice of termination of such Ground Lease. To the Seller's knowledge, there is no material default under such Ground Lease and no condition that, but for the passage of time or giving of notice, would result in a material default under the terms of such Ground Lease and to the Seller's knowledge, such Ground Lease is in full force and effect as of the Closing Date;

(g) The Ground Lease or ancillary agreement between the lessor and the lessee requires the lessor to give to the lender written notice of any default, and provides that no notice of default or termination is effective against the lender unless such notice is given to the lender;

(h) A lender is permitted a reasonable opportunity (including, where necessary, sufficient time to gain possession of the interest of the lessee under the Ground Lease through legal proceedings) to cure any default under the Ground Lease which is curable after the lender's receipt of notice of any default before the lessor may terminate the Ground Lease;

(i) The Ground Lease does not impose any restrictions on subletting that would be viewed as commercially unreasonable by the Seller in connection with loans originated for securitization;

(j) Under the terms of the Ground Lease, an estoppel or other agreement received from the ground lessor and the related Mortgage (taken together), any related insurance proceeds or the portion of the condemnation award allocable to the ground lessee's interest (other than (i) de minimis amounts for minor casualties or (ii) in respect of a total or substantially total loss or taking as addressed in clause (k) below) will be applied either to the repair or to restoration of all or part of the related Mortgaged Property with (so long as such proceeds are in excess of the threshold amount specified in the related Loan Documents) the lender or a trustee appointed by it having the right to hold and disburse such proceeds as repair or restoration progresses, or to the payment of the outstanding principal balance of the Mortgage Loan, together with any accrued interest;

(k) In the case of a total or substantially total taking or loss, under the terms of the Ground Lease, an estoppel or other agreement and the related Mortgage (taken together), any related insurance proceeds, or portion of the condemnation award allocable to ground lessee's interest in respect of a total or substantially total loss or taking of the related Mortgaged Property to the extent not

applied to restoration, will be applied first to the payment of the outstanding principal balance of the Mortgage Loan, together with any accrued interest; and

(l) Provided that the lender cures any defaults which are susceptible to being cured, the ground lessor has agreed to enter into a new lease with the lender upon termination of the Ground Lease for any reason, including rejection of the Ground Lease in a bankruptcy proceeding.

(32) Servicing. The servicing and collection practices used by the Seller with respect to the Mortgage Loan have been, in all respects, legal and have met customary industry standards for servicing of commercial loans for conduit loan programs.

(33) Origination and Underwriting. The origination practices of the Seller (or the related originator if the Seller was not the originator) with respect to each Mortgage Loan have been, in all material respects, legal and as of the date of its origination, such Mortgage Loan and the origination thereof complied in all material respects with, or was exempt from, all requirements of federal, state or local law relating to the origination of such Mortgage Loan; provided that such representation and warranty does not address or otherwise cover any matters with respect to federal, state or local law otherwise covered in the this Exhibit H.

(34) No Material Default; Payment Record. No Mortgage Loan has been more than 30 days delinquent, without giving effect to any grace or cure period, in making required payments since origination, and as of the date hereof, no Mortgage Loan is more than 30 days delinquent (beyond any applicable grace or cure period) in making required payments as of the Closing Date. To the Seller's knowledge, there is (a) no material default, breach, violation or event of acceleration existing under the related Mortgage Loan or Participation Agreement, if applicable, or (b) no event (other than payments due but not yet delinquent) which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a material default, breach, violation or event of acceleration, which default, breach, violation or event of acceleration, in the case of either clause (a) or clause (b), materially and adversely affects the value of the Mortgage Loan or Participation Agreement, if applicable, or the value, use or operation of the related Mortgaged Property, provided, however, that this representation and warranty does not cover any default, breach, violation or event of acceleration that specifically pertains to or arises out of an exception scheduled to any other representation and warranty made by the Seller in this Exhibit H. No person other than the holder of such Mortgage Loan may declare any event of default under the Mortgage Loan or accelerate any indebtedness under the Loan Documents.

(35) Bankruptcy. As of the date of origination of the related Mortgage Loan and to the Seller's knowledge as of the Cut-off Date, no borrower, guarantor or tenant occupying a single-tenant property is a debtor in state or federal bankruptcy, insolvency or similar proceeding.

(36) Organization of Borrower. With respect to each Mortgage Loan, in reliance on certified copies of the organizational documents of the borrower delivered by the borrower in connection with the origination of such Mortgage Loan, the borrower is an entity organized under the laws of a state of the United States of America, the District of Columbia or the Commonwealth of Puerto Rico. Except with respect to any Crossed Mortgage Loan, no Mortgage Loan has a borrower that is an Affiliate of another borrower. (An "Affiliate" for purposes of this paragraph (36) means, a borrower that is under direct or indirect common ownership and control with another borrower.)

(37) Environmental Conditions. A Phase I environmental site assessment (or update of a previous Phase I and or Phase II site assessment) and, with respect to certain Mortgage Loans, a Phase II environmental site assessment (collectively, an " ESA") meeting ASTM requirements conducted by a reputable environmental consultant in connection with such Mortgage Loan was delivered to seller within 12 months prior to the origination date of each Mortgage Loan (or an update of a previous ESA was prepared), and such ESA (i) did not identify the existence of recognized environmental conditions (as such term is defined in ASTM E1527-05 or its successor, hereinafter " Environmental Condition") at the related Mortgaged Property or the need for further investigation, or (ii) if the existence of an Environmental Condition or need for further investigation was indicated in any such ESA, then at least one of the following statements is true: (A) an amount reasonably estimated by a reputable environmental consultant to be sufficient to cover the

estimated cost to cure any material noncompliance with applicable environmental laws or the Environmental Condition has been escrowed by the related borrower and is held or controlled by the related lender; (B) if the only Environmental Condition relates to the presence of asbestos-containing materials, radon in indoor air, lead based paint or lead in drinking water, and the only recommended action in the ESA is the institution of such a plan, an operations or maintenance plan has been required to be instituted by the related borrower that can reasonably be expected to mitigate the identified risk; (C) the Environmental Condition identified in the related environmental report was remediated or abated in all material respects prior to the date hereof, and, if and as appropriate, a no further action or closure letter was obtained from the applicable governmental regulatory authority (or the Environmental Condition affecting the related Mortgaged Property was otherwise listed by such governmental authority as "closed" or a reputable environmental consultant has concluded that no further action is required); (D) a secured creditor environmental policy or a pollution legal liability insurance policy that covers liability for the Environmental Condition was obtained from an insurer rated no less than A- (or the equivalent) by Moody's, S&P and/or Fitch; (E) a party not related to the borrower was identified as the responsible party for such Environmental Condition and such responsible party has financial resources reasonably estimated to be adequate to address the situation; or (F) a party related to the borrower

having financial resources reasonably estimated to be adequate to address the situation is required to take action. To Seller's knowledge, except as set forth in the ESA, there is no Environmental Condition (as such term is defined in ASTM E1527-05 or its successor) at the related Mortgaged Property.

(38) Appraisal. The Servicing File contains an appraisal of the related Mortgaged Property with an appraisal date within six months of the Mortgage Loan origination date. The appraisal is signed by an appraiser who is either a Member of the Appraisal Institute (" MAI") and/or has been licensed and certified to prepare appraisals in the state where the Mortgaged Property is located. Each appraiser has represented in such appraisal or in a supplemental letter that the appraisal satisfies the requirements of the "Uniform Standards of Professional Appraisal Practice" as adopted by the Appraisal Standards Board of the Appraisal Foundation and has certified that such appraiser had no interest, direct or indirect, in the Mortgaged Property or the borrower or in any loan made on the security thereof, and its compensation is not affected by the approval or disapproval of the Mortgage Loan.

(39) Loan Obligation Schedule. The information pertaining to each Loan Obligation that is set forth in the schedule attached as Exhibit A to the Loan Obligations Purchase Agreement is true and correct in all material respects as of the Cut-off Date and contains all information required by the Loan Obligations Purchase Agreement to be contained therein.

(40) Cross-Collateralization. No Mortgage Loan is cross-collateralized or cross-defaulted with any mortgage loan that is outside the Trust, except as set forth in the applicable Loan Obligations Purchase Agreement.

(41) Advance of Funds by the Seller. After origination, no advance of funds has been made by Seller to the related borrower other than in accordance with the Loan Documents, and, to Seller's knowledge, no funds have been received from any person other than the related borrower or an affiliate for, or on account of, payments due on the Mortgage Loan (other than as contemplated by the Loan Documents, such as, by way of example and not in limitation of the foregoing, amounts paid by the tenant(s) into a lender-controlled lockbox if required or contemplated under the related lease or Loan Documents). Neither Seller nor any affiliate thereof has any obligation to make any capital contribution to any borrower under a Mortgage Loan, other than contributions made on or prior to the date hereof.

(42) Compliance with Anti-Money Laundering Laws. Seller (or the related originator if the Seller was not the originator) has complied in all material respects with all applicable anti-money laundering laws and regulations, including without limitation the USA Patriot Act of 2001 with respect to the origination of the Mortgage Loan, the failure to comply with which would have a material adverse effect on the Mortgage Loan.

(43) Floating Interest Rates. Each Mortgage Loan bears interest at a floating rate based on LIBOR.

(44) Senior Participations. With respect to each Loan Obligation that is a Senior Participation:

(i) Either (A) the Senior Participation is treated as a real estate asset for purposes of Section 856(c) of the Code, and the interest payable pursuant to such Senior Participation is treated as interest on an obligation secured by a mortgage on real property or on an interest in real property for purposes of Section 856(c) of the Code, or (B) the Senior Participation qualifies as a security that would not otherwise cause ARMS Equity to fail to qualify as a REIT under the Code (including after the sale, transfer and assignment to the Issuer of such Senior Participation);

(ii) To the actual knowledge of the Seller, as of the Closing Date, the related Participating Institution was not a debtor in any outstanding proceeding pursuant to the federal bankruptcy code; and

(iii) The Seller has not received written notice of any outstanding liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind for which the holder of such Senior Participation is or may become obligated.

For purposes of these representations and warranties, the phrases "the Seller's knowledge" or "the Seller's belief" and other words and phrases of like import shall mean, except where otherwise expressly set forth herein, the actual state of knowledge or belief of the Seller, its officers and employees directly responsible for the underwriting, origination, servicing or sale of the Mortgage Loans regarding the matters expressly set forth herein.

Exhibit 10.42

EXECUTION COPY

PLACEMENT AGREEMENT

This Placement Agreement (this "Agreement") is made as of the 17th day of January, 2013, by and between Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands (the "Issuer"), Arbor Realty Collateralized Loan Obligation 2013-1 LLC, a Delaware limited liability company (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers") and Sandler O'Neill & Partners, L.P. ("Sandler O'Neill").

W I T N E S S E T H:

WHEREAS, the Issuer and the Co-Issuer intend to co-issue (a) the U.S.$156,000,000 Class A Senior Secured Floating Rate Term Notes, Due 2023 (the "Class A Notes") and (b) the U.S.$21,000,000 Class B Secured Floating Rate Notes, Due 2023 (the "Class B Notes" and, together with the Class A Notes, the "Notes") pursuant to an indenture, dated as of January 28, 2013 (the "Indenture"), by and between the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee (in such capacity, the "Trustee"), paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar, and Arbor Realty SR, Inc., as advancing agent (the "Advancing Agent");

WHEREAS, the Issuer intends to issue 82,987 preferred shares, with a par value of U.S.$0.0001 per share and a notional amount of U.S.$1.00 per share (the "Preferred Shares" and, together with the Notes, the "Securities") pursuant to the Governing Documents (as defined in the Indenture) of the Issuer, certain resolutions of the board of directors of the Issuer passed prior to the issuance of the Preferred Shares and the Preferred Shares Paying Agency Agreement, dated as of January 28, 2013 (the "Preferred Shares Paying Agency Agreement"), among the Issuer, U.S. Bank National Association, as preferred shares paying agent (the "Preferred Shares Paying Agent"), and MaplesFS Limited, as share registrar;

WHEREAS, Arbor Realty Collateral Management, LLC ("ARCM") shall act as loan obligation manager (the "Loan Obligation Manager") of the Issuer's assets in accordance with the terms of a loan management agreement, dated as of January 28, 2013 (the "Loan Obligation Management Agreement"), between the Loan Obligation Manager and the Issuer;

WHEREAS, on the Closing Date, the Issuer will purchase, have committed to purchase or have identified for purchase the Loan Obligations from Arbor Realty SR, Inc. and/or one or more affiliates or subsidiaries of the Arbor Realty SR, Inc. (collectively, the "Sellers"); and

WHEREAS, Sandler O'Neill hereby acknowledges that it has received good and valuable consideration hereunder.

NOW, THEREFORE, the parties agree as follows:

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1. Defined Terms. Capitalized terms used and not otherwise defined herein shall have the meanings specified in the Indenture.

2. Appointment of Placement Agent; Placement of the Notes.

(a) On the terms and subject to the conditions specified in this Agreement, each of the Issuer and the Co-Issuer hereby appoints Sandler O'Neill as its agent, and Sandler O'Neill hereby accepts such appointment and agrees to act as agent (in such capacity, the "Placement Agent"), to use reasonable efforts to place the Class A Notes and the Class B Notes in the respective principal amounts (the "Placement Amounts") specified in Schedule A hereto, in privately negotiated transactions at varying prices determined by the Co-Issuers and the Placement Agent and agreed to with purchasers at times of sale. In placing the Notes, the Placement Agent shall be obligated to act solely as agent; provided, however, that the Placement Agent in its sole discretion may elect to effect placements of Notes by purchasing Notes as principal for resale to purchasers pursuant to Rule 144A under the Securities Act.

(b) Prior to or at the time that the Notes are first issued or delivered, the conditions precedent in Section 7 hereof shall have been satisfied in the sole judgment of the Placement Agent exercised in good faith.

(c) The Placement Agent may make a market in the Notes but is not obligated to do so and may cease any such activity at any time without notice.

3. Placement of the Notes. Each of the Issuer and the Co-Issuer intends that the Notes be placed through the Placement Agent as soon after this Agreement has become effective as is advisable in the judgment of the Placement Agent. The Issuer and Co-Issuer confirm that they have authorized the Placement Agent, subject to the restrictions set forth below, to distribute copies of the offering memorandum dated January 25, 2013 (the "Offering Memorandum") in connection with the placement of the Notes.

4. Representations, Warranties and Covenants of each of the Co-Issuers. Each of the Issuer or the Co-Issuer, as applicable, represents and warrants (with respect to itself only) to the Placement Agent as of the Closing Date, and agrees with the Placement Agent, that:

(a) it has not, directly or indirectly, solicited any offer to buy or offered to sell, and shall not, directly or indirectly, solicit any offer to buy or offer to sell, in the United States or to any United States citizen or resident, any security which is or would be integrated with the sale of the Securities in a manner that would require the Securities to be registered under the Securities Act of 1933, as amended (the "Securities Act");

(b) the Notes are eligible for resale pursuant to Rule 144A under the Securities Act and shall not be, on the Closing Date, of the same class as securities listed on a national securities exchange registered under Section 6 of the United States Securities Exchange Act, as amended (the " Exchange Act"), or quoted in a United States automated interdealer quotation system;

(c) the Offering Memorandum, the marketing materials dated January 2013 and the related asset summaries (collectively, the "Offering Materials") have been prepared by

the Issuer and the Co-Issuer, as applicable, in connection with the placement of the Notes. The Offering Materials and any amendments or supplements thereto did not and shall not, as of their respective dates and, in the case of the Offering Memorandum, as of the Closing Date, contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading except that the representations and warranties set forth in this Section 4(c) do not apply to statements or omissions that are made in reliance upon and in conformity with information relating solely to the Placement Agent furnished to the Issuer by the Placement Agent expressly for use in the Offering Materials or any amendment or supplement thereto. It is hereby acknowledged that the statements set forth under "Risk Factors—Other Considerations Related to the Notes—Certain Conflicts of Interest—The Placement Agent" and the last two sentences of the first paragraph under "Placement of the Notes" constitute the only written information furnished to the Issuer by the Placement Agent expressly for use in the Offering Memorandum (or any amendment or supplement thereto) (the "Placement Agent Information").

