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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 1, 2005

Hercules Technology Growth Capital, Inc.

(Exact name of registrant as specified in its charter)

Maryland	**814-00702**	**74-3113410**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification Number)

525 University Ave., Suite 700
Palo Alto, California 94301
(Address of principal executive offices including zip code)

(650) 289-3060
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrants under any of the following provisions:

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a-12 under Exchange Act (17 CFR 240-14a-12)

[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240-14d-2(b))

[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

The information and definitions set forth under Item 2.03 of this report on Form 8-K are hereby incorporated in Item 1.01 by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On August 1, 2005, Hercules Funding Trust I (the "Trust"), a trust formed by Hercules Funding I LLC ("Hercules Funding"), a special-purpose bankruptcy remote subsidiary of Hercules Technology Growth Capital, Inc. ("Hercules"), Hercules Funding and Hercules entered into a $100,000,000 securitized receivables funding facility (the "Receivables Facility") backed by a revolving pool of borrowing loans originated by Hercules ("Borrowing Loans").

In connection with the Receivables Facility, Hercules, Hercules Funding and/or the Trust entered into the following agreements: (i) a Loan Sale Agreement dated as of August 1, 2005 (the "Loan Sale Agreement"), pursuant to which Hercules will sell from time to time certain Borrowing Loans, along with related collateral, to Hercules Funding; (ii) a Sale and Servicing Agreement dated as of August 1, 2005 (the "Sale and Servicing Agreement"), pursuant to which Hercules Funding will convey such Borrowing Loans and related collateral to the Trust; (iii) an Indenture dated as of August 1, 2005 (the "Indenture"), pursuant to which the Trust issued a note (the "Note") and under which U.S. Bank National Association will act as indenture trustee; and (iv) a Note Purchase Agreement dated as of August 1, 2005 (the "Note Purchase Agreement") pursuant to which Citigroup Capital Markets Realty Corp., an affiliate of Citigroup Capital Markets, purchased the Note. The summary of the Loan Sale Agreement, Sale and Servicing Agreement, Indenture and Note Purchase Agreement set forth in this Item 2.03 is qualified in its entirety by reference to the text of the agreements which are filed as Exhibits 99.3 through 99.6 and are incorporated by reference herein.

Pursuant to the terms of the Note Purchase Agreement, and subject to certain conditions customary for transactions of this nature, the Trust may borrow pursuant to the Note a maximum of $100,000,000. The interest rate applicable to the Note will be at the one month London interbank offered rate ("LIBOR"), plus 1.65 percent per annum for the relevant period. Hercules has guaranteed the payment of principal when due on the Note up to 10% of the principal amount of the Note.

In connection with the securitization facility, Hercules, Hercules Funding I LLC and the Trust have made representations and warranties regarding the loans as well as their businesses and properties and are required to comply with various covenants, servicing procedures, reporting requirements and other customary requirements for similar securitized facilities. The securitization facility also includes usual and customary limited recourse, early amortization events and events of default for securitized facilities of this nature. Hercules will act as servicer of the Borrowing Loans and will retain a residual interest through its ownership of Hercules Funding in the Borrowing Loans transferred to the Trust.

In connection with the Receivables Facility, Hercules entered into an amendment (the "Amendment") under its existing credit facility with Alcmene Funding, L.L.C. (the "Existing Credit Facility"), which Amendment amends the credit agreement and pledge and security agreement with Alcmene Funding, L.L.C. to permit the transactions contemplated by the Receivables Facility. The Amendment also modifies the interest rate and maturity date applicable to loans under the Existing Credit Facility. Pursuant to the amended credit agreement the outstanding principal amount of loans will bear interest at a rate of 8% through July 31, 2005, at a rate of LIBOR plus 5.6% for the period from August 1, 2005 through December 31, 2005, and at a rate of 13.5% from January 1, 2006 through maturity. The maturity date is April 12, 2006. The summary of the Amendment set forth in this Item 2.03 is qualified in its entirety by reference to the text of the Amendment which is filed as Exhibit 99.2 and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits

99.1	Press Release issued by Hercules Technology Growth Capital, Inc. dated August 3, 2005.
99.2	First Amendment to Credit and Pledge and Security Agreement dated as of August 1, 2005.
99.3	Loan Sale Agreement dated as of August 1, 2005.
99.4	Sale and Servicing Agreement dated as of August 1, 2005.
99.5	Indenture dated as of August 1, 2005.
99.6	Note Purchase Agreement dated as August 1, 2005.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC.

By: /S/ MANUEL HENRIQUEZ
Name: Manuel Henriquez
Title: Chief Executive Officer

Date: August 4, 2005

EXHIBIT INDEX

Exhibit No.	Description of Exhibits
99.1	Press Release issued by Hercules Technology Growth Capital, Inc. on August 3, 2005.
99.2	First Amendment to Credit and Pledge and Security Agreement dated as of August 1, 2005.
99.3	Loan Sale Agreement dated as of August 1, 2005.
99.4	Sale and Servicing Agreement dated as of August 1, 2005.
99.5	Indenture dated as of August 1, 2005.
99.6	Note Purchase Agreement dated as August 1, 2005.

