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9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN JOSE DISTRICT**

12 SECURITIES AND EXCHANGE
 COMMISSION,
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 Plaintiff,
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 vs.
 15
 16 SMALL BUSINESS CAPITAL CORP.;
 MARK FEATHERS; INVESTORS PRIME
 FUND, LLC; AND SBC PORTFOLIOS, LLC,
 17
 Defendants.

Case No. CV12-03237

**NOTICE OF MOTION AND MOTION FOR
 (A) APPROVAL OF SALES PROCEDURES
 FOR LOAN PORTFOLIOS AND 7(a)
 LICENSE AND (B) AUTHORITY TO
 ENGAGE VOIT REAL ESTATE
 SERVICES LP AS BROKER;
 MEMORANDUM OF POINTS AND
 AUTHORITIES**

Date: April 25, 2014
 Time: 9:00 a.m.
 Ctrm: 4 - 5th Floor
 Judge: Hon. Edward J. Davila

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1 **PLEASE TAKE NOTICE** that on April 25, 2014, at 9:00 a.m. in Courtroom 4, 5th Floor,
2 of the United States District Court, 280 South 1st Street, San Jose, California, 95113, the Court
3 will consider the motion of Thomas A. Seaman ("Receiver"), Court-appointed Receiver for Small
4 Business Capital Corp. ("SBCC"), Investors Prime Fund, LLC ("IPF"), SBC Portfolio Fund, LLC
5 ("SPF") and their subsidiaries and affiliates, including Small Business Capital, LLC ("SBC LLC")
6 and SBC Senior Commercial Mortgage Fund, LLC ("SCMF"), for (a) approval of sales procedures
7 for loan portfolios and 7(a) license and (b) authority to engage Voit Real Estate Services LP as
8 broker ("Motion").

9 The Motion is posted on the Receiver's website (www.sbcapitalreceiver.com). A hard
10 copy can also be obtained by emailing a request to the Receiver through the website or by sending
11 a written request to the Receiver at 3 Park Plaza, Suite 550, Irvine, California 92614.

12 If you oppose the Motion, you are required to file your written opposition with the Office
13 of the Clerk, United States District Court, 280 South 1st Street, San Jose, California, 95113, and
14 serve the same on the undersigned not later than fourteen (14) days after the motion was filed.

15
16 Dated: March 12, 2014

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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18 By: /s/ Ted Fates

TED FATES
Attorneys for Receiver
THOMAS A. SEAMAN

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MEMORANDUM OF POINTS AND AUTHORITIES

The Receiver seeks authority to market and sell the following assets of the receivership estate, subject to final confirmation of the sale by this Court:

- Interests in a loan portfolio consisting of U.S. Small Business Administration ("SBA") 7(a) Loans, which loans and interests are identified on that chart attached hereto as Exhibit A ("7(a) Loans");
- Interests in a loan portfolio consisting of SBA First Lien Position 504 Loans, which loans and interests are identified on that chart attached hereto as Exhibit A ("504 Loans");
- A license in favor of SBC LLC, from the SBA, which authorizes SBC LLC to operate as a small business lending company ("SBLC"), and allows SBC LLC to make SBA loans pursuant to Section 7(a) of the Small Business Act ("License"); and
- Three loans made by the Receivership Entities which are not guaranteed or governed by the SBA regulations, which loans are identified on that chart attached hereto as Exhibit A ("SB Cap Loans").¹

This motion seeks approval of only the sales process, not the actual sale of any asset. The Receiver intends to return to this Court once qualified buyers have been identified to seek an order confirming the sales.

As detailed below, in order for the Receiver to market and sell the Assets, the Receiver must pre-qualify certain buyers with the SBA. In light of the time and effort required for prospective purchasers to apply and the SBA to review applications, the Receiver and the SBA believe it is necessary to obtain prior approval of the sales process from the Court. In addition to the importance of timely and efficiently selling the Assets, the prospects for attracting qualified bidders will be greatly enhanced by the Receiver being able to assure prospective purchasers their

¹ The 7(a) Loans, the 504 Loans, the License and the SB Cap Loans are sometimes collectively referred to as the "Assets."

1 time and effort in pre-qualifying with the SBA, conducting due diligence, and submitting
2 indicative bids will result in a sale of the Assets.

3 Pursuant to this application, the Receiver also requests the Court waive the requirements of
4 28 U.S.C. § 2004, which sets forth a process for the sale of personal property in a manner which is
5 more costly and less effective than the procedures proposed herein. Accordingly, before
6 proceeding with the marketing and sales process, the Receiver requests the Court approve the
7 proposed sale process and waiver of the requirements of 28 U.S.C. § 2004.

8 Additionally, the Receiver requests authority to engage Voit Real Estate Services, LP
9 ("Voit") as consultant and broker for the sale of the Assets on the terms discussed below. The
10 Receiver has had discussions with several brokers and believes Voit is well-qualified and the
11 proposed compensation terms are reasonable and consistent with industry standards. The Receiver
12 will seek final approval of the commission to be paid to Voit in connection with confirmation of
13 the sale.

14 I. INTRODUCTION

15 A. Summary of Proposed Sales Process

16 As reflected in the Receiver's final accounting, interim reports and approved Distribution
17 Plan, the Receiver believes it is appropriate to sell the Assets in order to generate proceeds which
18 can be distributed to the investors and creditors in satisfaction of their claims. Once these Assets
19 have been sold, the proceeds can be distributed and the receivership can then be concluded.

20 The vast majority of Assets are subject to existing contracts with the SBA as well as the
21 SBA's regulatory framework. For example, pursuant to the contracts between SBC LLC and the
22 SBA, as well as SBA regulations, the 7(a) Loans may only be sold to the holder of the License or
23 someone who already holds an SBA license. In addition, both the purchasers of the 7(a) Loans
24 and the 504 Loans will need to execute certain SBA indemnity and guaranty contracts. In light of
25 this, the Receiver has spent several months meeting and conferring with the SBA and discussing
26 an acceptable means to sell the 7(a) Loans, the 504 Loans, and the License.

27 It is the SBA's strong belief the 7(a) Loans and License must be sold together to an entity
28 qualified by the SBA. As such, the sales process described herein below, involves a somewhat

1 lengthy pre-qualification process for prospective purchasers. To ameliorate some of the timing
2 issues, the Receiver proposes the marketing and sales process allow potential purchasers to
3 conduct their due diligence via a secure virtual due diligence internet portal while their application
4 is being considered by the SBA. Those persons who are only interested in purchasing the
5 504 Loans or the SB Cap Loans will be permitted to submit bids without completing the SBA pre-
6 qualification procedures.

7 While the Receiver will describe the application process in detail below, the basic process
8 is as follows:

- 9 • The Receiver will, with the assistance of Voit, prepare a virtual sale platform,
10 which includes all imaged and indexed loans, servicing documentation and data,
11 and legal documents.
- 12 • The Receiver and Voit will market the Assets, (to date the Receiver has already
13 been in contact with numerous potential buyers), for a period of approximately
14 30 days. This marketing will include announcing the opportunity to
15 approximately 4,000 potential purchasers, advertising the opportunity on three
16 occasions in the Walls Street Journal, and giving interested parties who sign a
17 confidentiality agreement access to an online due diligence platform.
- 18 • Upon completion of its secure due diligence platform and during the marketing
19 period, the Receiver will provide prospective purchasers with instructions for
20 submitting an application to qualify to bid on the 7(a) Loans and the License as
21 well as information for those interested in the 504 Loans and SB Cap Loans.
22 Those prospective purchasers who wish to bid on the 7(a) Loans, 504 Loans, or
23 SB Cap Loans will sign and return to the Receiver the confidentiality agreement
24 attached hereto as Exhibit B, together with a \$500 payment. The \$500 payment
25 will be credited towards the prospective purchaser's 5% initial deposit (discussed
26 below) at the time it submits its bid, or be non-refundable if no bid is submitted.
- 27 • Those prospective purchasers who wish to submit bids to purchase the 7(a) Loans
28 and the License will be provided with complete instructions and relevant forms to

1 be considered and qualified to purchase the 7(a) Loans and License. Attached
2 hereto as Exhibit C are the instructions to prospective purchasers. These
3 prospective purchasers will be required to submit their completed packages to the
4 Receiver within 20 business days of the receipt of the instructions.

- 5 • The Receiver and Voit will conduct a preliminary review of the applications for
6 completeness and accuracy and will determine whether the applications are in
7 compliance with the application instructions. Applications that are determined by
8 the Receiver or Voit to be incomplete, inaccurate, or not in compliance with the
9 application instructions will not be forwarded to the SBA for review. The SBA
10 will only review complete applications where the prospective purchasers are
11 deemed by Voit and the Receiver to be capable of closing and are otherwise
12 suitable candidates. Prospective purchasers must disclose to the Receiver, Voit,
13 and the SBA any affiliation (previous or current) with the Assets of the
14 receivership estate or the Receivership Entities, including, but not limited to,
15 whether the prospective purchaser was an investor in the Receivership Entities, or
16 a borrower, lender, or participant in the 7(a) Loans or 504 Loans.
- 17 • The Receiver will forward the completed packages from prospective purchasers to
18 the SBA for review. The SBA will evaluate submissions, conduct background
19 checks, and identify those prospective purchasers who are eligible or qualified to
20 bid on the 7(a) Loans and the License.
- 21 • Prospective purchasers of the 504 Loans will be provided with information on the
22 transfer and assumption requirements of the SBA including the instructions set
23 forth in Exhibit D attached hereto and incorporated herein by reference.
- 24 • The Receiver and Voit will vet the prospective purchasers who then express
25 interest in pursuing the purchase of the Assets. All interested prospective
26 purchasers will be required to demonstrate the financial ability to close as well as
27 the ability, if applicable, to qualify as an SBA 7(a) lender. Those prospective
28 purchasers deemed capable of closing and otherwise suitable candidates will, at

1 the sole and absolute discretion of Voit and the Receiver, be given access to the
2 complete loan files and confidential information contained in the secured
3 database.

- 4 • When the SBA notifies the Receiver as to those prospective purchasers who have
5 qualified, the Receiver will invite those qualified prospective purchasers to submit
6 to the Receiver indicative bids for the 7(a) Loans and the License. At the same
7 time, those seeking to purchase solely the 504 Loans and the SB Cap Loans will
8 also be asked to present their indicative bids. All prospective purchasers must
9 submit indicative bids to the Receiver within 10 business days from notification,
10 along with an initial deposit in the amount of 5% of their indicative bid.
- 11 • The Receiver will evaluate the bids and determine the competitive range of bids
12 he will consider. Those bidders within the competitive range will be invited to
13 submit their best and final bid to the Receiver. Deposits will be returned to those
14 who are outside the range of acceptable bids.
- 15 • The Receiver will compare and analyze the best and final offers and notify those
16 prospective purchasers who he has deemed the winning bidders. Within five
17 business days of notification from the Receiver, a winning bidder must make an
18 additional deposit in an amount necessary to bring the total earnest money deposit
19 to 10% of its winning bid amount. Within 10 business days of notification from
20 the Receiver, a winning bidder must sign the purchase and sale agreement.
- 21 • The Receiver will then file a motion with the Court seeking approval of the sale to
22 the winning bidder(s) with the closing of the sale to occur within five business
23 days of entry of the order confirming the sale. Deposits for losing bids will be
24 returned, including the aforementioned \$500 payment.

25 The Receiver believes the proposed procedure will generate the greatest return to investors
26 from the sale of the Assets. However, the Receiver reserves the right to consider, accept and seek
27 confirmation of non-conforming bids with regard to these Assets or any of them. Furthermore,
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1 should the Receiver deem the offers for the Assets too low, then the Receiver may choose to not
2 sell Assets to any of the prospective purchasers.

3 **B. Retention of Voit**

4 The Receiver also seeks authority to engage Voit to assist in the sale process. Peter
5 Beauchamp from Voit will be primarily responsible for the engagement. Mr. Beauchamp has
6 extensive experience in marketing and selling loan portfolios owned by banks, special servicers,
7 private equity funds, and receivers. Declaration of Peter Beauchamp filed herewith ("Beauchamp
8 Declaration"), ¶ 2. The Listing Agreement with Voit, a copy of which is attached as Exhibit A to
9 the Declaration of Thomas Seaman filed herewith ("Seaman Declaration"), provides that Voit will
10 be paid a commission of 1% of the gross purchase price for the Assets. The other brokers with
11 whom the Receiver consulted demanded a greater commission. If no sale is completed, Voit will
12 receive up to \$15,000 as reimbursement of its actual out-of-pocket marketing costs. The
13 commission earned by Voit is subject to Court approval, which will be sought in connection with
14 confirmation of the sales. Accordingly, the Receiver requests the Court grant this Motion.

15 **II. BACKGROUND FACTS AND PROCESS FOR SALE OF THE ASSETS**

16 As detailed in the Receiver's forensic accounting report [Dkt. No. 557], the Receivership
17 Entities engaged in money-raising and money-lending activities. The Court has entered a
18 judgment against Mark Feathers, the principal of the Receivership Entities, in favor of the
19 Securities and Exchange Commission finding, among other things, the Defendants, including
20 certain Receivership Entities, committed securities fraud in connection with its money raising
21 activities.

22 As a result of the Receivership Entities' money lending activities, the Receiver holds
23 interests in all or part of approximately 56 loans. Almost all of these loans are performing and
24 represent valuable assets that should be liquidated for the benefit of investors.

25 As noted above, SBCC and its subsidiaries and affiliates made several types of loans. A
26 subsidiary of IPF, SBC LLC held a License to make SBA 7(a) Loans. In addition, the
27 Receivership Entities made or acquired 504 Loans, as well as direct loans unaffiliated with any
28 SBA program.

1 Most of the loans were sold to third parties pursuant to participation agreements or other
2 pooling agreements, whereby the Receivership Entities retained small percentage interests in the
3 loans. In most cases, the Receivership Entities sold 75% to 90% of the loans, while retaining a
4 10% to 25% interest. Attached hereto as Exhibit A is a spreadsheet describing each of the loans,
5 along with information concerning the owners of each loan, the Receivership Entities' retained
6 interest, and the unpaid principal balances.

7 In addition to retaining an interest in the loans, the Receivership Entities also retained an
8 obligation to service the loans and the right to be paid servicing fees for administering the loans,
9 which range from 1.16% to 2.51% of the total loan. The right to receive servicing fees (less the
10 cost of administering the loans) has value, and therefore should be sold with the loans.
11 Accordingly, the proposed sale procedures involve the sale of the Receivership Entities' interest in
12 each of the Loans, the servicing rights, as well as the License.

13 **A. Process for Selling the 7(a) Loans and License**

14 There are significant restrictions on the sale of 7(a) Loans. The SBA has taken the position
15 that the 7(a) Loans must be sold along with the License. The 7(a) Loan Program is authorized by
16 section 7(a) of the Small Business Act and is governed by the regulations outlined in Part 120 of
17 Title 13 of the Code of Federal Regulations (CFR).

18 SBA regulations restrict the issuance of the SBA lending authority to operate as an SBLC
19 to 14 entities ("SBLC License"). In order to acquire an SBLC License, an entity must purchase
20 one of the existing SBLC Licenses. The prospective purchaser and the seller must receive the
21 SBA's prior written approval.

22 Over the past several months, the SBA and Receiver have worked to develop a process to
23 sell the License and 7(a) Loans to a qualified buyer. In general, the agreed upon process is
24 described as follows:

25 All prospective purchasers must be pre-qualified by the SBA. To become a qualified
26 purchaser, a prospective purchaser must: (1) submit to the Receiver all the documentation set
27 forth in Exhibit C, and (2) demonstrate to the SBA that it meets the participation criteria and
28 ethical requirements for 7(a) Lenders and SBLCs, as set forth in 13 CFR § 120.140, § 120.410 and

1 § 120.460 - 120.490. As part of the qualification process, each prospective purchaser will need to
2 demonstrate to the SBA that it (including its officers, managers, and directors) will (a) have a
3 continuing ability to evaluate, process, close, disburse, service, liquidate, and litigate small
4 business loans, (b) be open to the public for the making of loans, (c) have continuing good
5 character and reputation, (d) meet the SBA's ethical requirements set forth in § 120.140, and
6 (e) operate in a safe and sound condition using commercially reasonable lending policies,
7 procedures, and standards employed by prudent lenders.

8 To be qualified, prospective purchasers must also meet the SBA's requirements for SBLCs
9 set forth in 13 CFR § 120.470 - § 120.471, which include, but are not limited to: (1) an SBLC
10 must be a corporation (profit or non-profit), a limited liability company, or limited partnership;
11 (2) an SBLC must maintain dual control over disbursement of funds and withdrawal of securities;
12 (3) an SBLC must maintain fidelity insurance in the form of a Brokers Blanket Bond, Standard
13 Form 14, or Finance Companies Blanket Bond, Standard Form 15, or other form of coverage as
14 SBA may approve, in a minimum amount of \$2,000,000 executed by a surety holding a certificate
15 of authority from the Secretary of the Treasury pursuant to 31 U.S.C. 9304-9308; (4) an SBLC
16 must employ full time professional management; and (5) in general, an SBLC may not be
17 capitalized with borrowed funds. In addition, each qualified purchaser must maintain, at a
18 minimum, unencumbered paid-in capital and paid-in surplus of at least \$2,000,000. Applications
19 from prospective purchasers that do not meet these minimum requirements will not be considered
20 by the SBA.

21 Each prospective purchaser must submit the information and materials described in the
22 instructions in Exhibit C attached hereto and incorporated herein by reference. Prospective
23 purchasers of the 7(a) Loans and License will be required to submit all of their documentation to
24 the Receiver within 20 business days of the Receiver providing instructions to the prospective
25 purchaser.

26 Prospective purchasers must submit to the Receiver three complete binders of fully-
27 executed paper copies, and one electronically scanned copy (in PDF form). The Receiver will
28 forward to the SBA two complete binders of fully-executed paper copies and one electronic

1 scanned copy (in PDF format) of the submitted documentation. The qualification of any
2 prospective purchaser will be subject to and conditioned upon the successful completion of a
3 background check conducted by the SBA.

4 Upon SBA's receipt of the submitted documentation, the SBA will review the materials
5 and provide the Receiver with written notification indicating which prospective purchasers have
6 been conditionally approved by the SBA as qualified purchasers. Once the Receiver has a list of
7 qualified purchasers, the Receiver will provide notice to all qualified prospective purchasers to
8 submit indicative bids, together with an initial deposit equal to 5% of the indicative bid, within
9 10 business days of notice.

10 The Receiver will review the indicative bids and establish a list of those bids within an
11 acceptable range. The Receiver will then ask those prospective purchasers within the acceptable
12 range to submit their best and final bids to the Receiver within five business days. Thereafter, the
13 Receiver will select the winning bid and notify the SBA which qualified purchaser has submitted
14 the winning bid.

15 The successful bidder, as buyer, and the Receiver, as seller, will enter into a purchase and
16 sale agreement which includes the terms and conditions related to the sale within 10 business days
17 of the Receiver notifying the prospective bidder it has been selected. Attached as Exhibit E is a
18 copy of the proposed purchase and sale agreement with regard to the 7(a) Loans.² The purchase
19 and sale agreement reflects the sale of the License and all of the 7(a) Loans and includes, among
20 other things, a provision whereby the prospective purchaser agrees to purchase the 7(a) Loans
21 subject to the SBA's right to deny liability on its guarantee, including in this case, loans that were
22 sold by the Receivership Entities to an investor on the secondary market. The bidders will be
23 advised that they will be responsible for any loan deficiencies discovered by the SBA at any time,
24 including loans that were sold on the secondary market.

25 Once the Receiver has signed a purchase and sale agreement, has received the additional
26 deposit sufficient to bring the total deposit to 10% of the purchase price, and has confirmed the
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28 ² This agreement may be modified by the Receiver in connection with the closing of the sale
based on specific terms negotiated by the parties, but will be substantially in this form.

1 SBA's approval, the Receiver will file a motion with the Court to confirm the sale to the buyer
 2 pursuant to the purchase and sale agreement.

3 **B. Sale of the 504 Loans and SB Cap Loans**

4 General information and instructions related to the purchase of the 504 Loans is attached
 5 hereto as Exhibit D. This information will be provided to each prospective purchaser of the
 6 504 Loans. In order to purchase the 504 Loans, the purchaser must execute a First Lien Position
 7 Loan Pool Guarantee Agreement for each 504 Loan and assume all liability to the SBA as
 8 provided for in said agreement. There are no pre-qualification requirements imposed by the SBA
 9 for selling the 504 Loans and there are no SBA-related restrictions at all for selling the SB Cap
 10 Loans.

11 As such, the Receiver will also market these non-7(a) Loans to parties who may not
 12 otherwise qualify to purchase the 7(a) Loans or be interested in such loans. At such time as the
 13 Receiver provides notice and requests prospective purchasers to make their indicative bids for the
 14 7(a) Loans, the Receiver will provide notice and ask prospective purchasers of the 504 Loans and
 15 SB Cap Loans to also make their indicative bids. Prospective purchasers will have 10 business
 16 days to provide their bids along with a 5% initial deposit. The Receiver will evaluate the bids,
 17 identify those within an appropriate range, and then ask that best and final bids be submitted
 18 within five business days of notice.

19 The Receiver will then select the best offer for each of the 7(a) Loans and License, the
 20 504 Loans, and the SB Cap Loans and invite each of the prospective purchasers to execute a
 21 purchase and sale agreement and make an additional deposit within 10 days of being notified that
 22 they are the prevailing bidder. The additional deposit must be in an amount sufficient to bring the
 23 total deposit to 10% of the purchase price. Attached as Exhibit F is a copy of the proposed
 24 purchase and sale agreement with regard to the 504 Loans and SB Cap Loans.³ The purchase and
 25 sale agreement reflects the sale of the 504 Loans and SB Cap Loans and includes, among other
 26 things, a provision whereby the prospective purchaser agrees to purchase the 504 Loans subject to
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28 ³ This agreement may also be modified by the Receiver in connection with the closing of the
 sale based on specific terms negotiated by the parties, but will be substantially in this form.