(d) since the respective dates as of which information is given in the Offering Materials, except as contemplated or set forth in the Offering Memorandum, it has not carried on any business other than as described in the Offering Materials relating to the issue of the Securities;

(e) the Issuer does not have any subsidiaries and the Co-Issuer does not have any subsidiaries;

(f) the Issuer (1) is an exempted company incorporated with limited liability that has been duly and validly incorporated and is existing and in good standing under the laws of the Cayman Islands; (2) is duly qualified to do business as a foreign limited liability company and is in good standing in all jurisdictions in which the ownership of its assets or in which the conduct of its business requires or shall require such qualification; and (3) has full power and authority to own its assets and conduct its business as described in the Offering Materials and to enter into and perform its obligations under this Agreement, the Securities Account Control Agreement, the Indenture, the Preferred Shares Paying Agency Agreement, the Servicing Agreement, each Loan Obligations Purchase Agreement and the Loan Obligation Management Agreement and to enter into and consummate all the transactions in connection therewith as contemplated by such agreements and in the Offering Materials;

(g) the Co-Issuer (1) is a limited liability company that is in good-standing under the laws of the State of Delaware and is duly qualified to do business as a limited liability company and is in good standing in all jurisdictions in which the ownership of its assets or in which the conduct of its business requires or shall require such qualification; and (2) has full power and authority to own its assets and conduct its business as described in the Offering Materials and to enter into and perform its obligations under this Agreement and the Indenture and to enter into and consummate all the transactions in connection therewith as contemplated by such agreements and in the Offering Materials;

(h) the Issuer has the authorized share capital as set forth in the Offering Memorandum and all of the issued Preferred Shares of the Issuer will have been duly and validly authorized and issued and are fully paid and nonassessable, and all of the issued ordinary shares

of the Issuer shall be held on the Closing Date by ARMS 2013-1 Equity Holdings LLC (" ARMS Equity");

(i) the Co-Issuer has the authorized capitalization as set forth in the Offering Memorandum and all of the issued membership interests of the Co-Issuer have been duly and validly authorized and issued and all of the issued membership interests of the Co-Issuer shall be held by Arbor Realty SR, Inc.;

(j) the Notes have been duly authorized by the Co-Issuer, and when issued and delivered and when appropriate entries have been made in the Notes Register pursuant to this Agreement and the Indenture against payment therefor, shall have been duly executed, authenticated, issued and delivered and shall constitute valid and legally binding obligations of the Co-Issuer, enforceable against the Co-Issuer in accordance with their terms and entitled to the benefits provided by the Indenture, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(k) the Notes have been duly authorized by the Issuer and, when issued, authenticated and delivered and when appropriate entries have been made in the Notes Register pursuant to this Agreement and the Indenture against payment therefor, shall have been duly executed, authenticated, issued and delivered and shall constitute valid and legally binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms and entitled to the benefits provided by the Indenture, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(l) each of the Indenture and this Agreement has been duly authorized by the Co-Issuer and, when executed and delivered by the parties thereto and hereto, shall constitute a valid and legally binding instrument, enforceable in accordance with its respective terms, under the laws of the

State of New York and all other relevant laws, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(m) each of the Indenture, the Preferred Shares Paying Agency Agreement, the Servicing Agreement, the Loan Obligation Management Agreement, the Securities Account Control Agreement, this Agreement and each Loan Obligations Purchase Agreement has been duly authorized by the Issuer and, when executed and delivered by the parties thereto and hereto, shall constitute a valid and legally binding instrument, enforceable in accordance with its terms under the laws of the State of New York and all other relevant laws, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(n) except as may be required under state securities laws, no filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Co-Issuer of its obligations hereunder, in connection with the offering, issuance, placement or sale of the Notes hereunder or the consummation of the transactions contemplated by or for the due

execution, delivery or performance of this Agreement, the Indenture, the Notes or any other agreement or instrument entered into or issued or to be entered into or issued by the Co-Issuer in connection with the consummation of the transactions contemplated herein and in the Offering Materials (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Offering Memorandum under the caption "Use of Proceeds");

(o) except as may be required under state securities laws, no filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Issuer of its obligations hereunder, in connection with the offering, issuance or sale of the Notes hereunder or the consummation of the transactions contemplated by or for the due execution, delivery or performance of this Agreement, the Indenture, the Preferred Shares Paying Agency Agreement, the Securities Account Control Agreement, the Securities, each Loan Obligations Purchase Agreement, the Servicing Agreement, the Loan Obligation Management Agreement or any other agreement or instrument entered into or issued or to be entered into or issued by the Issuer in connection with the consummation of the transactions contemplated herein and in the Offering Materials (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described in the Offering Memorandum under the caption "Use of Proceeds");

(p) the statements set forth in the Offering Memorandum under the captions "Description of the Securities," "Security for the Notes," "The Loan Obligation Management Agreement," "The Issuer" and "The Co-Issuer" insofar as they purport to constitute a description of the Issuer or the Co-Issuer or a summary of the terms of the Securities, the Indenture, the Preferred Shares Paying Agency Agreement, the Securities Account Control Agreement, the Servicing Agreement, each Loan Obligations Purchase Agreement and the Loan Obligation Management Agreement and under the captions "Certain U.S. Federal Income Tax Considerations," "Cayman Islands Tax Considerations," "Certain ERISA Considerations" and "Placement of the Notes," insofar as they purport to describe the provisions of the laws and documents referred to therein, are correct in all material respects;

(q) the issue and placement of the Notes and the compliance by the Issuer and the Co-Issuer, as applicable, with all of the provisions of the Indenture, the Preferred Shares Paying Agency Agreement, the Securities Account Control Agreement, each Loan Obligations Purchase Agreement, the Securities, the Servicing Agreement, the Loan Obligation Management Agreement and this Agreement and the consummation of the transactions herein and therein contemplated shall not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any other agreement or instrument to which the Issuer or the Co-Issuer is a party or by which the Issuer or the Co-Issuer is bound, nor shall such action result in any violation of the provisions of the Governing Documents of each of the Issuer or the Co-Issuer or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Issuer or the Co-Issuer or each of their assets; and, no consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the issue and sale of the Securities or the consummation of the transactions by the Issuer and the Co-Issuer contemplated by this Agreement, the Indenture, the Preferred Shares Paying Agency Agreement, each Loan

Obligations Purchase Agreement or the Loan Obligation Management Agreement (other than any governmental or other consents that have already been obtained by either the Issuer or the Co-Issuer and that were in full force and effect);

(r) the Issuer has taken or caused to be taken all necessary actions to create and perfect a first priority security interest in the Assets in favor of the Trustee for the benefit of the Secured Parties under the Indenture;

(s) there are no legal or governmental proceedings, inquiries or investigations pending to which the Issuer or the Co-Issuer is a party or of which any property of the Issuer or Co-Issuer is the subject and, to the Issuer's and Co-Issuer's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(t) on the Closing Date, there shall not exist any default by any of the Issuer or the Co-Issuer or any condition, event or act, which, with notice or lapse of time or both, would constitute an Event of Default by the Issuer or the Co-Issuer under the Indenture;

(u) none of the Issuer, the Co-Issuer or any persons acting on their behalf (other than the Placement Agent as to whom the Co-Issuers make no representation) has engaged or shall engage in any directed selling efforts as defined in Rule 902 of Regulation S under the Securities Act with respect

to the Securities, and none of the foregoing persons has offered, placed or sold any of the Securities, except for the placement of the Notes pursuant to this Agreement and the sale of the Preferred Shares to ARMS Equity;

(v) neither the Issuer nor the Co-Issuer has entered into contractual arrangements with any person with respect to the distribution of (1) the Notes, other than the Placement Agent pursuant to this Agreement and (2) the Preferred Shares, other than pursuant to the Subscription Agreement dated as of the date hereof and signed by ARMS Equity (the "Subscription Agreement");

(w) no stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Placement Agent to the government of the Cayman Islands or any political subdivision or taxing authority thereof or therein in connection with the issuance, sale and delivery by the Issuer and the Co-Issuer or the placement by the Placement Agent outside the Cayman Islands of the Notes to the investors thereof; provided that Cayman Islands stamp duty will be payable if any of the Notes or Transaction Documents are executed in, or after execution, brought into the Cayman Islands;

(x) neither the Issuer nor the Co-Issuer has offered or sold any Securities by means of any form of general solicitation or general advertising and none of the foregoing persons shall offer to sell, offer for sale or sell the Securities by means of any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising;

(y) assuming compliance by the Placement Agent with the placement restrictions set forth herein and compliance by ARMS Equity with the restrictions set forth in the Preferred Shares Paying Agency Agreement, neither the Issuer nor the Co-Issuer is required to

be registered as an "investment company" and neither the Issuer nor the Co-Issuer shall be required to register as an "investment company" under the Investment Company Act as a result of the conduct of its business in the manner contemplated by the Offering Memorandum;

(z) assuming compliance by the Placement Agent with the placement restrictions set forth herein and ARMS Equity with the restrictions set forth in the Preferred Shares Paying Agency Agreement, no registration of the Securities under the Securities Act is required for the placement of the Notes in the manner contemplated by this Agreement and the Offering Memorandum or the sale of the Preferred Shares under the Subscription Agreement and no qualification of an indenture under the Trust Indenture Act of 1939, as amended, is required for the offer, sale and placement of the Securities in the manner contemplated by this Agreement, the Subscription Agreement and the Offering Memorandum;

(aa) each of the Issuer and the Co-Issuer shall make available to the Placement Agent such number of copies of the Offering Memorandum and any amendment or supplement thereto as the Placement Agent shall reasonably request;

(bb) neither the Issuer nor the Co-Issuer has offered and neither the Issuer nor the Co-Issuer shall offer (1) the Notes, except pursuant to this Agreement and (2) the Preferred Shares, except pursuant to the Subscription Agreement;

(cc) the Co-Issuers shall offer and sell the Notes and the Issuer shall offer and sell the Preferred Shares, only to persons (1) who are "qualified purchasers" as defined in Section 2(a)(51) of the Investment Company Act (" Qualified Purchasers") that (except with respect to the sale of the Preferred Shares to ARMS Equity) the Co-Issuers reasonably believe are (A) "qualified institutional buyers" (" QIBs") as defined in Rule 144A under the Securities Act ("Rule 144A") and whom the seller has informed that the reoffer, resale, pledge or other transfer is being made in reliance on Rule 144A or (B) solely in the case of Notes issued as Definitive Notes, institutional "accredited investors" under Rule 501(a)(1), (2) (3) or (7) of Regulation D under the Securities Act ("Regulation D") or (2) the Co-Issuers reasonably believe are not "U.S. persons" or U.S. residents for purposes of the Investment Company Act and that the sale, reoffer, resale, pledge or other transfer is being made in compliance with Regulation S under the Securities Act (" Regulation S"); terms used in this paragraph have the meanings given to them by Regulation S, Rule 144A or Regulation D, as applicable;

(dd) each of the Issuer and the Co-Issuer shall immediately notify the Placement Agent, and confirm such notice in writing, of (1) any filing made by the Co-Issuers of information relating to the offering of the Securities with any securities exchange or any other regulatory body in the United States or any other jurisdiction, and (2) prior to the completion of the placement of the Notes by the Placement Agent, any material changes in or affecting the earnings, business affairs or business prospects of either the Issuer or the Co-Issuer which (i) make any statement in the Offering Materials false or misleading in any material respect or (ii) are not disclosed in the Offering Memorandum. In such event or if during such time any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of any of the Issuer, the Co-Issuer, their counsel, the Placement Agent or its counsel, to amend or supplement the Offering Materials in order that the final Offering Materials not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the

statements therein not misleading in the light of the circumstances then existing, each of the Issuer and the Co-Issuer shall forthwith amend or supplement the final Offering Materials by preparing and furnishing to the Placement Agent an amendment or amendments of, or a supplement or supplements to, the final Offering Materials (in form and in substance satisfactory in the opinion of counsel for the Placement Agent) so that, as so amended or supplemented, the final Offering Materials shall not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at the time it is delivered to an investor, not misleading;

(ee) each of the Issuer and the Co-Issuer shall advise the Placement Agent promptly of any proposal to amend or supplement the Offering Materials and shall not effect such amendment or supplement without the consent of the Placement Agent, which consent shall not be unreasonably withheld or delayed. Neither the consent of the Placement Agent to, nor the Placement Agent's delivery of, any such amendment or supplement, shall constitute a waiver of any of the conditions set forth in Section 7 hereof;

(ff) each of the Issuer and the Co-Issuer agrees that it shall not make any offer or sale of Securities of any class if, as a result of the doctrine of "integration" referred to in Rule 502 promulgated under the Securities Act, such offer or sale would render invalid (for the purpose of (i) the placement of the Notes by the Placement Agent, (ii) the resale of the Notes by the initial investors to others, or (iii) the initial sale of the Preferred Shares) the exemption from the registration requirements of the Securities Act provided by Section 4(2) thereof or by Rule 144A or by Regulation S thereunder or otherwise;

(gg) each of the Issuer and the Co-Issuer agrees that, in order to render the Notes eligible for resale pursuant to Rule 144A under the Securities Act, while any of the Notes remain outstanding, they shall make available, upon request, to any Holder of the Notes or prospective purchasers of the Notes designated by any Holder the information specified in Rule 144A(d)(4), unless each of the Issuer and the Co-Issuer furnishes information to the United States Securities and Exchange Commission (the "Commission") pursuant to Section 13 or 15(d) of the Exchange Act (such information, whether made available to Holders or prospective purchasers or furnished to the Commission, is hereinafter referred to as " Additional Information");

(hh) each of the Issuer and the Co-Issuer shall use the net proceeds received by them from the sale of the Securities in the manner specified in the Offering Memorandum under "Use of Proceeds";

(ii) during a period of 180 days from the date of the Offering Memorandum, neither the Issuer nor the Co-Issuer shall, directly or indirectly, issue, sell, offer to sell, grant any option for the sale of, or otherwise dispose of, any debt securities or guarantees of debt securities of the Issuer or the Co-Issuer, as applicable, or any securities convertible or exchangeable into or exercisable for any debt securities or guarantees of debt securities of the Issuer or the Co-Issuer, as applicable, or any securities convertible or exchangeable into or exercisable for any debt security or guarantee of debt securities of the Issuer or Co-Issuer, except as described in the Offering Memorandum;

(jj) the Co-Issuers shall use all reasonable efforts in cooperation with the Placement Agent to permit the Notes to be eligible for clearance and settlement through DTC;

(kk) each certificate representing a Note shall bear the legends contained in the Indenture for the time period and upon the other terms stated in the Indenture;

(ll) each certificate representing a Preferred Share shall bear the legends contained in the Preferred Shares Paying Agency Agreement for the time period and upon the other terms stated in the Preferred Shares Paying Agency Agreement;

(mm) the Co-Issuers shall have no debt other than as indicated in or contemplated by the Offering Memorandum (including, without limitation, expenses incurred in connection with the offering of the Notes);

(nn) the application of the proceeds of the sale of the Securities shall not be in violation of Regulations T, U or X of the Board of Governors of the Federal Reserve System, as amended and in effect on the Closing Date;

(oo) the Co-Issuers have taken all necessary steps to ensure that any Bloomberg screen containing information about the Notes represented by Rule 144A Global Securities includes the following (or similar) language:

(i) the "Note Box" on the bottom of the "Security Display" page describing the Rule 144A Global Securities shall state: "Iss'd Under 144A/3c7";

(ii) the "Security Display" page shall have flashing red indicator "See Other Available Information"; and

(iii) the indicator shall link to the "Additional Security Information" page, which shall state that the securities "are being offered in reliance on the exemption from registration under Rule 144A of the Securities Act to persons who are both (i) qualified institutional buyers (as defined in Rule 144A under the Securities Act) and (ii) qualified purchasers (as defined under Section 3(c)(7) under the 1940 Act)."

(pp) the Co-Issuers shall instruct The Depository Trust Company ("DTC") to take these or similar steps with respect to the Notes represented by Rule 144A Global Securities:

(i) the DTC 20-character security descriptor and 48-character additional descriptor shall indicate with marker "3c7" that sales are limited to Qualified Institutional Buyers/Qualified Purchasers;

(ii) where the DTC deliver order ticket sent to purchasers by DTC after settlement is physical, it shall have the 20-character security descriptor printed on it. Where the DTC deliver order ticket is electronic, it shall have a "3c7" indicator and a related user manual for participants, which shall contain a description of the relevant restriction;

(iii) DTC shall send an "Important Notice" outlining the 3(c)(7) restrictions applicable to the Rule 144A Global Notes to all DTC participants in connection with the initial offering; and

(iv) DTC shall include the Co-Issuers in the Reference Directory which is distributed by DTC to its participants on the list of all issuers who have advised DTC that they are 3(c)(7) issuers;

(qq) the Co-Issuers, have confirmed that CUSIP has established a "fixed field" attached to the CUSIP numbers for the Notes represented by Rule 144A Global Securities containing "3c7" and "144A" indicators; and

(rr) the Co-Issuers have complied with the representations, certifications and covenants made to Moody's Investor Service, Inc. ("Moody's") (the "Hired NRSRO") in connection with the engagement of the Hired NRSRO to issue and monitor credit ratings on the Notes, including any certification provided to the Hired NRSRO in connection with Rule 17g-5(a)(iii) of the Exchange Act ("Rule 17g-5"). The Co-Issuers are the sole parties responsible for compliance with Rule 17g-5 in connection with the issuance and monitoring of the credit ratings on the Notes. Each of the Issuer and Co-Issuer shall comply with the representations, certifications and covenants made by it in the engagement letter with the Hired NRSRO, including any representation, certification or covenant provided to the Hired NRSRO in connection with Rule 17g-5, and shall make accessible to any non-hired nationally recognized statistical rating organization all information provided to each Hired NRSRO in connection with the issuance and monitoring of the credit ratings on the Notes in accordance with Rule 17g-5.