Exhibit 99.1

Hercules Enters Into $100 Million Securitized Credit Facility

PALO ALTO, Calif. – Aug. 3, 2005-Hercules Technology Growth Capital, Inc. (NASDAQ: HTGC), a leading debt and equity growth capital provider to technology related companies, today announced that one of its wholly-owned affiliates has entered into a $100 million securitized credit facility with an affiliate of Citigroup, Inc.

Hercules' wholly-owned affiliate may borrow up to $100 million under the securitized credit facility which will be used to make additional portfolio investments. Hercules has employed a significant portion of its equity capital and expects to begin using the securitized credit facility in the coming months to support additions to its portfolio.

"We are very pleased to have closed on a securitized credit facility with Citigroup Global Markets Realty Corp. that gives us the flexibility to continue to grow our investment portfolio and to strengthen our balance sheet going forward on a cost-effective basis, which we believe will ultimately translate into improved yields for our shareholders," said chairman and chief executive officer Manuel A. Henriquez.

In addition, Hercules has extended the maturity of its $25 million credit facility with Alcmene Funding, L.L.C. ("Alcmene"), an affiliate of Farallon Capital Management, L.L.C. to April 2006. Alcmene agreed to a number of amendments to the facility, and the company agreed to increase the annual interest rate on the facility from 8 percent to LIBOR plus 5.6 percent. Mr. Henriquez stated, "We believe that it is in the best interests of the company to maintain our flexibility. By keeping this facility, we can make additional investments in promising portfolio companies."

For additional information, please review the company's current report on 8-K, to be filed with the Securities and Exchange Commission, that will include the complete transaction documents for both transactions.

About Hercules Technology Growth Capital

Founded in December 2003, Hercules Technology Growth Capital, Inc. is a NASDAQ traded specialized finance company providing debt and equity growth capital to technology-related companies at all stages of development. The company primarily finances privately-held companies backed by leading venture capital and private equity firms and also may finance certain publicly-traded companies. Hercules focuses its investments in companies active in technology and technology-related industries such as computer software and hardware, networking systems, semiconductors, semiconductor capital equipment, information technology infrastructure, Internet consumer and business services, telecommunications, and life sciences. The company's investments are originated through its principal office located in Silicon Valley, as well as additional offices in the Boston, Boulder and Chicago areas. Providing capital to privately-held companies backed by leading venture capital and private equity firms involves a certain degree of credit risk and may result in potential losses. For more information or

companies interested in learning more about financing opportunities should contact info@herculestech.com or call at 650-289-3060 or visit http://www.herculestech.com.

Forward-Looking Statements

The statements contained in this release that are not purely historical are forward-looking statements, which involve risk and uncertainties that could cause actual results to differ materially from those expressed in the forward-looking statements. These statements may be identified by their use of forward-looking terminology such as “believes”, “expects”, “may”, “should”, “would”, “will”, “intends”, “plans”, “estimates”, “anticipates” and similar words, and include, but are not limited to, statements regarding the expectations, intentions or strategies of Hercules Technology Growth Capital, Inc. For these statements, Hercules claims the protection of the safe harbor for forward-looking statements provisions contained in the Private Securities Litigation Reform Act of 1995. You should be aware that Hercules’ actual results could differ materially from those contained in the forward-looking statements due to a number of risks and uncertainties affecting its business. Factors that may cause actual results to differ from forward-looking statements include Hercules’ limited operating history as a business development company, the extent to which Hercules incurs debt to fund its investments, fluctuations in interest rates, the concentration of Hercules’ investments in a limited number of emerging-growth or expansion stage technology-related companies, the illiquid nature of the securities Hercules’ holds, the highly competitive market for investment opportunities in which Hercules operates and others discussed in Hercules’ filings with the Securities and Exchange Commission. The forward-looking statements contained in this release are made as of the date hereof, and Hercules assumes no obligation to update the forward-looking statements for subsequent events.

Contact:
David M. Lund
VP of Finance and Corporate Controller
Hercules Technology Growth Capital
(650) 289-3077

Deborah Stapleton
President
StapletonCommunications Inc
(650)470-0200

Exhibit 99.2

FIRST AMENDMENT TO
CREDIT AGREEMENT AND PLEDGE AND SECURITY AGREEMENT

THIS FIRST AMENDMENT TO CREDIT AGREEMENT AND PLEDGE AND SECURITY AGREEMENT (this "**Amendment**") is entered into as of August 1, 2005 by and among HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation (the "**Company**"), ALCMENE FUNDING, L.L.C., as a Lender and as Administrative Agent (the "**Administrative Agent**") for the "**Lenders**" party from time to time to the Credit Agreement referred to below, and such Lenders.

W I T N E S S E T H:

WHEREAS, Company, Administrative Agent and Lenders have entered into that certain Credit Agreement dated as of April 12, 2005 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"); and

WHEREAS, the parties to the Credit Agreement desire to amend the Credit Agreement and the Pledge and Security Agreement on the terms and subject to the conditions set forth herein.

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

1. Defined Terms. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Credit Agreement, as amended by this Amendment.

2. Amendments to Credit Agreement.

(A) Amendment to Definitions.