1 the SBA's right to deny liability on its guarantee. The Receiver will then present the purchase and
2 sale agreements to the Court for confirmation and final approval.

3 **C. The Marketing Plan**

4 Voit will disseminate an announcement about the opportunity to approximately
5 4,000 potential purchasers, including potential purchasers from Voit's own database of prior loan
6 purchasers and investors, interested parties who have contacted the Receiver, and other sources.
7 Beauchamp Declaration, ¶ 3. At their expense, subject to the \$15,000 reimbursement by the
8 Receiver, Voit will also advertise the opportunity on three occasions in the Wall Street Journal.
9 Voit will promptly respond to all inquiries, maintain regular contact with interested parties, and
10 provide qualified prospective purchasers with access to a secure online platform of due diligence
11 materials. Prospective purchasers who are qualified to bid will be able to securely submit bids
12 online. *Id.*

13 **D. Non-Conforming bids and Termination of Sale**

14 While the Receiver believes the foregoing described sale process provides the best
15 opportunity to generate the highest bids for each of the Assets, after marketing the Assets and
16 reviewing the initial bidding, the Receiver may determine that conforming bids are too low and
17 will not maximize the potential recovery to investors. Accordingly, the Receiver reserves the
18 right to consider and present to the Court non-conforming bids to the extent the Receiver believes
19 the offers are in the best interest of the investors. In addition, at any time prior to receipt of an
20 order confirming the sale, the Receiver may withdraw any or all of the Assets from the sale or
21 terminate the sales process entirely. Under no circumstances shall any prospective purchaser have
22 any claims at law or equity against the Receiver or the receivership estate arising out of or their
23 participation or involvement in the purchase and sale of any of the Assets.

24 **III. ARGUMENT**

25 **A. Broad Equitable Powers of the Court**

26 "The power of a district court to impose a receivership or grant other forms of ancillary
27 relief does not in the first instance depend on a statutory grant of power from the securities laws.
28 Rather, the authority derives from the inherent power of a court of equity to fashion effective

1 relief." *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). The "primary purpose of equity
 2 receiverships is to promote orderly and efficient administration of the estate by the district court
 3 for the benefit of creditors." *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). As the
 4 appointment of a receiver is authorized by the broad equitable powers of the court, any distribution
 5 of assets must also be done equitably and fairly. *See S.E.C. v. Elliot*, 953 F.2d 1560, 1569
 6 (11th Cir. 1992).

7 District courts have the broad power of a court of equity to determine the appropriate
 8 action in the administration and supervision of an equity receivership. *See SEC v. Capital*
 9 *Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). The Ninth Circuit explained:

10 A district court's power to supervise an equity receivership and to
 11 determine the appropriate action to be taken in the administration of
 12 the receivership is extremely broad. The district court has broad
 13 powers and wide discretion to determine the appropriate relief in an
 14 equity receivership. The basis for this broad deference to the district
 court's supervisory role in equity receiverships arises out of the fact
 that most receiverships involve multiple parties and complex
 transactions. A district court's decision concerning the supervision
 of an equitable receivership is reviewed for abuse of discretion.

15 *Id.* (citations omitted); *see also Commodities Futures Trading Comm'n. v. Topworth Int'l, Ltd.*,
 16 205 F.3d 1107, 1115 (9th Cir. 1999) ("This court affords 'broad deference' to the court's
 17 supervisory role, and 'we generally uphold reasonable procedures instituted by the district court
 18 that serve th[e] purpose' of orderly and efficient administration of the receivership for the benefit
 19 of creditors."). Accordingly, the Court has broad equitable powers and discretion in the
 20 administration of the receivership estate and disposition of receivership assets.

21 **B. Asset Sales**

22 Here, the Receiver seeks authority to sell the Assets. The unpaid principal amount of the
 23 portion of the loans owned by the Receivership Entities is at least \$15.4 million. The License,
 24 servicing rights, and most of the loans which make up the Assets are subject to existing contracts
 25 and regulatory requirements that require coordination between the Receiver and the SBA in order
 26 to maximize their value. After meeting and conferring with the SBA, the Receiver believes the
 27 procedures set forth herein provide the best opportunity for the receivership estate to maximize the
 28 return for investors.

1 The Assets will be marketed in coordination with both the SBA and Voit, which has
2 substantial experience in marketing and selling loan portfolios similar to those here. The two-
3 stage process of obtaining indicative bids and then best and final bids provides the best
4 opportunity for the receivership estate to negotiate and obtain the best possible price for each of
5 the Assets. Accordingly, the Receiver believes the proposed sale process is in the best interest of
6 the receivership estate and investors.

7 In light of the nature of the Assets and the necessary involvement and regulatory
8 requirements of the SBA in connection with the sale, the Receiver requests the Court permit the
9 sale of the Assets to proceed in accordance with the foregoing described procedures and waive the
10 procedural requirements set forth in 28 U.S.C. § 2004. Section 2004 provides in relevant part:

11 Any personal property sold under any order or decree of any court
12 of the United States shall be sold in accordance with § 2001 of this
title, *unless the court orders otherwise.*

13 In this instance, the Receiver requests the Court order that the Receiver may forego
14 publishing notices, obtaining appraisals, and conducting public auctions that are called for under
15 Section 2004 (which incorporates 28 U.S.C. § 2001.) Unlike real estate or personal property such
16 as a house, car, or boat, the Assets at issue here do not lend themselves to typical public auction.
17 The need to pre-qualify purchasers and coordinate with the SBA makes a public auction
18 impracticable. The highest price may be achieved through competitive bidding, along with
19 negotiations with qualified prospective purchasers who are willing, for example, to structure a
20 transaction in a way that allows all assets to be sold to one or more prospective purchasers on
21 behalf of a group of separate entities. The proposed two-step sales process allows the Receiver to
22 maximize the return while meeting the regulatory and contractual requirements. Obtaining
23 appraisals, publishing, and conducting a public auction as contemplated by the statute would add
24 costs and delay to the process. Moreover, neither the Receiver, the SBA, nor Voit believe there
25 would be any benefit to the estate from such additional steps.

26 The Receiver's proposed procedure allows him to entertain competitive offers of
27 pre-qualified purchasers of the loan portfolios and present a final proposed purchaser(s) to the
28 Court for confirmation. Based upon the foregoing, the Receiver asks the Court to waive the

1 requirements set forth in 28 U.S.C. § 2004 for publication, appraisal, and public auction, and
2 approve the sales process proposed herein.

3 Finally, the Receiver believes a broker with experience in marketing and selling loan
4 portfolios will significantly enhance the purchase price for the Assets. He has discussed the
5 contemplated sale with several brokers, reviewed proposals from them, and believes Voit's skill
6 and experience, coupled with the competitive compensation terms in the Listing Agreement, make
7 Voit the best option. Seaman Declaration, ¶¶ 9-10. Voit's marketing plan will expose the Assets
8 to an extensive database of potential purchasers and provide qualified purchasers with ready
9 access to due diligence information, which will help ensure the highest and best price for the
10 Assets is obtained. Accordingly, the Receiver requests authority to engage Voit as broker
11 pursuant to the Listing Agreement.

12 **IV. CONCLUSION**

13 Wherefore the Receiver requests an order authorizing the Receiver to proceed with the
14 marketing and sale of the Assets in accordance with the procedures described hereinabove,
15 waiving the requirements under 28 U.S.C. § 2004 in connection with such sales, and authorizing
16 him to engage Voit as broker pursuant to the Listing Agreement.

17
18 Dated: March 12, 2014

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

19
20 By: _____ /s/ Ted Fates

TED FATES
Attorneys for Receiver
THOMAS A. SEAMAN

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EXHIBIT A

SBC LOAN PARTICIPATION REPORT

Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	SBC % Owned	\$ SBC Owned Balance	Guaranteed % Sold	\$ Sold Balance	% Participated	\$ Participated Balance
	7A LOANS									
41085050-10	Robert Marshall	Small Business Capital, LLC	\$1,010,000	\$936,570	10%	\$93,657	90%	\$842,913		\$0
42282550-01	Charles A. Pitts, Pamela S. Pitts and Power Brakes	Small Business Capital, LLC	\$1,140,700	\$1,069,701	10%	\$106,970	75%	\$802,276	15%	\$160,455
42315750-04	SO2, LLC	Small Business Capital, LLC	\$1,144,000	\$1,071,094	25%	\$267,773	75%	\$803,320		\$0
43671550-06	Bragato Paving, Inc.	Small Business Capital, LLC	\$1,875,000	\$1,768,903	10%	\$176,890	90%	\$1,592,013		\$0
44009850-00	One World Inns, LLC dba Amber House	Small Business Capital, LLC	\$1,270,000	\$1,199,805	10%	\$119,981	90%	\$1,079,825		\$0
44225750-07	Gina Bianchi dba Rose Garden Health	Small Business Capital, LLC	\$624,000	\$587,646	10%	\$58,765	90%	\$528,881		\$0
44728650-09	Northwoods Inn, LLC	Small Business Capital, LLC	\$2,152,000	\$2,032,539	10%	\$203,254	90%	\$1,829,285		\$0
44882150-07	Nina Sanai/Devon Dental	Small Business Capital, LLC	\$580,000	\$545,956	10%	\$54,596	90%	\$491,360		\$0
45158250-09	The Leticia M. Luna Rev. Trust dated October 1, 1993 & LML Properties, LLC dba Line Up	Small Business Capital, LLC	\$650,000	\$624,006	25%	\$156,002	75%	\$468,005		\$0
45312750-10	Lizgio, LLC / Meyers Castle	Small Business Capital, LLC	\$1,200,000	\$1,144,479	25%	\$286,120	75%	\$858,359		\$0
45313150-09	The Elizabeth Urquiza Living Trust/ Meyers Castle	Small Business Capital, LLC	\$1,650,000	\$1,573,911	25%	\$393,478	75%	\$1,180,433		\$0
45406750-03	Amy Y. Lin Pineda	Small Business Capital, LLC	\$265,000	\$255,666	25%	\$63,916	75%	\$191,749		\$0
45610650-07	Z & H Happy Hands Corporation dba Happy Hands Carwash	Small Business Capital, LLC	\$1,856,000	\$1,759,029	10%	\$175,903	75%	\$1,319,271	15%	\$263,854
45661350-03	Smith, Robert / Bob's Iron	Small Business Capital, LLC	\$442,000	\$416,136	25%	\$104,034	75%	\$312,102		\$0
46694950-09	Iguanas Real Estate Holdings, LLC	Small Business Capital, LLC	\$969,000	\$926,426	25%	\$231,607	75%	\$694,820		\$0
46893750-05	TRC Holdings, LLC / Trillicom, LLC	Small Business Capital, LLC	\$1,353,750	\$1,293,108	10%	\$129,311	75%	\$969,831	15%	\$193,966
48336450-09	Arutyun Kusoyan & Anait Khachatryan (Thrifty Rooter)	Small Business Capital, LLC	\$202,500	\$193,506	25%	\$48,376	75%	\$145,129		\$0
48661150-10	Kevin Pham & Nhung Tong (Genki Nishikigoi, Inc.)	Small Business Capital, LLC	\$338,600	\$324,473	25%	\$81,118	75%	\$243,354		\$0

Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	SBC % Owned	\$ SBC Owned Balance	Guaranteed % Sold	\$ Sold Balance	% Participated	\$ Participated Balance
49028150-06	Aesthetics Medical Management dba The Beauty Lounge Med Spa / KV Equity, LLC	Small Business Capital, LLC	\$892,500	\$853,626	10%	\$85,363	75%	\$640,220	15%	\$128,044
49423850-02	Lillie Milovanovic, Michael Milovanovic, Lillie Alexander Ltd.	Small Business Capital, LLC	\$650,000	\$624,880	25%	\$156,220	75%	\$468,660		\$0
	Intervention 911	Small Business Capital, LLC	\$728,000	\$698,321	10%	\$69,832	75%	\$523,741	15%	\$104,748
49636250-01	Vaidotas Vaitys & Judith Miltner-Vaitys / Strawberry Inn	Small Business Capital, LLC	\$775,000	\$744,767	10%	\$74,477	75%	\$558,575	15%	\$111,715
49889650-05	8098 Professional Building, Ltd. / Hyo Kim M.D.	Small Business Capital, LLC	\$1,600,000	\$1,547,395	25%	\$386,849	75%	\$1,160,546		\$0
50112450-02	One Stop Nutrition Corporate Office, LLC	Small Business Capital, LLC	\$525,000	\$509,738	100%	\$509,738	0%	\$0		\$0
50244850-03	Alexis M. Readinger / Preen, Inc.	Small Business Capital, LLC	\$467,500	\$450,243	10%	\$45,024	75%	\$337,682	15%	\$67,536
50446950-04	The Kellerman Family Trust dated June 15, 1995 / Sun-Fax Arco	Small Business Capital, LLC	\$997,100	\$961,455	10%	\$96,145	75%	\$721,091	15%	\$144,218
50486150-10	Jose De Jesus Velasquez Sanchez dba JV Mattress	Small Business Capital, LLC	\$650,000	\$626,912	25%	\$156,728	75%	\$470,184		\$0
50631350-06	Complete Senior Living, LLC	Small Business Capital, LLC	\$700,000	\$676,254	25%	\$169,063	75%	\$507,190		\$0
50844650-10	Gursharan Signh / Tropicana Liquors	Small Business Capital, LLC	\$595,000	\$551,701	25%	\$137,925	75%	\$413,776		\$0
50879550-10	Mary T. O'Brien Properties, LLC / Simple Pastimes, LLC	Small Business Capital, LLC	\$450,000	\$434,408	25%	\$108,602	75%	\$325,806		\$0
50999750-02	Ferchoff Sedona, LLC / Lodge at Sedona, LLC	Small Business Capital, LLC	\$1,600,000	\$1,543,641	25%	\$385,910	75%	\$1,157,731		\$0
51406950-04	Tamasebi, LLC	Small Business Capital, LLC	\$300,000	\$260,071	25%	\$65,018	75%	\$195,054		\$0
51666250-03	John & Penny Bichler / Teddy Bear Hauling	Small Business Capital, LLC	\$320,000	\$310,298	25%	\$77,574	75%	\$232,723		\$0
51479650-05	Ganlaon Corporation	Small Business Capital, LLC	\$1,400,000	\$1,356,336	25%	\$339,084	75%	\$1,017,252		\$0
51578150-10	Naren Bhakta Family Revocable Living Trust / DN Motels, Inc.	Small Business Capital, LLC	\$325,000	\$314,428	25%	\$78,607	75%	\$235,821		\$0
52061350-04	VS Investment Group, LLC / Twin Power Technology, Inc.	Small Business Capital, LLC	\$648,000	\$607,582	25%	\$151,895	75%	\$455,686		\$0
51845150-09	IRC International Restaurant Corporation	Small Business Capital, LLC	\$400,000	\$383,627	25%	\$95,907	75%	\$287,721		\$0
52465650-09	TB Insurance, L.L.C.	Small Business Capital, LLC	\$316,000	\$306,243	100%	\$306,243	0%	\$0		\$0
	Total		\$33,061,650	\$31,484,877		\$6,247,955		\$24,062,385		\$1,174,537

504 1st Loans										
Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	IPF/SBC % Owned	\$ IPF/SBC Owned Balance	Pooled %	Pooled \$ Balance		
4505985007	Sunshine Holiday Group, LLC	Investors Prime Fund, LLC	\$7,261,000	\$7,008,993	15%	\$1,051,349	85%	\$5,957,644		
4828535006	Airport Boulevard Realty, LLC	SBC Portfolio Fund, LLC	\$8,000,000	\$7,694,938	15%	\$1,154,241	85%	\$6,540,698		
200000	Valley Produce	SBC Portfolio Fund, LLC	\$255,000	\$147,578	100%	\$147,578		\$0		
5196675008	Clover Hotel Partners	SBC Portfolio Fund, LLC	\$1,565,000	\$1,537,431	100%	\$1,537,431		\$0		
5003425008	Focus Hospitality	SBC Portfolio Fund, LLC	\$2,007,500	\$1,855,643	15%	\$278,347	85%	\$1,577,297		
106	David B. & Shema Sherwin	SBC Senior Commerical Mortgage Fund, LLC	\$550,000	\$547,244	15%	\$82,087	85%	\$465,157		
4709145004	Aung San, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$2,287,500	\$2,194,616	15%	\$329,192	85%	\$1,865,423.49		
4792575004	47300 Kato LLC	SBC Senior Commerical Mortgage Fund, LLC	\$1,912,500	\$1,833,118	15%	\$274,968	85%	\$1,558,150		
4965035005	Justin Giarla & Kirsten Skipper dba White Walls	SBC Senior Commerical Mortgage Fund, LLC	\$712,500	\$709,533	15%	\$106,430	85%	\$603,103		
5026835005	Auto Spa Express	SBC Senior Commerical Mortgage Fund, LLC	\$1,460,000	\$778,169	15%	\$116,725	85%	\$661,444		
3280686000	Edge Partners	SBC Senior Commerical Mortgage Fund, LLC	\$1,178,500	\$1,164,788	15%	\$174,718	85%	\$990,070		
5059675001	Aung Solvang, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$1,542,500	\$1,511,504	15%	\$226,726	85%	\$1,284,778		
5057155005	Senese Family Trust , Southcoast Cabinets	SBC Senior Commerical Mortgage Fund, LLC	\$3,250,000	\$3,177,573	15%	\$476,636	85%	\$2,700,937		
4826335001	3AM, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$3,766,225	\$3,716,025	15%	\$557,404	85%	\$3,158,621		
108	Larry M. & Amy L. Mardock/Decorative Paving	SBC Senior Commerical Mortgage Fund, LLC	\$396,000	\$392,602	100%	\$392,602		\$0		
	Total		\$36,144,225	\$34,269,756		\$6,906,433		\$27,363,324		
Non-SBA Loans										
Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	% Owned					
51	Kallapa Rampur dba Park Blvd. 76	Investors Prime Fund, LLC	\$1,727,000	\$2,216,565	100%					
864726	Manoj Patel dba Palo Alto Lodge	SBC Portfolio Fund, LLC	\$84,000	\$36,293	100%					
4024	Scott Deamer Dunn	SBC Portfolio Fund, LLC	\$30,000	\$23,000	100%					
	Total		\$1,841,000	\$2,275,858						

EXHIBIT B

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("**Agreement**") is made as of _____, 2014 (the "**Effective Date**") by THOMAS A. SEAMAN, in his capacity as receiver appointed by the United States District Court, Northern District of California for Small Business Capital Corp., Investors Prime Fund, LLC, SBC Portfolio Fund, LLC, and their subsidiaries and affiliates ("**Receiver**"), and _____ ("**Investor**"), with reference to the following:

A. Receiver and Investor are discussing possible transactions (the "**Potential Transaction**") pursuant to which Investor may consider purchasing certain assets generally described on Exhibit "A" attached to this Agreement (collectively, the "**Assets**").

B. In connection with Investor's evaluation of the Potential Transaction, Investor has requested or may request access to certain Evaluation Materials (as defined below) with respect to the Assets (the "**Property**").

C. Receiver is willing to make available such information for certain specified purposes and on certain restrictive conditions.

NOW, THEREFORE, with the intent to be legally bound and for consideration the existence and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Evaluation Materials. As used herein, the term "**Evaluation Materials**" includes all documents, materials, data and all other information which Receiver or any of Receiver's Representatives (as defined below) will be furnishing, disclosing or providing, to Investor or Investor's Representatives from time to time before or after the Effective Date hereof in accordance with the terms of this Agreement. In addition, all such information and all notes, analyses, compilations, data, studies or other documents or materials prepared by Investor or any of Investor's Representatives solely to the extent they contain or are based on information that would otherwise qualify as Evaluation Material, shall also constitute "Evaluation Material." The term "Evaluation Material" does not include information which (a) was already in the possession of Investor or Investor's Representatives, without a breach of terms of confidentiality, prior to receipt by Investor or any of Investor's Representatives of Evaluation Material from Receiver or any of Receiver's Representatives hereunder, (b) was or becomes generally available to the public other than as a result of disclosure by Investor or any of Investor's Representatives in violation of the terms of this Agreement, (c) was or becomes available to Investor or Investor's Representatives on a non-confidential basis from a source other than Receiver or any of Receiver's Representatives, so long as to Investor's knowledge the source was not bound by a confidentiality agreement or other contractual, legal or fiduciary obligation of confidentiality with respect to such information or (d) was or is independently developed by Investor or any of Investor's Representatives. For purposes hereof, (i) the term "**Representative**" of a party shall mean any Affiliate of a party and any directors, stockholders, officers, members, managers, employees, controlling persons, agents, representatives, counsel and advisors of any kind of such party or of such party's Affiliates, including legal counsel, consultants, bankers, potential equity partners and lenders, financial advisors and accountants who are actually provided with any

Evaluation Material and who accept and review it, (ii) the term "**Affiliate**" of a party shall mean any person that directly or indirectly controls, is controlled by, or is under common control with, such party, and (iii) the term "**person**" shall mean an individual, a partnership, a corporation, a limited liability company, a business trust, a joint stock company, a trust, an unincorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

2. Confidentiality. All Evaluation Material is non-public and confidential in nature. Investor and all Representatives of Investor shall keep the Evaluation Material strictly confidential in accordance with the provisions of this Agreement. Investor shall not, and shall use its commercially reasonable efforts to cause all Representatives of Investor not to, divulge, furnish, disclose, provide or otherwise make available to any other person, any of the Evaluation Material; provided however, that (a) any Evaluation material may be disclosed to the extent compelled in any judicial or administrative proceeding or as otherwise required by law or at the request of any regulatory entity having, or claiming to have, regulatory powers over any Investor's activities, (b) any Evaluation Material may be disclosed to the Investor's Representatives who need to know such information in connection with the evaluation of the Assets and any Potential Transaction and are informed of the confidential nature of such Evaluation Material and the terms of this Agreement, (c) any disclosure of Evaluation Material may be made as to which the Receiver or its Representative has expressly consented to in writing, and (d) Evaluation Material may be disclosed in connection with the exercise or enforcement of any legal rights or remedies under any definitive, binding agreement (if any) which may be entered into between the parties hereto in connection with any Potential Transaction.