5. Representations, Warranties and Covenants of the Placement Agent. The Placement Agent, hereby represents and warrants to each of the Issuer and the Co-Issuer as of the Closing Date, and agrees with the Issuer and the Co-Issuer that:

(a) it is a QIB and a Qualified Purchaser, with such knowledge and experience in financial and business matters as are necessary in order to evaluate the merits and risks of an investment in the Notes;

(b) it understands that (i) the Notes have not been and shall not be registered under the Securities Act, and (ii) neither the Issuer nor the Co-Issuer are, and shall not be, registered as an "investment company" under the Investment Company Act;

(c) it shall place the Notes only to persons (i) (A) who are Qualified Purchasers and that the Placement Agent reasonably believes are QIBs or institutional "accredited investors" under Regulation D, (B) who are not broker-dealers that own and invest on a discretionary basis less than $25,000,000 in securities of unaffiliated issuers, (C) who are not participant-directed employee plans such as 401(k) plans, (D) who are acting for their own account or the account of others who would otherwise qualify under this Section 5(c), (E) who are not formed for the purpose of investing in the Senior Notes, and (F) who will hold at least the minimum denomination or (ii) that the Placement Agent reasonably believes are not U.S. Persons or U.S. residents for purposes of the Investment Company Act and that the sale, reoffer,

resale, pledge or other transfer is being made in compliance with Regulation S; terms used in this paragraph have the meanings given to them by Regulation S or Rule 144A, as applicable;

(d) it has not and shall not invite any member of the public in the Cayman Islands to subscribe for the Notes;

(e) it acknowledges that purchases and resales of the Notes are restricted as described under "Transfer Restrictions" in the Offering Memorandum;

(f) it acknowledges that the information relating solely to it furnished to the Issuer and the Co-Issuer specifically for use in the Offering Memorandum has been prepared by the Placement Agent and accordingly, the Placement Agent only assumes the responsibility for the accuracy, completeness or applicability of the information it has furnished;

(g) in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), for any transaction which the Placement Agent sells as principal in connection with the initial placement of the Notes by the Co-Issuers, with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the " Relevant Implementation Date"), the Placement Agent has not made and will not make an offer of Notes to the public in that Relevant Member State prior to the publication of an offering memorandum in relation to the Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of notes to the public in that Relevant Member State at any time: (i) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive; (ii) at any time to fewer than 100, or, if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant dealer or dealers nominated by the Issuer for any such offer; or (iii) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive, provided that no such offer of Notes referred to in (i) to (iii) above requires the publication by the Issuer or the Placement Agent of a prospectus pursuant to Article 3 of the Prospectus Directive. For the purposes of this clause, the expression an "*offer of Notes to the public*" in relation to any securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression "*Prospectus Directive*" means Directive 2003/71/EC (and the amendments thereto, including the 2010 PD Amending Directive, to the extent implemented in the Relevant Member State), and includes any relevant implementing measure in the Relevant Member State and the expression " *2010 PD Amending*

Directive" means Directive 2010/73/EU.

(h) it represents and agrees that the Notes offered and placed in reliance on Regulation S have been and will be offered, placed and sold only in offshore transactions. In connection therewith, it agrees that it has not offered, placed or sold and will not offer, place or

sell the Notes in the United States or to, or for the benefit or account of, a U.S. Person (other than a distributor), in each case, as defined in Rule 902 under the Securities Act (i) as part of its distribution at any time and (ii) otherwise until 40 days after the later of the commencement of the offering of the Notes pursuant hereto and the Closing Date, other than in accordance with Regulation S or another exemption from the registration requirements of the Securities Act;

(i) no form of general solicitation or general advertising has been or will be used by it or any of its representatives in connection with the offer, placement and sale of any of the Securities, including, but not limited to, articles, notices or other communications published in any newspaper, magazine, or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising; and

(j) (i) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the " FSMA") received by it in connection with the issue or sale of any Securities in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and (ii) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

Terms used in this Section 5 that have meanings specified in Regulation S are used herein as so defined.

6. Fees and Expenses. The proceeds of the offering of the Securities shall be used to pay all expenses incurred in connection with the offering of the Securities, including the preparation and printing of the preliminary and final offering memoranda, the preparation, issuance and delivery of the Notes to the initial purchasers thereof, any fees charged by the Rating Agency in rating the Notes and the fees of counsel to the Issuer and Co-Issuer, the Placement Agent, the Preferred Shares Paying Agent, the fees of the Loan Obligation Manager, the Trustee and out-of-pocket expenses of the Placement Agent in the amount of $125,000. In addition, the Placement Agent shall receive a fee of 1.0% of the aggregate principal amount of the sale of the Class A Notes and Class B Notes (it being understood that no fee shall be payable to the Placement Agent with respect to Class B Notes or Preferred Shares purchased by the Loan Obligation Manager or its affiliates).

7. Conditions Precedent to the Placement of the Notes. The obligations of the Placement Agent hereunder are subject to the accuracy of the representations and warranties of each of the Issuer and the Co-Issuer contained in Section 4 hereof or in certificates of any of the respective officers of the Issuer or Co-Issuer delivered pursuant to the provisions hereof, to the performance by the Issuer and the Co-Issuer of their covenants and other obligations hereunder, and to the following further conditions precedent:

(a) On the Closing Date, the Placement Agent shall have received the opinions, dated as of the Closing Date of Cadwalader, Wickersham & Taft LLP, special counsel to the Co-Issuers, Richards, Layton & Finger, P.A. counsel to the Co-Issuer and Maples and Calder, Cayman Islands counsel to the Issuer, each in form and substance satisfactory to the

Placement Agent and its counsel, and shall have received the opinions, dated as of the Closing Date, of Cadwalader, Wickersham & Taft LLP, special counsel to the Co-Issuers, as to certain U.S. insolvency law matters and certain security interest matters, in form and substance reasonably satisfactory to the Placement Agent.

(b) On the Closing Date, (i) the Offering Materials, as amended or supplemented, shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) there shall not have been, since the date hereof or since the respective dates as of which information is given in the Offering Materials, any material adverse change or prospective material adverse change with respect to the Issuer, the Co-Issuer or the Assets; (iii) each of the Issuer and the Co-Issuer shall have complied with all agreements and satisfied all conditions on their part to be performed or satisfied pursuant to this Agreement on or prior to the Closing Date; and (iv) the representations and warranties of the Issuer and Co-Issuer in Section 4 shall be accurate and true and correct as though expressly made on and as of the Closing Date except as specifically set forth therein.

(c) On the Closing Date, the Placement Agent shall have received a certificate of an authorized officer of ARCM, dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

(d) On the Closing Date, the Placement Agent shall have received certificates of authorized officers of each Seller, dated as of the Closing Date, substantially in the form attached hereto as Exhibit B.

(e) On the Closing Date, the Placement Agent shall have received from Ernst & Young LLP a letter, dated as of the Closing Date in form and substance reasonably satisfactory to the Placement Agent, with respect to certain financial, statistical and other information contained in the data tape, the Offering Memorandum and in related materials and the composition of the Loan Obligations on the Closing Date.

(f) The Co-Issuer shall have duly authorized, executed and delivered the Indenture and this Agreement.

(g) The Issuer shall have duly authorized, executed and delivered the Indenture, the Preferred Shares Paying Agency Agreement, the Servicing Agreement, the Loan Obligation Management Agreement and each Loan Obligations Purchase Agreement.

(h) ARCM shall have duly authorized, executed and delivered the Loan Obligation Management Agreement.

(i) Each Seller shall have duly authorized, executed and delivered the applicable Loan Obligations Purchase Agreement.

(j) Arbor Commercial Mortgage, LLC shall have duly authorized, executed and delivered the Servicing Agreement.

(k) The Notes shall have been executed by the Issuer and Co-Issuer and authenticated by the Trustee and the conditions precedent thereto, as set forth in the Indenture, shall have been satisfied.

(l) The Preferred Shares shall have been issued by the Issuer and the conditions precedent thereto, as set forth in the Preferred Shares Paying Agency Agreement and the Governing Documents, shall have been satisfied.

(m) Prior to the placement of the Notes hereunder, the Placement Agent shall have received the opinions, dated as of the Closing Date, of the respective counsel to the Trustee, the Preferred Shares Paying Agent, the Loan Obligation Manager, the CLO Servicer, Arbor Realty SR, Inc. and ARMS Equity, each in form and substance reasonably satisfactory to the Placement Agent.

(n) Prior to the placement of the Notes, the Issuer and Co-Issuer, as applicable, shall have obtained a letter from Moody's that the Class A Notes have been rated "Aaa(sf)" by Moody's, that the Class B Notes have been rated at least "Baa2(sf)" by Moody's, and shall deliver copies of such letter to the Placement Agent.

(o) The Placement Agent shall have received such further information, certificates, documents and opinions as it may have reasonably requested.

(p) The Co-Issuers and DTC shall have executed and delivered one or more letters of representation with respect to the Notes each in a form reasonably satisfactory to the Placement Agent.

(q) All of the Preferred Shares shall have been purchased by ARMS Equity on the Closing Date.

8. Indemnification and Contribution.

(a) Subject to the Priority of Payments set forth in Section 11.1 of the Indenture, the Co-Issuers shall indemnify and hold harmless the Placement Agent and each of its affiliates, their respective partners, officers, directors, agents and employees and each person who controls the Placement Agent or any of its affiliates within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (each, a " Placement Agent Indemnified Person"), to the full extent lawful, from and against any losses, claims, damages, liabilities or expenses, joint or several, as the same are incurred, to which the Placement Agent Indemnified Person may become subject insofar as such losses, claims, damages, liabilities or expenses (or actions in respect thereof) (1) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Offering Materials or any amendment or supplement thereto or arise out of or are based upon the omission or alleged omission to state in the Offering Materials a material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading, other than the Placement Agent Information or (2) are based upon a breach by either of the Co-Issuers of any of its representations, warranties or agreements contained in this Agreement, and shall periodically reimburse the Placement Agent for any and all legal or other expenses reasonably incurred by the Placement Agent and each other Placement Agent Indemnified Person in connection with

investigating or defending, settling, compromising or paying any such losses, claims, damages, liabilities, expenses or actions as such expenses are incurred; provided, however, that the foregoing indemnity with respect to any untrue statement contained in or any statement omitted from the Offering Memorandum (as the same may be amended or supplemented) shall not inure to the benefit of the Placement Agent, if (x) such loss, liability, claim, damage or expense resulted from the fact that the Placement Agent sold or placed Notes to a Person to whom there was not sent or given, at or prior to the written confirmation of such sale or placement, as the case may be, a copy of the Offering Memorandum, as then amended or supplemented, (y) the Issuer shall have previously and timely furnished sufficient copies of the Offering Memorandum, as so amended or supplemented, to the Placement Agent in accordance with this Agreement and (z) the Offering Memorandum, as so amended or supplemented, would have corrected such untrue statement or omission.

(b) The Placement Agent shall indemnify and hold harmless the Issuer and the Co-Issuer, each of their respective affiliates, their respective officers, directors, managers and each person controlling the Issuer and Co-Issuer within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, against any losses, claims, damages, liabilities or expenses, joint or several, as the same are incurred, to which the Issuer or the Co-Issuer may become subject insofar as such losses, claims, damages, liabilities or expenses (or actions in respect thereof) arise out of or are based upon

any untrue statement or alleged untrue statement of a material fact contained in the statements set forth in the Placement Agent Information or acts or omissions thereof or arise out of or are based upon the omission or alleged omission to state in such paragraphs a material fact necessary with respect to the Placement Agent or acts or omissions thereof to make the statements in such paragraphs, in the light of the circumstances under which they are made, not misleading. For the avoidance of doubt, the Placement Agent shall not have any obligation to verify or monitor, or have any liability for, any statements set forth in the Placement Agent Information that has not been provided by the Placement Agent.

(c) Promptly after receipt by an indemnified party under Section 8(a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise under such subsection except to the extent it has been materially prejudiced by such failure. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it may elect, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party; provided, however, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of its election so to assume the defense of such action and approval of counsel by the indemnified party, the indemnifying party shall not be liable to such indemnified party

under this Section 8 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in connection with the assertion of legal defenses in accordance with the proviso to the immediately preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the expenses of more than one separate counsel (in addition to local counsel) for the indemnified party), (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party at the expense of the indemnifying party to represent the indemnified party within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized the employment of counsel for the indemnified party at the expense of the indemnifying party.

(d) If the indemnification provided for in this Section 8 is unavailable to or insufficient to hold harmless an indemnified party under Section 8(a) or (b) above in respect of any losses, claims, damages, liabilities or expenses (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as incurred as a result of such losses, claims, damages, liabilities or expenses (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Co-Issuers on the one hand and the Placement Agent on the other from the offering of the Notes. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Co-Issuers on the one hand and the Placement Agent on the other in connection with the statements or omissions or breaches of representations, warranties or agreements which resulted in such losses, claims, damages, liabilities or expenses (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Co-Issuers on the one hand and by the Placement Agent on the other shall be in the same proportion as the total proceeds to the Co-Issuers from the sale of Securities bears to, as applicable, the underwriting discounts and commissions received by the Placement Agent. The relative fault shall be determined by reference to, among other things, whether the indemnified party failed to give the notice required under Section 8(c) above, including the consequences of such failure, and whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Co-Issuers on the one hand or the Placement Agent on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement, omission or breach. The Co-Issuers and the Placement Agent agree that it would not be just and equitable if contribution pursuant to this Section 8(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 8(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities or expenses (or actions in respect thereof) referred to above in this Section 8(d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim (which shall be limited as provided in Section 8(c) above if the indemnifying party has assumed the defense of any such action in accordance with the provisions thereof). Notwithstanding the provisions of this Section 8(d), the Placement Agent shall not be required to contribute any amount in excess of the amount by which the amount of the discounts and commissions received by it or fees paid to it, as applicable, exceeds the amount of any damages which the Placement Agent has otherwise been

required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation shall be entitled to a contribution from any person who was not guilty of such fraudulent misrepresentation.

9. Duration, Termination and Assignment of this Agreement.

(a) This Agreement shall become effective as of the date first written above and shall remain in force until terminated as provided in this Section 9.

(b) This Agreement may be terminated by the Placement Agent at any time without the payment of any penalty by the Placement Agent, if there is a breach of any of the representations, warranties, covenants or agreements of the Issuer or the Co-Issuer hereunder or if any of the conditions set forth in Section 7 hereof have not been satisfied.

(c) This Agreement shall terminate in the event that on or after the date hereof, there shall have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange or in trading of the securities of the Loan Obligation Manager or any affiliate of the Loan Obligation Manager on any exchange or over-the-counter market; (ii) a general moratorium on commercial banking activities declared by either federal or New York State authorities; or (iii) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war, or other calamity or crisis, if the effect of any such event specified in this clause (iii) in the judgment of the Placement Agent makes it impracticable or inadvisable to proceed with the offering or delivery of the Notes on the terms and in the manner contemplated by this Agreement and in the Offering Memorandum.

(d) The Issuer shall pay all fees and expenses in connection with the offering, placement and sale of the Notes immediately following any termination of this Agreement pursuant to Section 9(c) hereof.

(e) This Agreement is not assignable by any party hereto.

10. Notices. All communications hereunder shall be in writing and shall be mailed, hand delivered or faxed and confirmed to the parties as follows:

If to Sandler O'Neill:

Sandler O'Neill & Partners, L.P.
1251 Avenue of the Americas — 6th Floor
New York, New York 10020
Attention: General Counsel
Telephone: (212) 466-7800
Fax: (212) 466-7996

If to the Issuer:

Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
c/o MaplesFS Limited

Queensgate House
P.O. Box 1093
Queensgate House, KY1-1102
Grand Cayman, Cayman Islands
Attention: The Directors
Telephone: (345) 945-7099
Fax: (345) 945-7100

with a copy to the Loan Obligation Manager:

Arbor Realty Collateral Management, LLC
333 Earle Ovington Boulevard, 9th Floor
Uniondale, New York 11553
Attention: Executive Vice President, Structured Securitization
Fax: (212) 389-6573
Telephone: (212) 389-6546

If to the Co-Issuer:

Arbor Realty Collateralized Loan Obligation 2013-1 LLC
c/o Puglisi & Associates
830 Library Avenue, Suite 204,
Newark, Delaware 19711
Attention: Donald J. Puglisi
Telephone: (302) 738-6680
Fax: (302) 738-7210

with a copy to the Loan Obligation Manager (as addressed above).

Any party hereto may change the address for receipt of communications by giving written notice to the others.

11. Consent to Jurisdiction. Each of the parties hereto (i) agrees that any legal suit, action or proceeding brought by any party to enforce any rights under or with respect to this Agreement or any other document or the transactions contemplated hereby or thereby may be instituted in any

federal court in The City of New York, State of New York, U.S.A.; provided, however, that if a federal court in the City of New York declines jurisdiction for any reason, any legal suit, action or proceeding brought by any party to enforce any rights under or with respect to this Agreement or any other document or the transactions contemplated hereby or thereby may be instituted in any state court in the City of New York, State of New York, U.S.A., (ii) irrevocably waives to the fullest extent permitted by law any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding instituted in the City of New York, State of New York, U.S.A., (iii) irrevocably waives to the fullest extent permitted by law any claim that and agrees not to claim or plead in any court that any such action, suit or proceeding brought in a court in the City of New York, State of New York, U.S.A. has been brought in an inconvenient forum and (iv) irrevocably submits to the non-exclusive jurisdiction

of any such court in any such suit, action or proceeding or for recognition and enforcement of any judgment in respect thereof.

Each of the Issuer and the Co-Issuer hereby irrevocably and unconditionally designates and appoints CT Corporation System, 111 8th Avenue, 13th Floor, New York, New York 10011, U.S.A. (and any successor entity), as its authorized agent to receive and forward on its behalf service of any and all process which may be served in any such suit, action or proceeding in any such court and agrees that service of process upon CT Corporation shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and shall be taken and held to be valid personal service upon it. Said designation and appointment shall be irrevocable. Nothing in this Section 11 shall affect the rights of the Placement Agent, its respective affiliates or any indemnified party to serve process in any manner permitted by law. Each of the Issuer and the Co-Issuer further agrees to take any and all action, including the execution and filing of any and all such documents and instruments, as may be necessary to continue such designation and appointment of CT Corporation in full force and effect so long as the Notes are outstanding but in no event for a period longer than five years from the date of this Agreement. Each of the Issuer and the Co-Issuer hereby irrevocably and unconditionally authorizes and directs CT Corporation to accept such service on their behalf. If for any reason CT Corporation ceases to be available to act as such, each of the Issuer and the Co-Issuer agrees to designate a new agent in New York City on the terms and for the purposes of this provision reasonably satisfactory to the Placement Agent.