(a) Deleted Definitions. The following definitions are hereby deleted in their entirety: "Extended Maturity Date", "Extension Fee", "Extension Notice", "Extension Option", "Extension Period" and "Initial Maturity Date".

(b) Restated Definitions. The following definitions are hereby amended by deleting such definitions in their entirety and substituting the following therefor:

"Loan Coverage Ratio" means the ratio of (x) the sum, without duplication, of the Company's Net Loan Assets plus Cash or Cash Equivalents held by the Company, in each case which are subject to a perfected first priority Lien created pursuant to this Agreement or the other Loan Documents and not subject to any other Lien, to (y) all secured Indebtedness of the Company and its Subsidiaries incurred pursuant to this Agreement. For purposes of determining the Loan Coverage Ratio, there shall be excluded any Cash Equivalents of any SBIC Subsidiary.

"Maturity Date" means April 12, 2006, or such earlier date on which all of the Obligations hereunder become due and payable, whether at such stated maturity date, by declaration of acceleration, or otherwise.

(c) Modified Definitions. The following definitions are amended and modified as set forth below:

The definition of "Subsidiary" is hereby amended by—

(x) deleting clause (i) therein in its entirety and substituting the following therefor: "in which an entity, directly or indirectly, owns at least fifty percent (50%) of the securities or other ownership interests of such corporation or other entity;";

(y) adding the words ", directly or indirectly," after the words "owns or controls" in each case in which such words appear in clause (iii) therein.

The definition of "Total Debt Service" is hereby amended by deleting "the Extension Fee or" in the proviso therein.

The definition of "Borrowing Loan" is hereby amended by adding the following proviso to the end thereof:

"; provided further that, except to the extent appearing in the definition of "EBITDA", "Securitization Transaction," "Related Securitization Property" or "Securitization Transaction Borrowing Loan," or appearing in Section 5.08, the term "Borrowing Loan" shall not include any loan from and after the time such loan becomes a Securitization Transaction Borrowing Loan".

(B) New Definitions. The following definitions shall be inserted in Section 1.01 of the Credit Agreement in proper alphabetical order:

"LIBOR" means, the rate of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Telerate Page 3750 (or any successor page) as the London interbank offered rate for deposits in U.S. Dollars for a period of twelve (12) months at approximately 11:00 A.M. (London time) one (1) Business Day prior to August 1, 2005; provided, that if more than one rate is specified on Telerate Page 3750, the applicable rate shall be the arithmetic mean of all such rates.

"Related Securitization Property" has the meaning set forth on Annex I hereto.

"Securitization Transaction" means, a financing transaction, or series of transactions, pursuant to which the Company or any Subsidiary sells, contributes, conveys or otherwise transfers, or grants a Lien on, Borrowing Loans, and related Property for the administration thereof, to an SPV, for the purpose of securing, directly or indirectly, loans or advances received by the Company or any Subsidiary in connection with such financing transaction or transactions.

"Securitization Transaction Borrowing Loan" means any Borrowing Loan sold, conveyed, contributed or otherwise transferred, or to be sold, conveyed, contributed or otherwise transferred, as the context requires, to an SPV pursuant to a Securitization Transaction and not subsequently sold, conveyed, contributed or transferred by the SPV back to the Company or any Subsidiary, and all Related Securitization Property.

"SPV" means a Subsidiary or Affiliate of the Company formed for the special purpose of participating in a Securitization Transaction.

"Warrant" means with respect to any Securitization Transaction Borrowing Loan, a warrant or similar right convertible into or exercisable or exchangeable for any equity interests received by the Company or a Subsidiary as an "equity-kicker" in connection with such Securitization Transaction Borrowing Loan; provided that the term Warrant shall in no event include the right of the Company to participate as an investor in future equity financings.

"Warrant Participation Agreement" means an agreement pursuant to which a Person participating in a Securitization Transaction receives, in connection with such transaction, an interest or participation in Warrants issued to the Company or a Subsidiary by a borrower under a Securitization Transaction Borrowing Loan, provided that the interest or participation received shall not exceed fifteen percent (15%) of the total amount of Warrants issued to the Company or a Subsidiary by the borrower in connection with such Securitization Transaction Borrowing Loan.

"Warrant Pledge and Security Agreement" means an agreement pursuant to which a Person participating in a Securitization Transaction pledges certain Warrants and certain other collateral related thereto as security for the payment and performance of such Person's obligations under a Warrant Participation Agreement.

(C) Amendment to Interest Provision. Section 2.06(a) of the Credit Agreement is hereby amended by deleting such section in its entirety and substituting the following therefor:

(a) Each Loan shall bear interest on the outstanding principal amount thereof (i) from the applicable Borrowing Date until July 31, 2005 at a rate per annum equal to 8.0%; (ii) from August 1, 2005 through December 31, 2005 at a rate per annum equal to LIBOR plus 5.60%; and (ii) from January 1, 2006 and thereafter until the Maturity Date, at a rate per annum equal to 13.5%.

(D) Amendment to Extension Provision. Section 2.07(b) of the Credit Agreement is hereby amended by deleting such section (b) in its entirety and substituting "[Reserved]" therefor.