3. Return or Destruction of Evaluation Material. At any time upon the request of Receiver, Investor will promptly deliver to Receiver all Evaluation Material and copies or duplications thereof and destroy all computer files and other electronic files and information based on or containing any Evaluation Material; provided however, that notwithstanding the foregoing, Investor shall be entitled to keep copies of such records as are required by its internal recordkeeping and compliance procedures, in its sole discretion. Investor shall promptly confirm to Receiver in writing when such deliveries and destructions, to the extent required by the foregoing, have been completed.

4. Use of Evaluation Material. The Evaluation Material shall be used by Investor and Investor's Representatives solely in connection with and for the purpose of evaluating the Potential Transaction and shall not be used, directly or indirectly, in any other way or for any other use, purpose or activity whatsoever, whether or not detrimental to Receiver or the Assets.

5. Excluded Information. Receiver and Receiver's Representatives shall not make available to Investor or Investor's Representatives (a) any legally privileged information, documents or materials, (b) any document or other item which Receiver is contractually or otherwise bound to keep confidential, or (c) any documents, materials or other information pertaining to the potential sale of the Assets to other prospective purchasers.

6. Disclaimer. Investor acknowledges that much of the Evaluation Material which may be made available to Investor and Investor's Representatives in connection with Investor's evaluation of the Assets were prepared by third parties. Receiver does not make any

representation or warranty, and hereby expressly disclaims any representation or warranty, that any material, data and other information made available to Investor or Investor's Representatives constitute all of the material, data and information relating to the Assets or that the material, data and other information delivered or made available to Investor or Investor's Representatives are true, accurate or complete. Receiver has informed Investor that the Evaluation Material relating to the Assets delivered or made available to Investor or Investor's Representatives may not constitute all of the documents, materials or other information relating to the Assets in the possession of Receiver and it is Investor's responsibility to satisfy itself as to whether that material, data and other information provide sufficient information for Investor to determine if Investor should purchase the Assets. Investor acknowledges and agrees that all Evaluation Material made available to Investor and Investor's Representatives are made available as a convenience and accommodation only. Investor further acknowledges and agrees that Receiver nor any of Receiver's Representatives has (a) made any warranty or representation regarding the truth, accuracy or completeness of any such material, data and other information or the source(s) thereof, or (b) undertaken any independent investigation as to the truth, accuracy or completeness of any such material, data and other information. Investor expressly disclaims any intent to rely on any such material, data and other information and agrees that Investor shall rely solely on Investor's own independently developed or verified information. Notwithstanding the foregoing, the parties hereto acknowledge and agree that the disclaimers contained in this Section 5 shall not apply to any representations or warranties (if any) made in any definitive, binding agreement (if any) which may be entered into between the parties hereto in connection with any Potential Transaction, which such representations and warranties (if any) shall be governed solely by the terms of any such definitive documentation.

7. Warranty of Authority. Each individual and entity executing this Agreement represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement.

8. Attorneys' Fees. If any action is brought by either party against the other party, relating to or arising out of this Agreement, the transaction described herein or the enforcement hereof, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Section 8 shall survive the entry of any judgment, and shall not merge, or be deemed to have merged, into any judgment.

9. No Offer to Sell or Buy the Assets. Nothing contained in this Agreement is intended, nor shall it be deemed or construed, as (x) an agreement by the Receiver to sell the Assets or an offer by the Receiver of sale or (y) an agreement by the Investor to purchase or otherwise invest in the Assets or an offer by the Investor to purchase or otherwise invest in the Assets. Without limiting the foregoing, Investor acknowledges that, any expenditure, undertaking or other action

taken by Investor pursuant to this Agreement or otherwise in contemplation of acquiring the Assets shall be at Investor's sole risk.

10. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action brought by either party against the other party, relating to or arising out of this Agreement shall be subject to the exclusive jurisdiction of the United States District Court for the Northern District of California. This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings pertaining to the subject matter hereof, whether written or oral. The provisions of this Agreement may only be amended, modified, or waived by written agreement executed by each of the parties hereto and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any subsequent breach hereof. Investor shall not assign this Agreement nor any of Investor's rights hereunder without the prior written consent of Receiver, which may be given or withheld in the sole and absolute discretion of Receiver. In addition, no obligation owed or performed under this Agreement may be delegated by Investor or any of Investor's Representatives without the prior written consent of Receiver, which may be given or withheld in the sole and absolute discretion of Receiver. Except as provided above, this Agreement shall be binding upon and inure to the benefit of Investor, Receiver and each such party's permitted successors and assigns. Other than Investor, Receiver and their respective permitted successors and assigns, no third party shall be entitled to the benefits of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The Section headings used herein are for convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth or limit the provisions or scope of any provision. The parties acknowledge that their attorneys have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto. The terms "person" or "party" includes individuals, corporations, partnerships, trusts, other legal entities, organizations and associations, and any governmental or governmental agency or authority. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The words "approval", "consent" and "notice" shall be deemed to be preceded by the word "written". If any provision of this Agreement is determined by a proper court to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement and this Agreement shall remain in full force and effect without such invalid, illegal or unenforceable provision.

[SIGNATURES FOLLOW ON IMMEDIATELY SUCCEEDING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first above written.

INVESTOR:

[IF INVESTOR IS AN ENTITY]

_____,
a _____

By: _____
Name: _____
Title: _____

[IF INVESTOR IS AN INDIVIDUAL]

RECEIVER:

THOMAS A. SEAMAN, in his capacity as
receiver appointed by the United States
District Court, Northern District of
California

EXHIBIT A

Insert List/Table of Loan Interests, SBLC License, and Servicing Rights

EXHIBIT C

Instructions for Potential Purchasers

In accord with those procedures approved by the United States District Court, Thomas A. Seaman, the federal equity receiver for Small Business Capital Corp., Investors Prime Fund LLC, SBC Portfolio Fund and their affiliates ("Receivership Entities") is offering to sell the loans, 7(a) License, and servicing rights for those loans identified on the attached spreadsheet [Attachment 1]. The loans will be sold in accordance with that order entered on _____, 2014, by the United States District Court, Northern District of California (Dkt. No. 713) ("Sale Process Order".) As detailed below, the sale of the identified 7(a) Loans and the below defined SBLC License will be made in accordance with the guidelines and process agreed upon by the U.S. Small Business Administration ("SBA"), which process is outlined in Section I below. In particular, prospective purchasers of the 7(a) Loans will be required to be pre-qualified by the SBA in order to bid on the purchase of the 7(a) Loans and SBLC License.

The balance of the loans identified on Attachment 1 will be sold in accordance with the procedures set forth in Section II below. Further information concerning the sale of the loans, the license, and servicing rights is available by contacting Peter Beauchamp of Voit Real Estate Services, LLC at 949-263-5356.

I. SALE OF 7(a) LOANS AND SBLC LICENSE; PRE-QUALIFICATION AND SALE PROCESS

A. Overview of Small Business Lending Companies

A Small Business Lending Company (SBLC) is a non-depository lending institution that is licensed and authorized by the SBA to only make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries under SBA's Microloan program. SBLCs are regulated, supervised, and examined solely by the SBA. The 7(a) Loan program is authorized by section 7(a) of the Small Business Act and is governed by the regulations outlined in Part 120 of Title 13 of the Code of Federal Regulations (CFR).

SBA regulations restrict the issuance of the SBA lending authority to operate as an SBLC to 14 entities ("SBLC License"). In order to acquire an SBLC License, an entity must purchase one of the existing SBLC Licenses. The prospective purchaser and the seller must receive the SBA's prior written approval.

B. Overview of the Process for Acquiring SB Capital's SBLC License and 7(a) Loan Portfolio

1. All prospective purchasers must be qualified as determined by the SBA. To become a qualified purchaser, a prospective purchaser must: (1) submit to the Receiver all the documentation set forth in paragraph C below, including the materials described in Attachment 2 and (2) demonstrate to the SBA that the prospective purchaser meets the participation criteria and ethical requirements for 7(a) Lenders and SBLCs, set forth in 13 CFR sections 120.140, 120.410 and 120.460 - 120.490. As part of the qualification process, each prospective purchaser must demonstrate to the SBA that the purchaser (including as appropriate its officers, managers and directors) will (a) have a continuing ability to evaluate, process, close, disburse, service, liquidate, and litigate small business loans, (b) be open to the public for the making of loans,

(c) have continuing good character and reputation, (d) meet the SBA's ethical requirements set forth in section 120.140, and (e) operate in a safe and sound condition using commercially reasonable lending policies, procedures and standards employed by prudent lenders. A background check for each applicant will be conducted by the SBA as part of the qualification process. Please note that prospective purchasers that have been pre-qualified by the SBA to bid on the 7(a) License and 7(a) Loans are conditionally approved subject to the successful completion of an SBA background check. The SBA may consider the prior experience of any officer, manager, or director who has been involved in SBA guaranteed lending programs.

2. To be qualified, prospective purchasers must also meet the SBA's requirements for SBLCs set forth in 13 CFR sections 120.470 and 120.471, which include, but are not limited to, (1) an SBLC must be a corporation (profit or non-profit), a limited liability company or limited partnership; (2) an SBLC must maintain dual control over disbursement of funds and withdrawal of securities; (3) an SBLC must maintain fidelity insurance in the form of a Brokers Blanket Bond, Standard Form 14, or Finance Companies Blanket Bond, Standard Form 15, or other form of coverage as the SBA may approve, in a minimum amount of \$2,000,000 executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to 31 U.S.C. sections 9304-9308; (4) an SBLC must employ full time professional management; and (5) in general, an SBLC may not be capitalized with borrowed funds. In addition, each qualified purchaser must maintain, at a minimum, unencumbered paid-in capital and paid-in surplus of at least \$2,000,000. Bids from prospective purchasers that do not meet these minimum requirements will not be considered by the SBA.

3. Assuming the prospective purchaser is qualified by the SBA and becomes the successful purchaser, the Receiver, as seller, and the buyer will enter into a purchase and sale agreement which includes the terms and conditions related to the sale. A copy of the draft form of purchase and sale agreement for the sale of Small Business Capital, LLC's ("SB Capital") SBLC License and 7(a) Loan portfolio is available to each prospective purchaser. The purchase and sale agreement reflects the sale of the SBLC License and all of the 7(a) Loans in the loan portfolio. Among other terms, the purchase and sale agreement includes a provision whereby the prospective purchaser agrees to purchase the 7(a) Loans subject to the SBA's right to deny liability on its guarantee, including in this case loans that were sold by the Receivership Entities to an investor on the secondary market. All prospective purchasers will be responsible for any loan deficiencies discovered by the SBA at any time, including loans that were sold on the secondary market. If the SBA discovers any deficiencies in such secondary market loans, the SBA will be entitled to recover directly from the successful purchaser some or all of the monies the SBA pays to honor its guarantee.

C. Timing and Documentation to be Submitted to Receiver by Prospective Purchasers of the 7(a) Loans and License

Prospective purchasers must submit the documentation described in Attachment 2 within twenty (20) business days of receipt of the instructions from the Receiver. In addition to any other documentation or copies required by the Receiver, prospective purchasers must submit to the Receiver three (3) complete binders of fully-executed paper copies to Mr. Thomas Seaman, CFA, Judicial Receiver, 3 Park Plaza, Suite 550, Irvine, California 92614 and one (1) executed electronic scanned copy (in PDF format) to tom@thomasseaman.com of the following

documents, organized in tabular form as set forth below. The Receiver will forward to the SBA two of the binders of fully-executed paper copies and one electronic scanned copy (in PDF format) of the submitted documentation.

D. Bidding and Sale Process for 7(a) Loans and License

The loans identified on Attachment 1 as 7(a) Loans as well as the SBLC License will be sold in accordance with the procedures set forth in the Sale Process Order. Upon execution of a confidentiality agreement and delivery of a \$500 payment to the Receiver, prospective purchasers of the 7(a) Loans and the SBLC License, will be provided access to certain due diligence materials in connection with the 7(a) Loans. The \$500 payment will be credited towards the prospective purchaser's 5% initial deposit (discussed below) at the time it submits its bid, or be non-refundable if no bid is submitted. Upon demonstrating their ability to close and to qualify as purchasers, prospective purchasers may be granted access to the complete loan files and due diligence materials. The Receiver and Voit Real Estate Services LLC, may, in their sole discretion, deny access to the complete loan files to any prospective purchasers.

Upon notification by the SBA that it has qualified the prospective purchasers, the Receiver will invite all qualified prospective purchasers to submit their initial bids to purchase the 7(a) Loans and the SBLC License. The pre-qualified prospective purchasers will have ten (10) business days from the date of notice to submit their initial bids, along with a deposit equal to 5% of the initial bid. All bids must be all cash offers. Following receipt of these initial bids the Receiver will review the bids and communicate with prospective purchasers with regard to any issues concerning the form, amount, or nature of the offers.

Once the Receiver has reviewed the initial bids, the Receiver will determine a range of bids deemed acceptable. Those prospective purchasers who the Receiver deems to have submitted bids within the acceptable range, if any, will be notified and invited to make a best and final offer to purchase the 7(a) Loans and the SBLC License. Again, each prospective purchaser will be provided with five (5) business days to submit their best and final purchase offers. After the deadline for submission of best and final offers, the Receiver will select the best offer or offers. At that time, the winning prospective purchaser(s) will be requested to execute a purchase and sale agreement in the form substantially the same as that form attached hereto as Attachment 3 and return the purchase and sale agreement along with an additional deposit in an amount sufficient to bring the full earnest money deposit to 10% of the purchase price. The parties will have ten (10) business days to execute this purchase agreement.

The Receiver will confirm the SBA's approval and then promptly file a motion to confirm the sale to the prospective purchaser. The sale will close within five (5) business days following entry of an order confirming the sale by the United States District Court.

II. SALE OF 504 LOANS AND NON-SBA LOANS

The loans identified on Attachment 1 as the 504 Loans and the SB Cap Loans will be sold in accordance with the procedures set forth in the Sale Process Order. The Receiver holds interests in certain loans identified as the 504 Loans as well as other loans that were made directly by Small Business Capital Corp. or its affiliates to individuals and entities. These loans

are listed under SB Cap Loans on Attachment 1. Prospective purchasers will be provided access to certain due diligence material upon execution of a confidentiality agreement and delivery of a \$500 payment to the Receiver. The \$500 payment will be credited towards the prospective purchaser's 5% initial deposit (discussed below) at the time it submits its bid, or be non-refundable if no bid is submitted. Upon demonstrating their ability to close and to qualify as purchasers, prospective purchasers may be granted access to the complete loan files and due diligence materials. The Receiver and Voit Real Estate Services LLC, may, in their sole discretion, deny access to the complete loan files to any prospective purchasers.

Upon conclusion of the due diligence period and the period for pre-qualification of prospective purchasers of the 7(a) Loans (described above), the Receiver will invite all prospective purchasers to submit their initial bids for the loans they are interested in purchasing within ten (10) business days from the date of the notice. Initial bids must be accompanied by a deposit equal to 5% of the initial bid amount. All bids must be all cash. Following the receipt of these initial bids and deposits the Receiver will review the bids and communicate with the prospective purchasers with regard to any issues concerning the form, amount, or nature of the purchase offer.

Once the Receiver has reviewed these initial bids, the Receiver will determine a range of bids deemed acceptable. Those prospective purchasers who are found to be within the acceptable range of bids will be notified and invited to make a best and final offer to purchase the subject loans. Interested Parties will be provided five (5) business days to submit their best and final purchase offers.

After the deadline for submission of the best and final bids, the Receiver will promptly select the best offer or offers. At that time, the winning prospective purchaser(s) will be given five (5) business days to make an additional deposit in an amount sufficient to bring the full earnest money deposit to 10% of the purchase price and, within ten (10) business days, execute a purchase and sale agreement substantially in the form attached hereto as Attachment 4. The Receiver will confirm the SBA's approval of the 504 Loans and then promptly file a motion to confirm the sale. The sale will close within five (5) business days following entry of an order confirming the sale.

Attachment 1**SBC LOAN PARTICIPATION REPORT**

Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	SBC % Owned	\$ SBC Owned Balance	Guaranteed % Sold	\$ Sold Balance	% Participated	\$ Participated Balance
7A LOANS										
41085050-10	Robert Marshall	Small Business Capital, LLC	\$1,010,000	\$936,570	10%	\$93,657	90%	\$842,913		\$0
42282550-01	Charles A. Pitts, Pamela S. Pitts and Power Brakes	Small Business Capital, LLC	\$1,140,700	\$1,069,701	10%	\$106,970	75%	\$802,276	15%	\$160,455
42315750-04	SO2, LLC	Small Business Capital, LLC	\$1,144,000	\$1,071,094	25%	\$267,773	75%	\$803,320		\$0
43671550-06	Bragato Paving, Inc.	Small Business Capital, LLC	\$1,875,000	\$1,768,903	10%	\$176,890	90%	\$1,592,013		\$0
44009850-00	One World Inns, LLC dba Amber House	Small Business Capital, LLC	\$1,270,000	\$1,199,805	10%	\$119,981	90%	\$1,079,825		\$0
44225750-07	Gma Bianchi dba Rose Garden Health	Small Business Capital, LLC	\$624,000	\$587,646	10%	\$58,765	90%	\$528,881		\$0
44728650-09	Northwoods Inn, LLC	Small Business Capital, LLC	\$2,152,000	\$2,032,539	10%	\$203,254	90%	\$1,829,285		\$0
44882150-07	Nina Sanai/Devon Dental	Small Business Capital, LLC	\$580,000	\$545,956	10%	\$54,596	90%	\$491,360		\$0
45158250-09	The Leticia M. Luna Rev. Trust dated October 1, 1993 & LML Properties, LLC dba Line Up	Small Business Capital, LLC	\$650,000	\$624,006	25%	\$156,002	75%	\$468,005		\$0
45312750-10	Lizzio, LLC / Meyers Castle	Small Business Capital, LLC	\$1,200,000	\$1,144,479	25%	\$286,120	75%	\$858,359		\$0
45313150-09	The Elizabeth Urquiza Living Trust/ Meyers Castle	Small Business Capital, LLC	\$1,650,000	\$1,573,911	25%	\$393,478	75%	\$1,180,433		\$0
45406750-03	Amy Y. Lin Pineda	Small Business Capital, LLC	\$265,000	\$255,666	25%	\$63,916	75%	\$191,749		\$0
45610650-07	Z & H Happy Hands Corporation dba Happy Hands Carwash	Small Business Capital, LLC	\$1,856,000	\$1,759,029	10%	\$175,903	75%	\$1,319,271	15%	\$263,854
45661350-03	Smith, Robert / Bob's Iron	Small Business Capital, LLC	\$442,000	\$416,136	25%	\$104,034	75%	\$312,102		\$0
46694950-09	Iguanas Real Estate Holdings, LLC	Small Business Capital, LLC	\$969,000	\$926,426	25%	\$231,607	75%	\$694,820		\$0
46893750-05	TRC Holdings, LLC / Trillicom, LLC	Small Business Capital, LLC	\$1,353,750	\$1,293,108	10%	\$129,311	75%	\$969,831	15%	\$193,966
48336450-09	Arutyun Kusoyan & Anait Khachatryan (Thrifty Rooter)	Small Business Capital, LLC	\$202,500	\$193,506	25%	\$48,376	75%	\$145,129		\$0
48661150-10	Kevin Pham & Nhung Tong (Genki Nishikigoi, Inc.)	Small Business Capital, LLC	\$338,600	\$324,473	25%	\$81,118	75%	\$243,354		\$0

Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	SBC % Owned	\$ SBC Owned Balance	Guaranteed % Sold	\$ Sold Balance	% Participated	\$ Participated Balance
49028150-06	Aesthetics Medical Management dba The Beauty Lounge Med Spa / KV Equity, LLC	Small Business Capital, LLC	\$892,500	\$853,626	10%	\$85,363	75%	\$640,220	15%	\$128,044
49423850-02	Lillie Milovanovic, Michael Milovanovic, Lillie Alexander Ltd.	Small Business Capital, LLC	\$650,000	\$624,880	25%	\$156,220	75%	\$468,660		\$0
	Intervention 911	Small Business Capital, LLC	\$728,000	\$698,321	10%	\$69,832	75%	\$523,741	15%	\$104,748
49636250-01	Vaidotas Vaitys & Judith Miltner-Vaitys / Strawberry Inn	Small Business Capital, LLC	\$775,000	\$744,767	10%	\$74,477	75%	\$558,575	15%	\$111,715
49889650-05	8098 Professional Building, Ltd. / Hyo Kim M.D.	Small Business Capital, LLC	\$1,600,000	\$1,547,395	25%	\$386,849	75%	\$1,160,546		\$0
50112450-02	One Stop Nutrition Corporate Office, LLC	Small Business Capital, LLC	\$525,000	\$509,738	100%	\$509,738	0%	\$0		\$0
50244850-03	Alexis M. Readinger / Preen, Inc.	Small Business Capital, LLC	\$467,500	\$450,243	10%	\$45,024	75%	\$337,682	15%	\$67,536
50446950-04	The Kellerman Family Trust dated June 15, 1995 / Sun-Fax Arco	Small Business Capital, LLC	\$997,100	\$961,455	10%	\$96,145	75%	\$721,091	15%	\$144,218
50486150-10	Jose De Jesus Velasquez Sanchez dba JV Mattress	Small Business Capital, LLC	\$650,000	\$626,912	25%	\$156,728	75%	\$470,184		\$0
50631350-06	Complete Senior Living, LLC	Small Business Capital, LLC	\$700,000	\$676,254	25%	\$169,063	75%	\$507,190		\$0
50844650-10	Gursharan Singh / Tropicana Liquors	Small Business Capital, LLC	\$595,000	\$551,701	25%	\$137,925	75%	\$413,776		\$0
50879550-10	Mary T. O'Brien Properties, LLC / Simple Pastimes, LLC	Small Business Capital, LLC	\$450,000	\$434,408	25%	\$108,602	75%	\$325,806		\$0
50999750-02	Ferchoff Sedona, LLC / Lodge at Sedona, LLC	Small Business Capital, LLC	\$1,600,000	\$1,543,641	25%	\$385,910	75%	\$1,157,731		\$0
51406950-04	Tamasebi, LLC	Small Business Capital, LLC	\$300,000	\$260,071	25%	\$65,018	75%	\$195,054		\$0
51666250-03	John & Penny Bichler / Teddy Bear Hauling	Small Business Capital, LLC	\$320,000	\$310,298	25%	\$77,574	75%	\$232,723		\$0
51479650-05	Ganlon Corporation	Small Business Capital, LLC	\$1,400,000	\$1,356,336	25%	\$339,084	75%	\$1,017,252		\$0
51578150-10	Naren Bhakta Family Revocable Living Trust / DN Motels, Inc.	Small Business Capital, LLC	\$325,000	\$314,428	25%	\$78,607	75%	\$235,821		\$0
52061350-04	VS Investment Group, LLC / Twin Power Technology, Inc.	Small Business Capital, LLC	\$648,000	\$607,582	25%	\$151,895	75%	\$455,686		\$0
51845150-09	IRC International Restaurant Corporation	Small Business Capital, LLC	\$400,000	\$383,627	25%	\$95,907	75%	\$287,721		\$0
52465650-09	TB Insurance, L.L.C.	Small Business Capital, LLC	\$316,000	\$306,243	100%	\$306,243	0%	\$0		\$0
	Total		\$33,061,650	\$31,484,877		\$6,247,955		\$24,062,385		\$1,174,537