To the extent that either the Issuer or the Co-Issuer has or hereafter may acquire any immunity from jurisdiction of any court (including, without limitation, any court in the United States, the State of New York, Cayman Islands or any political subdivision thereof) or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property or assets, this Agreement, or any other documents or actions to enforce judgments in respect of any thereof, it hereby irrevocably waives such immunity, and any defense based on such immunity, in respect of its obligations under the above-referenced documents and the transactions contemplated thereby, to the extent permitted by law.

12. Arms-Length Transaction. Each of the Co-Issuers acknowledges and agrees that (i) Sandler O'Neill is acting solely in the capacity of an arm's length contractual counterparty to the Issuer and the Co-Issuer with respect to the placement of the Notes pursuant to this Agreement and not as a financial advisor or a fiduciary to, or agent of, the Issuer or the Co-Issuer or any other person, (ii) Sandler O'Neill is not advising the Issuer, the Co-Issuer or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction, (iii) the Issuer and the Co-Issuer shall consult with their own advisors concerning any such matter and shall be responsible for making their own independent investigation and appraisal of any transactions contemplated by this Agreement, and the Placement Agent shall have no responsibility or liability to the Issuer or the Co-Issuer with respect thereto, and (iv) any review by the Placement Agent of the Issuer, the Co-Issuer or any transactions contemplated by this Agreement or any other matters relating thereto will be performed solely for the benefit of the Placement Agent and shall not be on behalf of the Issuer, the Co-Issuer or any other person. Each of the Co-Issuers waives, to the fullest extent permitted by law, any and all claims it may have against the Placement Agent for breach of fiduciary duty or alleged breach of fiduciary duty

and agrees that the Placement Agent shall have no liability (whether direct or indirect) to either of the Co-Issuers in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of such Co-Issuer.

13. Judgment Currency. If, pursuant to a judgment or order being made or registered against either the Issuer or the Co-Issuer, any payment under or in connection with this Agreement to the Placement Agent is made or satisfied in a currency (the " Judgment Currency") other than in United States Dollars then, to the extent that the payment (when converted into United States Dollars at the rate of exchange on the date of payment or, if it is not practicable for the Placement Agent to purchase United States Dollars with the Judgment Currency on the date of payment, at the rate of exchange as soon thereafter as it is practicable to do so) actually received by the Placement Agent falls short of the amount due under the terms of this Agreement, the Issuer or the Co-Issuer, as applicable, shall, to the extent permitted by law, as a separate and independent obligation, indemnify and hold harmless the Placement Agent against the amount of such short fall and such indemnity shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. For the purpose of this Section 13, "rate of exchange" means the rate at which the Placement Agent is able on the relevant date to purchase United States Dollars with the Judgment Currency and shall take into account any premium and other costs of exchange.

14. Amendments to this Agreement. This Agreement may be amended by the parties hereto only if such amendment is specifically approved in writing by the Issuer, the Co-Issuer and the Placement Agent. The Co-Issuers must provide notice of any amendment or modification of this Agreement to the Rating Agency rating the Notes at the time of any such amendment or modification.

15. Parties. This Agreement shall inure to the benefit of and be binding upon the Placement Agent, the Co-Issuers and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Placement Agent, the Co-Issuers and their respective successors and affiliates and the controlling persons and partners, officers, directors, agents and

employees referred to in Section 8, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provisions herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Placement Agent, the Co-Issuers, each of their respective affiliates and their respective successors, and said controlling persons and officers, directors and managers and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities shall be deemed to be a successor by reason merely of such purchase.

16. Governing Law. **This Agreement shall be construed in accordance with the internal laws of the State of New York, without giving effect to the choice of law principles thereof.**

17. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same agreement.

18. Representations, Warranties and Indemnities to Survive Delivery. The respective representations, warranties and indemnities of the Issuer, the Co-Issuer, of their respective officers and of the Placement Agent set forth in or made pursuant to, this Agreement, including any warranty relating to the payment of expenses owed to the Placement Agent hereunder shall remain in full force and effect and shall survive delivery of and payment for the Securities and any termination of this Agreement.

19. No Petition Agreement. The Placement Agent agrees that, so long as any Note is outstanding and for a period of one year plus one day or, if longer, the applicable preference period then in effect after payment in full of all amounts payable under or in respect of the Transaction Documents, it shall not institute against or join or assist any other Person in instituting against, any of the Issuer or the Co-Issuer any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings under any federal or state bankruptcy or similar law of any jurisdiction. This Section 19 shall survive any termination of this Agreement.

20. Non-Recourse Agreement. Notwithstanding any other provision of this Agreement, all obligations of the Issuer or the Co-Issuer arising hereunder or in connection herewith are limited in recourse to the Pledged Obligations and to the extent the proceeds of the Pledged Obligations, when applied in accordance with the Priority of Payments, are insufficient to meet the obligations of the Issuer or the Co-Issuer hereunder in full, the Issuer or the Co-Issuer, as applicable, shall have no further liability in respect of any such outstanding obligations and any claims against the Issuer or the Co-Issuer, as applicable, shall be extinguished and shall not thereafter revive. The Placement Agent hereby agrees and acknowledges that the obligations of the Co-Issuers hereunder are solely the corporate obligations of the Co-Issuer and that no recourse shall be had against any officer, director, employee, shareholder, limited partner or incorporator of the Co-Issuers for any amounts payable hereunder. This Section 20 shall survive any termination of this Agreement.

21. Taxes. The Issuer shall not be obligated to pay any additional amounts to the holders or beneficial owners of any Note as a result of withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges with respect to such Notes.

22. Entire Agreement. This Agreement constitutes the entire understanding and agreement among the parties hereto and supercedes any and all prior understandings amongst them relating to the subject matter hereof (apart from the letter agreement dated December 28, 2012 between Arbor Realty Trust, Inc. and Sandler O'Neill, which shall remain in full force and effect in accordance with its terms).

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Placement Agreement as of the day and year first above written.

ARBOR REALTY COLLATERALIZED
LOAN OBLIGATION 2013-1, LTD.,
as Issuer

By: /s/ Jarladth Travers
Name: Jarladth Travers
Title: Director

ARBOR REALTY COLLATERALIZED
LOAN OBLIGATION 2013-1 LLC,
as Co-Issuer

By: /s/ Donald J. Puglisi
Name: Donald J. Puglisi
Title: Independent Manager

SANDLER O'NEILL & PARTNERS, L.P.,
as Placement Agent

By: Sandler O'Neill & Partners Corp.,
its sole general partner

By: /s/ Christopher S. Hooper
Name: Christopher S. Hooper
Title: An Officer of the Corporation

EXHIBIT A

ARBOR REALTY COLLATERAL MANAGEMENT, LLC

Officer's Certificate

The undersigned, , pursuant to Section 7(c) of that certain Placement Agreement dated as of January 17, 2013, by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., Arbor Realty Collateralized Loan Obligation 2013-1 LLC and Sandler O'Neill & Partners, L.P. (the "Placement Agreement") does HEREBY CERTIFY that:

(a) The Loan Obligation Manager (i) is a limited liability company, duly organized, is validly existing and is in good standing under the laws of the State of Delaware, (ii) has full power and authority to own its assets and to transact the business in which it is currently engaged, and (iii) is duly qualified and is in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of the Loan Obligation Management Agreement and the Indenture would require, such qualification, except for failures to be so qualified that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Loan Obligation Manager or on the ability of the Loan Obligation Manager to perform its obligations thereunder, or on the validity or enforceability of, the Loan Obligation Management Agreement and the provisions of the Indenture applicable to the Loan Obligation Manager; the Loan Obligation Manager has full power and authority to execute, deliver and perform the Loan Obligation Management Agreement and its obligations thereunder and the provisions of the Indenture applicable to it; the Loan Obligation Management Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding agreement of the Loan Obligation Manager, enforceable against it in accordance with the terms thereof, except that the enforceability thereof may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(b) Neither the Loan Obligation Manager nor any of its Affiliates is in violation of any Federal or state securities law or regulation promulgated thereunder that would have a material adverse effect upon the ability of the Loan Obligation Manager to perform its duties under the Loan Obligation Management Agreement or the Indenture, and there is no charge, investigation, action, suit or proceeding before or by any court or regulatory agency pending or, to the best knowledge of the Loan Obligation Manager, threatened which could reasonably be expected to have a material adverse effect upon the ability of the Loan Obligation Manager to perform its duties under the Loan Obligation Management Agreement or the Indenture;

(c) Neither the execution and delivery of the Loan Obligation Management Agreement nor the performance by the Loan Obligation Manager of its duties thereunder or under the Indenture conflicts with or will violate or result in a breach or violation of any of the

terms or provisions of, or constitutes a default under: (i) the limited liability company agreement of the Loan Obligation Manager, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement or other evidence of indebtedness or other agreement, obligation, condition, covenant or instrument to which the Loan Obligation Manager is a party or is bound, (iii) any law, decree, order, rule or regulation applicable to the Loan Obligation Manager of any court or regulatory, administrative or governmental agency, body or authority or arbitrator having jurisdiction over the Loan Obligation Manager or its properties, and which would have, in the case of any of (i), (ii) or (iii) of this subsection (c), either individually or in the aggregate, a material adverse effect on the business, operations, assets or financial condition of the Loan Obligation Manager or the ability of the Loan Obligation Manager to perform its obligations under the Loan Obligation Management Agreement or the Indenture;

(d) No consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person is required for the performance by the Loan Obligation Manager of its duties under the Loan Obligation Management Agreement and under the Indenture, except such as have been duly made or obtained;

(e) The Offering Memorandum, as of the date thereof (including as of the date of any supplement thereto) and as of the Closing Date does not contain any untrue statement of a material fact and does not omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(f) On the Closing Date, there shall not have been, since the respective dates as of which information is given in the Offering Materials, any material adverse change or prospective material adverse change with respect to the Issuer, the Co-Issuer or the pool of Assets; and

(g) The Loan Obligation Manager is registered as an investment adviser under the United States Investment Advisers Act or 1940, as amended.

Capitalized terms not set forth herein shall have the meaning ascribed thereto in the Indenture.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 28th day of January, 2013.

ARBOR REALTY COLLATERAL
MANAGEMENT, LLC

By: _____
Name:
Title:

EXHIBIT B

[•]

Officer's Certificate

The undersigned, , pursuant to Section 7(c) of that certain Placement Agreement dated as of January 17, 2013, by and among Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., Arbor Realty Collateralized Loan Obligation 2013-1 LLC and Sandler O'Neill & Partners, L.P. (the "Placement Agreement") does HEREBY CERTIFY that:

(a) [•] ("Seller") (i) is a corporation, duly incorporated, is validly existing and is in good standing under the laws of the State of [•], (ii) has full power and authority to own its assets and to transact the business in which it is currently engaged, and (iii) is duly qualified and is in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of the Loan Obligation Purchase Agreement and the Indenture would require, such qualification, except for failures to be so qualified that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of Seller or on the ability of Seller to perform its obligations thereunder, or on the validity or enforceability of, the Loan Obligation Purchase Agreement and the provisions of the Indenture applicable to Seller; Seller has full power and authority to execute, deliver and perform the Loan Obligation Purchase Agreement and its obligations thereunder and the provisions of the Indenture applicable to it; the Loan Obligation Purchase Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding agreement of Seller, enforceable against it in accordance with the terms thereof, except that the enforceability thereof may be subject to (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(b) Neither Seller nor any of its Affiliates is in violation of any Federal or state securities law or regulation promulgated thereunder that would have a material adverse effect upon the ability of Seller to perform its duties under the Loan Obligation Purchase Agreement or the Indenture, and there is no charge, investigation, action, suit or proceeding before or by any court or regulatory agency pending or, to the best knowledge of Seller, threatened which could reasonably be expected to have a material adverse effect upon the ability of Seller to perform its duties under the Loan Obligation Purchase Agreement or the Indenture;

(c) Neither the execution and delivery of the Loan Obligation Purchase Agreement nor the performance by Seller of its duties thereunder or under the Indenture conflicts with or will violate or result in a breach or violation of any of the terms or provisions of, or constitutes a default under: (i) the articles of incorporation or by-laws of Seller, (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement or other evidence of indebtedness or other agreement, obligation, condition, covenant or instrument to which Seller is

a party or is bound, (iii) any law, decree, order, rule or regulation applicable to Seller of any court or regulatory, administrative or governmental agency, body or authority or arbitrator having jurisdiction over Seller or its properties, and which would have, in the case of any of (i), (ii) or (iii) of this subsection (c), either individually or in the aggregate, a material adverse effect on the business, operations, assets or financial condition of Seller or the ability of Seller to perform its obligations under the Loan Obligation Purchase Agreement or the Indenture;

(d) No consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person is required for the performance by Seller of its duties under the Loan Obligation Purchase Agreement and under the Indenture, except such as have been duly made or obtained; and

(e) With respect to any information in the Offering Memorandum regarding Seller, the Offering Memorandum, as of the date thereof (including as of the date of any supplement thereto) and as of the Closing Date does not contain any untrue statement of a material fact and does not omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Capitalized terms not set forth herein shall have the meaning ascribed thereto in the Indenture.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 28th day of January, 2013.

[•]

By: _____
Name:
Title:

SCHEDULE A

Notes		Principal Amount
Class A Notes	$	156,000,000
Class B Notes	$	21,000,000

Exhibit 10.43

Execution Version

LOAN OBLIGATION PURCHASE AGREEMENT

This LOAN OBLIGATION PURCHASE AGREEMENT (this "Agreement") is made as of January 28, 2013 by and between Arbor Realty SR, Inc., a Maryland corporation (the "Seller"), and Arbor Realty Collateralized Loan Obligation 2013-1, Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer").

W I T N E S S E T H:

WHEREAS, the Issuer desires to purchase from the Seller and the Seller desires to sell to the Issuer an initial portfolio of loan obligations (the "Initial Portfolio");

WHEREAS, in connection with the sale of such obligations to the Issuer, the Seller desires to release any interest it may have in the loan obligations and desires to make certain representations and warranties regarding the loan obligations;

WHEREAS, the Issuer and Arbor Realty Collateralized Loan Obligation 2013-1 LLC, a Delaware limited liability company (the " Co-Issuer"), intend to issue (a) the U.S.$156,000,000 Class A Senior Secured Floating Rate Notes Due 2023 (the " Class A Notes"), (b) the U.S.$21,000,000 Class B Secured Floating Rate Notes Due 2023 (the "Class B Notes" and, together with the Class A Notes, the "Notes"), pursuant to an indenture, dated as of January 28, 2013 (the "Indenture"), by and among the Issuer, the Co-Issuer, U.S. Bank National Association, as trustee, paying agent, calculation agent, transfer agent, custodial securities intermediary, backup advancing agent and notes registrar (together with any successor trustee permitted under the Indenture, the "Trustee") and Arbor Realty SR, Inc., as advancing agent;

WHEREAS, pursuant to its Governing Documents, certain resolutions of its Board of Directors and a preferred shares paying agency agreement, the Issuer also intends to issue the U.S.$82,987,000 aggregate notional amount preferred shares (the " Preferred Shares" and, together with the Notes, the "Securities");

WHEREAS, the Issuer intends to pledge the obligations purchased hereunder by the Issuer to the Trustee as security for the Notes;

NOW, THEREFORE, the parties hereto agree as follows:

1. Defined Terms.

Capitalized terms used and not otherwise defined herein shall have the same meanings ascribed to such terms in the Indenture.

"Assignment of Leases, Rents and Profits": With respect to any Mortgage, an assignment of leases thereunder, notice of transfer or equivalent instrument in recordable form,

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sufficient under the laws of the jurisdiction wherein the Underlying Mortgage Property is located to reflect the assignment of leases to the Mortgagee.

"Assignment of Mortgage": With respect to any Mortgage, an assignment of the Mortgage, notice of transfer or equivalent instrument in recordable form, sufficient under the laws of the jurisdiction wherein the related Underlying Mortgage Property is located to reflect the assignment of the Mortgage to the Mortgagee.

"Borrower": The Borrower under a Mortgage Loan.

"Collateral File": With respect to any Loan Obligation, the Underlying Instruments.

"Companion Loan": A mortgage loan secured on a *pari passu* basis with a Mortgage Loan.

"Cut-Off Date": Has the same meaning as Reference Date.

"Cut-Off Date Stated Principal Balance": With respect to each Mortgage Loan, the outstanding principal balance of the Underlying Note as of the Cut-Off Date.

"Exception Schedule": The schedule identifying any exceptions to the representations and warranties made with respect to the Loan Obligations conveyed hereunder, which is attached hereto as Schedule 1(a).

"Loan Documents": The documents evidencing a Mortgage Loan.

"Loan Obligation": Each Whole Loan or Senior Participation identified on Exhibit A hereto.

"Mortgage": With respect to each Loan Obligation, the mortgage, deed of trust, deed to secure debt or similar instrument that secures the Underlying Note and creates a lien on the fee or leasehold interest in the related Underlying Mortgage Property.