(E) Amendment to Information Provision. Section 6.02(b) the Credit Agreement is hereby amended by adding the words "or by Section 7.14" after the words "clauses (a) and (h) of Section 6.03" appearing in lines 5 and 6 thereof.

(F) Amendment to Financial Covenants.

(a) Section 6.13(a) of the Credit Agreement is hereby amended by deleting clauses (i) and (ii) therein and substituting the following therefor: "(i) 1:1 for each month ending prior to October 12, 2005 and (ii) 2:1 for each month thereafter".

(b) Section 6.13(e) of the Credit Agreement is hereby amended by deleting clauses (i) and (ii) therein and substituting the following therefor: "(1) 20% prior to October 12, 2005 and (ii) 15% thereafter".

(G) Amendment to Limitation on Liens Covenant.

(a) Section 7.01(i) of the Credit Agreement is hereby amended by deleting the "[Reserved]" therein and substituting the following therefor:

"Liens created or deemed to exist in connection with a Securitization Transaction, but only to the extent that any such Lien relates to a Securitization Transaction Borrowing Loan, actually sold, conveyed, contributed or otherwise transferred to an SPV pursuant to such Securitization Transaction, and any Proceeds of the foregoing, provided that such sale, conveyance, contribution or transfer complies with Section 7.14 hereof".

(b) Section 7.01 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (k) therein; deleting the "." at the end of clause (l) therein and substituting "; and" at the end therefor; and adding a new clause (m) thereafter as follows:

"(m) Liens granted pursuant to a Warrant Pledge and Security Agreement and a Warrant Participation Agreement."

(H) Amendment to Disposition of Assets Covenant. Section 7.02 of the Credit Agreement is hereby amended by inserting "(x)" following the word "except" in the fifth line thereof and the following immediately before the "." at the end thereof:

"; (y) sales, contributions, conveyances or other transfers of Securitization Transaction Borrowing Loans, provided that such sale, conveyance, contribution or transfer complies with Section 7.14 hereof; and (z) dispositions of interests or participations in Warrants made pursuant to a Warrant Participation Agreement and in compliance with the proviso to the definition thereof."

(I) Amendment to Loans and Investments Covenant. Section 7.04 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (g) therein; deleting the "." at the end of clause (h) therein and substituting "; and" at the end therefor; and adding a new clause (i) thereafter as follows:

"(i) Investments by the Company or a Subsidiary in an SPV in connection with a Securitization Transaction."

(J) Amendment to Limitation on Indebtedness Covenant. Section 7.05 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (d) therein; deleting the "." at the end of clause (e) therein and substituting "; and" at the end therefor; and adding a new clause (f) thereafter as follows:

"(f) Indebtedness incurred pursuant to a Securitization Transaction."

(K) Amendment to Transactions with Affiliates Covenant. Section 7.06 of the Credit Agreement is hereby amended by inserting the following at the end of clause (i) and immediately preceding the ";" at the end thereof: "including a Securitization Transaction".

(L) Amendment to Contingent Obligations Covenant. Section 7.08 of the Credit Agreement is hereby amended by deleting the "and" at the end of clause (b) therein; deleting the "." at the end of clause (c) therein and substituting "; and" at the end therefor; and adding a new clause (d) thereafter as follows:

"(d) Contingent Obligations consisting of unsecured guarantees provided by the Company or a Subsidiary in connection with a Securitization Transaction."

(M) Amendment to SBIC Subsidiary Covenant. Section 7.13 of the Credit Agreement is hereby amended by deleting the heading of 'SBIC Subsidiary" and substituting "Subsidiaries" therefor and inserting "or any SPV in connection with a Securitization Transaction" immediately preceding the "." at the end thereof.

(N) Addition of New Covenant. A new Section 7.14 of the Credit Agreement is hereby added immediately after Section 7.13 as follows:

"7.14 Transfer of Loans to an SPV. The Company shall not sell, convey, contribute or otherwise transfer any Borrowing Loan or Related Securitization Property to an SPV in connection with a Securitization Transaction, or grant a Lien in a Securitization Transaction Borrowing Loan unless (i) the foregoing proceeds shall constitute Collateral hereunder and under the Pledge and Security Agreement and shall be deposited upon receipt into a "deposit account" (as such term is defined in the UCC) subject to the Pledge and Security Agreement, (ii) the sale, conveyance, contribution or transfer of such Securitization Transaction Borrowing Loan to an SPV shall be made on not less than two (2) Business Days' prior written notice to the Administrative Agent, and (iii) such notice shall identify the Securitization Transaction Borrowing Loan, the aggregate outstanding amount of such Securitization Transaction Borrowing Loan, to the extent requested by the Administrative Agent in writing, the amount of the proceeds intended to be received by the Company in connection with such sale, conveyance, contribution or transfer and the interest or participation, if any, in any Warrants being received by any Person pursuant to a Warrant Participation Agreement in connection therewith, and shall confirm that as a result of such sale, conveyance, contribution or transfer no Default or Event of Default shall occur and be continuing.

(O) Amendment to Event of Default. Section 8.01(c) of the Credit Agreement is hereby amended by inserting ", 7.14" immediately after the reference to "6.02" in clause (ii) thereof.