504 1st Loans										
Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	IPF/SBC % Owned	\$ IPF/SBC Owned Balance	Pooled %	Pooled \$ Balance		
4505985007	Sunshine Holiday Group, LLC	Investors Prime Fund, LLC	\$7,261,000	\$7,008,993	15%	\$1,051,349	85%	\$5,957,644		
4828535006	Airport Boulevard Realty, LLC	SBC Portfolio Fund, LLC	\$8,000,000	\$7,694,938	15%	\$1,154,241	85%	\$6,540,698		
200000	Valley Produce	SBC Portfolio Fund, LLC	\$255,000	\$147,578	100%	\$147,578		\$0		
5196675008	Clover Hotel Partners	SBC Portfolio Fund, LLC	\$1,565,000	\$1,537,431	100%	\$1,537,431		\$0		
5003425008	Focus Hospitality	SBC Portfolio Fund, LLC	\$2,007,500	\$1,855,643	15%	\$278,347	85%	\$1,577,297		
106	David B. & Shema Sherwin	SBC Senior Commerical Mortgage Fund, LLC	\$550,000	\$547,244	15%	\$82,087	85%	\$465,157		
4709145004	Aung San, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$2,287,500	\$2,194,616	15%	\$329,192	85%	\$1,865,423.49		
4792575004	47300 Kato LLC	SBC Senior Commerical Mortgage Fund, LLC	\$1,912,500	\$1,833,118	15%	\$274,968	85%	\$1,558,150		
4965035005	Justin Giarla & Kirsten Skipper dba White Walls	SBC Senior Commerical Mortgage Fund, LLC	\$712,500	\$709,533	15%	\$106,430	85%	\$603,103		
5026835005	Auto Spa Express	SBC Senior Commerical Mortgage Fund, LLC	\$1,460,000	\$778,169	15%	\$116,725	85%	\$661,444		
3280686000	Edge Partners	SBC Senior Commerical Mortgage Fund, LLC	\$1,178,500	\$1,164,788	15%	\$174,718	85%	\$990,070		
5059675001	Aung Solvang, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$1,542,500	\$1,511,504	15%	\$226,726	85%	\$1,284,778		
5057155005	Senese Family Trust , Southcoast Cabinets	SBC Senior Commerical Mortgage Fund, LLC	\$3,250,000	\$3,177,573	15%	\$476,636	85%	\$2,700,937		
4826335001	3AM, LLC	SBC Senior Commerical Mortgage Fund, LLC	\$3,766,225	\$3,716,025	15%	\$557,404	85%	\$3,158,621		
108	Larry M. & Amy L. Mardock/Decorative Paving	SBC Senior Commerical Mortgage Fund, LLC	\$396,000	\$392,602	100%	\$392,602		\$0		
	Total		\$36,144,225	\$34,269,756		\$6,906,433		\$27,363,324		
Non-SBA Loans										
Account Number	Borrower Name	Lender Name	Original Loan Amount	Current Principal Balance	% Owned					
51	Kallapa Rampur dba Park Blvd. 76	Investors Prime Fund, LLC	\$1,727,000	\$2,216,565	100%					
864726	Manoj Patel dba Palo Alto Lodge	SBC Portfolio Fund, LLC	\$84,000	\$36,293	100%					
4024	Scott Deamer Dunn	SBC Portfolio Fund, LLC	\$30,000	\$23,000	100%					
	Total		\$1,841,000	\$2,275,858						

Attachment 2

DOCUMENTATION TO BE SUBMITTED TO THE RECEIVER

- Tab #1 The legal name, address, telephone, facsimile and email address of the proposed SBLC (*i.e.*, the entity that will hold the SBLC License).
- Tab #2 Identification of the form of organization of the proposed SBLC along with copies of the entity's articles of incorporation (stamp-filed), limited liability company operating agreement (signed), or partnership agreement (signed), and a copy of the organization's bylaws (as applicable).
- Tab #3 Identification of the proposed SBLC's capitalization, including the form of ownership, the identification of all classes of equity capital and proposed funding amounts, rights and preferences accorded to each class of stock, partnership interest or members' interest (including voting rights, redemption rights, and rights of convertibility) and conditions for transfer, sale or assignment of these interests.
- Tab #4 The proposed SBLC's geographic area of operation.
- Tab #5 Identification of all officers and directors, and all limited partners, members and all other parties that propose to hold an equity interest of at least 10% of the economic interest in any class of stock, limited partnership interest or membership interest in the proposed SBLC.
- Tab #6 An organization chart showing the relationship of the proposed SBLC with all related Associates and Affiliates (as defined in 13 CFR §§ 120.10 and 121.103, respectively).
- Tab #7 A copy of the SBA Form 1081s, Statement of Personal History, signed and dated within 90 days of submission to SBA, for each individual identified in Tab #5 above, with SBA Form FD-258 (a fingerprint card) for each individual. Resumes for all officers and directors, managers and other key employees of the proposed SBLC, which document substantive relevant prior experience, should also be included.
- If any officer, director, or manager of the entity has been involved in SBA guaranteed loan programs in a professional capacity, they should provide the name of the relevant organization(s), the positions held, as well as length of time in each position.
- If the prospective purchaser has relevant small business lending experience, a narrative describing loan origination, servicing, and liquidation experience should be provided, as well as default and loss rates for the prospective purchaser's entire small business loan portfolio for the prior two fiscal years in consolidated format, and current delinquency, default and loss rates for the prospective purchaser's entire small business loan portfolio.
- Tab #8 Proof of fidelity insurance coverage as detailed in 13 CFR § 120.470(e).
- Tab #9 A comprehensive business plan that details:

- a) The nature of the proposed SBLC's operations, including the organizational units involved in sourcing, evaluating, underwriting, closing, disbursing, servicing and liquidating small business loans in the organization, including a list of office locations and the staffing at each location. If the bidder intends to use a third party lender service provider ("LSP"), information about this potential or existing provider should be included, together with any executed agreements if they exist, or draft agreements if not yet executed. The name and address, key employees, officers and directors, whether the LSP currently has any approved contracts with SBA, and what services the LSP would perform should be provided.

The plan should also include how the bidder intends to manage the transition of the current loan portfolio--the approach for evaluating and categorizing the assets, and the approach to servicing and managing the assets, as well as the timeframe for completion of the transition process.

- b) The level of prospective lending activity for the first three years of operation.
- c) The identification of all sources of capital used to finance lending operations including at a minimum, unencumbered paid-in capital and paid-in surplus of at least \$2 million, as well as third-party documentation of capital sources such as bank statements, commitment letters, or brokerage account statements.
- d) A projected balance sheet, income statement and statements of cash flows three years forward, along with the related interest rate, default and prepayment assumptions. The plan projections should be assembled under three different operating scenarios: normalized activity, activity assuming a 30% reduction in projected lending, and activity based on a 50% reduction in projected lending. These statements should include the 7(a) loan portfolio acquired from the Receiver, as seller, and address the SBLC capital requirements.
- e) The prospective purchaser's plan, if any, to serve any underserved markets, including a definition of any such target market, as well as the number and dollar of loans projected to be made in these markets for each of the first three years of operations.

Tab #10 All documents associated with any type of external financing (borrowings) expected to be undertaken by the proposed SBLC.

Tab #11 A written statement from an authorized official of the prospective purchaser certifying that the proposed SBLC will not be primarily engaged in the financing of the operations of an Affiliate as defined in 13 CFR § 121.103.

Tab #12 The most recent audited financial statements of the proposed SBLC if it has been in operation for more than one year, and if not available, the audited financial statements of the proposed SBLC's parent company. If the bidder is a newly formed entity with no parent, information about its current or proposed auditor should be provided.

- Tab #13 A certified copy of a board, limited partners', or members' resolution specifying the individual(s) or officials granted the authority by the organization to submit the documentation.
- Tab #14 A written opinion of independent counsel that addresses:
- a) Whether the proposed SBLC is duly formed and organized and in good standing;
 - b) Whether the proposed SBLC is authorized to enter into this transaction; and
 - c) The authority of the individual or official to submit the documentation.
- Tab #15 A written certification by the proposed SBLC that it is in full compliance with all federal, state, and local laws.
- Tab #16 A copy of a credit policy that demonstrates the proposed SBLC's compliance with Title 13 of the CFR and SBA's Standard Operating Procedures (SOPs) for origination, servicing and liquidation of 7(a) loans. A copy of an internal control policy which provides adequate direction to the institution for effective control over and accountability for operations, programs, and resources, and complies with 13 CFR § 120.460. This internal control policy must ensure satisfactory monitoring and management of the SBA loan portfolio, including but not limited to, providing for a periodic loan review function, a list of reports provided for board review, internal controls for loan making, servicing and liquidation, a risk rating system to risk classify SBA loan assets, and provisions to ensure compliance with SBA's loan program requirements on eligibility. The prospective purchaser must also provide documentation demonstrating that the internal control policies and procedures are fully implemented and followed.
- Tab #17 An SBA Form 750 agreement and an SBA Form 750B agreement, each countersigned by the prospective purchaser (see attachment).
- Tab #18 A signed Lender Statement of Obligation signed by the prospective purchaser (see attachment).

EXHIBIT D

**Instructions to Transfer Seller Receipt and Servicing Retention
Amount for First Lien Position 504 Loans ("504 Loans")**

Pursuant to the Receiver's Motion and order of the United States District Court, the Receiver is selling each of the 504 Loans pursuant to the following facts, instructions, and terms.

The Receivership Entities (other than Small Business Capital, LLC) made or acquired certain First Lien Position 504 Loans and sold the loans in the secondary market under SBA's FMLP Program. Under the FMLP Program, the "Lender" selling the First Lien Position 504 Loan, (known as the "Seller") is required to, among other things, retain a 15% or greater interest in the First Lien Position 504 Loan, service the First Lien Position 504 Loan in a commercially reasonable manner and liquidate the First Lien Position 504 Loan until the loan is repaid in full. 13 CFR §§ 120.1712 - 120.1713.

In accordance with SBA regulations, the Seller's retained interest is evidenced by a "Seller Receipt" issued by the Central Servicing Agent ("CSA"). With SBA's prior written permission, the Seller may sell the Seller Receipt and servicing retention amount (servicing fee) required by program regulations in whole, but not in part, to a single entity at one time. The Seller may not sell less than 100% of the Seller Receipt and the servicing retention amount, and may not sell a participation interest in any portion of any of its pooled loans. In order to complete a sale of the Seller Receipt, the Seller must have the purchaser of the Seller's Receipt execute the First Lien Position Loan Pool Guarantee Agreement ("504 First Guaranty Agreement" also known as "SBA Form 2401") as Seller and deliver an original to the CSA. By executing the 504 First Guaranty Agreement as Seller, the purchaser of the Seller Receipt assumes all liabilities and obligations arising prior to the date of the 504 First Guaranty Agreement of the Third Party Lender that originally made the loan, together with such Third Party Lender's successors or assignees or any other entity that previously executed the 504 First Guaranty Agreement as Seller to SBA. See SBA Form 2401. Therefore, if there is a closing error, servicing negligence, or some other issue that arises at any time during the life of the loan, SBA will have the right to pursue the owner of the Seller's Receipt as if it had originally approved the pool loan. All prospective purchasers should review SBA Form 2401 which includes provisions detailing the rights and responsibilities of Sellers under the Program.

Under the 504 First Guaranty Agreement the Seller is obligated to SBA for servicing and liquidation of the First Lien Position 504 Loans and for certain losses incurred by SBA on its guarantee. See *e.g.*, 504 First Guaranty Agreement, Section 2, (a), (b) & (c). SBA also has the right to recover monies paid on SBA's guarantee of a pool certificate backed in part by the Seller's First Lien Position 504 Loan if the SBA determines, in its sole discretion, that certain events have occurred, including, but not limited to, a Seller's improper action or inaction that has put SBA at risk, a Seller's failure to disclose a material fact regarding a First Lien Position 504 Loan to SBA in a timely manner, a Seller's misrepresentation of a material fact, a Seller's failure to comply materially with program rules and regulations, or a Seller's failure to make, close, service or liquidate loans in a prudent manner. 13 CFR § 120.1719.

The purchaser of the SBLIC License and related 7(a) Loans may not purchase any 504 Loans. See 13 CFR § 120.470(a). Prospective purchasers of 504 Loans should carefully review the FMLP Program Guide and SBA Form 2401, as well as the regulations implementing the 504 loan program in Subpart H of Part 120 of SBA's regulations at 13 CFR Part 120, Subpart H.

SBA forms and the FMLP Program Guide may be obtained from the CSA's website at the link below:

<https://sba504servicing.wellsfargo.com/SBALogonApp/application/login.jsp>

EXHIBIT E

LOAN PURCHASE AND SALE AGREEMENT

This LOAN SALE AGREEMENT ("Agreement") is made of as this _____ day of _____, 2014 (the "Effective Date"), by and between Thomas A. Seaman, Receiver ("**Seller**"), appointed by the United State District Court for the Northern District of California ("**Court**") for Small Business Capital Corp., Investors Prime Fund, LLC, SBC Portfolio Fund, LLC, and their subsidiaries and affiliates, including Small Business Capital LLC and SBC Senior Commercial Mortgage Fund, LLC ("**Receivership Entities**"), and _____ ("**Purchaser**").

RECITALS:

WHEREAS, Seller is the holder of (a) interests in loans identified on **Exhibit A** hereto ("**Loans**"), (b) a license in favor of Small Business Capital, LLC ("**SBC LLC**") that allows SBC LLC to operate a Small Business Lending Company ("**SBLC**") and make loans pursuant to Section 7(a) of the Small Business Act ("**License**"), and (c) the rights to service the SBA 7(a) loans listed on **Exhibit A** hereto and receive servicing fees in connection therewith ("**Servicing Rights**") (collectively, the "**Loan Assets**");

WHEREAS, pursuant to that certain Preliminary Injunction and Orders (1) Freezing Assets; (2) Prohibiting the Destruction of Documents; (3) Requiring Accountings; and (4) Appointing a Permanent Receiver (the "**Order**") entered on July 10, 2012 by the Court in Case No. 12-CV-03237-EJD (the "**Case**"), Thomas A. Seaman was appointed receiver for the Receivership Entities;

WHEREAS, on _____, 2014, the Court entered an order authorizing the Receiver to market the Loan Assets for sale, approving the procedures for such sale, and authorizing the Receiver to engage Voit Real Estate Services LP as broker ("**Sale Procedures Order**").

WHEREAS, Seller wishes to sell all of Seller's right, title and interest in, to and under the Loan Assets, and Purchaser, based on its own due diligence review of the Loan Assets, wishes to purchase all of Seller's right, title and interest in, to and under the Loan Assets.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, Seller and Purchaser agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions. Capitalized terms used in this Agreement are defined in **Exhibit B** or in the text with a cross-reference in **Exhibit B**.

Section 1.2. Rules of Construction. This Agreement will be interpreted in accordance with the rules of construction set forth in **Exhibit C** to this Agreement.

ARTICLE II

SALE AND PURCHASE OF THE LOANS

Section 2.1. Agreement to Sell and Purchase the Loans and the Warrants. Seller agrees to sell, and Purchaser agrees to purchase, all of Seller's right, title and interest in, to and under the Loan Assets in accordance with the terms of this Agreement.

Section 2.2. Assignment and Assumption of the Loan Documents. The Loan Documents are listed on Exhibit __ hereto ("**Loan Documents**"). Effective as of the Closing, Seller hereby assigns and transfers all of its right, title, and interest as lender in, to, and under the Loan Documents to Purchaser, its successors and assigns. Effective as of the Closing, Purchaser hereby assumes the performance of all of the terms, covenants, conditions, and obligations of Seller as lender under the Loan Documents, arising or accruing from and after the Closing.

Section 2.3. Access to Loan Files; Confidentiality. Seller has delivered (or made available) to Purchaser prior to the Effective Date copies of the Loan Documents and copies of all other original documents in the possession of Seller relating to the Loan Assets, including, without limitation, the Loan Files and endorsements to the lender's title insurance policy relating to the Loans that were obtained after the origination of the Loans, if any. Seller shall deliver to Purchaser copies of any written communication with any Borrower or Credit Party received or sent by Seller after the Effective Date. In addition, at the written request of Purchaser, Seller shall make available to Purchaser any additional documents in the possession of Seller relating to the Loans Assets, including the Loan File. To the extent that the Closing does not occur as contemplated herein, Purchaser agrees, upon the written request of Seller, to promptly return to Seller all documents and other materials delivered by Seller to Purchaser (if any). Consistent with the Confidentiality Agreement executed by Purchaser on _____, prior to the Closing, Purchaser agrees to keep confidential all information (whether oral or written) that Seller, Seller's agents or Seller's representatives (including attorneys and financial advisors) furnishes to Purchaser or its directors, officers, employees, agents, affiliates, representatives or advisors, whether furnished before or after the Effective Date, and all notes, analyses, compilations, reports, audits, projections, leases, studies or other documents, whether prepared by Purchaser or others, which contain or otherwise reflect such information, unless Purchaser obtained such information from persons other than the Seller or had access to such information from persons other than Seller. Purchaser understands and acknowledges that Receiver took control over the Loan Assets in his capacity as a federal equity receiver. Purchaser acknowledges that much of the materials, data and other information which Seller may make available to Purchaser were prepared by third parties other than Seller and, in many instances, may have been prepared prior to Seller taking control over the Loan Assets. Purchaser expressly acknowledges that any materials, data or other information of any type which Purchaser has received or may receive from Seller or any of Seller's agents, employees, contractors or representatives is furnished on the express condition that Purchaser shall not rely thereon, that Purchaser shall make an independent verification of the accuracy of such materials, data or other information, and that all such materials, data or other information are being furnished without any express or implied representation or warranty whatsoever. Without limiting the foregoing, Seller makes no representation or warranty, and hereby expressly disclaims any representation or warranty, that any of the materials, data or other information previously or hereafter delivered or

made available to Purchaser are true, accurate or complete. Furthermore, Seller has informed Purchaser that any such materials, data or other information delivered or made available to Purchaser may not constitute all of the documents or materials relating to the Loan Assets in the possession of Seller and Purchaser acknowledges that Purchaser has satisfied itself or that such materials, data or other information are sufficient for Purchaser to purchase the Loans Assets.

ARTICLE III

THE CLOSING

Section 3.1. Time and Location of the Closing. The Closing will occur on the Scheduled Closing Date at the time specified in Exhibit B.

Section 3.2. Payment of and Adjustment to Purchase Price.

(a) Purchaser previously deposited with the Seller two (2%) percent of the Purchase Price (\$_____) at the time it made its initial bid for the Loan Assets.

(b) On the Effective Date, Purchaser shall deposit with the Seller an additional eight (8%) percent of the Purchase Price (\$_____) (such amount, together with the initial five percent deposit and all interest earned thereon, is hereinafter referred to as the "Deposit"). Seller shall place the Deposit in a federally-insured, interest-bearing account and shall hold the Deposit in accordance with the terms of this Agreement. All interest which accrues on the Deposit shall be added to and increase the Deposit and shall be credited to Purchaser's account.

(c) As more particularly described in Section 6.2 below, the Deposit shall be retained by Seller as liquidated damages if the Closing does not occur for any reason other than (i) a material default by Seller or (ii) the material failure of a condition precedent to Purchaser's obligations to consummate the Closing hereunder.

(d) If the Closing does not occur because of Seller's material default or the material failure of a condition precedent to Purchaser's obligations, the Deposit shall be returned to Purchaser. Upon the Closing, the Deposit shall be credited toward payment of the Purchase Price.

(e) Not later than 2:00 p.m. (Eastern Standard Time) on the Scheduled Closing Date, Purchaser will deliver the Purchase Price (plus other amounts as may be required under this Section 3.2) to Seller.

(f) Any and all adjustments to the Purchase Price will be computed effective as of 12:01 a.m. (Pacific Standard Time) on the date specified in this Agreement for the particular adjustment.

(g) Interest payable under the Notes will be prorated as provided on a settlement statement for the Closing attached hereto as Exhibit H (the "Settlement Statement") and Purchaser shall pay to Seller, in addition to the Purchase Price, all accrued and unpaid interest with respect to the Loans through the Closing Date, inclusive.

(h) All regularly scheduled payments of principal and all prepayments of principal of any Loan received on or before the Closing Date will be the property of Seller and Purchaser will receive a credit against the Purchase Price at Closing for any such payment or prepayment made.