"Mortgagee": With respect to each Mortgage Loan, the party secured by the related Mortgage.

"Mortgage File": The file containing the Loan Documents.

"Mortgage Loan": With respect to (1) each Loan Obligation that is a Whole Loan, such Whole Loan and (2) with respect to each Loan Obligation that is a Senior Participation, the underlying Whole Loan in which such Senior Participation represents an interest..

"Mortgage Rate": The stated rate of interest on a Mortgage Loan.

"Mortgaged Property": With respect to each Mortgage Loan, the real property securing such Mortgage Loan.

"Reference Date": With respect to each Loan Obligation and Mortgage Loan, the later of December 1, 2012, or the related origination date.

"Senior Participation": A senior participation interest in a Whole Loan.

"Servicing File": The file maintained by the servicer with respect to each Loan Obligation

"Stated Principal Balance": With respect to each Loan Obligation and Mortgage Loan, the outstanding principal balance thereof.

"Underlying Note or Note": With respect to each Mortgage Loan, the promissory note evidencing the indebtedness of the related Underlying Obligor, together with any rider, addendum or amendment thereto, or any renewal, substitution or replacement of such note.

"Underlying Obligor": With respect to any Mortgage Loan, the related Borrower or other obligor thereunder.

"Whole Loan": A mortgage loan secured by a first mortgage lien on multi-family property.

2. Purchase and Sale of the Loan Obligations.

(a) Set forth in Exhibit A hereto is a list of Loan Obligations and certain other information with respect to each of the Loan Obligations. The Seller agrees to sell to the Issuer, and the Issuer agrees to purchase from the Seller, all of the Loan Obligations at an aggregate purchase of U.S$209,987,000 (the "Purchase Price"). Immediately prior to such sale, the Seller hereby conveys and assigns all right, title and interest it may have in such Loan Obligation to the Issuer.

(b) Delivery or transfer of the Loan Obligations shall be made on or about January 28, 2013 (the " Closing Date") at the time and in the manner agreed upon by the parties. Upon receipt of evidence of the delivery or transfer of the Loan Obligations to the Issuer or its designee, the Issuer shall pay or cause to be paid to the Seller the Purchase Price in the manner agreed upon by the Seller and the Issuer.

3. Conditions.

The obligations of the parties under this Agreement are subject to satisfaction of the following conditions:

(a) the representations and warranties contained herein shall be accurate and complete;

(b) on the Closing Date, counsel for the Issuer shall have been furnished with all such documents, certificates and opinions as such counsel may reasonably request in order to evidence the accuracy and completeness of any of the representations, warranties or statements

of the Seller, the performance of any of the obligations of the Seller hereunder or the fulfillment of any of the conditions herein contained; and

(c) the issuance of the Securities and receipt by the Issuer of full payment therefor.

4. Covenants, Representations and Warranties.

(a) Each party hereby represents and warrants to the other party that (i) it is duly organized or incorporated, as the case may be, and validly existing as an entity under the laws of the jurisdiction in which it is incorporated, chartered or organized, (ii) it has the requisite power and authority to enter into and perform this Agreement, and (iii) this Agreement has been duly authorized by all necessary action, has been duly executed by one or more duly authorized officers and is the valid and binding agreement of such party enforceable against such party in accordance with its terms.

(b) The Seller further represents and warrants to the Issuer that:

(i) immediately prior to the sale of the Loan Obligations to the Issuer, the Seller shall own the Loan Obligations, shall have good and marketable title thereto, free and clear of any pledge, lien, security interest, charge, claim, equity, or encumbrance of any kind, and upon the delivery or transfer of the Loan Obligations to the Issuer as contemplated herein, the Issuer shall receive good and marketable title to the Loan Obligations, free and clear of any pledge, lien, security interest, charge, claim, equity or encumbrance of any kind;

(ii) the Seller acquired its ownership in the Loan Obligations in good faith without notice of any adverse claim, and upon the delivery or transfer of the Loan Obligations to the Issuer as contemplated herein, the Issuer shall acquire ownership in the Loan Obligations in good faith without notice of any adverse claim;

(iii) the Seller has not assigned, pledged or otherwise encumbered any interest in the Loan Obligations (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released);

(iv) none of the execution, delivery or performance by the Seller of this Agreement shall (x) conflict with, result in any breach of or constitute a default (or an event which, with the giving of notice or passage of time, or both, would constitute a default) under, any term or provision of the organizational documents of the Seller, or any material indenture, agreement, order, decree or other material instrument to which the Seller is party or by which the Seller is bound which materially adversely affects the Seller's ability to perform its obligations hereunder or (y) violate any provision of any law, rule or regulation applicable to the Seller of any regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Seller or its properties which has a material adverse effect;

(v) no consent, license, approval or authorization from, or registration or qualification with, any governmental body, agency or authority, nor any consent,

approval, waiver or notification of any creditor or lessor is required in connection with the execution, delivery and performance by the Seller of this Agreement the failure of which to obtain would have a material adverse effect except such as have been obtained and are in full force and effect;

(vi) it has adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations. It is generally able to pay, and as of the date hereof is paying, its debts as they come due. It has not become or is not presently, financially insolvent nor will it be made insolvent by virtue of its execution of or performance under any of the provisions of this Agreement within the meaning of the bankruptcy laws or the insolvency laws of any jurisdiction. It has not entered into this Agreement or the transactions effectuated hereby in contemplation of insolvency or with intent to hinder, delay or defraud any creditor;

(vii) no proceedings are pending or, to its knowledge, threatened against it before any federal, state or other governmental agency, authority, administrative or regulatory body, arbitrator, court or other tribunal, foreign or domestic, which, singularly or in the aggregate, could materially and adversely affect the ability of the Seller to perform any of its obligations under this Agreement; and

(viii) the consideration received by it upon the sale of the Loan Obligations owned by it constitutes fair consideration and reasonably equivalent value for such Loan Obligations.

(c) the Seller further represents and warrants to the Issuer that:

(i) the Underlying Instruments with respect to each Loan Obligation do not prohibit the Issuer from granting a security interest in and assigning and pledging such Loan Obligation to the Trustee;

(ii) the information set forth with respect to the Loan Obligations in Schedule A of the Indenture is true and correct;

(iii) none of the Loan Obligations will cause the Issuer to have payments subject to foreign or United States withholding tax;

(iv) with respect to each Loan Obligation, except as set forth in the Exception Schedule, the representations and warranties set forth in Schedule 1(a) are true and correct; and

(v) the Seller has delivered to the Issuer or its designee (A) the original of any note (or a copy of such note together with a lost note affidavit and indemnity), certificate or other instrument, if any, constituting or evidencing such Loan Obligation together with an assignment in blank and all other assignment documents reasonably necessary to evidence the transfer of the Loan Obligation including, where applicable, UCC assignments and any other Underlying Instrument and copies of any other documents related to the Loan Obligation in the Seller's possession, including copies of any related mortgage loan documents if the Loan Obligation is a Mortgage Loan, related to such

Loan Obligation the delivery of which is necessary to perfect the security interest of the Trustee in such Loan Obligation and (B) copies of the Underlying Instruments.

(d) For purposes of the representations and warranties set forth in Schedule 1(a), the phrases "to the knowledge of the Seller" or "to the Seller's knowledge" shall mean, except where otherwise expressly set forth in a particular representation and warranty, the actual state of knowledge of the Seller or any servicer acting on its behalf regarding the matters referred to, in each case: (i) at the time of the Seller's origination or acquisition of the particular Loan Obligation, after the Seller having conducted such inquiry and due diligence into such matters as would be customarily performed by a prudent institutional commercial or multifamily, as applicable, mortgage lender; and (ii) subsequent to such origination, the Seller having utilized monitoring practices that would be utilized by a prudent commercial or multifamily, as applicable, mortgage lender and having made prudent inquiry as to the knowledge of the servicer servicing such Loan Obligation on its behalf. Also, for purposes of such representations and warranties, the phrases "to the actual knowledge of the Seller" or "to the Seller's actual knowledge" shall mean, except where otherwise expressly set forth below, the actual state of knowledge of the Seller or any servicer acting on its behalf without any express or implied obligation to make inquiry. All information contained in documents which are part of or required to be part of a Collateral File shall be deemed to be within the knowledge and the actual knowledge of the Seller. Wherever there is a reference to receipt by, or possession of, the Seller of any information or documents, or to any action taken by the Seller or not taken by the Seller, such reference shall include the receipt or possession of such information or documents by, or the taking of such action or the failure to take such action by, the Seller or any servicer acting on its behalf.

(e) If the Seller receives written notice of a breach of a representation or a warranty pursuant to this Agreement relating to any Loan Obligation, then the Seller shall (1) not later than 90 days from receipt of such notice cure such breach, (2) subject to the consent of a majority of the holders of each Class of Notes (excluding any Note held by the Seller or any of its affiliates), make a cash payment to the Issuer in an amount that the Loan Obligation Manager on behalf of the Issuer determines is sufficient to compensate the Issuer for such breach of representation or warranty (such payment, a "Loss Value Payment"), which Loss Value Payment will be deemed to cure sure breach of representation or warranty or (3) if such breach cannot be cured within such 90-day period, repurchase the affected Loan Obligation not later than the end of such 90-day period at the Repurchase Price (as defined in Section 16.3(c) of the Indenture)

(f) The Seller hereby acknowledges and consents to the collateral assignment by the Issuer of this Agreement and all right, title and interest thereto to the Trustee, for the benefit of the Secured Parties, as required in Sections 15.1(f)(i) and (ii) of the Indenture.

(g) The Seller hereby covenants and agrees that it shall perform any provisions of the Indenture made expressly applicable to the Seller by the Indenture, as required by Section 15.1(f)(i) of the Indenture.

(h) The Seller hereby covenants and agrees that all of the representations, covenants and agreements made by or otherwise entered into by it in this Agreement shall also be for the benefit of the Secured Parties, as required by Section 15.1(f)(ii) of the Indenture and

agrees that enforcement of any rights hereunder by the Trustee shall have the same force and effect as if the right or remedy had been enforced or executed by the Issuer but that such rights and remedies shall not be any greater than the rights and remedies of the Issuer under Section 4(e) above.

(i) On or prior to the Closing Date, the Seller shall deliver the Underlying Instruments to the Issuer or, at the direction of the Issuer, to the Trustee, with respect to each Loan Obligation sold to the Issuer hereunder. The Seller hereby covenants and agrees, as required by Section 15.1(f)(iii) of the Indenture, that it shall deliver to the Trustee duplicate original copies of all notices, statements, communications and instruments delivered or required to be delivered to the Issuer by each party pursuant to this Agreement.

(j) The Seller hereby covenants and agrees, as required by Section 15.1(f)(iv) of the Indenture, that it shall not enter into any agreement amending, modifying or terminating this Agreement (other than in respect of an amendment or modification to cure any inconsistency, ambiguity or manifest error, in each case, so long as such amendment or modification does not affect in any material respects the interests of any Secured Party), without notifying the Rating Agency n.

(k) Seller hereby covenants, that at all times (1) Seller will qualify as a REIT for federal income tax purposes and the Issuer will qualify as a Qualified REIT Subsidiary (or other disregarded entity) of Seller for federal income tax purposes, or (2) based on an Opinion of Counsel, the Issuer will be treated as a Qualified REIT Subsidiary (or other disregarded entity) of a REIT other than Seller, or (3) based on an Opinion of Counsel, the Issuer will be treated as a foreign corporation that will not be treated as engaged in a trade or business in the United States for U.S. federal income tax purposes.

5. Sale.

It is the intention of the parties hereto that the transfer and assignment contemplated by this Agreement shall constitute a sale of the Loan Obligations from the Seller to the Issuer and the beneficial interest in and title to the Loan Obligations shall not be part of the Seller's estate in the event of the filing of a bankruptcy petition by or against the Seller under any bankruptcy law. In the event that, notwithstanding the intent of the parties hereto, the transfer and assignment contemplated hereby is held not to be a sale (for non-tax purposes), this Agreement shall constitute a security agreement under applicable law, and, in such event, the Seller shall be deemed to have granted, and the Seller hereby grants, to the Issuer a security interest in the Loan Obligations for the benefit of the Secured Parties and its assignees as security for the Seller's obligations hereunder and the Seller consents to the pledge of the Loan Obligations to the Trustee.

6. Non-Petition.

The Seller agrees not to institute against, or join any other Person in instituting against the Issuer any bankruptcy, reorganization,

arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws in any jurisdiction until at least one year and one day or, if longer, the applicable preference

period then in effect after the payment in full of all Notes issued under the Indenture. This Section 6 shall survive the termination of this Agreement for any reason whatsoever.

7. Amendments.

This Agreement may not be modified, amended, altered or supplemented, except upon the execution and delivery of a written agreement by the parties hereto and receipt by the parties hereto of prior written confirmation of the Rating Agency that such amendment or modification shall not cause the rating of the Notes to be reduced.

8. Communications.

Except as may be otherwise agreed between the parties, all communications hereunder shall be made in writing to the relevant party by personal delivery or by courier or first-class registered mail, or the closest local equivalent thereto, or by facsimile transmission confirmed by personal delivery or by courier or first-class registered mail as follows:

To the Seller:
Arbor Realty SR, Inc.
333 Earle Ovington Boulevard, 9th Floor
Uniondale, New York 11553
Attention: Executive Vice President — Structured Securitization
Telephone Number: (212) 389-6546
Facsimile Number: (212) 389-6573

To the Issuer:
Arbor Realty Collateralized Loan Obligation 2013-1, Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Queensgate House
Grand Cayman, KY1-1102 Cayman Islands
Attention: The Directors
Telephone Number: (345) 945-7099
Facsimile Number: (345) 945-7100

with a copy to the Loan Obligation Manager (as addressed above);

or to such other address, telephone number or facsimile number as either party may notify to the other in accordance with the terms hereof from time to time. Any communications hereunder shall be effective upon receipt.

9. Governing Law and Consent to Jurisdiction.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS THEREOF (OTHER THAN TITLE 14 OF ARTICLE 5 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(b) The parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of the United States District Court for the Southern District of New York and any court in the State of New York located in the City and County of New York, and any appellate court hearing appeals from the Courts mentioned above, in any action, suit or proceeding brought against it and to or in connection with this Agreement or the transaction contemplated hereunder or for recognition or enforcement of any judgment, and the parties hereto hereby irrevocably and unconditionally agree that all claims in respect of any such action or proceeding may be heard or determined in such New York State court or, to the extent permitted by law, in such federal court. The parties hereto agree that a final judgment in any such action, suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. To the extent permitted by applicable law, the parties hereto hereby waive and agree not to assert by way of motion, as a defense or otherwise in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such courts, that the suit, action or proceeding is brought in any inconvenient forum, that the venue of the suit, action or proceeding is improper or that the subject matter thereof may not be litigated in or by such courts.

(c) To the extent permitted by applicable law, the parties hereto shall not seek and hereby waive the right to any review of the judgment of any such court by any court of any other nation or jurisdiction which may be called upon to grant an enforcement of such judgment.

(d) The Issuer irrevocably appoints CT Corporation System, 111 8th Avenue, 13th Floor, New York, New York 10011, as its agent

for service of process in New York in respect of any such suit, action or proceeding. The Issuer agrees that service of such process upon such agent shall constitute personal service of such process upon it.

(e) The Seller irrevocably consents to the service of any and all process in any action or proceeding by the mailing by certified mail, return receipt requested, or delivery requiring proof of delivery of copies of such process to it at the address set forth in paragraph 8 hereof.

10. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

11. Limited Recourse Agreement.

All obligations of the Issuer arising hereunder or in connection herewith are limited in recourse to the Pledged Obligations and to the extent the proceeds of the Pledged Obligations, when applied in accordance with the Priority of Payments, are insufficient to meet the obligations of the Issuer hereunder in full, the Issuer shall have no further liability in respect of any such outstanding obligations and any obligations of, and claims against, the Issuer, arising hereunder or in connection herewith, shall be extinguished and shall not thereafter revive. The obligations of the Issuer hereunder or in connection herewith will be solely the corporate obligations of the Issuer and the Seller will not have recourse to any of the directors, officers, employees, shareholders or affiliates of the Issuer with respect to any claims, losses, damages,

liabilities, indemnities or other obligations in connection with any transactions contemplated hereby or in connection herewith. This Section 11 shall survive the termination of this Agreement for any reason whatsoever.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Loan Obligations Purchase Agreement as of the day and year first above written.

ARBOR REALTY SR, INC.

By: /s/ Valerie Rubin
Name: Valerie Rubin
Title: Authorized Signatory

ARBOR REALTY COLLATERALIZED LOAN OBLIGATION 2013-1, LTD.

By: /s/ Jarladth Travers
Name: Jarladth Travers
Title: Director

Exhibit A

LIST OF LOAN OBLIGATIONS

Alphabet Portfolio
Avery Park Apartments
Birchwood & Quail Run
Central Pointe
Edentree
Edge at White Rock
The Elms Apartments
Iris Gardens
Keller Oaks
Kunkel Square
Orlando Multifamily Portfolio

Riverfront Towers
Southwest Oaks
St. Ives Apartments
Summerhill
Summerlyn Apartments
Ventana
Victory Road
Vintage
West Palm Beach Multifamily Portfolio

SCHEDULE 1(a)

REPRESENTATIONS AND WARRANTIES RE:
LOAN OBLIGATIONS

(1) Whole Loan; Ownership of Loan Obligations. Each Closing Date Loan Obligation is a whole loan and not a participation interest in a Mortgage Loan. At the time of the sale, transfer and assignment to Purchaser, no Note, Mortgage or Senior Participation was subject to any assignment (other than assignments to the Seller), participation (other than with respect to the Senior Participations) or pledge, and the Seller had good title to, and was the sole owner of, each Loan Obligation free and clear of any and all liens, charges, pledges, encumbrances, participations (other than with respect to the Senior Participations), any other ownership interests on, in or to such Loan Obligation other than any servicing rights appointment or similar agreement. Seller has full right and authority to sell, assign and transfer each Loan Obligation, and the assignment to Purchaser constitutes a legal, valid and binding assignment of such Loan Obligation free and clear of any and all liens, pledges, charges or security interests of any nature encumbering such Loan Obligation.