(P) Amendment to Collateral Matters. Section 9.10 of the Credit Agreement is hereby amended by adding a new Section 9.10(d) at the end thereof as follows:

"(d) Notwithstanding anything to the contrary contained herein (including the requirements of Section 7.14) or in the other Loan Documents, the Lien of Administrative Agent and the Lenders shall automatically be released, without further action by the Administrative Agent or any Lender, in (x) a Securitization Transaction Borrowing Loan, upon the sale, conveyance, contribution or transfer of such Securitization Transaction Borrowing Loan to an SPV in connection with a Securitization Transaction and (y) any Warrant upon the transfer of any interest or participation therein pursuant to a Warrant Participation Agreement, to the extent, but only to the extent, of such interest or participation."

(Q) Amendment to Governing Law: Section 10.15 of the Credit Agreement is hereby amended by deleting the words "THE LAW OF THE STATE OF NEW YORK" and substituting therefor the words "THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES".

3. Amendments to Pledge and Security Agreement.

(A) Amendment to Exhibit A. Exhibit A to the Pledge and Security Agreement is hereby amended by adding the following at the end thereof:

"Notwithstanding anything to the contrary contained in this Exhibit A or in the Pledge and Security Agreement, after August 1, 2005, the Collateral shall not include (x) any Securitization Transaction Borrowing Loan that is sold, conveyed, contributed or otherwise transferred to an SPV in connection with a Securitization Transaction or (y) any interest or participation in Warrants transferred pursuant to a Warrant Participation Agreement, and any proceeds thereof (all such capitalized terms not otherwise defined being as defined in the Credit Agreement).

(B) Amendment to Covenants Relating to Collateral.

Section 5(b) of the Pledge and Security Agreement is hereby amended by deleting the words "(the 'Custody Agreement')" appearing in lines 7 and 8 and substituting the following therefor:

"or, in the case of any Warrants in which an interest or participation has been transferred pursuant to a Warrant Participation Agreement, substantially in the form attached hereto as Exhibit D (each a 'Custody Agreement')".

Section 5(c) of the Pledge and Security Agreement is hereby amended by deleting such provision in its entirely and substituting the following therefor:

"(c) As of the August 1, 2005, Grantor maintains no 'deposit account' (as such term is defined in the New York UCC) other than (i) Business Checking Account number 4720009656, at Union Bank of California, N.A. subject to the Special Deposit Account Control Agreement dated as of April 12, 2005 as amended by that First Amendment dated as of August 1, 2005 and (ii) Concentration Account No. at the U.S. Bank National Association ('U.S. Bank') subject to the Intercreditor and Concentration Account Administration Agreement, dated as of August 1, 2005 by and among Deposit Bank, Grantor and each Financing Agent party thereto. If, at any time, Grantor shall open any other 'deposit account' (as defined in the New York UCC), Grantor agrees that it shall promptly, but in no event later than the time funds of the Grantor are first deposited in, or credited to, such deposit account, cause the bank at which such deposit account is maintained, to execute an agreement in the form of Exhibit E hereto (the 'Deposit Account Control Agreement') (or other agreement reasonably acceptable to Secured Party) in order to perfect the security interest of Secured Party in the deposit account pursuant to the Applicable UCC; provided, however, that the foregoing shall not apply to a 'deposit account' maintained by the Company or a Subsidiary in connection with a Securitization Transaction." '

There is hereby added an Exhibit D to the Pledge and Security Agreement in the form of the Warrant Pledge and Security Agreement attached hereto as Annex II.

Exhibit D to the Pledge and Security Agreement is hereby redesignated Exhibit E.

(C) Consent to UCC-3 Partial Release. Upon the effectiveness of this Amendment as provided in Section 4 hereof, the Administrative Agent hereby consents to the release of the Related Securitization Property pursuant to a UCC-3 financing statement to be filed in the Maryland Secretary of State office in the form attached hereto as Schedule I.

4. Effectiveness. This Amendment shall be effective upon the delivery to Administrative Agent of signature pages to this Amendment signed on behalf of the Company, the Administrative Agent and each Lender.

5. Representations and Warranties. Company hereby represents and warrants to Administrative Agent and each Lender as follows:

(A) Company is a corporation duly organized, validly existing and in good standing under the laws of the state of Maryland;

(B) Company has the power and authority to execute, deliver and perform its obligations under this Amendment;

(C) Company's execution, delivery and performance of this Amendment has been duly authorized by all necessary action;

(D) this Amendment constitutes the legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditor's rights generally or by equitable principles relating to enforceability; and

(E) no Default or Event of Default has occurred and is continuing.

6. No Waiver. Nothing contained herein shall be deemed to constitute a waiver of compliance with any term or condition contained in the Credit Agreement or any of the other Loan Documents or constitute a course of conduct or dealing among the parties. Except as amended hereby, the Credit Agreement and other Loan Documents remain unmodified and in full force and effect. All references in the Loan Documents to the Credit Agreement shall be deemed to be references to the Credit Agreement as amended hereby.