(i) The amounts held by Seller, or Seller's servicer, in reserves in connection with the Loans, which reserves are described on **Exhibit A**, shall be transferred to Purchaser at Closing; provided, however, that as of the Closing Date, Purchaser will assume all obligations under the Loan Documents for all such amounts. Nothing in this Section 3.2(h) shall limit the right of Seller to apply all amounts held in reserves by Seller in accordance with the terms of the Loan Documents during the period from the Effective Date through and including the Closing Date.

Section 3.3. Purchaser's Closing Documents. At the Closing, Purchaser will deliver the following Closing Documents to Seller:

(a) a receipt for the Loan Files, in the form of **Exhibit E** to this Agreement, executed by Purchaser;

(b) an assumption of Seller's rights and obligations under the Loan Documents and the Warrants and the accounts with respect to the Loans, in the form of **Exhibit F** to this Agreement, executed in counterpart by Purchaser (the "**Assumption Agreement**");

(c) a letter addressed to each Borrower notifying such Borrower of the transfer of the applicable Loan to Purchaser and directing such Borrower to make all debt service and any other payments required under the applicable Loan from and after the Closing Date to Purchaser or Purchaser's designee, substantially in the form of **Exhibit G** to this Agreement, executed in counterpart by Purchaser (the "**Borrower Notice Letter**");

(d) a certificate of Purchaser certifying (i) as to the incumbency of the signatories authorized to execute this Agreement and the Closing Documents required to be executed and delivered by Purchaser on behalf of Purchaser and (ii) that the execution of this Agreement and the Closing Documents and the consummation of the transaction contemplated by this Agreement have been duly authorized, executed by the Secretary or Assistant Secretary of Purchaser;

(e) the Settlement Statement, executed in counterpart by Purchaser; and

(f) Written confirmation from the SBA that the SBA has approved the transfer of the Loan Assets to Purchaser.

Section 3.4. Seller's Closing Documents. At the Closing, Seller will deliver the following Closing Documents to Purchaser (and pursuant to which Seller will transfer, assign, set-over and convey to Purchaser, without recourse, except as otherwise expressly set forth in this Agreement):

- (a) the original promissory notes or, if such original promissory notes are lost, lost note affidavits signed by Seller;
- (b) an endorsement to each promissory note endorsed to Purchaser, substantially in the form of **Exhibit I** to this Agreement, executed by Seller;
- (c) an assignment of each Deed of Trust, in the form of **Exhibit J**, executed and acknowledged by a notary public (collectively, "**Assignments of Deeds of Trust**");
- (d) the Assumption Agreement, in the form of **Exhibit F** to this Agreement, executed in counterpart by Purchaser;
- (e) UCC-3 Financing Statements (or the equivalent) reflecting the transfer of all of Seller's right, title and interest in, to and under the Loans to Purchaser, assigning to Purchaser the rights of Seller as "Secured Party" under each UCC-1 financing statement included in the Loan Files;
- (f) the Borrower Notice Letter, substantially in the form of **Exhibit G** to this Agreement, executed in counterpart by Seller; and
- (g) the Settlement Statement, executed in counterpart by Seller.

Section 3.5. Delivery of the Closing Documents.

(a) At Closing, and upon Seller's receipt of the Purchase Price by wire transfer of immediately available funds in accordance with the wiring instructions attached to this Agreement as **Exhibit D**, Seller shall promptly deliver to Purchaser, at Purchaser's expense, all Closing Documents required to be delivered by Seller to Purchaser in accordance with this Article III, and Purchaser shall promptly deliver to Seller all Closing Documents required to be delivered by Purchaser to Seller, all in accordance with this Article III.

Section 3.6. Reconveyance, Recording and Filing Closing Documents. Purchaser will record or file, as the case may be, at Purchaser's expense, the Assignment of Deed of Trust and the UCC Financing Statements.

Section 3.7. Other Closing Conditions.

(a) Purchaser's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Purchaser and may be waived by Purchaser in its sole discretion:

(A) Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) Seller shall not, as of the Closing Date, be in material default in the performance of Seller's obligations under this Agreement.

(C) The Court shall have entered the Sale Order approving the transaction contemplated by this Agreement.

(b) Seller's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Seller and may be waived by Seller in its sole discretion:

(A) Purchaser's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) All of the documents and funds required to be delivered by Purchaser to Seller at the Closing pursuant to the terms and conditions hereof shall have been delivered.

(C) Seller shall have received all consents, documentation and approvals necessary to consummate and facilitate the transactions contemplated hereby, including the Sale Order, the SBA's consent, and as may otherwise be required by law.

(D) Purchaser shall not, as of the Closing Date, be in material default in the performance of its obligations under this Agreement.

(c) If the purchase and sale fails to Close by the Scheduled Closing Date due to a failure of a condition, the party for whose benefit the condition is set forth may terminate this Agreement at any time thereafter until the Closing occurs, so long as the failure of condition is not caused by such party's breach of such party's obligations under this Agreement. If Purchaser so terminates, Purchaser shall be entitled as Purchaser's sole and exclusive remedy to the return of the Deposit.

Section 3.8. Loan Files. Within five (5) Business Days of the Closing, Seller shall make available to Purchaser (at Seller's office) the Loan Files. Purchaser acknowledges that Seller may retain a copy of the Loan Files for Seller's records. From and after the Closing, Seller and Seller's Affiliates, agents, employees, representatives and trustees will have no responsibility for the Loan Files and Purchaser will bear all risk of loss or damage with respect to the Loan Files.

ARTICLE IV

PURCHASER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS

Purchaser warrants and represents to Seller, as of the Effective Date and the Closing Date, and where indicated, covenants and agrees as follows:

Section 4.1. Purchaser's Authority.

(a) Purchaser is and through the Closing Date will continue to be duly organized, validly existing and in good standing under the laws of the state or commonwealth in which it was organized or incorporated.

(b) Purchaser has and through the Closing Date will continue to have all necessary approvals, whether governmental or otherwise, and full right, power and authority, to (i) execute and deliver this Agreement and the Closing Documents and (ii) perform Purchaser's obligations under this Agreement and the Closing Documents and consummate the transaction contemplated by this Agreement.

(c) Purchaser's execution and delivery of this Agreement and the Closing Documents, Purchaser's performance of Purchaser's obligations under this Agreement and the Closing Documents and consummation of the transaction contemplated by this Agreement and the Closing Documents do not and through the Closing Date will continue to not (i) conflict with any laws or agreements binding on Purchaser or (ii) result in a default under any agreement or other instrument to which the Purchaser is a party or that is applicable to the Purchaser which, in each case, would adversely affect Purchaser's ability to carry out the transactions contemplated by this Agreement and the Closing Documents.

(d) Assuming Seller's due execution and delivery of this Agreement and the Closing Documents, this Agreement and the Closing Documents constitute and through the Closing Date will continue to constitute legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms, except to the extent that enforceability of the obligations may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 4.2. No Reliance.

(a) Purchaser acknowledges the following: (i) Seller may not have in Seller's possession or control all documents relating to or affecting the Loan Assets as Seller has taken control over the Loan Assets as a court appointed receiver only, and as such, the Loan Files may be incomplete and (ii) Seller did not conduct any due diligence of the Loan Files prior to obtaining control of the Loan Assets.

(b) As of the Closing Date, Purchaser is familiar with all aspects of each Loan, the License, and the Servicing Rights, and, in entering into this Agreement, Purchaser has not relied on any oral or written information provided by Seller or by Seller's Affiliates, agents, employees, representatives or trustees or by any broker or agent pertaining to any Loan, the License, or the Servicing Rights, but merely on Purchaser's independent review of the Loan Files and such independent evaluation of each Loan, the License, and the Servicing Rights as Purchaser deemed necessary. Purchaser's decision to purchase all of Seller's right, title and interest in, to and under the Loan Assets is based on Purchaser's due diligence review and independent evaluation of each Loan, the License, and the Servicing Rights. Purchaser is a sophisticated purchaser, with experience in owning and holding commercial mortgage loans in the nature of the Loans. Purchaser understands and is freely taking all risks involved in connection with the transaction and acknowledges that the nature and risks are reflected in the Purchase Price and in the terms and conditions pursuant to which Purchaser is willing to purchase and Seller is willing to sell all of Seller's right, title and interest in, to and under the Loans, the License, and the Servicing Rights. Purchaser acknowledges that Seller has not made

any representations or warranties with respect to the Loans, the License, or the Servicing Rights unless expressly provided for herein.

(c) Purchaser acknowledges (i) the SBA may deny liability on any of the SBA's guarantees associated with the Loans due to defects, deficiencies, or other concerns related to the Loans in existence prior to the Closing Date, and (ii) in the event the SBA denies liability on a guaranty associated with the Loans, Purchaser, at its sole expense, will be responsible for repairing or otherwise addressing any such defects, deficiencies, or concerns and for any claims, damages, or other amounts owed to the SBA.

(d) No agent, employee or representative of Seller or other agent or broker has been authorized to make, and Purchaser has not relied on, any statements other than those expressly set forth in this Agreement. Except as specifically set out in this Agreement, Purchaser is not relying on any continued actions or efforts on the part of Seller or Seller's Affiliates, agents, employees, representatives or trustees with respect to any Loan, the License, or the Servicing Rights. After the Closing Date, Seller will retain no further interest in the Loans, the License, or the Servicing Rights (except as otherwise expressly set forth herein), and Seller and Seller's Affiliates, agents, employees, representatives and trustees will not provide any further servicing of the Loans or any foreclosure or other management services. Seller has not and will not advance funds to Purchaser to protect the value of the Loan Assets. Seller has not guaranteed and does not guarantee payment of the Loans or performance of the borrowers' obligations under the documents in the Loan Files, and Seller has not guaranteed and does not guarantee the condition, performance, rate of return, value or yield of the Loans, the License, or the Servicing Rights. Further, Purchaser acknowledges that some of the borrowers are currently in default under the Loans. Seller shall have no responsibility for the validity, sufficiency, or effectiveness of the liens created by the Loan Documents. Subject to Seller's representations, warranties and covenants contained herein, Seller's right, title and interest in, to and under the Loans, the License, and the Servicing Rights are being sold on an "AS IS," "WHERE IS" BASIS, "WITH ALL FAULTS" AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), EXCEPT THE LIMITED AND EXPRESS REPRESENTATIONS OF SELLER SET FORTH IN ARTICLE V HEREOF, AND WITHOUT RECOURSE OF ANY NATURE TO SELLER.

(e) Notwithstanding anything to the contrary herein, Seller shall not have any liability whatsoever to Purchaser with respect to any matter disclosed to or discovered by Purchaser or Purchaser's agents or representatives prior to the Closing Date.

Section 4.3. No Securities. Purchaser waives all rights, if any, to make any Claim in connection with any federal or state securities law.

Section 4.4. Collection Practices. Following the Closing Date, Purchaser will not violate any law relating to unfair collection practices in connection with any Loan.

Section 4.5. Litigation. Purchaser will not (a) institute any legal action in the name of Seller, (b) intentionally or unintentionally, through misrepresentation or nondisclosure, conceal or mislead any person as to Purchaser's identity or (c) use or refer to Seller's name or any name derived from Seller's name to promote the sale or transfer of any Loan, the License, or the Servicing Rights, or the collection or management of any Loan.

Section 4.6. No Brokers. Purchaser represents and warrants that Purchaser has not dealt with any broker or finder in connection with the purchase and sale of all of Seller's right, title and interest in, to and under the Loans, the License, and the Servicing Rights. Purchaser will be responsible for the payment of any brokerage commission or finder's fee payable to any broker or finder claiming through Purchaser in connection with the purchase and sale of all of Seller's right, title and interest in, to and under the Loans, the License, and the Servicing Rights.

ARTICLE V

SELLER'S REPRESENTATIONS AND WARRANTIES

Section 5.1. Representations or Warranties. Seller warrants and represents to Purchaser, as of the Effective Date and the Closing Date as follows:

(a) Seller has not entered into any written agreements to modify the terms of any Loan, the License, or the Servicing Rights, other than (i) any modifications that may have been entered into by the Receivership Entities prior to Seller taking control of the Loan Assets and (ii) any modifications included in the Loan Documents and thereby fully disclosed to Purchaser.

(b) Seller has not knowingly and intentionally withheld any portion of the Loan Files.

(c) Assuming Purchaser's due execution and delivery of this Agreement and the Closing Documents and subject to the receipt of the Sale Order, this Agreement and the Closing Documents constitute and through the Closing Date will continue to constitute legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, except to the extent that enforceability of the obligations may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 5.2. No Implied Representations or Warranties. Except as expressly provided in Section 5.1, Seller has not and will not be deemed to have made and specifically disclaims any implied warranties or representations under this Agreement. Except as expressly provided in Section 5.1, Seller makes no representations or warranties with respect to (a) any Loan, the Warrants or the Loan File; (b) the priority, perfection or enforceability of the Notes, the Deeds of Trust or any other document in the Loan File; (c) the presence or absence of defaults under, defenses to or offsets against the Notes, the Deeds of Trust or any other document in the Loan File; (d) the status or financial condition of any Borrower or any Credit Party; or (e) any fact or condition respecting any Loan, collateral, insurance, or servicing of the same.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1. Seller's Breach. If Seller defaults under this Agreement, the default is discovered prior to Closing by Purchaser and Purchaser proceeds to close the transactions contemplated hereunder, Purchaser shall have waived any and all rights and remedies resulting from Seller's default. If Seller materially defaults under this Agreement and the Closing and the consummation of the transactions contemplated herein do not occur as a result thereof, Purchaser may, at Purchaser's option, as Purchaser's sole and exclusive remedy, either (i) terminate this Agreement and be entitled to return of the Deposit or (ii) enforce specific performance. Notwithstanding anything herein to the contrary, if the Closing and the consummation of the transactions herein contemplated do not occur by reason of any such material default by Seller, or Purchaser elects not to proceed to Closing as a result of such material breach of Seller, then Purchaser shall be deemed to have elected to terminate this Agreement pursuant to clause (i) hereinabove if Purchaser fails to deliver to Seller written notice of its intent to file a claim or assert a cause of action for specific performance against Seller on or before twenty (20) days following the scheduled Closing Date or, having given such notice, fails to file a lawsuit asserting such claim or cause of action with the Court within two (2) months following the scheduled Closing Date. Under no circumstances whatsoever may Purchaser recover any consequential, exemplary, special, indirect, incidental, or punitive damages resulting from Seller's defaults under this Agreement and Purchaser hereby expressly waives any claim or right to do so.

Section 6.2. Purchaser's Breach. IF PURCHASER MATERIALLY DEFAULTS UNDER THIS AGREEMENT AND THE CLOSING AND THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREIN DO NOT OCCUR AS RESULT THEREOF, PURCHASER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE, PURCHASER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER IN THE EVENT THAT PURCHASER DEFAULTS IS AND SHALL BE, AN AMOUNT EQUAL TO THE DEPOSIT, TOGETHER WITH ANY ACCRUED INTEREST THEREON. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY PURCHASER, ALL OTHER CLAIMS TO DAMAGES BEING HEREIN EXPRESSLY WAIVED BY SELLER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT OR OTHERWISE AFFECT PURCHASER'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

SELLER AND PURCHASER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION 6.2 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

PURCHASER'S INITIALS

SELLER'S INITIALS

ARTICLE VII

INDEMNIFICATION; RELEASE

Section 7.1. General Indemnification. Purchaser hereby indemnifies, holds harmless and defends Seller, Seller's Affiliates, agents, employees, representatives and trustees, the existing trustees under any deed of trust securing any Loan and any predecessor or successor of Seller (each an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") for, from and against any and all Claims, losses or damages to which any of the Indemnified Parties may become subject (other than for a breach of Seller's representations and warranties) on account of, arising out of or related to any act, omission, conduct or activity of Purchaser or any of Purchaser's Affiliates, agents, employees, members, partners, principals, representatives or trustees at any time occurring or failing to occur after the Closing Date and arising out of or related to (a) any action or omission of Purchaser with respect to any Loan, the License, or the Servicing Rights; (b) any inaccuracy in or breach of Purchaser's representations, warranties, covenants or acknowledgments made pursuant to this Agreement; and (c) any Claim for a finder's fee or broker's commission asserted against Seller and arising from the transaction contemplated by this Agreement and arising through Purchaser.

Section 7.2. Indemnification for SBA Claims. Purchaser acknowledges that he or she is aware that the SBA has filed a proof of claim reflecting a \$24 million contingent claim arising out of certain alleged defects in the Loans ("SBA Claim"). Purchaser hereby indemnifies, holds harmless, and defends the Indemnified Parties for, from, and against any and all Claims, losses or damages to which any of the Indemnified Parties may become subject on account of, arising out of or related to the SBA Claim, any defect, deficiency, or other concern with the Loans raised by the SBA before or after the Closing Date, or any denial of liability on any guaranty associated with the Loans by the SBA.

Section 7.3. Settlement. If any Claim is settled or if there is a final judgment against the Indemnified Party in any Claim, the indemnifying party will indemnify, hold harmless and defend the Indemnified Party for, from and against any and all loss or liability incurred by the Indemnified Party by reason of such settlement or judgment and will pay on demand all costs and expenses incurred by the Indemnified Party in connection with the settlement or judgment.

Section 7.4. Release. From and after the Closing and so long as the Closing occurs, Purchaser hereby agrees that Seller, the Receivership Entities, Seller's and the Receivership Entities' Affiliates, agents, employees, representatives, attorneys and trustees, the existing trustees under any deed of trust securing any Loan and any predecessor or successor of Seller and/or the Receivership Entities (each a "**Released Party**" and collectively, the "**Released**

Parties") shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, any Loan, the License or the Servicing Rights. The foregoing release shall not excuse (x) Seller's express obligations under this Agreement or (z) breaches of Seller's representations or warranties for which a claim is timely delivered. Purchaser hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Purchaser elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Purchaser.

BY INITIALING BELOW, PURCHASER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

PURCHASER'S INITIALS

In this connection and to the greatest extent permitted by law, Purchaser hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Purchaser further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Purchaser nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way be included as a material portion of the consideration given to Seller by Purchaser in exchange for Seller's performance hereunder. Without limiting the foregoing, if Purchaser has actual knowledge of a default in any of the covenants, agreements or obligations to be performed by Seller under this Agreement, and Purchaser nonetheless elects to proceed to Closing, then, upon the consummation of the Closing, Purchaser shall be conclusively deemed to have waived any such default and shall have no Claim against Seller or hereunder with respect thereto.

Seller has given Purchaser material concessions regarding this transaction in exchange for Purchaser agreeing to the provisions of this Section 7.4. The provisions of this Section 7.4 shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

Section 7.5. NO LIABILITY TO RECEIVER. WITHOUT LIMITATION OF THE FOREGOING, AS AN ESSENTIAL INDUCEMENT TO RECEIVER TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE CONSIDERATION GIVEN HEREUNDER, PURCHASER ACKNOWLEDGES, UNDERSTANDS AND AGREES AS FOLLOWS:

(a) RECEIVER IS ENTERING INTO THIS AGREEMENT SOLELY IN CONNECTION WITH HIS DUTIES AS RECEIVER PURSUANT TO THE ORDER. IN NO EVENT SHALL RECEIVER BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY RECEIVER, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCE WHATSOEVER, EXCEPT IF THE RESULT OF RECEIVER'S GROSS NEGLIGENCE OR INTENTIONAL AND WILLFUL MISCONDUCT. RECEIVER SHALL NOT BE PERSONALLY LIABLE IN CONNECTION WITH ANY DUTIES PERFORMED BY RECEIVER PURSUANT TO THE ORDER OR THE SALE ORDER.

(b) NO PROVISION OF THIS AGREEMENT SHALL OPERATE TO PLACE ANY OBLIGATION OR LIABILITY FOR THE SERVICING OF ANY LOAN OR THE CONTROL, CARE, MANAGEMENT OR REPAIR OF THE LOAN ASSETS UPON RECEIVER NOR SHALL IT OPERATE TO MAKE RECEIVER RESPONSIBLE OR LIABLE FOR ANY WASTE COMMITTED ON THE PROPERTY BY ANY PERSON OR FOR ANY DANGEROUS OR DEFECTIVE CONDITION OF THE PROPERTY OR FOR ANY NEGLIGENCE IN MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE PROPERTY RESULTING IN LOSS OR INJURY OR DEATH TO ANY PERSON.

THE PROVISIONS OF THIS SECTION 7.5 SHALL SURVIVE THE CLOSING AND SHALL NOT BE DEEMED MERGED INTO ANY INSTRUMENT OR CONVEYANCE DELIVERED AT CLOSING.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Notices. All Notices must be in writing and (a) delivered personally by a process server providing a sworn declaration evidencing the date of service, the individual served, and the address where the service was made; (b) sent by certified mail, return receipt requested; or (c) delivered by nationally recognized overnight delivery service providing evidence of the date of delivery, with all charges prepaid, addressed to the appropriate party at its address listed in Exhibit B. Seller and Purchaser each may change from time to time the address to which Notices must be sent, by Notice given in accordance with this Section 8.1 All Notices given in accordance with this Section 8.1 will be deemed to have been given three (3) Business Days after having been deposited in any mail depository regularly maintained by the United States postal service, if sent by certified mail, or one (1) Business Day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery, or on the date of personal service, if served by a process server.

Section 8.2. Applicable Law. This Agreement is governed by and will be construed in accordance with the laws of the State of California.

Section 8.3. Discretion. Wherever under this Agreement either Seller or Purchaser has the right to approve or determine any matter, such approval or determination will be in the approving party's sole discretion unless expressly provided to the contrary in this Agreement. Wherever under this Agreement any matter is required to be satisfactory to Seller or Purchaser,

such determination that the matter is satisfactory will be in the party's sole discretion unless expressly provided to the contrary in this Agreement.

Section 8.4. Unenforceable Provisions. If any provision of this Agreement is found to be illegal or unenforceable or would operate to invalidate this Agreement, then the provision will be deemed to be expunged and this Agreement will be construed as though the provision was not contained in this Agreement and the remainder of this Agreement will remain in full force and effect.