(2) Loan Document Status. Each related Note, Mortgage, Assignment of Leases, Rents and Profits (if a separate instrument), guaranty and other agreement executed by or on behalf of the related Borrower, guarantor or other obligor in connection with such Mortgage Loan is the legal, valid and binding obligation of the related Borrower, guarantor or other obligor (subject to any non-recourse provisions contained in any of the foregoing agreements and any applicable state anti-deficiency or market value limit deficiency legislation), as applicable, and is enforceable in accordance with its terms, except (i) as such enforcement may be limited by (a) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (b) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law) and (ii) that certain provisions in such Loan Documents (including, without limitation, provisions requiring the payment of default interest, late fees or prepayment/yield maintenance or prepayment fees, charges and/or premiums) are, or may be, further limited or rendered unenforceable by or under applicable law, but (subject to the limitations set forth in clause (i) above) such limitations or unenforceability will not render such Loan Documents invalid as a whole or materially interfere with the mortgagee's realization of the principal benefits and/or security provided thereby (clauses (i) and (ii) collectively, the "Standard Qualifications").

Except as set forth in the immediately preceding sentences, there is no valid offset, defense, counterclaim or right of rescission available to the related Borrower with respect to any of the related Notes, Mortgages or other Loan Documents, including, without limitation, any such valid offset, defense, counterclaim or right based on intentional fraud by Seller in connection with the origination of the Mortgage Loan, that would deny the mortgagee the principal benefits intended to be provided by the Note, Mortgage or other Loan Documents.

(3) Mortgage Provisions. The Loan Documents for each Mortgage Loan contain provisions that render the rights and remedies of the holder thereof adequate for the practical realization against the Mortgaged Property of the principal benefits of the security intended to be provided thereby, including realization by judicial or, if applicable, nonjudicial foreclosure subject to the limitations set forth in the Standard Qualifications.

(4) Mortgage Status; Waivers and Modifications. Since origination and except prior to the Cut-off Date by written instruments set forth in the related Mortgage File (a) the material terms of such Mortgage, Note, Mortgage Loan guaranty, Participation Agreement, if applicable, and related Loan Documents have not been waived, impaired, modified, altered, satisfied, canceled, subordinated or rescinded in any respect which materially interferes with the security intended to be provided by such Mortgage; (b) no related

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Mortgaged Property or any portion thereof has been released from the lien of the related Mortgage in any manner which materially interferes with the security intended to be provided by such Mortgage or the use or operation of the remaining portion of such Mortgaged Property; and (c) neither the related Borrower nor the related guarantor nor the related Participating Institution has been released from its material obligations under the Mortgage Loan or Participation Agreement, if applicable.

(5) Lien; Valid Assignment. Subject to the Standard Qualifications, each assignment of Mortgage and assignment of Assignment of Leases, Rents and Profits from the Seller constitutes a legal, valid and binding assignment from the Seller. Each related Mortgage is a legal, valid and enforceable first lien on the related Borrower's fee or leasehold interest in the Mortgaged Property in the principal amount of such Mortgage Loan or allocated loan amount subject to the Title Exceptions, Permitted Encumbrances and Standard Qualifications (each as defined herein). Each related Assignment of Mortgage and Assignment of Leases, Rents and Profits from the Seller to the Purchaser constitutes the legal, valid and binding first priority assignment from the Seller, except as such enforcement may be limited by the Standard Qualifications, any Permitted Encumbrances and any Title

Exceptions (as defined herein). Each Mortgage and Assignment of Leases, Rents and Profits is freely assignable. Notwithstanding anything herein to the contrary, no representation is made as to the perfection of any security interest in rents or other personal property to the extent that possession or control of such items or actions other than the filing of Uniform Commercial Code (" UCC") financing statements is required in order to effect such perfection.

(6) Permitted Liens; Title Insurance. Each Mortgaged Property securing a Mortgage Loan is covered by an American Land Title Association loan title insurance policy or a comparable form of loan title insurance policy approved for use in the applicable jurisdiction (or, if such policy is yet to be issued, by a pro forma policy, a preliminary title policy with escrow instructions or a "marked up" commitment, in each case binding on the title insurer) (the "Title Policy") in the original principal amount of such Mortgage Loan (or with respect to a Mortgage Loan secured by multiple properties, an amount equal to at least the allocated loan amount with respect to the Title Policy for each such property) after all advances of principal (including any advances held in escrow or reserves), that insures for the benefit of the owner of the indebtedness secured by the Mortgage, the first priority lien of the Mortgage, which lien is subject only to the following title exceptions (each such title exception, including any exceptions set forth on Schedule 1(a) hereto, a "Title Exception" and collectively, the "Title Exceptions"): (a) the lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable; (b) covenants, conditions and restrictions, rights of way, easements and other matters of public record; (c) the exceptions (general and specific) and exclusions set forth in such Title Policy; (d) other matters to which like properties are commonly subject; (e) the rights of tenants (as tenants only) under leases (including subleases) pertaining to the related Mortgaged Property and condominium declarations; and (f) if the related Mortgage Loan is cross-collateralized and cross-defaulted with another Mortgage Loan (each a " Crossed Mortgage Loan"), the lien of the Mortgage for another Mortgage Loan that is cross-collateralized and cross-defaulted with such Crossed Mortgage Loan, provided that none of which items (a) through (f), individually or in the aggregate, materially and adversely interferes with the value or current use of the Mortgaged Property or the security intended to be provided by such Mortgage or the Borrower's ability to pay its obligations when they become due (collectively, the "Permitted Encumbrances"). Except as contemplated by clause (f) of the preceding sentence, none of the Permitted Encumbrances are mortgage liens that are senior to or coordinate and co-equal with the lien of the related Mortgage. Such Title Policy (or, if it has yet to be issued, the coverage to be provided thereby) is in full force and effect, all premiums thereon have been paid and no claims have been made by the Seller thereunder and no claims have been paid thereunder. Neither the Seller, nor to the Seller's knowledge, any other holder of the Mortgage Loan, has done, by act or omission, anything that would materially impair the coverage under such Title Policy.

(7) Junior Liens. It being understood that B notes and junior participation interests secured by the same Mortgage as a Mortgage Loan are not subordinate mortgages or junior liens, except for any Crossed Mortgage Loan, there are, as of origination, and to the Seller's knowledge, as of the Cut-off Date, no subordinate mortgages or junior liens securing the payment of money encumbering the related Mortgaged Property (other than Permitted Encumbrances and the Title Exceptions, taxes and assessments, mechanics and materialmens liens (which are the subject of the representation in paragraph (5) above), and equipment

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and other personal property financing). Except as set forth in Schedule 1(b), the Seller has no knowledge of any mezzanine debt secured directly by interests in the related Borrower.

(8) Assignment of Leases, Rents and Profits. There exists as part of the related Mortgage File an Assignment of Leases, Rents and Profits (either as a separate instrument or incorporated into the related Mortgage). Subject to the Permitted Encumbrances and the Title Exceptions, each related Assignment of Leases, Rents and Profits creates a valid first-priority collateral assignment of, or a valid first-priority lien or security interest in, rents and certain rights under the related lease or leases, subject only to a license granted to the related Borrower to exercise certain rights and to perform certain obligations of the lessor under such lease or leases, including the right to operate the related leased property, except as the enforcement thereof may be limited by the Standard Qualifications. The related Mortgage or related Assignment of Leases, Rents and Profits, subject to applicable law, provides that, upon an event of default under the Mortgage Loan, a receiver is permitted to be appointed for the collection of rents or for the related mortgagee to enter into possession to collect the rents or for rents to be paid directly to the mortgagee.

(9) UCC Filings. If the related Mortgaged Property is operated as a hospitality property, the Seller has filed and/or recorded or caused to be filed and/or recorded (or, if not filed and/or recorded, have been submitted in proper form for filing and/or recording), UCC financing statements in the appropriate public filing and/or recording offices necessary at the time of the origination of the Mortgage Loan to perfect a valid security interest in all items of physical personal property reasonably necessary to operate such Mortgaged Property owned by such Borrower and located on the related Mortgaged Property (other than any non-material personal property, any personal property subject to a purchase money security interest, a sale and leaseback financing arrangement as permitted under the terms of the related Mortgage Loan documents or any other personal property leases applicable to such personal property), to the extent perfection may be effected pursuant to applicable law by recording or filing, as the case may be. Subject to the Standard Qualifications, each related Mortgage (or equivalent document) creates a valid and enforceable lien and security interest on the items of personalty described above. No representation is made as to the perfection of any security interest in rents or other personal property to the extent that possession or control of such items or actions other than the filing of UCC financing statements are required in order to effect such perfection.

(10) Condition of Property. Seller or the originator of the Mortgage Loan (i) inspected or caused to be inspected each related Mortgaged Property at least six months prior to origination of the Mortgage Loan and, (ii) if the term of the Mortgage Loan has already continued for at least twelve months, inspected or caused to be inspected each related Mortgaged Property at least once during the past twelve months.

An engineering report or property condition assessment was prepared in connection with the origination of each Mortgage Loan at least twelve months prior to the origination of such Mortgage Loan. To the Seller's knowledge, based solely upon due diligence customarily performed in connection with the origination of comparable mortgage loans, as of the Closing Date, each related Mortgaged Property was free and clear of any material damage (other than (i) deferred maintenance for which escrows were established at origination and (ii) any damage fully covered by insurance) that would affect materially and adversely the use or value of such Mortgaged Property as security for the Mortgage Loan.

(11) Taxes and Assessments. All taxes, governmental assessments and other outstanding governmental charges (including, without limitation, water and sewage charges), or installments thereof, that could be a lien on the related Mortgaged Property that would be of equal or superior priority to the lien of the Mortgage and that prior to the Cut-off Date have become delinquent in respect of each related Mortgaged Property have been paid, or an escrow of funds has been established in an amount sufficient to cover such payments and reasonably estimated interest and penalties, if any, thereon. For purposes of this representation and warranty, real estate taxes and governmental assessments and other outstanding governmental charges and installments thereof shall not be considered delinquent until the earlier of (a) the date on which interest and/or penalties would first be payable thereon and (b) the date on which enforcement action is entitled to be taken by the related taxing authority.

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(12) Condemnation. As of the date of origination and to the Seller's knowledge as of the Cut-off Date, there is no proceeding pending, and, to the Seller's knowledge as of the date of origination and as of the Cut-off Date, there is no proceeding threatened, for the total or partial condemnation of such Mortgaged Property that would have a material adverse effect on the value, use or operation of the Mortgaged Property.

(13) Actions Concerning Mortgage Loan. As of the date of origination and to the Seller's knowledge as of the Cut-off Date, there was no pending or filed action, suit or proceeding, arbitration or governmental investigation involving any Borrower, guarantor, or Borrower's interest in the Mortgaged Property, an adverse outcome of which would reasonably be expected to materially and adversely affect (a) such Borrower's title to the Mortgaged Property, (b) the validity or enforceability of the Mortgage, (c) such Borrower's ability to perform under the related Mortgage Loan, (d) such guarantor's ability to perform under the related guaranty, (e) the principal benefit of the security intended to be provided by the Mortgage Loan documents or (f) the current principal use of the Mortgaged Property.

(14) Escrow Deposits. All escrow deposits and payments required to be escrowed with lender pursuant to each Mortgage Loan are in the possession, or under the control, of the Seller or its servicer, and there are no deficiencies (subject to any applicable grace or cure periods) in connection therewith, and all such escrows and deposits (or the right thereto) that are required to be escrowed with lender under the related Loan Documents are being conveyed by the Seller to Purchaser or its servicer.

(15) No Holdbacks. The Stated Principal Balance as of the Cut-off Date of the Mortgage Loan set forth on the mortgage loan schedule attached as Exhibit A to this Agreement has been fully disbursed as of the Closing Date and there is no requirement for future advances thereunder (except in those cases where the full amount of the Mortgage Loan has been disbursed but a portion thereof is being held in escrow or reserve accounts pending the satisfaction of certain conditions relating to leasing, repairs or other matters with respect to the related Mortgaged Property, the Borrower or other considerations determined by Seller to merit such holdback).

(16) Insurance. Each related Mortgaged Property is, and is required pursuant to the related Mortgage to be, insured by a property insurance policy providing coverage for loss in accordance with coverage found under a "special cause of loss form" or "all risk form" that includes replacement cost valuation issued by an insurer meeting the requirements of the related Loan Documents and having a claims-paying or financial strength rating of at least A or better and a financial class of X or better by A.M. Best Company, Inc. (collectively the "Insurance Rating Requirements"), in an amount (subject to a customary deductible) not less than the lesser of (1) the original principal balance of the Mortgage Loan and (2) the full insurable value on a replacement cost basis of the improvements, furniture, furnishings, fixtures and equipment owned by the Borrower and included in the Mortgaged Property (with no deduction for physical depreciation), but, in any event, not less than the amount necessary or containing such endorsements as are necessary to avoid the operation of any coinsurance provisions with respect to the related Mortgaged Property.

Each related Mortgaged Property is also covered, and required to be covered pursuant to the related Loan Documents, by business interruption or rental loss insurance which (subject to a customary deductible) covers a period of not less than 12 months (or with respect to each Mortgage Loan on a single asset with a principal balance of $50 million or more, 18 months).

If any material part of the improvements, exclusive of a parking lot, located on a Mortgaged Property is in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards, the related Borrower is required to maintain insurance in the maximum amount available under the National Flood Insurance Program.

If the Mortgaged Property is located within 25 miles of the coast of the Gulf of Mexico or the Atlantic coast of Florida, Georgia, South Carolina or North Carolina, the related Borrower is required to maintain coverage for windstorm and/or windstorm related perils and/or "named storms" issued by an insurer meeting the Insurance Rating Requirements or endorsement covering damage from windstorm and/or windstorm related perils and/or named storms.

The Mortgaged Property is covered, and required to be covered pursuant to the related Loan Documents, by a commercial general liability insurance policy issued by an insurer meeting the Insurance Rating Requirements including coverage for property damage, contractual damage and personal injury (including bodily injury and death) in amounts as are generally required by the Seller for loans originated for securitization, and in any event not less than $1 million per occurrence and $1 million in the aggregate.

An architectural or engineering consultant has performed an analysis of each of the Mortgaged Properties located in seismic zones 3 or 4 in order to evaluate the structural and seismic condition of such property, for the sole purpose of assessing the scenario expected limit (" SEL") for the Mortgaged Property in the event of an earthquake. In such instance, the SEL was based on a 475-year return period, an exposure period of 50 years and a 10% probability of exceedance. If the resulting report concluded that the SEL would exceed 20% of the amount of the replacement costs of the

improvements, earthquake insurance on such Mortgaged Property was obtained by an insurer rated least "A:VIII" by A.M. Best Company or "A3" (or the equivalent) from Moody's Investors Service, Inc. or "A-" by Standard & Poor's Ratings Service in an amount not less than 100% of the SEL.

The Loan Documents provide that if a specified percentage (which is in no event greater than 20%) of the reasonably estimated aggregate fair market value of the Mortgaged Property is damaged or destroyed, the lender shall have the option, in its sole discretion, to apply the net casualty insurance proceeds received to the payment of the Mortgage Loan or to allow such proceeds to be used for the repair or restoration of the Mortgaged Property.

All premiums on all insurance policies referred to in this section required to be paid as of the Cut-off Date have been paid, and such insurance policies name the lender under the Mortgage Loan and its successors and assigns as a loss payee under a mortgagee endorsement clause or, in the case of the general liability insurance policy, as named or additional insured. Such insurance policies will inure to the benefit of the Trustee. Each related Mortgage Loan obligates the related Borrower to maintain all such insurance and, at such Borrower's failure to do so, authorizes the lender to maintain such insurance at the Borrower's cost and expense and to charge such Borrower for related premiums. All such insurance policies (other than commercial liability policies) require at least 30 days prior notice to the lender of termination or cancellation (or such lesser period, not less than 10 days, as may be required by applicable law) arising for any reason other than non-payment of a premium and no such notice has been received by Seller.

(17) Access; Utilities; Separate Tax Lots. Each Mortgaged Property (a) is located on or adjacent to a public road and has direct legal access to such road, or has access via an irrevocable easement or irrevocable right of way permitting ingress and egress to/from a public road, (b) is served by or has uninhibited access rights to public or private water and sewer (or well and septic) and all required utilities, all of which are appropriate for the current use of the Mortgaged Property, and (c) constitutes one or more separate tax parcels which do not include any property which is not part of the Mortgaged Property or is subject to an endorsement under the related Title Policy insuring the Mortgaged Property, or in certain cases, an application has been, or will be, made to the applicable governing authority for creation of separate tax lots, in which case the Mortgage Loan requires the Borrower to escrow an amount sufficient to pay taxes for the existing tax parcel of which the Mortgaged Property is a part until the separate tax lots are created.