7. Counterparts. This Amendment may be executed by one or more of the parties to this Amendment and any number of separate counterparts, each of which when so executed, shall be deemed an original and all said counterparts when taken together shall be deemed to constitute but one and the same instrument.

8. Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of Company, Administrative Agent, the Lenders and their successors and assigns.

9. Further Assurance. The Company hereby agrees from time to time, as and when requested by the Administrative Agent, to execute and deliver or cause to be executed and delivered, all such documents, instruments and agreements and to take or cause to be taken such further or other action as the Administrative Agent may reasonably deem necessary or desirable in order to carry out the intent and purposes of this Amendment, the Credit Agreement and the Loan Documents.

10. GOVERNING LAW AND JURISDICTION. THIS AMENDMENT SHALL BE GOVERNED BY AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. The provisions of Section 10.15 of the Credit Agreement shall apply to this Amendment.

11. Severability. Wherever possible, each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Amendment.

[Remainder of this page has been intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth above.

COMPANY

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC., a Maryland corporation

By: _____

Name: _____
Title: _____

ADMINISTRATIVE AGENT AND LENDER

ALCMENE FUNDING, L.L.C.,
as Administrative Agent and as a Lender

By: _____

Name: _____
Title: _____

SCHEUDLE I

Form of UCC-3 Amendment and Partial Release

ANNEX I

Definition of Related Securitization Property

"Related Securitization Property," means all of the right, title and interest, of the Company, any Subsidiary or the respective SPV in, to and under any and all of the following:

This Partial Release of the Financing Statement terminates the Secured Party's right, title and interest in, to and under any and all of the following:

All of the right, title and interest, whether now owned or hereafter acquired or arising, and wherever located, of the Company in and to the property described in clauses (i) through (xii) below and all accounts, cash and currency, chattel paper, tangible chattel paper, electronic chattel paper, copyrights, copyright licenses, equipment, fixtures, contract rights, general intangibles, instruments, certificates of deposit, certificated securities, uncertificated securities, financial assets, securities entitlements, commercial tort claims, deposit accounts, inventory, investment property, letter-of-credit rights, software, supporting obligations, accessions, and other property consisting of, arising out of, or related to any of the following (in each case excluding the Retained Interest and the Excluded Amounts):

(i) pursuant to the Loan Sale Agreement (the "Loan Sale Agreement") dated as of August 1, 2005, between the Company and Hercules Funding I LLC (the "Depositor"), all Assigned Assets sold, assigned or conveyed to the Depositor and identified in each related LSA Assignment delivered pursuant to the Loan Sale Agreement, and all payments paid in respect thereof and all monies due, to become due or paid in respect thereof accruing on and after the Closing Date, in each case as they arise after the Closing Date, but not including the Retained Interest or Excluded Amounts;

(ii) the Transferred Loans, and all monies due or to become due in payment of such Transferred Loans on and after the related Transfer Date, including but not limited to all Collections and all obligations owed to the Originator in connection with the Transferred Loans;

(iii) any Related Property securing or purporting to secure the Transferred Loans (to the extent the Originator, other than solely in its capacity as collateral agent under any loan agreement with an Obligor, has been granted a Lien thereon) including the related security interest granted by the Obligor under the Transferred Loans, all proceeds from any sale or other disposition of such Related Property;

(iv) all security interests, liens, guaranties, warranties, letters of credit, accounts, bank accounts, mortgages or other encumbrances and property subject thereto from time to time purporting to secure payment of any Transferred Loan, together with all UCC financing statements or similar filings relating thereto;

(v) all claims (including "claims" as defined in Bankruptcy Code § 101(5)), suits, causes of action, and any other right of the Originator, whether known or unknown, against the related Obligors, if any, or any of their respective Affiliates, agents, representatives, contractors, advisors, or any other Person that in any way is based upon, arises out of or is related to any of the foregoing, including, to the extent permitted to be assigned under applicable law, all claims (including contract claims, tort claims, malpractice claims, and claims under any law governing the purchase and sale of, or indentures for, securities), suits, causes of action, and any other right of the Originator against any attorney, accountant, financial advisor, or other Person arising under or in connection with the related Loan Documents;

(vi) all cash, securities, or other property, and all setoffs and recoupments, received or effected by or for the account of the Originator under such Transferred Loans (whether for principal, interest, fees, reimbursement obligations, or otherwise) after the related Transfer Date, including all distributions obtained by or through redemption, consummation of a plan of reorganization, restructuring, liquidation, or otherwise of any related Obligor or the related Loan Documents, and all cash, securities, interest, dividends, and other property that may be exchanged for, or distributed or collected with respect to, any of the foregoing;

(vii) all Insurance Policies;

(viii) the Loan Documents with respect to such Transferred Loans;

(ix) the Collection Account, the Principal Collections Account, the Distribution Account, and the Concentration Account (to the extent the amounts on deposit thereto or credited thereto relate to the Collateral), together with all funds held in or credited to such accounts, and all certificates and instruments (to the extent the amounts on deposit in the Concentration Account or credited to the Concentration Account relate to the Collateral), if any, from time to time representing or evidencing each of the foregoing or such funds;

(x) any Hedging Agreement and any payment from time to time due thereunder;

(xi) the Securitization Pledged Warrants as defined in the Warrant Pledge and Security Agreement; and

(xii) the proceeds of each of the foregoing.