Section 8.5. Survival. Unless expressly provided to the contrary in this Agreement, Seller's and Purchaser's representations, warranties and covenants contained in this Agreement will continue in full force and effect and survive the Closing and any other act or omission that might otherwise be construed as a release or discharge and will not merge into the Closing Documents, but instead will be independently enforceable.

Section 8.6. Entire Agreement. Any agreements between Seller and Purchaser relating to the matters described in this Agreement are contained in this Agreement, which contains the complete and exclusive statement of the agreements between Seller and Purchaser, except as Seller and Purchaser may later agree in writing to amend this Agreement.

Section 8.7. No Oral Amendment. This Agreement may not be amended, waived or terminated orally or by any act or omission made individually by Seller or Purchaser but may be amended, waived or terminated only by a written document signed by the party against which enforcement of the amendment, waiver or termination is sought.

Section 8.8. Joint and Several Liability. If Purchaser or Seller consists of more than one person or entity, the obligations and liabilities of each such person or entity under this Agreement are joint and several.

Section 8.9. Successors and Assigns. This Agreement binds Seller and Purchaser and their respective successors and assigns and inures to the benefit of Seller and Purchaser and their respective successors and permitted assigns. This Agreement also inures to the benefit of all Indemnified Parties and Released Parties pursuant to Article VII. Except as expressly provided above, this Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

Section 8.10. Duplicates and Counterparts; Facsimile. Duplicate counterparts of this Agreement may be executed and together will constitute a single original document. Transmission by facsimile of the signature of any party to this Agreement shall constitute execution and delivery of this Agreement or such document, provided that the party transmitting the same shall be obligated to promptly deliver the executed original thereof to the other party.

Section 8.11. Rights Cumulative; Waivers. The rights of each of Seller and Purchaser under this Agreement are cumulative and may be exercised as often as such party considers appropriate. The rights of each of Seller and Purchaser under this Agreement will not be capable of being waived or varied except by an express waiver or variation in writing. Any failure to exercise or any delay in exercising any of such rights will not operate as a waiver or variation of that or any other such right. Any defective or partial exercise of any of such rights will not

preclude any other or further exercise of that or any other such right. No act or course of conduct or negotiation on the part of any party will in any way preclude such party from exercising any such right or constitute a suspension or any variation of any such right.

Section 8.12. Assignment. This Agreement is not assignable by Purchaser; provided, however, that Purchaser will have the right to name an Affiliate as the assignee of the Loan Files pursuant to this Agreement; provided, however, that Purchaser shall notify Seller of any such change no less than two (2) Business Days prior to the Closing Date.

Section 8.13. Fees and Expenses. Purchaser and Seller shall each bear all costs, fees and expenses incurred thereby in connection with this Agreement, including without limitation, the fees and expenses of accountants, appraisers, attorneys, servicers and other consultants and other costs and expenses in connection with the preparation of this Agreement and the consummation of the transaction contemplated by this Agreement. Purchaser shall pay all other costs and expenses related to the transaction. Without limitation of the foregoing, Seller shall not bear the cost of any recordation fees and/or taxes associated with selling, transferring, and assigning the Loans, the License, the Servicing Rights, or any interest therein, including, without limitation, the Assignments of Deeds of Trust, assignments of any financing statements, and any fees and/or taxes associated with other transfer documents which are to be recorded in connection with the transactions contemplated hereby.

Section 8.14. Agreement Not Binding. Nothing contained in this Agreement will create any obligation on the part of Seller under this Agreement unless and until Seller has executed and delivered to Purchaser a counterpart copy of this Agreement.

Section 8.15. Further Assurances. Seller and Purchaser shall, upon the request of the other, execute and deliver such assignment and assumption documents, or perform such other acts, as may be reasonably required in order to effect, perfect or confirm the assignment by Seller, and the assumption by Purchaser, of all right, title, interest and obligations of Seller under the Loans, the License, and the Servicing Rights, and to complete the transactions contemplated by this Agreement, including correcting any errors or omissions in the Closing Documents delivered under Sections 3.3 and 3.4 hereof and including such further acts as are reasonably necessary to assure the timely transfer of the Loan Assets and Loan Documents.

Section 8.16. Attorneys' Fees. If any action or claim is made by any party hereto against the other relating to this Agreement or the subject matter hereof, the prevailing party shall be entitled to their reasonable attorneys' fees and legal expenses, including all fees, costs and expenses incurred in any appellate or bankruptcy proceedings, or in any post-judgment proceedings to collect or enforce any judgment. This provision for the recovery of post-judgment fees, costs, and expenses is separate and several and shall survive the merger of this Agreement into any judgment. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement, or judgment.

ARTICLE IX

DISPUTE RESOLUTION

Section 9.1. Court Trial. Each party to this Agreement hereby expressly waives any right to trial by jury with respect to any claim, demand, action or cause of action (a) arising under this Agreement, including any present or future modification thereof, or (b) in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to this Agreement (as now or hereafter modified) or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or thereto, in each case whether such claim, demand, action or cause of action is now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand or cause of action shall be decided by court trial without a jury, and that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of any right they might otherwise have to trial by jury.

Section 9.2. Venue. Any action shall be commenced and maintained in the Court. The parties irrevocably consent to jurisdiction and venue in such Court and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Article IX.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Seller and Purchaser have executed and delivered this Agreement as of the date first set forth above.

PURCHASER:

SELLER:

Thomas A. Seaman, as Receiver

EXHIBIT A

INSERT TABLE OF 7(A) LOAN INTERESTS AND SBLC LICENSE

EXHIBIT B

DEFINITIONS

"**Affiliate**" is defined, in the case of any entity, as the entity's parent or any wholly or partially-owned subsidiary of the entity or the entity's parent.

"**Agreement**" is defined as this Loan Purchase and Sale Agreement, together with all Exhibits, Schedules and attachments annexed hereto and made a part hereof, as the same may be amended, supplemented or modified.

"**Assignments of Deeds of Trust**" is defined in Section 3.4(a) of the Agreement.

"**Assumption Agreement**" is defined in Section 3.3(b) of the Agreement.

"**Borrower Notice Letter**" is defined in Section 3.3(c) of the Agreement.

"**Business Day**" is defined as any day, other than a Saturday, a Sunday, a federal holiday or any day on which banking institutions in Los Angeles, California are not generally open for business.

"**Case**" is defined in the second Recital of the Agreement.

"**Claim**" is defined as any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees and costs and experts' fees.

"**Closing**" is defined as the consummation of the purchase and sale of all of Seller's right, title and interest in the Loans, the License, and the Servicing Rights as contemplated by this Agreement pursuant to delivery of the Closing Documents, payment of the Purchase Price and sale and purchase of the Loans, the License, and the Servicing Rights in accordance with this Agreement and the Sale Order, which Closing will occur at or before 2:00 p.m. (Pacific Standard Time) on the Scheduled Closing Date.

"**Closing Date**" is defined as the date on which the Closing actually occurs.

"**Closing Documents**" is defined as all documents that are required to be delivered by Seller or Purchaser at the Closing in accordance with the Agreement.

"**Court**" is defined as the United States District Court for the Northern District of California, San Jose Division.

"**Deposit**" is defined in Section 3.2(a) hereof.

"**Effective Date**" is defined as _____, 2014.

"**Indemnified Party**" and "**Indemnified Parties**" are each defined in Section 7.1 hereof.

"**License**" is defined in the first Recital above.

"Loan" or **"Loans"** is defined in the first Recital of the Agreement.

"Loan Assets" is defined in the first Recital of the Agreement.

"Loan Documents" is defined in Section 2.2 of the Agreement.

"Loan Files" is defined as, with respect to the Loans,

- (a) a copy of the promissory notes and any endorsements thereto;
- (b) the original or copy of the original recorded Deed of Trust for each Loan, and any intervening assignments (or certified copies of such assignments) of the original Deed of Trust for each Loan, in each case with evidence of recording indicated thereon;
- (c) all of the other Loan Documents;
- (d) the original or copy of all original assumption, modification, amendment and substitution agreements in those instances, if any, where the promissory notes, the Deeds of Trust or any other documents in the Loan Files have been assumed, modified, amended or substituted;
- (e) the original, or a copy by the issuing title insurance company, of an original lender's title insurance policy for the Loans;
- (f) the original or copy of the filed UCC Financing Statements; and
- (g) all files, correspondence, third party studies, surveys and other material documents related to the Loans held by Seller and reasonably required for the servicing of the Loans furnished by Seller to Purchaser for review by Purchaser prior to the Closing Date, other than those items and materials that are deemed by Seller in its sole discretion to be confidential or proprietary in nature, including, without limitation, any internal memoranda of Seller, including, but not limited to, loan underwriting and credit committee memorandum; provided, however, that no such confidential or proprietary materials, other than confidential or proprietary materials included in the Loan File, amend, modify or waive the rights or remedies of the holder of any promissory note under the Loan Documents.

"Notice" is defined as any and all acceptances, approvals, consents, demands, notices, requests and other communications required or permitted to be given under this Agreement.

"Order" is defined in the second Recital above.

"Purchase Price" is defined as the amount payable by Purchaser in consideration of the transfer of the Loans, the License, and the Servicing Rights to Purchaser in accordance with this Agreement, such amount being equal to _____ (\$_____).

"Purchaser" is defined in the introductory paragraph. Purchaser's address for Notices is as follows:

Attention: _____

"**Receivership Entities**" is defined as Small Business Capital Corp., Investors Prime Fund, LLC, SBC Portfolio Fund, LLC, and their subsidiaries and affiliates, including Small Business Capital LLC and SBC Senior Commercial Mortgage Fund, LLC

"**Released Party**" or "**Released Parties**" is defined in Section 7.4 of the Agreement.

"**Sale Order**" is defined as that order entered by the Court approving the sale to Purchaser of the Loan Assets in accordance with the Agreement.

"**Sale Procedures Order**" is defined in the third Recital of the Agreement.

"**SBA**" is defined as the United States Small Business Administration.

"**SBC LLC**" is defined in the first Recital above.

"**SBLC**" is defined in the first Recital above.

"**Scheduled Closing Date**" is defined as the earlier of (a) five Business Days from entry the Sale Order and (b) a date agreed on by Seller and Purchaser.

"**Seller**" is defined in the introductory paragraph of the Agreement. Seller's address for Notices is as follows:

THOMAS SEAMAN COMPANY
3 Park Plaza, Suite 550
Irvine, California 92614
Facsimile: (949) 222-0661
Attention: Thomas A. Seaman CFA

with a
copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP
515 South Figueroa Street, 9th Floor
Los Angeles, California 90071
Attention: David Zaro

"**Servicing Rights**" is defined in the first Recital of the Agreement.

"**Settlement Statement**" is defined in Section 3.2(f) of the Agreement.

"**UCC Financing Statement**" is defined as those UCC financing statements filed or recorded in connection with the Loans.

EXHIBIT C

RULES OF CONSTRUCTION

1. References in this Agreement to numbered Articles or Sections are references to the Articles and Sections of this Agreement. References in this Agreement to lettered Exhibits and numbered Attachments are references to the Exhibits and Attachments attached to this Agreement, all of which are incorporated in and constitute a part of this Agreement. Article, Section, Exhibit and Attachment captions used in this Agreement are for reference only and do not describe or limit the substance, scope or intent of this Agreement or the individual Articles, Sections, Exhibits or Attachments of this Agreement.

2. The terms "include", "including" and similar terms are construed as if followed by the phrase "without limitation."

3. The term "Property" is construed as if followed by the phrase "or any part thereof".

4. Any agreement by or duty imposed on either party in this Agreement to perform any obligation or to refrain from any act or omission constitutes a covenant on such party's part and includes a covenant by such party to cause its Affiliates, agents, employees, members, partners, principals, representatives and trustees to perform the obligation or to refrain from the act or omission in accordance with this Agreement.

5. The singular of any word includes the plural and the plural includes the singular. The use of any gender includes all genders.

6. The terms "person", "party" and "entity" include natural persons, firms, partnerships, limited liability companies and partnerships, corporations and any other public or private legal entity.

7. The term "provisions" includes terms, covenants, conditions, agreements and requirements.

8. The term "amend" includes modify, supplement, renew, extend, replace, restate and substitute and the term "amendment" includes modification, supplement, renewal, extension, replacement, restatement and substitution.

9. No inference in favor of or against a party with respect to this Agreement may be drawn from the fact that the party drafted this Agreement.

10. The term "certificate" means the sworn, notarized statement of the entity giving the certificate, made by a duly authorized person satisfactory to Seller affirming the truth and accuracy of every statement in the certificate. Any document that is "certified" means the document has been appended to a certificate of the entity certifying the document that affirms the truth and accuracy of everything in the document being certified. In all instances the entity issuing a certificate must be satisfactory to Seller and Purchaser.

11. All obligations, rights, remedies and waivers contained in this Agreement will be construed as being limited only to the extent required to be enforceable under applicable law.

EXHIBIT D

WIRING INSTRUCTIONS

Wire to:

ABA Number:

For Credit To:

Account Number:

Reference:

Customer Name:

EXHIBIT E

RECEIPT FOR LOAN FILE

RECEIPT

_____ ("**Purchaser**") acknowledges receipt, in conformance with the requirements of the Loan Purchase and Sale Agreement, dated as of _____, 2014, between _____ ("**Seller**") and Purchaser (the "**Agreement**"), of the Loan Files (as defined in the Agreement; capitalized terms not defined in this receipt have the meanings given them in the Agreement) that is described in **Schedule A** attached to this receipt.

Dated as of the ____ day of _____, 2014.

[_____] ,
a [_____]

By: _____
Name:
Title:

SCHEDULE A TO EXHIBIT E

LOAN FILES

- (a) a copy of the promissory notes and all endorsements;
- (b) the original or a copy of the original recorded Deed of Trust for each Loan, and any intervening assignments (or certified copies of such assignments) of the original Deed of Trust for each Loan, if any, in each case with evidence of recording indicated thereon;
- (c) all of the other Loan Documents;
- (d) the original or a copy of all original assumption, modification and substitution agreements in those instances, if any, where the promissory notes, the Deeds of Trust or any other documents in the Loan File have been assumed or modified;
- (e) the original, or a copy of an original lender's title insurance policy for the Loans, if any;
- (f) the original or a certified copy of the UCC Financing Statements; and
- (g) all files, correspondence, third party studies, surveys and other material documents related to the Loans, the License, and the Servicing Rights held by Seller or its servicer in connection with the servicing of the Loans other than those items and materials that are deemed by Seller in its reasonable discretion to be confidential or proprietary in nature, including, without limitation, any internal memoranda of Seller, including, but not limited to, loan underwriting and credit committee memorandum; provided, however, that no such confidential or proprietary materials, other than confidential or proprietary materials included in the Loan Files, amend, modify or waive the rights or remedies of the holder of any promissory notes under the Loan Documents.

EXHIBIT F

**FORM OF ASSIGNMENT AND ASSUMPTION
OF AGREEMENTS AND BILL OF SALE**

FOR VALUE RECEIVED, _____ ("**Assignor**"), assigns, conveys, grants, sets over and transfers to _____ ("**Assignee**"), all of Assignor's right, title and interest, if any, in and to (1) the agreements listed on **Attachment 1** to this Assignment (collectively, the "**Agreements**"), (2) to the extent paid after the Effective Date, all scheduled and unscheduled payments, including any proceeds of any insurance claims or settlements or casualty or eminent domain proceedings or any payments made by Borrower, arising in connection with the Loans, the License, or the Servicing Rights, and (3) the Loan Files, including, without limitation, the servicing files (to the extent in the possession and/or control of Assignor) and the items listed on **Attachment 1** hereto.

TOGETHER WITH all of Assignor's right, title and interest, if any, in and to all notes and contracts described or referred to in the Agreements, all guarantees of the Agreements, all assumptions of the Agreements, the money due and to become due thereon with interest and all contract rights accrued or to accrue under the Agreements.

Assignee unconditionally assumes all liabilities and obligations of Assignor arising under the Agreements on and after the Effective Date, including, without limitation, any obligation under the Agreements to make any future advances to the borrower thereunder at any time on and after the Effective Date.

This Assignment and Assumption of Agreements and Bill of Sale (this "**Assignment and Assumption**") will be binding on and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

Except as set forth in the Loan Purchase and Sale Agreement, dated as of _____, 2014, between Assignor and Assignee (the "**Purchase Agreement**"), this Assignment and Assumption is made without recourse to or any representation or warranty, express or implied, by Assignor. Any such representation or warranty will not inure to the benefit of any assignee of Purchaser other than an assignee permitted under such Purchase Agreement. Capitalized terms not otherwise defined in this Assignment and Assumption shall have the respective meaning ascribed to such term in the Purchase Agreement.

Dated as of the ____ day of _____, 2014.

ASSIGNEE:

By: _____
Name:
Title:

ASSIGNOR:

By: _____
Name:
Title:

ATTACHMENT 1 TO EXHIBIT F
AGREEMENTS

A. Loan Documents

1.

Thank you very much for your cooperation.

Very truly yours

By: _____
Name:
Title:

and

By: _____
Name:
Title:

EXHIBIT H
SETTLEMENT STATEMENT

EXHIBIT I

FORM OF ENDORSEMENT

ENDORSEMENT

This endorsement is attached to and forms a part of that certain [*describe the Note*], made by _____, as borrower, to _____ ("**Lender**"), as lender, in the original principal amount of \$_____ (the "**Note**").

Lender hereby endorses the Note payable to the order of _____ ("**Purchaser**"), without any recourse to or representation or warranty, express or implied, by Lender, except as expressly set forth in that certain Loan Purchase and Sale Agreement, dated as of _____, 2009, by and between Lender and Purchaser. Any such representation or warranty will not inure to the benefit of any assignee of Purchaser other than an assignee permitted under such Loan Purchase and Sale Agreement.

Dated as of the ____ day of _____, 2014.

By: _____
Name:
Title:

EXHIBIT J

FORM OF ASSIGNMENT OF DEED OF TRUST

EXHIBIT F

LOAN PURCHASE AND SALE AGREEMENT

This LOAN SALE AGREEMENT ("Agreement") is made of as this _____ day of _____, 2014 (the "Effective Date"), by and between Thomas A. Seaman, Receiver ("**Seller**"), appointed by the United State District Court for the Northern District of California ("**Court**") for Small Business Capital Corp., Investors Prime Fund, LLC, SBC Portfolio Fund, LLC, and their subsidiaries and affiliates, including Small Business Capital LLC and SBC Senior Commercial Mortgage Fund, LLC ("**Receivership Entities**"), and _____ ("**Purchaser**").

RECITALS:

WHEREAS, Seller is the holder of interests in loans identified on **Exhibit A** hereto ("**Loans**"), and rights to service the loans listed on **Exhibit A** hereto and receive servicing fees in connection therewith ("**Servicing Rights**") (collectively, the "**Loan Assets**");

WHEREAS, pursuant to that certain Preliminary Injunction and Orders (1) Freezing Assets; (2) Prohibiting the Destruction of Documents; (3) Requiring Accountings; and (4) Appointing a Permanent Receiver (the "**Order**") entered on July 10, 2012 by the Court in Case No. 12-CV-03237-EJD (the "**Case**"), Thomas A. Seaman was appointed receiver for the Receivership Entities;

WHEREAS, on _____, 2014, the Court entered an order authorizing the Receiver to market the Loan Assets for sale, approving the procedures for such sale, and authorizing the Receiver to engage Voit Real Estate Services LP as broker ("**Sale Procedures Order**").

WHEREAS, Seller wishes to sell all of Seller's right, title and interest in, to and under the Loan Assets, and Purchaser, based on its own due diligence review of the Loan Assets, wishes to purchase all of Seller's right, title and interest in, to and under the Loan Assets.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, Seller and Purchaser agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions. Capitalized terms used in this Agreement are defined in **Exhibit B** or in the text with a cross-reference in **Exhibit B**.

Section 1.2. Rules of Construction. This Agreement will be interpreted in accordance with the rules of construction set forth in **Exhibit C** to this Agreement.

ARTICLE II

SALE AND PURCHASE OF THE LOANS

Section 2.1. Agreement to Sell and Purchase the Loans and the Warrants. Seller agrees to sell, and Purchaser agrees to purchase, all of Seller's right, title and interest in, to and under the Loan Assets in accordance with the terms of this Agreement.

Section 2.2. Assignment and Assumption of the Loan Documents. The Loan Documents are listed on Exhibit __ hereto ("**Loan Documents**"). Effective as of the Closing, Seller hereby assigns and transfers all of its right, title, and interest as lender in, to, and under the Loan Documents to Purchaser, its successors and assigns. Effective as of the Closing, Purchaser hereby assumes the performance of all of the terms, covenants, conditions, and obligations of Seller as lender under the Loan Documents, arising or accruing from and after the Closing.

Section 2.3. Access to Loan Files; Confidentiality. Seller has delivered (or made available) to Purchaser prior to the Effective Date copies of the Loan Documents and copies of all other original documents in the possession of Seller relating to the Loan Assets, including, without limitation, the Loan Files and endorsements to the lender's title insurance policy relating to the Loans that were obtained after the origination of the Loans, if any. Seller shall deliver to Purchaser copies of any written communication with any Borrower or Credit Party received or sent by Seller after the Effective Date. In addition, at the written request of Purchaser, Seller shall make available to Purchaser any additional documents in the possession of Seller relating to the Loans Assets, including the Loan File. To the extent that the Closing does not occur as contemplated herein, Purchaser agrees, upon the written request of Seller, to promptly return to Seller all documents and other materials delivered by Seller to Purchaser (if any). Consistent with the Confidentiality Agreement executed by Purchaser on _____, prior to the Closing, Purchaser agrees to keep confidential all information (whether oral or written) that Seller, Seller's agents or Seller's representatives (including attorneys and financial advisors) furnishes to Purchaser or its directors, officers, employees, agents, affiliates, representatives or advisors, whether furnished before or after the Effective Date, and all notes, analyses, compilations, reports, audits, projections, leases, studies or other documents, whether prepared by Purchaser or others, which contain or otherwise reflect such information, unless Purchaser obtained such information from persons other than the Seller or had access to such information from persons other than Seller. Purchaser understands and acknowledges that Receiver took control over the Loan Assets in his capacity as a federal equity receiver. Purchaser acknowledges that much of the materials, data and other information which Seller may make available to Purchaser were prepared by third parties other than Seller and, in many instances, may have been prepared prior to Seller taking control over the Loan Assets. Purchaser expressly acknowledges that any materials, data or other information of any type which Purchaser has received or may receive from Seller or any of Seller's agents, employees, contractors or representatives is furnished on the express condition that Purchaser shall not rely thereon, that Purchaser shall make an independent verification of the accuracy of such materials, data or other information, and that all such materials, data or other information are being furnished without any express or implied representation or warranty whatsoever. Without limiting the foregoing, Seller makes no representation or warranty, and hereby expressly disclaims any representation or warranty, that any of the materials, data or other information previously or hereafter delivered or

made available to Purchaser are true, accurate or complete. Furthermore, Seller has informed Purchaser that any such materials, data or other information delivered or made available to Purchaser may not constitute all of the documents or materials relating to the Loan Assets in the possession of Seller and Purchaser acknowledges that Purchaser has satisfied itself or that such materials, data or other information are sufficient for Purchaser to purchase the Loans Assets.