(18) No Encroachments. To Seller's knowledge based solely on surveys obtained in connection with origination and the lender's Title Policy (or, if such policy is not yet issued, a pro forma title policy, a preliminary title policy with escrow instructions or a "marked up" commitment) obtained in connection with the origination of each Mortgage Loan, all material improvements that were included for the purpose of determining the appraised value of the related Mortgaged Property at the time of the origination of such Mortgage Loan are within the boundaries of the related Mortgaged Property, except encroachments that do not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements were obtained under the Title Policy. No improvements on adjoining parcels encroach onto the related Mortgaged Property except for encroachments that do not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements were obtained under the Title Policy. No improvements encroach upon any easements except for encroachments the

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removal of which would not materially and adversely affect the value or current use of such Mortgaged Property or for which insurance or endorsements obtained with respect to the Title Policy.

(19) No Contingent Interest or Equity Participation. No Mortgage Loan has a shared appreciation feature, any other contingent interest feature or a negative amortization feature or an equity participation by Seller.

(20) Compliance with Usury Laws. The Mortgage Rate (exclusive of any default interest, late charges, yield maintenance charge, or prepayment premiums) of such Mortgage Loan complied as of the date of origination with, or was exempt from, applicable state or federal laws, regulations and other requirements pertaining to usury.

(21) Authorized to do Business. To the extent required under applicable law, as of the Cut-off Date or as of the date that such entity held the Note, each holder of the Note was authorized to transact and do business in the jurisdiction in which each related Mortgaged Property is located, or the failure to be so authorized does not materially and adversely affect the enforceability of such Mortgage Loan by the Trust.

(22) Trustee under Deed of Trust. With respect to each Mortgage which is a deed of trust, as of the date of origination and, to the Seller's knowledge, as of the Closing Date, a trustee, duly qualified under applicable law to serve as such, currently so serves and is named in the deed of trust or has been substituted in accordance with the Mortgage and applicable law or may be substituted in accordance with the Mortgage and applicable law by the related mortgagee.

(23) Local Law Compliance. To the Seller's knowledge, based upon any of a letter from any governmental authorities, a legal opinion, an architect's letter, a zoning consultant's report, an endorsement to the related Title Policy, or other affirmative investigation of local law compliance consistent with the investigation conducted by the Seller for similar commercial and multi-family mortgage loans intended for securitization, with respect to the improvements located on or forming part of each Mortgaged Property securing a Mortgage Loan as of the date of origination of such Mortgage Loan and as of the Cut-off Date, there are no material violations of applicable zoning ordinances, building codes and land laws (collectively " Zoning Regulations") other than those which (i) are insured by the Title Policy or a law and ordinance or other insurance policy or (ii) would not have a material adverse effect on the Mortgage Loan. The terms of the Loan Documents require the Borrower to comply in all material respects with all applicable governmental regulations, zoning and building laws.

(24) Licenses and Permits. Each Borrower covenants in the Loan Documents that it shall keep all material licenses, permits and applicable governmental authorizations necessary for its operation of the Mortgaged Property in full force and effect, and to the Seller's knowledge based upon a letter from

any government authorities or other affirmative investigation of local law compliance consistent with the investigation conducted by the Seller for similar commercial and multi-family mortgage loans intended for securitization, all such material licenses, permits and applicable governmental authorizations are in effect. The Mortgage Loan requires the related Borrower to be qualified to do business in the jurisdiction in which the related Mortgaged Property is located.

(25) Recourse Obligations. The Loan Documents for each Mortgage Loan provide that such Mortgage Loan is non-recourse to the related parties thereto except for certain carve-outs, including but not limited to the following: (a) the related Borrower and at least one individual or entity shall be fully liable for actual losses, liabilities, costs and damages arising from certain acts of the related Borrower and/or its principals specified in the related Loan Documents, which acts generally include the following: (i) acts of fraud or intentional material misrepresentation, (ii) misapplication or misappropriation of rents, insurance proceeds or condemnation awards, (iii) intentional material physical waste of the Mortgaged Property, and (iv) any breach of the environmental covenants contained in the related Loan Documents, and (b) the Mortgage Loan shall become full recourse to the related Borrower and at least one individual or entity, if the related Borrower files a voluntary petition under federal or state bankruptcy or insolvency law.

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(26) Mortgage Releases. The terms of the related Mortgage or related Loan Documents do not provide for release of any material portion of the Mortgaged Property from the lien of the Mortgage except (a) a partial release, accompanied by principal repayment of not less than a specified percentage at least equal to the lesser of (i) 110% of the related allocated loan amount of such portion of the Mortgaged Property and (ii) the outstanding principal balance of the Mortgage Loan, (b) upon payment in full of such Mortgage Loan, (c) releases of out-parcels that are unimproved or other portions of the Mortgaged Property which will not have a material adverse effect on the underwritten value of the Mortgaged Property and which were not afforded any value in the appraisal obtained at the origination of the Mortgage Loan and are not necessary for physical access to the Mortgaged Property or compliance with zoning requirements, or (d) as required pursuant to an order of condemnation.

(27) Financial Reporting and Rent Rolls. Each Mortgage requires the Borrower to provide the owner or holder of the Mortgage with quarterly and annual operating statements, and quarterly rent rolls for properties and annual financial statements, which annual financial statements with respect to each Mortgage Loan with more than one Borrower are in the form of an annual combined balance sheet of the Borrower entities (and no other entities), together with the related combined statements of operations, members' capital and cash flows, including a combining balance sheet and statement of income for the Mortgaged Properties on a combined basis.

(28) Acts of Terrorism Exclusion. With respect to each Mortgage Loan over $20 million, the related special-form all-risk insurance policy and business interruption policy (issued by an insurer meeting the Insurance Rating Requirements) do not specifically exclude Acts of Terrorism, as defined in the Terrorism Risk Insurance Act of 2002, as amended by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (collectively referred to as "TRIA"), from coverage, or if such coverage is excluded, it is covered by a separate terrorism insurance policy. With respect to each other Mortgage Loan, the related special-form all-risk insurance policy and business interruption policy (issued by an insurer meeting the Insurance Rating Requirements) did not, as of the date of origination of the Mortgage Loan, and, to Seller's knowledge, do not, as of the Cut-off Date, specifically exclude Acts of Terrorism, as defined in TRIA, from coverage, or if such coverage is excluded, it is covered by a separate terrorism insurance policy. With respect to each Mortgage Loan, the related Loan Documents do not expressly waive or prohibit the mortgagee from requiring coverage for Acts of Terrorism, as defined in TRIA, or damages related thereto except to the extent that any right to require such coverage may be limited by commercial availability on commercially reasonable terms, or as otherwise indicated in Schedule 1(a); provided, however, that if TRIA or a similar or subsequent statute is not in effect, then, provided that terrorism insurance is commercially available, the Borrower under each Mortgage Loan is required to carry terrorism insurance, but in such event the Borrower shall not be required to spend on terrorism insurance coverage more than two times the amount of the insurance premium that is payable in respect of the property and business interruption/rental loss insurance required under the related Loan Documents (without giving effect to the cost of terrorism and earthquake components of such casualty and business interruption/rental loss insurance) at the time of the origination of the Mortgage Loan, and if the cost of terrorism insurance exceeds such amount, the Borrower is required to purchase the maximum amount of terrorism insurance available with funds equal to such amount.

(29) Due on Sale or Encumbrance. Subject to specific exceptions set forth below, each Mortgage Loan contains a "due on sale" or other such provision for the acceleration of the payment of the unpaid principal balance of such Mortgage Loan if, without the consent of the holder of the Mortgage (which consent, in some cases, may not be unreasonably withheld) and/or complying with the requirements of the related Loan Documents (which provide for transfers without the consent of the lender which are customarily acceptable to the Seller lending on the security of property comparable to the related Mortgaged Property, including, without limitation, transfers of worn-out or obsolete furnishings, fixtures, or equipment promptly replaced with property of equivalent value and functionality and transfers by leases entered into in accordance with the Loan Documents), (a) the related Mortgaged Property, or any equity interest of greater than 50% in the related Borrower, is directly or indirectly pledged, transferred or sold, other than as related to (i) family and estate planning transfers or transfers upon death or legal incapacity, (ii) transfers to certain affiliates as defined in the related Loan Documents, (iii) transfers of less than, or other than, a controlling interest in the related Borrower, (iv) transfers to another holder of direct or indirect equity in the Borrower, a specific

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Person designated in the related Loan Documents or a Person satisfying specific criteria identified in the related Loan Documents, such as a qualified equityholder, (v) transfers of stock or similar equity units in publicly traded companies or (vi) a substitution or release of collateral within the parameters of paragraph (26) herein or the exceptions thereto set forth in Schedule 1(a), or (vii) as set forth on Schedule 1(b) hereto by reason of any mezzanine debt that existed at the origination of the related Mortgage Loan, or future permitted mezzanine debt as set forth on Schedule 1(c) hereto or (b) the related Mortgaged Property is encumbered with a subordinate lien or security interest against the related Mortgaged Property, other than (i) any Companion Loan or any subordinate debt that existed at origination and is permitted under the related Loan Documents, (ii) purchase money security interests, (iii) any Crossed Mortgage Loan as set forth on Schedule 1(d) hereto, or (iv) Permitted Encumbrances. The Mortgage or other Loan

Documents provide that to the extent any Rating Agency fees are incurred in connection with the review of and consent to any transfer or encumbrance, the Borrower is responsible for such payment along with all other reasonable fees and expenses incurred by the Mortgagee relative to such transfer or encumbrance.

(30) Single-Purpose Entity. Each Mortgage Loan requires the Borrower to be a Single-Purpose Entity for at least as long as the Mortgage Loan is outstanding. Both the Loan Documents and the organizational documents of the Borrower with respect to each Mortgage Loan with a Cut-off Date Stated Principal Balance in excess of $5 million provide that the Borrower is a Single-Purpose Entity, and each Mortgage Loan with a Cut-off Date Stated Principal Balance of $20 million or more has a counsel's opinion regarding non-consolidation of the Borrower. For this purpose, a " Single-Purpose Entity" shall mean an entity, other than an individual, whose organizational documents (or if the Mortgage Loan has a Cut-off Date Stated Principal Balance equal to $5 million or less, its organizational documents or the related Loan Documents) provide substantially to the effect that it was formed or organized solely for the purpose of owning and operating one or more of the Mortgaged Properties securing the Mortgage Loans and prohibit it from engaging in any business unrelated to such Mortgaged Property or Properties, and whose organizational documents further provide, or which entity represented in the related Loan Documents, substantially to the effect that it does not have any assets other than those related to its interest in and operation of such Mortgaged Property or Properties, or any indebtedness other than as permitted by the related Mortgage(s) or the other related Loan Documents, that it has its own books and records and accounts separate and apart from those of any other person (other than a Borrower for a Crossed Mortgage Loan), and that it holds itself out as a legal entity, separate and apart from any other person or entity.

(31) Ground Leases. For purposes of this Agreement, a "Ground Lease" shall mean a lease creating a leasehold estate in real property where the fee owner as the ground lessor conveys for a term or terms of years its entire interest in the land and buildings and other improvements, if any, comprising the premises demised under such lease to the ground lessee (who may, in certain circumstances, own the building and improvements on the land), subject to the reversionary interest of the ground lessor as fee owner and does not include industrial development agency (IDA) or similar leases for purposes of conferring a tax abatement or other benefit.

With respect to any Mortgage Loan where the Mortgage Loan is secured by a leasehold estate under a Ground Lease in whole or in part, and the related Mortgage does not also encumber the related lessor's fee interest in such Mortgaged Property, based upon the terms of the Ground Lease and any estoppel or other agreement received from the ground lessor in favor of Seller, its successors and assigns, Seller represents and warrants that:

(a) The Ground Lease or a memorandum regarding such Ground Lease has been duly recorded or submitted for recordation in a form that is acceptable for recording in the applicable jurisdiction. The Ground Lease or an estoppel or other agreement received from the ground lessor permits the interest of the lessee to be encumbered by the related Mortgage and does not restrict the use of the related Mortgaged Property by such lessee, its successors or assigns in a manner that would materially adversely affect the security provided by the related Mortgage;

(b) The lessor under such Ground Lease has agreed in a writing included in the related Mortgage File (or in such Ground Lease) that the Ground Lease may not be amended or modified, or canceled or terminated by agreement of lessor and lessee, without the prior written consent of the lender, and no such consent has been granted by the Seller since the origination of the Mortgage Loan except as reflected in any written instruments which are included in the related Mortgage File;

(c) The Ground Lease has an original term (or an original term plus one or more optional renewal terms, which, under all circumstances, may be exercised, and will be enforceable, by either Borrower or the mortgagee) that extends not less than 20 years beyond the stated maturity of the related Mortgage Loan, or 10 years past the stated maturity if such Mortgage Loan fully amortizes by the stated maturity (or with respect to a Mortgage Loan that accrues on an actual 360 basis, substantially amortizes);

(d) The Ground Lease either (i) is not subject to any liens or encumbrances superior to, or of equal priority with, the Mortgage, except for the related fee interest of the ground lessor and the Permitted Encumbrances, or (ii) is subject to a subordination, non-disturbance and attornment agreement to which the mortgagee on the lessor's fee interest in the Mortgaged Property is subject;

(e) The Ground Lease does not place commercially unreasonable restrictions on the identity of the Mortgagee and the Ground Lease is assignable to the holder of the Mortgage Loan and its successors and assigns without the consent of the lessor thereunder, and in the event it is so assigned, it is further assignable by the holder of the Mortgage Loan and its successors and assigns without the consent of the lessor;

(f) The Seller has not received any written notice of material default under or notice of termination of such Ground Lease. To the Seller's knowledge, there is no material default under such Ground Lease and no condition that, but for the passage of time or giving of notice, would result in a material default under the terms of such Ground Lease and to the Seller's knowledge, such Ground Lease is in full force and effect as of the Closing Date;

(g) The Ground Lease or ancillary agreement between the lessor and the lessee requires the lessor to give to the lender written notice of any default, and provides that no notice of default or termination is effective against the lender unless such notice is given to the lender;

(h) A lender is permitted a reasonable opportunity (including, where necessary, sufficient time to gain possession of the interest of the lessee under the Ground Lease through legal proceedings) to cure any default under the Ground Lease which is curable after the lender's receipt of notice of any default before the lessor may terminate the Ground Lease;

(i) The Ground Lease does not impose any restrictions on subletting that would be viewed as commercially unreasonable by the Seller in connection with loans originated for securitization;

(j) Under the terms of the Ground Lease, an estoppel or other agreement received from the ground lessor and the related Mortgage (taken together), any related insurance proceeds or the portion of the condemnation award allocable to the ground lessee's interest (other than (i) de minimis amounts for minor casualties or (ii) in respect of a total or substantially total loss or taking as addressed in clause (k) below) will be applied either to the repair or to restoration of all or part of the related Mortgaged Property with (so long as such proceeds are in excess of the threshold amount specified in the related Loan Documents) the lender or a trustee appointed by it having the right to hold and disburse such proceeds as repair or restoration progresses, or to the payment of the outstanding principal balance of the Mortgage Loan, together with any accrued interest;

(k) In the case of a total or substantially total taking or loss, under the terms of the Ground Lease, an estoppel or other agreement and the related Mortgage (taken together), any related insurance proceeds, or portion of the condemnation award allocable to ground lessee's interest in respect of a total or substantially total loss or taking of the related Mortgaged Property to the extent not applied to restoration, will be applied first to the payment of the outstanding principal balance of the Mortgage Loan, together with any accrued interest; and

(l) Provided that the lender cures any defaults which are susceptible to being cured, the ground lessor has agreed to enter into a new lease with the lender upon termination of the Ground Lease for any reason, including rejection of the Ground Lease in a bankruptcy proceeding.

(32) Servicing. The servicing and collection practices used by the Seller with respect to the Mortgage Loan have been, in all respects, legal and have met customary industry standards for servicing of commercial loans for conduit loan programs.

(33) Origination and Underwriting. The origination practices of the Seller (or the related originator if the Seller was not the originator) with respect to each Mortgage Loan have been, in all material respects, legal and as of the date of its origination, such Mortgage Loan and the origination thereof complied in all material respects with, or was exempt from, all requirements of federal, state or local law relating to the origination of such Mortgage Loan; provided that such representation and warranty does not address or otherwise cover any matters with respect to federal, state or local law otherwise covered in this Schedule 1.

(34) No Material Default; Payment Record. No Mortgage Loan has been more than 30 days delinquent, without giving effect to any grace or cure period, in making required payments since origination, and as of the date hereof, no Mortgage Loan is more than 30 days delinquent (beyond any applicable grace or cure period) in making required payments as of the Closing Date. To the Seller's knowledge, there is (a) no material default, breach, violation or event of acceleration existing under the related Mortgage Loan or Participation Agreement, if applicable, or (b) no event (other than payments due but not yet delinquent) which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a material default, breach, violation or event of acceleration, which default, breach, violation or event of acceleration, in the case of either clause (a) or clause (b), materially and adversely affects the value of the Mortgage Loan or Participation Agreement, if applicable, or the value, use or operation of the related Mortgaged Property, provided, however, that this representation and warranty does not cover any default, breach, violation or event of acceleration that specifically pertains to or arises out of an exception scheduled to any other representation and warranty made by the Seller in this Schedule 1. No person other than the holder of such Mortgage Loan may declare any event of default under the Mortgage Loan or accelerate any indebtedness under the Loan Documents.