For the avoidance of doubt, (x) the term "related to" as used in the introduction to this definition means related in particular to (or to the extent so related) and not related to the business of the Company generally; and (y) the term "related to" as used in clause (ix) does not refer to, and the term "proceeds" as used in clause (xii) does not include, any proceeds received by the Company, directly or indirectly, in connection with the sale, conveyance, contribution or other transfer of a transferred Loan by the Company to the Depositor.

For the purposes of this Annex I, capitalized but undefined terms shall have the meaning assigned to them in the Sale and Servicing Agreement, dated as of August 1, 2005, among the Company as originator and servicer, Hercules Funding Trust I as issuer, the Depositor as depositor, U.S. Bank National Association as indenture trustee and collateral custodian, and Lyon Financial Services, Inc. d/b/a U.S. Bank Portfolio Services, Inc. as backup servicer, a copy of which may be obtained at the office of the Company.

ANNEX II

Form of Warrant Pledge and Security Agreement

Exhibit 99.3

LOAN SALE AGREEMENT

between

HERCULES FUNDING I LLC
as Depositor

and

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.
as Originator

Dated as of August 1, 2005

HERCULES FUNDING TRUST I
ASSET BACKED NOTES

LOAN SALE AGREEMENT

LOAN SALE AGREEMENT, dated as of August 1, 2005 (this "Agreement"), between HERCULES TECHNOLOGY GROWTH CAPITAL, INC., a Maryland corporation (the "Originator"), and HERCULES FUNDING I LLC, a Delaware limited liability company (the 'Depositor").

W I T N E S S E T H

WHEREAS, the Originator owns and from time to time originates certain commercial loans secured by, among other things, accounts receivable, inventory, real estate, and/or other tangible or intangible property;

WHEREAS, the Originator is the owner of 100% of the membership interests of the Depositor;

WHEREAS, the parties hereto desire that on each Transfer Date the Originator sell all its right, title and interest in and to the Assigned Assets identified in the related LSA Assignment to the Depositor pursuant to the terms of this Agreement; and

WHEREAS, on the Closing Date, to the extent of any Assigned Assets sold hereunder on the Closing Date, and on each Transfer Date, with respect to the Assigned Assets identified in the applicable LSA Assignment the Depositor will sell and assign all of its right, title and interest in and to the Assigned Assets and its related rights under this Agreement to Hercules Funding Trust I, as Issuer (the "Issuer"), and on the Closing Date the Depositor will further assign its related rights under this Agreement to the Issuer, all pursuant to the terms of the Sale and Servicing Agreement, dated as of August 1, 2005 (the "Sale and Servicing Agreement"), among the Issuer, the Depositor, the Originator, the Servicer, U.S. Bank National Association, as Collateral Custodian (in such capacity, the "Collateral Custodian"), as Indenture Trustee (in such capacity, the "Indenture Trustee") on behalf of the related Noteholders and Lyon Financial Services, Inc. doing business as U.S. Bank Portfolio Services, as Backup Servicer (in such capacity, the "Backup Servicer");

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS; CONSTRUCTION

Section 1.01 Definitions. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the meanings specified in this Article. All other capitalized terms used but not defined herein shall have the meanings assigned thereto in the Sale and Servicing Agreement.

"Assigned Assets": All right, title and interest, whether now owned or hereafter acquired or arising, and wherever located, of the Originator in and to the property described in clauses (i) through (x) below and all accounts, cash and currency, chattel paper, tangible chattel

paper, electronic chattel paper, copyrights, copyright licenses, equipment, fixtures, contract rights, general intangibles, instruments, certificates of deposit, certificated securities, uncertificated securities, financial assets, securities entitlements, commercial tort claims, deposit accounts, inventory, investment property, letter-of-credit rights, software, supporting obligations, accessions, and other property consisting of, arising out of, or related to any of the following (in each case excluding the Retained Interest and the Excluded Amounts):

(i) the Transferred Loans, and all monies due or to become due in payment of such Transferred Loans on and after the related Transfer Date, including but not limited to all Collections and all obligations owed to the Originator in connection with the Transferred Loans;

(ii) any Related Property securing or purporting to secure the Transferred Loans (to the extent the Originator, other than solely in its capacity as collateral agent under any loan agreement with an Obligor, has been granted a Lien thereon) including the related security interest granted by the Obligor under the Transferred Loans, all proceeds from any sale or other disposition of such Related Property;

(iii) all security interests, liens, guaranties, warranties, letters of credit, accounts, bank accounts, mortgages or other encumbrances and property subject thereto from time to time purporting to secure payment of any Transferred Loan, together with all UCC financing statements or similar filings relating thereto;

(iv) all claims (including "claims" as defined in Bankruptcy Code § 101(5)), suits, causes of action, and any other right of the Originator, whether known or unknown, against the related Obligors, if any, or any of their respective Affiliates, agents, representatives, contractors, advisors, or any other Person that in any way is based upon, arises out of or is related to any of the foregoing, including, to the extent permitted to be assigned under applicable law, all claims (including contract claims, tort claims, malpractice claims, and claims under any law governing the purchase and sale of, or indentures for, securities), suits, causes of action, and any other right of the Originator against any attorney, accountant, financial advisor, or other Person arising under or in connection with the related Loan Documents;