ARTICLE III

THE CLOSING

Section 3.1. Time and Location of the Closing. The Closing will occur on the Scheduled Closing Date at the time specified in Exhibit B.

Section 3.2. Payment of and Adjustment to Purchase Price.

(a) Purchaser previously deposited with the Seller two (2%) percent of the Purchase Price (\$_____) at the time it made its initial bid for the Loan Assets.

(b) On the Effective Date, Purchaser shall deposit with the Seller an additional eight (8%) percent of the Purchase Price (\$_____) (such amount, together with the initial five percent deposit and all interest earned thereon, is hereinafter referred to as the "Deposit"). Seller shall place the Deposit in a federally-insured, interest-bearing account and shall hold the Deposit in accordance with the terms of this Agreement. All interest which accrues on the Deposit shall be added to and increase the Deposit and shall be credited to Purchaser's account.

(c) As more particularly described in Section 6.2 below, the Deposit shall be retained by Seller as liquidated damages if the Closing does not occur for any reason other than (i) a material default by Seller or (ii) the material failure of a condition precedent to Purchaser's obligations to consummate the Closing hereunder.

(d) If the Closing does not occur because of Seller's material default or the material failure of a condition precedent to Purchaser's obligations, the Deposit shall be returned to Purchaser. Upon the Closing, the Deposit shall be credited toward payment of the Purchase Price.

(e) Not later than 2:00 p.m. (Eastern Standard Time) on the Scheduled Closing Date, Purchaser will deliver the Purchase Price (plus other amounts as may be required under this Section 3.2) to Seller.

(f) Any and all adjustments to the Purchase Price will be computed effective as of 12:01 a.m. (Pacific Standard Time) on the date specified in this Agreement for the particular adjustment.

(g) Interest payable under the Notes will be prorated as provided on a settlement statement for the Closing attached hereto as Exhibit H (the "Settlement Statement") and Purchaser shall pay to Seller, in addition to the Purchase Price, all accrued and unpaid interest with respect to the Loans through the Closing Date, inclusive.

(h) All regularly scheduled payments of principal and all prepayments of principal of any Loan received on or before the Closing Date will be the property of Seller and Purchaser will receive a credit against the Purchase Price at Closing for any such payment or prepayment made.

(i) The amounts held by Seller, or Seller's servicer, in reserves in connection with the Loans, which reserves are described on **Exhibit A**, shall be transferred to Purchaser at Closing; provided, however, that as of the Closing Date, Purchaser will assume all obligations under the Loan Documents for all such amounts. Nothing in this Section 3.2(h) shall limit the right of Seller to apply all amounts held in reserves by Seller in accordance with the terms of the Loan Documents during the period from the Effective Date through and including the Closing Date.

Section 3.3. Purchaser's Closing Documents. At the Closing, Purchaser will deliver the following Closing Documents to Seller:

(a) a receipt for the Loan Files, in the form of **Exhibit E** to this Agreement, executed by Purchaser;

(b) an assumption of Seller's rights and obligations under the Loan Documents with respect to the Loans, in the form of **Exhibit F** to this Agreement, executed in counterpart by Purchaser (the "**Assumption Agreement**");

(c) a letter addressed to each Borrower notifying such Borrower of the transfer of the applicable Loan to Purchaser and directing such Borrower to make all debt service and any other payments required under the applicable Loan from and after the Closing Date to Purchaser or Purchaser's designee, substantially in the form of **Exhibit G** to this Agreement, executed in counterpart by Purchaser (the "**Borrower Notice Letter**");

(d) a certificate of Purchaser certifying (i) as to the incumbency of the signatories authorized to execute this Agreement and the Closing Documents required to be executed and delivered by Purchaser on behalf of Purchaser and (ii) that the execution of this Agreement and the Closing Documents and the consummation of the transaction contemplated by this Agreement have been duly authorized, executed by the Secretary or Assistant Secretary of Purchaser; and

(e) the Settlement Statement, executed in counterpart by Purchaser.

Section 3.4. Seller's Closing Documents. At the Closing, Seller will deliver the following Closing Documents to Purchaser (and pursuant to which Seller will transfer, assign, set-over and convey to Purchaser, without recourse, except as otherwise expressly set forth in this Agreement):

(a) the original promissory notes or, if such original promissory notes are lost, lost note affidavits signed by Seller;

(b) an endorsement to each promissory note endorsed to Purchaser, substantially in the form of **Exhibit I** to this Agreement, executed by Seller;

(c) an assignment of each Deed of Trust, in the form of **Exhibit J**, executed and acknowledged by a notary public (collectively, "**Assignments of Deeds of Trust**");

(d) the Assumption Agreement, in the form of **Exhibit F** to this Agreement, executed in counterpart by Purchaser;

(e) UCC-3 Financing Statements (or the equivalent) reflecting the transfer of all of Seller's right, title and interest in, to and under the Loans to Purchaser, assigning to Purchaser the rights of Seller as "Secured Party" under each UCC-1 financing statement included in the Loan Files;

(f) the Borrower Notice Letter, substantially in the form of **Exhibit G** to this Agreement, executed in counterpart by Seller; and

(g) the Settlement Statement, executed in counterpart by Seller.

Section 3.5. Delivery of the Closing Documents.

(a) At Closing, and upon Seller's receipt of the Purchase Price by wire transfer of immediately available funds in accordance with the wiring instructions attached to this Agreement as **Exhibit D**, Seller shall promptly deliver to Purchaser, at Purchaser's expense, all Closing Documents required to be delivered by Seller to Purchaser in accordance with this Article III, and Purchaser shall promptly deliver to Seller all Closing Documents required to be delivered by Purchaser to Seller, all in accordance with this Article III.

Section 3.6. Reconveyance, Recording and Filing Closing Documents. Purchaser will record or file, as the case may be, at Purchaser's expense, the Assignments of Deed of Trust and the UCC Financing Statements.

Section 3.7. Other Closing Conditions.

(a) Purchaser's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Purchaser and may be waived by Purchaser in its sole discretion:

(A) Seller's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) Seller shall not, as of the Closing Date, be in material default in the performance of Seller's obligations under this Agreement.

(C) The Court shall have entered the Sale Order approving the transaction contemplated by this Agreement.

(b) Seller's obligation to Close is subject to satisfaction of the following conditions, which are for the benefit of Seller and may be waived by Seller in its sole discretion:

(A) Purchaser's representations and warranties set forth in this Agreement shall be true and correct in all material respects.

(B) All of the documents and funds required to be delivered by Purchaser to Seller at the Closing pursuant to the terms and conditions hereof shall have been delivered.

(C) Seller shall have received all consents, documentation and approvals necessary to consummate and facilitate the transactions contemplated hereby, including the Sale Order, the SBA's consent, and as may otherwise be required by law.

(D) Purchaser shall not, as of the Closing Date, be in material default in the performance of its obligations under this Agreement.

(c) If the purchase and sale fails to Close by the Scheduled Closing Date due to a failure of a condition, the party for whose benefit the condition is set forth may terminate this Agreement at any time thereafter until the Closing occurs, so long as the failure of condition is not caused by such party's breach of such party's obligations under this Agreement. If Purchaser so terminates, Purchaser shall be entitled as Purchaser's sole and exclusive remedy to the return of the Deposit.

Section 3.8. Loan Files. Within five (5) Business Days of the Closing, Seller shall make available to Purchaser (at Seller's office) the Loan Files. Purchaser acknowledges that Seller may retain a copy of the Loan Files for Seller's records. From and after the Closing, Seller and Seller's Affiliates, agents, employees, representatives and trustees will have no responsibility for the Loan Files and Purchaser will bear all risk of loss or damage with respect to the Loan Files.

ARTICLE IV

PURCHASER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS

Purchaser warrants and represents to Seller, as of the Effective Date and the Closing Date, and where indicated, covenants and agrees as follows:

Section 4.1. Purchaser's Authority.

(a) Purchaser is and through the Closing Date will continue to be duly organized, validly existing and in good standing under the laws of the state or commonwealth in which it was organized or incorporated.

(b) Purchaser has and through the Closing Date will continue to have all necessary approvals, whether governmental or otherwise, and full right, power and authority, to (i) execute and deliver this Agreement and the Closing Documents and (ii) perform Purchaser's obligations under this Agreement and the Closing Documents and consummate the transaction contemplated by this Agreement.

(c) Purchaser's execution and delivery of this Agreement and the Closing Documents, Purchaser's performance of Purchaser's obligations under this Agreement and the Closing Documents and consummation of the transaction contemplated by this Agreement and the Closing Documents do not and through the Closing Date will continue to not (i) conflict with any laws or agreements binding on Purchaser or (ii) result in a default under any agreement or other instrument to which the Purchaser is a party or that is applicable to the Purchaser which, in each case, would adversely affect Purchaser's ability to carry out the transactions contemplated by this Agreement and the Closing Documents.

(d) Assuming Seller's due execution and delivery of this Agreement and the Closing Documents, this Agreement and the Closing Documents constitute and through the Closing Date will continue to constitute legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms, except to the extent that enforceability of the obligations may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 4.2. No Reliance.

(a) Purchaser acknowledges the following: (i) Seller may not have in Seller's possession or control all documents relating to or affecting the Loan Assets as Seller has taken control over the Loan Assets as a court appointed receiver only, and as such, the Loan Files may be incomplete and (ii) Seller did not conduct any due diligence of the Loan Files prior to obtaining control of the Loan Assets.

(b) As of the Closing Date, Purchaser is familiar with all aspects of each Loan and the Servicing Rights, and, in entering into this Agreement, Purchaser has not relied on any oral or written information provided by Seller or by Seller's Affiliates, agents, employees, representatives or trustees or by any broker or agent pertaining to any Loan or the Servicing Rights, but merely on Purchaser's independent review of the Loan Files and such independent evaluation of each Loan and the Servicing Rights as Purchaser deemed necessary. Purchaser's decision to purchase all of Seller's right, title and interest in, to and under the Loan Assets is based on Purchaser's due diligence review and independent evaluation of each Loan and the Servicing Rights. Purchaser is a sophisticated purchaser, with experience in owning and holding commercial mortgage loans in the nature of the Loans. Purchaser understands and is freely taking all risks involved in connection with the transaction and acknowledges that the nature and risks are reflected in the Purchase Price and in the terms and conditions pursuant to which Purchaser is willing to purchase and Seller is willing to sell all of Seller's right, title and interest in, to and under the Loans and the Servicing Rights. Purchaser acknowledges that Seller has not made any representations or warranties with respect to the Loans or the Servicing Rights unless expressly provided for herein.

(c) Purchaser acknowledges (i) the SBA may deny liability on any of the SBA's guarantees associated with the Loans due to defects, deficiencies, or other concerns related to the Loans in existence prior to the Closing Date, and (ii) in the event the SBA denies liability on a guaranty associated with the Loans, Purchaser, at its sole expense, will be

responsible for repairing or otherwise addressing any such defects, deficiencies, or concerns and for any claims, damages, or other amounts owed to the SBA.

(d) No agent, employee or representative of Seller or other agent or broker has been authorized to make, and Purchaser has not relied on, any statements other than those expressly set forth in this Agreement. Except as specifically set out in this Agreement, Purchaser is not relying on any continued actions or efforts on the part of Seller or Seller's Affiliates, agents, employees, representatives or trustees with respect to any Loan or the Servicing Rights. After the Closing Date, Seller will retain no further interest in the Loans or the Servicing Rights (except as otherwise expressly set forth herein), and Seller and Seller's Affiliates, agents, employees, representatives and trustees will not provide any further servicing of the Loans or any foreclosure or other management services. Seller has not and will not advance funds to Purchaser to protect the value of the Loan Assets. Seller has not guaranteed and does not guarantee payment of the Loans or performance of the borrowers' obligations under the documents in the Loan Files, and Seller has not guaranteed and does not guarantee the condition, performance, rate of return, value or yield of the Loans or the Servicing Rights. Further, Purchaser acknowledges that some of the borrowers are currently in default under the Loans. Seller shall have no responsibility for the validity, sufficiency, or effectiveness of the liens created by the Loan Documents. Subject to Seller's representations, warranties and covenants contained herein, Seller's right, title and interest in, to and under the Loans and the Servicing Rights are being sold on an "AS IS," "WHERE IS" BASIS, "WITH ALL FAULTS" AND WITHOUT REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), AND WITHOUT WARRANTIES, EXPRESS OR IMPLIED, OF ANY TYPE, KIND, CHARACTER OR NATURE (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), EXCEPT THE LIMITED AND EXPRESS REPRESENTATIONS OF SELLER SET FORTH IN ARTICLE V HEREOF, AND WITHOUT RECOURSE OF ANY NATURE TO SELLER.

(e) Notwithstanding anything to the contrary herein, Seller shall not have any liability whatsoever to Purchaser with respect to any matter disclosed to or discovered by Purchaser or Purchaser's agents or representatives prior to the Closing Date.

Section 4.3. No Securities. Purchaser waives all rights, if any, to make any Claim in connection with any federal or state securities law.

Section 4.4. Collection Practices. Following the Closing Date, Purchaser will not violate any law relating to unfair collection practices in connection with any Loan.

Section 4.5. Litigation. Purchaser will not (a) institute any legal action in the name of Seller, (b) intentionally or unintentionally, through misrepresentation or nondisclosure, conceal or mislead any person as to Purchaser's identity or (c) use or refer to Seller's name or any name derived from Seller's name to promote the sale or transfer of any Loan or the Servicing Rights, or the collection or management of any Loan.

Section 4.6. No Brokers. Purchaser represents and warrants that Purchaser has not dealt with any broker or finder in connection with the purchase and sale of all of Seller's right, title and interest in, to and under the Loans and the Servicing Rights. Purchaser will be responsible for the payment of any brokerage commission or finder's fee payable to any broker or finder claiming through Purchaser in connection with the purchase and sale of all of Seller's right, title and interest in, to and under the Loans and the Servicing Rights.

ARTICLE V

SELLER'S REPRESENTATIONS AND WARRANTIES

Section 5.1. Representations or Warranties. Seller warrants and represents to Purchaser, as of the Effective Date and the Closing Date as follows:

(a) Seller has not entered into any written agreements to modify the terms of any Loan or the Servicing Rights, other than (i) any modifications that may have been entered into by the Receivership Entities prior to Seller taking control of the Loan Assets and (ii) any modifications included in the Loan Documents and thereby fully disclosed to Purchaser.

(b) Seller has not knowingly and intentionally withheld any portion of the Loan Files.

(c) Assuming Purchaser's due execution and delivery of this Agreement and the Closing Documents and subject to the receipt of the Sale Order, this Agreement and the Closing Documents constitute and through the Closing Date will continue to constitute legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, except to the extent that enforceability of the obligations may be subject to bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally and to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 5.2. No Implied Representations or Warranties. Except as expressly provided in Section 5.1, Seller has not and will not be deemed to have made and specifically disclaims any implied warranties or representations under this Agreement. Except as expressly provided in Section 5.1, Seller makes no representations or warranties with respect to (a) any Loan, the Warrants or the Loan File; (b) the priority, perfection or enforceability of the Notes, the Deeds of Trust or any other document in the Loan File; (c) the presence or absence of defaults under, defenses to or offsets against the Notes, the Deeds of Trust or any other document in the Loan File; (d) the status or financial condition of any Borrower or any Credit Party; or (e) any fact or condition respecting any Loan, collateral, insurance, or servicing of the same.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1. Seller's Breach. If Seller defaults under this Agreement, the default is discovered prior to Closing by Purchaser and Purchaser proceeds to close the transactions contemplated hereunder, Purchaser shall have waived any and all rights and remedies resulting

from Seller's default. If Seller materially defaults under this Agreement and the Closing and the consummation of the transactions contemplated herein do not occur as a result thereof, Purchaser may, at Purchaser's option, as Purchaser's sole and exclusive remedy, either (i) terminate this Agreement and be entitled to return of the Deposit or (ii) enforce specific performance. Notwithstanding anything herein to the contrary, if the Closing and the consummation of the transactions herein contemplated do not occur by reason of any such material default by Seller, or Purchaser elects not to proceed to Closing as a result of such material breach of Seller, then Purchaser shall be deemed to have elected to terminate this Agreement pursuant to clause (i) hereinabove if Purchaser fails to deliver to Seller written notice of its intent to file a claim or assert a cause of action for specific performance against Seller on or before twenty (20) days following the scheduled Closing Date or, having given such notice, fails to file a lawsuit asserting such claim or cause of action with the Court within two (2) months following the scheduled Closing Date. Under no circumstances whatsoever may Purchaser recover any consequential, exemplary, special, indirect, incidental, or punitive damages resulting from Seller's defaults under this Agreement and Purchaser hereby expressly waives any claim or right to do so.

Section 6.2. Purchaser's Breach. IF PURCHASER MATERIALLY DEFAULTS UNDER THIS AGREEMENT AND THE CLOSING AND THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREIN DO NOT OCCUR AS RESULT THEREOF, PURCHASER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE, PURCHASER AND SELLER HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER IN THE EVENT THAT PURCHASER DEFAULTS IS AND SHALL BE, AN AMOUNT EQUAL TO THE DEPOSIT, TOGETHER WITH ANY ACCRUED INTEREST THEREON. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY PURCHASER, ALL OTHER CLAIMS TO DAMAGES BEING HEREIN EXPRESSLY WAIVED BY SELLER. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT OR OTHERWISE AFFECT PURCHASER'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

SELLER AND PURCHASER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION 6.2 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

PURCHASER'S INITIALS

SELLER'S INITIALS

ARTICLE VII

INDEMNIFICATION; RELEASE

Section 7.1. General Indemnification. Purchaser hereby indemnifies, holds harmless and defends Seller, Seller's Affiliates, agents, employees, representatives and trustees, the existing trustees under any deed of trust securing any Loan and any predecessor or successor of Seller (each an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") for, from and against any and all Claims, losses or damages to which any of the Indemnified Parties may become subject (other than for a breach of Seller's representations and warranties) on account of, arising out of or related to any act, omission, conduct or activity of Purchaser or any of Purchaser's Affiliates, agents, employees, members, partners, principals, representatives or trustees at any time occurring or failing to occur after the Closing Date and arising out of or related to (a) any action or omission of Purchaser with respect to any Loan or the Servicing Rights; (b) any inaccuracy in or breach of Purchaser's representations, warranties, covenants or acknowledgments made pursuant to this Agreement; and (c) any Claim for a finder's fee or broker's commission asserted against Seller and arising from the transaction contemplated by this Agreement and arising through Purchaser.

Section 7.2. Indemnification for SBA Claims. Purchaser acknowledges that he or she is aware that the SBA has filed a proof of claim reflecting a \$24 million contingent claim arising out of certain alleged defects in the Loans ("SBA Claim"). Purchaser hereby indemnifies, holds harmless, and defends the Indemnified Parties for, from, and against any and all Claims, losses or damages to which any of the Indemnified Parties may become subject on account of, arising out of or related to the SBA Claim, any defect, deficiency, or other concern with the Loans raised by the SBA before or after the Closing Date, or any denial of liability on any guaranty associated with the Loans by the SBA.

Section 7.3. Settlement. If any Claim is settled or if there is a final judgment against the Indemnified Party in any Claim, the indemnifying party will indemnify, hold harmless and defend the Indemnified Party for, from and against any and all loss or liability incurred by the Indemnified Party by reason of such settlement or judgment and will pay on demand all costs and expenses incurred by the Indemnified Party in connection with the settlement or judgment.

Section 7.4. Release. From and after the Closing and so long as the Closing occurs, Purchaser hereby agrees that Seller, the Receivership Entities, Seller's and the Receivership Entities' Affiliates, agents, employees, representatives, attorneys and trustees, the existing trustees under any deed of trust securing any Loan and any predecessor or successor of Seller and/or the Receivership Entities (each a "**Released Party**" and collectively, the "**Released Parties**") shall be, and are hereby, fully and forever released and discharged from any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Case, any Loan or the Servicing Rights. The foregoing release shall not excuse (x) Seller's express obligations under this Agreement or (z) breaches of Seller's representations or warranties for which a claim is timely delivered. Purchaser hereby expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

and all similar provisions or rules of law. Purchaser elects to and does assume all risk for such Claims heretofore and hereafter arising, whether now known or unknown by Purchaser.

BY INITIALING BELOW, PURCHASER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

PURCHASER'S INITIALS

In this connection and to the greatest extent permitted by law, Purchaser hereby agrees, represents and warrants that such party realizes and acknowledges that factual matters now unknown to him, her or it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Purchaser further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Purchaser nevertheless hereby intends to release, discharge and acquit the Released Parties from any such unknown Claims, debts, and controversies which might in any way be included as a material portion of the consideration given to Seller by Purchaser in exchange for Seller's performance hereunder. Without limiting the foregoing, if Purchaser has actual knowledge of a default in any of the covenants, agreements or obligations to be performed by Seller under this Agreement, and Purchaser nonetheless elects to proceed to Closing, then, upon the consummation of the Closing, Purchaser shall be conclusively deemed to have waived any such default and shall have no Claim against Seller or hereunder with respect thereto.