(35) Bankruptcy. As of the date of origination of the related Mortgage Loan and to the Seller's knowledge as of the Cut-off Date, no Borrower, guarantor or tenant occupying a single-tenant property is a debtor in state or federal bankruptcy, insolvency or similar proceeding.

(36) Organization of Borrower. With respect to each Mortgage Loan, in reliance on certified copies of the organizational documents of the Borrower delivered by the Borrower in connection with the origination of such Mortgage Loan, the Borrower is an entity organized under the laws of a state of the United States of America, the District of Columbia or the Commonwealth of Puerto Rico. Except with respect to any Crossed Mortgage Loan, no Mortgage Loan has a Borrower that is an Affiliate of another Borrower. (An "Affiliate" for purposes of this paragraph (36) means, a Borrower that is under direct or indirect common ownership and control with another Borrower.)

(37) Environmental Conditions. A Phase I environmental site assessment (or update of a previous Phase I and or Phase II site assessment) and, with respect to certain Mortgage Loans, a Phase II environmental site assessment (collectively, an " ESA") meeting ASTM requirements conducted by a reputable environmental consultant in connection with such Mortgage Loan was delivered to seller within 12 months prior to the origination date of each Mortgage Loan (or an update of a previous ESA was prepared), and such ESA (i) did not identify the existence of recognized environmental conditions (as such term is defined in ASTM

E1527-05 or its successor, hereinafter "Environmental Condition") at the related Mortgaged Property or the need for further investigation, or (ii) if the existence of an Environmental Condition or need for further investigation was indicated in any such ESA, then at least one of the following statements is true: (A) an amount reasonably estimated by a reputable environmental consultant to be sufficient to cover the estimated cost to cure any material noncompliance with applicable environmental laws or the Environmental Condition has been escrowed by the related Borrower and is held or controlled by the related lender; (B) if the only Environmental Condition relates to the presence of asbestos-containing materials, radon in indoor air, lead based paint or lead in drinking water, and the only recommended action in the ESA is the institution of such a plan, an operations or maintenance plan has been required to be instituted by the related Borrower that can reasonably be expected to mitigate the identified risk; (C) the Environmental Condition identified in the related environmental report was remediated or abated in all material respects prior to the date hereof, and, if and as appropriate, a no further action or closure letter was obtained from the applicable governmental regulatory authority (or the Environmental Condition affecting the related Mortgaged Property was otherwise listed by such governmental authority as "closed" or a reputable environmental

consultant has concluded that no further action is required); (D) a secured creditor environmental policy or a pollution legal liability insurance policy that covers liability for the Environmental Condition was obtained from an insurer rated no less than A- (or the equivalent) by Moody's, S&P and/or Fitch; (E) a party not related to the Borrower was identified as the responsible party for such Environmental Condition and such responsible party has financial resources reasonably estimated to be adequate to address the situation; or (F) a party related to the Borrower having financial resources reasonably estimated to be adequate to address the situation is required to take action. To Seller's knowledge, except as set forth in the ESA, there is no Environmental Condition (as such term is defined in ASTM E1527-05 or its successor) at the related Mortgaged Property.

(38) Appraisal. The Servicing File contains an appraisal of the related Mortgaged Property with an appraisal date within six months of the Mortgage Loan origination date. The appraisal is signed by an appraiser who is either a Member of the Appraisal Institute (" MAI") and/or has been licensed and certified to prepare appraisals in the state where the Mortgaged Property is located. Each appraiser has represented in such appraisal or in a supplemental letter that the appraisal satisfies the requirements of the "Uniform Standards of Professional Appraisal Practice" as adopted by the Appraisal Standards Board of the Appraisal Foundation and has certified that such appraiser had no interest, direct or indirect, in the Mortgaged Property or the Borrower or in any loan made on the security thereof, and its compensation is not affected by the approval or disapproval of the Mortgage Loan.

(39) Loan Obligation Schedule. The information pertaining to each Loan Obligation that is set forth in the schedule attached as Exhibit A to this Agreement is true and correct in all material respects as of the Cut-off Date and contains all information required by this Agreement to be contained therein.

(40) Cross-Collateralization. No Mortgage Loan is cross-collateralized or cross-defaulted with any mortgage loan that is outside the Trust, except as set forth in Schedule 1(d).

(41) Advance of Funds by the Seller. After origination, no advance of funds has been made by Seller to the related Borrower other than in accordance with the Loan Documents, and, to Seller's knowledge, no funds have been received from any person other than the related Borrower or an affiliate for, or on account of, payments due on the Mortgage Loan (other than as contemplated by the Loan Documents, such as, by way of example and not in limitation of the foregoing, amounts paid by the tenant(s) into a lender-controlled lockbox if required or contemplated under the related lease or Loan Documents). Neither Seller nor any affiliate thereof has any obligation to make any capital contribution to any Borrower under a Mortgage Loan, other than contributions made on or prior to the date hereof.

(42) Compliance with Anti-Money Laundering Laws. Seller (or the related originator if the Seller was not the originator) has complied in all material respects with all applicable anti-money laundering laws and regulations, including without limitation the USA Patriot Act of 2001 with respect to the origination of the Mortgage Loan, the failure to comply with which would have a material adverse effect on the Mortgage Loan.

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(43) Floating Interest Rates. Each Mortgage Loan bears interest at a floating rate based on LIBOR.

(44) Senior Participations. With respect to each Loan Obligation that is a Senior Participation:

(i) Either (A) the Senior Participation is treated as a real estate asset for purposes of Section 856(c) of the Code, and the interest payable pursuant to such Senior Participation is treated as interest on an obligation secured by a mortgage on real property or on an interest in real property for purposes of Section 856(c) of the Code, or (B) the Senior Participation qualifies as a security that would not otherwise cause ARMS Equity to fail to qualify as a REIT under the Code (including after the sale, transfer and assignment to the Issuer of such Senior Participation);

(ii) To the actual knowledge of the Seller, as of the Closing Date, the related Participating Institution was not a debtor in any outstanding proceeding pursuant to the federal bankruptcy code; and

(iii) The Seller has not received written notice of any outstanding liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind for which the holder of such Senior Participation is or may become obligated.

For purposes of these representations and warranties, the phrases "the Seller's knowledge" or "the Seller's belief" and other words and phrases of like import shall mean, except where otherwise expressly set forth herein, the actual state of knowledge or belief of the Seller, its officers and employees directly responsible for the underwriting, origination, servicing or sale of the Mortgage Loans regarding the matters expressly set forth herein.

SCHEDULE 1(a)

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES

Representation numbers referred to below relate to the corresponding Mortgage Loan representations and warranties set forth in Section 1(a) to the Loan Obligations Purchase Agreement.

Mortgage Loan	Representation	Exception
Vintage Pointe	(10) Condition of Property	On November 25, 2012, there was a fire in one of the 27 buildings that comprise the Mortgage Property. The fire affected 16 units in such building,

		seven of which were occupied. The building is a separate building that does not affect the usage of the other buildings which comprise the Mortgaged Property. Income from this building was not underwritten. Borrower anticipates that insurance proceeds will be used to address further property renovations and/or pay down the loan; in either event, it will not affect the use of the remainder of the Mortgaged Property or income underwritten income for the Mortgage Property.
Keller Oaks	(23) Local Laws Compliance	The Property is in violation of a local crime compliance ordinance — as a result of crimes previously committed and arrests made under the prior owner of the Property. Borrower is appealing the violation. Only a $500 fine has accrued to date. If the appeal is not successful, the Borrower has covenanted to remove itself from the non-compliance list, pursuant to the local ordinance, by making certain small-scale capital improvements at the Property to such things as lighting, fencing and security.
Ventana	(36) Organization of Borrower	The Ventana borrower (M/P Ventana LLC) and the Edentree borrower (M/P Edentree LLC) contain the same key principals and controlling entities.
Edentree	(36) Organization of Borrower	The Edentree borrower (M/P Edentree LLC) and the Ventana borrower (M/P Ventana LLC) contain the same key

Mortgage Loan	Representation	Exception
		principals and controlling parties.
Orlando Multifamily Portfolio	(36) Organization of Borrower	The Orlando Multifamily Portfolio borrower and the West Palm Beach Multifamily Portfolio borrower contain the same key principal and controlling entities.
West Palm Beach Multifamily Portfolio	(36) Organization of Borrower	The West Palm Beach Multifamily Portfolio borrower and the Orlando Multifamily Portfolio borrower contain the same key principal and controlling entities.
Summerhill	(36) Organization of Borrower	The Summerhill borrower (Metropolitan — LKBK, Ltd.) and the Southwest Oaks borrower (Odessa Southwest Parkways, Ltd.) contain the same key principals and controlling entities.
Southwest Oaks	(36) Organization of Borrower	The Southwest Oaks borrower (Odessa Southwest Parkways, Ltd.) and the Summerhill borrower (Metropolitan — LKBK, Ltd.) contain the same key principals and controlling entities.
Victory Road	(37) Environmental Conditions	Seller did not obtain an ESA. The origination of the Mortgage Loan financed the purchase of the Mortgaged Property from a prior owner, and such prior owner provided its ESA for Seller's review. In addition, Seller engaged a third-party consultant, which consultant was engaged to provide an environmental assessment of the Mortgaged Property to confirm the primary findings of the prior owner's ESA and update the same. The Mortgaged Property has been subject to New Jersey Department of Environmental Protection ("NJDEP") review since 1999. NJDEP issued a No Further Action letter with respect to soils in 2007 except with respect to a groundwater Classification Exception Area ("CEA") designation on a small portion of the eastern side of the Property, which area contains a small level of groundwater contaminants. Seller's consultant confirmed this type of groundwater contamination is typical for

Mortgage Loan	Representation	Exception
		this area of New Jersey, as land use in the region was primarily industrial in the past. In addition, Seller's consultant also stated that the same contaminant which is present in the groundwater is also present in the soil adjacent to such groundwater. However, Seller's consultant's review of the matter indicated that it does not pose any threat to human health or safety. A written environmental assessment from Seller's consultant is being prepared.

SCHEDULE 1(b)

Existing Mezzanine Debt

None

SCHEDULE 1(c)

Future Mezzanine Debt

None

SCHEDULE 1(d)

Crossed Mortgage Loans

None

EXHIBIT 21.1

SUBSIDIARIES OF ARBOR REALTY TRUST, INC.

Arbor Realty GPOP, Inc., a Delaware corporation

Arbor Realty LPOP, Inc., a Delaware corporation

Arbor Realty Limited Partnership, a Delaware limited partnership

Arbor Realty SR, Inc., a Maryland corporation

Arbor Realty Funding, LLC, a Delaware limited liability company

Arbor Realty Member LLC, a Delaware limited liability company

ART 450 LLC, a Delaware limited liability company

ARMS 2004-1 Equity Holdings LLC, a Delaware limited liability company

Arbor Realty Mortgage Securities Series 2004-1 LLC, a Delaware limited liability company

Arbor Realty Mortgage Securities Series 2004-1, Ltd., a Cayman Islands exempted company with limited liability

Arbor Realty Collateral Management, LLC, a Delaware limited liability company

AC Flushing, LLC, a New York limited liability company

AR Prime Holdings LLC, a Delaware limited liability company

Arbor Realty Mortgage Securities Series 2005-1 Ltd., a Cayman Islands exempted company with limited liability

Arbor Realty Mortgage Securities Series 2005-1 LLC, a Delaware limited liability company

ARMS 2005-1 Equity Holdings LLC, a Delaware limited liability company

ARSR TRS Holdings LLC (formerly Arbor Toy LLC), a Delaware limited liability company (TRS)

ARMS 2006-1 Equity Holdings LLC, a Delaware limited liability company

Arbor Realty Mortgage Securities Series 2006-1 LLC, a Delaware limited liability company

Arbor Realty Mortgage Securities Series 2006-1, Ltd., a Cayman Islands exempted company with limited liability

Arbor Realty Participation LLC, a Delaware limited liability company

ART 823 LLC, a Delaware limited liability company (TRS)

ARSR Tahoe LLC, a Delaware limited liability company

ARSR Jacksonville LLC, a Delaware limited liability company

ARSR Alpine LLC, a Delaware limited liability company (TRS)

ARSR Alpine II LLC, a Delaware limited liability company

Arbor ESH Holdings LLC, a Delaware limited liability company

ARSR Grand Reserve LLC, a Delaware limited liability company

Richland Terrace Apts. LLC, a South Carolina limited liability company

Arbor Capital Trust III, a Delaware Statutory Trust

Arbor Capital Trust VII, a Delaware Statutory Trust

JT Prime LLC, a Delaware limited liability company

ABT ESI LLC, a Delaware limited liability company

Arbor CM LLC, a Delaware limited liability company

ARSR Solutions LLC, a Delaware limited liability company

Harwood New Venture LLC, a Delaware limited liability company

Heritage Partners Holding LLC, a Delaware limited liability company

420 Fifth Associates LLC, a Delaware limited liability company

Daytona Beach Six, LLC, a Delaware limited liability company

ARSR West Shore LLC, a Delaware limited liability company

BR Norwich Unit Owner LLC, a Delaware limited liability company

ART 323 LLC, a Delaware limited liability company

Arbor Water Street Properties LLC, a Delaware limited liability company

GA Portfolio LLC, a Delaware limited liability company

GA Portfolio Manager, LLC, a Delaware limited liability company

Arbor Park Row, LLC, a Delaware limited liability company

Arbor Realty Holdings, LLC, a Delaware limited liability company

Arbor Realty Investment, LLC, a Delaware limited liability company

Arbor Residential Investor, LLC, a Delaware limited liability company

ARSR RCC TRS LLC, a Delaware limited liability company (TRS)

ARSR Vintage, LLC, a Delaware limited liability company

Basket 1 Preferred SPE, LLC, a Delaware limited liability company

Basket 2 Preferred SPE, LLC, a Delaware limited liability company

Basket 3 Preferred SPE, LLC, a Delaware limited liability company

Basket 4 Preferred SPE, LLC, a Delaware limited liability company

Basket 5 Preferred SPE, LLC, a Delaware limited liability company

Basket 6 Preferred SPE, LLC, a Delaware limited liability company

Basket 7 Preferred SPE, LLC, a Delaware limited liability company

Basket 8 Preferred SPE, LLC, a Delaware limited liability company

Northwest Freeway Holding, LLC, a Delaware limited liability company (TRS)

PE 25, LLC, a Delaware limited liability company

Arbor 30 Henry PE LLC, a Delaware limited liability company (TRS)

Arbor 545 West 48th LLC, a Delaware limited liability company (TRS)

Arbor Realty Collateralized Loan Obligation 2012-1 LLC, a Delaware limited liability company

Arbor Realty Collateralized Loan Obligation 2012-1 Ltd, a Cayman Islands exempted company with limited liability

Arbor Realty Collateralized Loan Obligation 2013-1 LLC, a Delaware limited liability company

Arbor Realty Collateralized Loan Obligation 2013-1 Ltd, a Cayman Islands exempted company with limited liability

Arbor Realty Investments LLC, a Delaware limited liability company

ARMS 2012-1 Equity Holdings LLC, a Delaware limited liability company

ARMS 2013-1 Equity Holdings LLC, a Delaware limited liability company

Arbor FE LLC a Delaware limited liability company

ERFG Holdings, LLC, a Delaware limited liability company

Legacy Equity Investment Group LLC, a Delaware limited liability company

Legacy West Coast Mezzanine Holdings LLC, a Delaware limited liability company

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EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements (i) on Form S-3 (Nos. 333-165408 and 333-167303) of Arbor Realty Trust, Inc. and Subsidiaries and in the related Prospectuses; and (ii) on Form S-8 (Nos. 333-175656 and 333-158671) pertaining to the Arbor Realty Trust, Inc. 2003 Omnibus Stock Incentive Plan, as amended and restated, of Arbor Realty Trust, Inc. and Subsidiaries of our reports dated February 15, 2013, with respect to the consolidated financial statements and schedule of Arbor Realty Trust, Inc. and Subsidiaries, and the effectiveness of internal control over financial reporting of Arbor Realty Trust, Inc. and Subsidiaries, included in this Annual Report (Form 10-K) for the year ended December 31, 2012.

/s/ Ernst & Young LLP

New York, New York
February 15, 2013

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EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Ivan Kaufman, certify that:

1. I have reviewed this annual report on Form 10-K of Arbor Realty Trust, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 15, 2013

By: /s/ IVAN KAUFMAN

Name: Ivan Kaufman
Title: *Chief Executive Officer*

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EXHIBIT 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Paul Elenio, certify that:

1. I have reviewed this annual report on Form 10-K of Arbor Realty Trust, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 15, 2013

By: /s/ PAUL ELENIO

Name: Paul Elenio
Title: *Chief Financial Officer*

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EXHIBIT 32.1

CERTIFICATION OF CEO PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of Arbor Realty Trust, Inc. (the "Company") for the annual period ended December 31, 2012 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Ivan Kaufman, as Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ IVAN KAUFMAN

Name: Ivan Kaufman
Title: *Chief Executive Officer*

Date: February 15, 2013

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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EXHIBIT 32.2

CERTIFICATION OF CFO PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of Arbor Realty Trust, Inc. (the "Company") for the annual period ended December 31, 2012 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Paul Elenio, as Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ PAUL ELENIO

Name: Paul Elenio
Title: *Chief Financial Officer*

Date: February 15, 2013

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

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