Seller has given Purchaser material concessions regarding this transaction in exchange for Purchaser agreeing to the provisions of this Section 7.4. The provisions of this Section 7.4 shall survive the Closing and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

Section 7.5. NO LIABILITY TO RECEIVER. WITHOUT LIMITATION OF THE FOREGOING, AS AN ESSENTIAL INDUCEMENT TO RECEIVER TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE CONSIDERATION GIVEN HEREUNDER, PURCHASER ACKNOWLEDGES, UNDERSTANDS AND AGREES AS FOLLOWS:

(a) RECEIVER IS ENTERING INTO THIS AGREEMENT SOLELY IN CONNECTION WITH HIS DUTIES AS RECEIVER PURSUANT TO THE ORDER. IN NO EVENT SHALL RECEIVER BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY RECEIVER, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCE WHATSOEVER, EXCEPT IF THE RESULT OF RECEIVER'S GROSS NEGLIGENCE OR INTENTIONAL AND WILLFUL MISCONDUCT. RECEIVER

SHALL NOT BE PERSONALLY LIABLE IN CONNECTION WITH ANY DUTIES PERFORMED BY RECEIVER PURSUANT TO THE ORDER OR THE SALE ORDER.

(b) NO PROVISION OF THIS AGREEMENT SHALL OPERATE TO PLACE ANY OBLIGATION OR LIABILITY FOR THE SERVICING OF ANY LOAN OR THE CONTROL, CARE, MANAGEMENT OR REPAIR OF THE LOAN ASSETS UPON RECEIVER NOR SHALL IT OPERATE TO MAKE RECEIVER RESPONSIBLE OR LIABLE FOR ANY WASTE COMMITTED ON THE PROPERTY BY ANY PERSON OR FOR ANY DANGEROUS OR DEFECTIVE CONDITION OF THE PROPERTY OR FOR ANY NEGLIGENCE IN MANAGEMENT, UPKEEP, REPAIR OR CONTROL OF THE PROPERTY RESULTING IN LOSS OR INJURY OR DEATH TO ANY PERSON.

THE PROVISIONS OF THIS SECTION 7.5 SHALL SURVIVE THE CLOSING AND SHALL NOT BE DEEMED MERGED INTO ANY INSTRUMENT OR CONVEYANCE DELIVERED AT CLOSING.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Notices. All Notices must be in writing and (a) delivered personally by a process server providing a sworn declaration evidencing the date of service, the individual served, and the address where the service was made; (b) sent by certified mail, return receipt requested; or (c) delivered by nationally recognized overnight delivery service providing evidence of the date of delivery, with all charges prepaid, addressed to the appropriate party at its address listed in Exhibit B. Seller and Purchaser each may change from time to time the address to which Notices must be sent, by Notice given in accordance with this Section 8.1 All Notices given in accordance with this Section 8.1 will be deemed to have been given three (3) Business Days after having been deposited in any mail depository regularly maintained by the United States postal service, if sent by certified mail, or one (1) Business Day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery, or on the date of personal service, if served by a process server.

Section 8.2. Applicable Law. This Agreement is governed by and will be construed in accordance with the laws of the State of California.

Section 8.3. Discretion. Wherever under this Agreement either Seller or Purchaser has the right to approve or determine any matter, such approval or determination will be in the approving party's sole discretion unless expressly provided to the contrary in this Agreement. Wherever under this Agreement any matter is required to be satisfactory to Seller or Purchaser, such determination that the matter is satisfactory will be in the party's sole discretion unless expressly provided to the contrary in this Agreement.

Section 8.4. Unenforceable Provisions. If any provision of this Agreement is found to be illegal or unenforceable or would operate to invalidate this Agreement, then the provision will be deemed to be expunged and this Agreement will be construed as though the provision was not

contained in this Agreement and the remainder of this Agreement will remain in full force and effect.

Section 8.5. Survival. Unless expressly provided to the contrary in this Agreement, Seller's and Purchaser's representations, warranties and covenants contained in this Agreement will continue in full force and effect and survive the Closing and any other act or omission that might otherwise be construed as a release or discharge and will not merge into the Closing Documents, but instead will be independently enforceable.

Section 8.6. Entire Agreement. Any agreements between Seller and Purchaser relating to the matters described in this Agreement are contained in this Agreement, which contains the complete and exclusive statement of the agreements between Seller and Purchaser, except as Seller and Purchaser may later agree in writing to amend this Agreement.

Section 8.7. No Oral Amendment. This Agreement may not be amended, waived or terminated orally or by any act or omission made individually by Seller or Purchaser but may be amended, waived or terminated only by a written document signed by the party against which enforcement of the amendment, waiver or termination is sought.

Section 8.8. Joint and Several Liability. If Purchaser or Seller consists of more than one person or entity, the obligations and liabilities of each such person or entity under this Agreement are joint and several.

Section 8.9. Successors and Assigns. This Agreement binds Seller and Purchaser and their respective successors and assigns and inures to the benefit of Seller and Purchaser and their respective successors and permitted assigns. This Agreement also inures to the benefit of all Indemnified Parties and Released Parties pursuant to Article VII. Except as expressly provided above, this Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

Section 8.10. Duplicates and Counterparts; Facsimile. Duplicate counterparts of this Agreement may be executed and together will constitute a single original document. Transmission by facsimile of the signature of any party to this Agreement shall constitute execution and delivery of this Agreement or such document, provided that the party transmitting the same shall be obligated to promptly deliver the executed original thereof to the other party.

Section 8.11. Rights Cumulative; Waivers. The rights of each of Seller and Purchaser under this Agreement are cumulative and may be exercised as often as such party considers appropriate. The rights of each of Seller and Purchaser under this Agreement will not be capable of being waived or varied except by an express waiver or variation in writing. Any failure to exercise or any delay in exercising any of such rights will not operate as a waiver or variation of that or any other such right. Any defective or partial exercise of any of such rights will not preclude any other or further exercise of that or any other such right. No act or course of conduct or negotiation on the part of any party will in any way preclude such party from exercising any such right or constitute a suspension or any variation of any such right.

Section 8.12. Assignment. This Agreement is not assignable by Purchaser; provided, however, that Purchaser will have the right to name an Affiliate as the assignee of the Loan Files

pursuant to this Agreement; provided, however, that Purchaser shall notify Seller of any such change no less than two (2) Business Days prior to the Closing Date.

Section 8.13. Fees and Expenses. Purchaser and Seller shall each bear all costs, fees and expenses incurred thereby in connection with this Agreement, including without limitation, the fees and expenses of accountants, appraisers, attorneys, servicers and other consultants and other costs and expenses in connection with the preparation of this Agreement and the consummation of the transaction contemplated by this Agreement. Purchaser shall pay all other costs and expenses related to the transaction. Without limitation of the foregoing, Seller shall not bear the cost of any recordation fees and/or taxes associated with selling, transferring, and assigning the Loans, the Servicing Rights, or any interest therein, including, without limitation, the Assignments of Deeds of Trust, assignments of any financing statements, and any fees and/or taxes associated with other transfer documents which are to be recorded in connection with the transactions contemplated hereby.

Section 8.14. Agreement Not Binding. Nothing contained in this Agreement will create any obligation on the part of Seller under this Agreement unless and until Seller has executed and delivered to Purchaser a counterpart copy of this Agreement.

Section 8.15. Further Assurances. Seller and Purchaser shall, upon the request of the other, execute and deliver such assignment and assumption documents, or perform such other acts, as may be reasonably required in order to effect, perfect or confirm the assignment by Seller, and the assumption by Purchaser, of all right, title, interest and obligations of Seller under the Loans and the Servicing Rights, and to complete the transactions contemplated by this Agreement, including correcting any errors or omissions in the Closing Documents delivered under Sections 3.3 and 3.4 hereof and including such further acts as are reasonably necessary to assure the timely transfer of the Loan Assets and Loan Documents.

Section 8.16. Attorneys' Fees. If any action or claim is made by any party hereto against the other relating to this Agreement or the subject matter hereof, the prevailing party shall be entitled to their reasonable attorneys' fees and legal expenses, including all fees, costs and expenses incurred in any appellate or bankruptcy proceedings, or in any post-judgment proceedings to collect or enforce any judgment. This provision for the recovery of post-judgment fees, costs, and expenses is separate and several and shall survive the merger of this Agreement into any judgment. The term "prevailing party" means the party obtaining substantially the relief sought, whether by compromise, settlement, or judgment.

ARTICLE IX

DISPUTE RESOLUTION

Section 9.1. Court Trial. Each party to this Agreement hereby expressly waives any right to trial by jury with respect to any claim, demand, action or cause of action (a) arising under this Agreement, including any present or future modification thereof, or (b) in any way connected with or related or incidental to the dealings of the parties hereto or any of them with respect to this Agreement (as now or hereafter modified) or any other instrument, document or agreement executed or delivered in connection herewith, or the transactions related hereto or

thereto, in each case whether such claim, demand, action or cause of action is now existing or hereafter arising, and whether sounding in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand or cause of action shall be decided by court trial without a jury, and that any party to this Agreement may file an original counterpart or a copy of this section with any court as written evidence of the consent of the parties hereto to the waiver of any right they might otherwise have to trial by jury.

Section 9.2. Venue. Any action shall be commenced and maintained in the Court. The parties irrevocably consent to jurisdiction and venue in such Court and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Article IX.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Seller and Purchaser have executed and delivered this Agreement as of the date first set forth above.

PURCHASER:

SELLER:

Thomas A. Seaman, as Receiver

EXHIBIT A

TABLE OF SBA 504 AND NON-SBA LOAN INTERESTS

EXHIBIT B

DEFINITIONS

"**Affiliate**" is defined, in the case of any entity, as the entity's parent or any wholly or partially-owned subsidiary of the entity or the entity's parent.

"**Agreement**" is defined as this Loan Purchase and Sale Agreement, together with all Exhibits, Schedules and attachments annexed hereto and made a part hereof, as the same may be amended, supplemented or modified.

"**Assignments of Deeds of Trust**" is defined in Section 3.4(a) of the Agreement.

"**Assumption Agreement**" is defined in Section 3.3(b) of the Agreement.

"**Borrower Notice Letter**" is defined in Section 3.3(c) of the Agreement.

"**Business Day**" is defined as any day, other than a Saturday, a Sunday, a federal holiday or any day on which banking institutions in Los Angeles, California are not generally open for business.

"**Case**" is defined in the second Recital of the Agreement.

"**Claim**" is defined as any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, attorneys' fees, consultants' fees and costs and experts' fees.

"**Closing**" is defined as the consummation of the purchase and sale of all of Seller's right, title and interest in the Loans and the Servicing Rights as contemplated by this Agreement pursuant to delivery of the Closing Documents, payment of the Purchase Price and sale and purchase of the Loans and the Servicing Rights in accordance with this Agreement and the Sale Order, which Closing will occur at or before 2:00 p.m. (Pacific Standard Time) on the Scheduled Closing Date.

"**Closing Date**" is defined as the date on which the Closing actually occurs.

"**Closing Documents**" is defined as all documents that are required to be delivered by Seller or Purchaser at the Closing in accordance with the Agreement.

"**Court**" is defined as the United States District Court for the Northern District of California, San Jose Division.

"**Deposit**" is defined in Section 3.2(a) hereof.

"**Effective Date**" is defined as _____, 2014.

"**Indemnified Party**" and "**Indemnified Parties**" are each defined in Section 7.1 hereof.

"**Loan**" or "**Loans**" is defined in the first Recital of the Agreement.

"Loan Assets" is defined in the first Recital of the Agreement.

"Loan Documents" is defined in Section 2.2 of the Agreement.

"Loan Files" is defined as, with respect to the Loans,

- (a) a copy of the promissory notes and any endorsements thereto;
- (b) the original or copy of the original recorded Deed of Trust for each Loan, and any intervening assignments (or certified copies of such assignments) of the original Deed of Trust for each Loan, in each case with evidence of recording indicated thereon;
- (c) all of the other Loan Documents;
- (d) the original or copy of all original assumption, modification, amendment and substitution agreements in those instances, if any, where the promissory notes, the Deeds of Trust or any other documents in the Loan Files have been assumed, modified, amended or substituted;
- (e) the original, or a copy by the issuing title insurance company, of an original lender's title insurance policy for the Loans;
- (f) the original or copy of the filed UCC Financing Statements; and
- (g) all files, correspondence, third party studies, surveys and other material documents related to the Loans held by Seller and reasonably required for the servicing of the Loans furnished by Seller to Purchaser for review by Purchaser prior to the Closing Date, other than those items and materials that are deemed by Seller in its sole discretion to be confidential or proprietary in nature, including, without limitation, any internal memoranda of Seller, including, but not limited to, loan underwriting and credit committee memorandum; provided, however, that no such confidential or proprietary materials, other than confidential or proprietary materials included in the Loan File, amend, modify or waive the rights or remedies of the holder of any promissory note under the Loan Documents.

"Notice" is defined as any and all acceptances, approvals, consents, demands, notices, requests and other communications required or permitted to be given under this Agreement.

"Order" is defined in the second Recital above.

"Purchase Price" is defined as the amount payable by Purchaser in consideration of the transfer of the Loans Assets to Purchaser in accordance with this Agreement, such amount being equal to _____ (\$_____).

"**Purchaser**" is defined in the introductory paragraph. Purchaser's address for Notices is as follows:

Attention: _____

"**Receivership Entities**" is defined as Small Business Capital Corp., Investors Prime Fund, LLC, SBC Portfolio Fund, LLC, and their subsidiaries and affiliates, including Small Business Capital LLC and SBC Senior Commercial Mortgage Fund, LLC

"**Released Party**" or "**Released Parties**" is defined in Section 7.4 of the Agreement.

"**Sale Order**" is defined as that order entered by the Court approving the sale to Purchaser of the Loan Assets in accordance with the Agreement.

"**Sale Procedures Order**" is defined in the third Recital of the Agreement.

"**SBA**" is defined as the United States Small Business Administration.

"**Scheduled Closing Date**" is defined as the earlier of (a) five Business Days from entry the Sale Order and (b) a date agreed on by Seller and Purchaser.

"**Seller**" is defined in the introductory paragraph of the Agreement. Seller's address for Notices is as follows:

THOMAS SEAMAN COMPANY
3 Park Plaza, Suite 550
Irvine, California 92614
Facsimile: (949) 222-0661
Attention: Thomas A. Seaman CFA

with a
copy to:

Allen Matkins Leck Gamble Mallory & Natsis LLP
515 South Figueroa Street, 9th Floor
Los Angeles, California 90071
Attention: David Zaro

"**Servicing Rights**" is defined in the first Recital of the Agreement.

"**Settlement Statement**" is defined in Section 3.2(f) of the Agreement.

"**UCC Financing Statement**" is defined as those UCC financing statements filed or recorded in connection with the Loans.

EXHIBIT C

RULES OF CONSTRUCTION

1. References in this Agreement to numbered Articles or Sections are references to the Articles and Sections of this Agreement. References in this Agreement to lettered Exhibits and numbered Attachments are references to the Exhibits and Attachments attached to this Agreement, all of which are incorporated in and constitute a part of this Agreement. Article, Section, Exhibit and Attachment captions used in this Agreement are for reference only and do not describe or limit the substance, scope or intent of this Agreement or the individual Articles, Sections, Exhibits or Attachments of this Agreement.

2. The terms "include", "including" and similar terms are construed as if followed by the phrase "without limitation."

3. The term "Property" is construed as if followed by the phrase "or any part thereof".

4. Any agreement by or duty imposed on either party in this Agreement to perform any obligation or to refrain from any act or omission constitutes a covenant on such party's part and includes a covenant by such party to cause its Affiliates, agents, employees, members, partners, principals, representatives and trustees to perform the obligation or to refrain from the act or omission in accordance with this Agreement.

5. The singular of any word includes the plural and the plural includes the singular. The use of any gender includes all genders.

6. The terms "person", "party" and "entity" include natural persons, firms, partnerships, limited liability companies and partnerships, corporations and any other public or private legal entity.

7. The term "provisions" includes terms, covenants, conditions, agreements and requirements.

8. The term "amend" includes modify, supplement, renew, extend, replace, restate and substitute and the term "amendment" includes modification, supplement, renewal, extension, replacement, restatement and substitution.

9. No inference in favor of or against a party with respect to this Agreement may be drawn from the fact that the party drafted this Agreement.

10. The term "certificate" means the sworn, notarized statement of the entity giving the certificate, made by a duly authorized person satisfactory to Seller affirming the truth and accuracy of every statement in the certificate. Any document that is "certified" means the document has been appended to a certificate of the entity certifying the document that affirms the truth and accuracy of everything in the document being certified. In all instances the entity issuing a certificate must be satisfactory to Seller and Purchaser.

11. All obligations, rights, remedies and waivers contained in this Agreement will be construed as being limited only to the extent required to be enforceable under applicable law.

EXHIBIT D
WIRING INSTRUCTIONS

Wire to:

ABA Number:

For Credit To:

Account Number:

Reference:

Customer Name:

EXHIBIT E

RECEIPT FOR LOAN FILE

_____ ("**Purchaser**") acknowledges receipt, in conformance with the requirements of the Loan Purchase and Sale Agreement, dated as of _____, 2014, between _____ ("**Seller**") and Purchaser (the "**Agreement**"), of the Loan Files (as defined in the Agreement; capitalized terms not defined in this receipt have the meanings given them in the Agreement) that is described in **Schedule A** attached to this receipt.

Dated as of the ____ day of _____, 2014.

[_____] ,
a [_____]

By: _____
Name:
Title:

SCHEDULE A TO EXHIBIT E

LOAN FILES

- (a) a copy of the promissory notes and all endorsements;
- (b) the original or a copy of the original recorded Deed of Trust for each Loan, and any intervening assignments (or certified copies of such assignments) of the original Deed of Trust for each Loan, if any, in each case with evidence of recording indicated thereon;
- (c) all of the other Loan Documents;
- (d) the original or a copy of all original assumption, modification and substitution agreements in those instances, if any, where the promissory notes, the Deeds of Trust or any other documents in the Loan File have been assumed or modified;
- (e) the original, or a copy of an original lender's title insurance policy for the Loans, if any;
- (f) the original or a certified copy of the UCC Financing Statements; and
- (g) all files, correspondence, third party studies, surveys and other material documents related to the Loans and the Servicing Rights held by Seller or its servicer in connection with the servicing of the Loans other than those items and materials that are deemed by Seller in its reasonable discretion to be confidential or proprietary in nature, including, without limitation, any internal memoranda of Seller, including, but not limited to, loan underwriting and credit committee memorandum; provided, however, that no such confidential or proprietary materials, other than confidential or proprietary materials included in the Loan Files, amend, modify or waive the rights or remedies of the holder of any promissory notes under the Loan Documents.

EXHIBIT F

**FORM OF ASSIGNMENT AND ASSUMPTION
OF AGREEMENTS AND BILL OF SALE**

FOR VALUE RECEIVED, _____ ("**Assignor**"), assigns, conveys, grants, sets over and transfers to _____ ("**Assignee**"), all of Assignor's right, title and interest, if any, in and to (1) the agreements listed on **Attachment 1** to this Assignment (collectively, the "**Agreements**"), (2) to the extent paid after the Effective Date, all scheduled and unscheduled payments, including any proceeds of any insurance claims or settlements or casualty or eminent domain proceedings or any payments made by Borrower, arising in connection with the Loans or the Servicing Rights, and (3) the Loan Files, including, without limitation, the servicing files (to the extent in the possession and/or control of Assignor) and the items listed on **Attachment 1** hereto.

TOGETHER WITH all of Assignor's right, title and interest, if any, in and to all notes and contracts described or referred to in the Agreements, all guarantees of the Agreements, all assumptions of the Agreements, the money due and to become due thereon with interest and all contract rights accrued or to accrue under the Agreements.

Assignee unconditionally assumes all liabilities and obligations of Assignor arising under the Agreements on and after the Effective Date, including, without limitation, any obligation under the Agreements to make any future advances to the borrower thereunder at any time on and after the Effective Date.

This Assignment and Assumption of Agreements and Bill of Sale (this "**Assignment and Assumption**") will be binding on and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

Except as set forth in the Loan Purchase and Sale Agreement, dated as of _____, 2014, between Assignor and Assignee (the "**Purchase Agreement**"), this Assignment and Assumption is made without recourse to or any representation or warranty, express or implied, by Assignor. Any such representation or warranty will not inure to the benefit of any assignee of Purchaser other than an assignee permitted under such Purchase Agreement. Capitalized terms not otherwise defined in this Assignment and Assumption shall have the respective meaning ascribed to such term in the Purchase Agreement.

Dated as of the ____ day of _____, 2014.

ASSIGNEE:

By: _____
Name:
Title:

ASSIGNOR:

By: _____
Name:
Title:

ATTACHMENT 1 TO EXHIBIT F

AGREEMENTS

A. Loan Documents

1.

Thank you very much for your cooperation.

Very truly yours

By: _____
Name:
Title:

and

By: _____
Name:
Title:

EXHIBIT H
SETTLEMENT STATEMENT

EXHIBIT I

FORM OF ENDORSEMENT

ENDORSEMENT

This endorsement is attached to and forms a part of that certain [*describe the Note*], made by _____, as borrower, to _____ ("**Lender**"), as lender, in the original principal amount of \$_____ (the "**Note**").

Lender hereby endorses the Note payable to the order of _____ ("**Purchaser**"), without any recourse to or representation or warranty, express or implied, by Lender, except as expressly set forth in that certain Loan Purchase and Sale Agreement, dated as of _____, 2009, by and between Lender and Purchaser. Any such representation or warranty will not inure to the benefit of any assignee of Purchaser other than an assignee permitted under such Loan Purchase and Sale Agreement.

Dated as of the ____ day of _____, 2014.

By: _____
Name:
Title:

EXHIBIT J

FORM OF ASSIGNMENT OF DEED OF TRUST