(v) all cash, securities, or other property, and all setoffs and recoupments, received or effected by or for the account of the Originator under such Transferred Loans (whether for principal, interest, fees, reimbursement obligations, or otherwise) after the related Transfer Date, including all distributions obtained by or through redemption, consummation of a plan of reorganization, restructuring, liquidation, or otherwise of any related Obligor or the related Loan Documents, and all cash, securities, interest, dividends, and other property that may be exchanged for, or distributed or collected with respect to, any of the foregoing;

(vi) all Insurance Policies;

(vii) the Loan Documents with respect to such Transferred Loans;

(viii) the Collection Account, the Principal Collections Account, the Distribution Account, and the Concentration Account (to the extent that amounts on deposit in or credited to the Concentration Account relate to the Collateral), together with all funds held in or credited to such accounts (to the extent that amounts on deposit in or credited to the Concentration Account relate to the Collateral), and all certificates and instruments, if any, from time to time representing or evidencing each of the foregoing or such funds;

(ix) any Hedging Agreement and any payment from time to time due thereunder; and

(x) the proceeds of each of the foregoing.

"Purchase Price": Has the meaning provided in Section 2.01(b).

Section 1.02 Construction. For purposes of this Agreement: (i) the singular includes the plural and the plural includes the singular; (ii) words importing any gender include the other genders; (iii) the words "and" and "or" are used in the conjunctive or disjunctive as the sense and circumstances may require, (iv) references to "writing" include printing, typing, lithography and other means of reproducing words in a visible form; (v) references to agreements and other contractual instruments include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms and not prohibited by this Agreement or the Basic Documents; (vi) references to Persons include their permitted successors and assigns; (vii) any form of the word "include" shall be deemed to be followed by the words "without limitation"; (viii) the phrase "in and to" shall be deemed to include "under" and "with respect to" whenever appropriate; (ix) unless the context clearly requires otherwise, the word "finance" shall be deemed to include "refinance"; (x) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; and (xi) Article, Section, Schedule and Exhibit references, unless otherwise specified, refer to Articles and Sections of and Schedules and Exhibits to this Agreement. Unless otherwise stated in this Agreement, in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

ARTICLE II

SALE OF THE ASSIGNED ASSETS; PAYMENT OF PURCHASE PRICE

Section 2.01 Sale of the Assigned Assets to the Depositor. (a) On the terms and conditions of this Agreement, on each Transfer Date during the Revolving Period, the Originator agrees to offer for sale and to sell, the Assigned Assets described in the related LSA Assignment substantially in the form attached hereto as Exhibit A (the "LSA Assignment") to the Depositor and to deliver the related Loan Documents to or at the direction of the Depositor and the Depositor agrees to purchase such Assigned Assets offered for sale by the Originator.

(b) The purchase price for each Transferred Loan and the Related Property and other collateral constituting part of the Assigned Assets with respect to such Transferred

Loan sold to the Depositor hereunder on any Transfer Date shall be the Outstanding Loan Balance of the related Transferred Loan (the "Purchase Price"). The Purchase Price shall be paid in immediately available funds. If the Depositor does not have sufficient funds to pay the full amount of the Purchase Price (after taking into account the proceeds the Depositor expects to receive pursuant to the Sale and Servicing Agreement), the difference between the Purchase Price and the immediately available funds shall be represented as a capital contribution by the Originator to the Depositor.

(c) On each Transfer Date, the Originator shall convey to the Depositor the Assigned Assets and the other property and rights related thereto described in the related LSA Assignment to be delivered by the Originator, and, upon the satisfaction of each of the conditions set forth in this Section 2.01(c) and in Section 2.08 of the Sale and Servicing Agreement on or prior to such Transfer Date, the Depositor shall pay or cause to be paid to or at the direction of the Originator, the aggregate Purchase Price in respect of the Assigned Assets sold hereunder on such Transfer Date.

(i) the Originator shall have provided to the Servicer for deposit in the related Collection Account all collections received with respect to each Transferred Loan constituting a part of the Assigned Assets relating to the period after the applicable Transfer Date;

(ii) the Originator shall, at its own expense, within one Business Day after each Transfer Date, indicate in its computer files that the Assigned Assets identified in the related LSA Assignment have been sold to the Depositor pursuant to this Agreement;

(iii) the Originator shall have taken any action requested by the Indenture Trustee, the Issuer or the Noteholders required to maintain the ownership interest of the Issuer in the Assigned Assets and the first perfected security interest therein of the Indenture Trustee;

(iv) the Originator shall have used no selection procedures that identified any of the Loans identified in the related LSA Assignment as being less desirable or valuable than other comparable Loans originated or acquired by the Originator; and such Loans collectively shall be representative of the Originator's portfolio of Loans; and

(v) all conditions precedent to any advance of a Borrowing to be made by the Initial Noteholder pursuant to the Note Purchase Agreement shall have been fulfilled as of such date.

(d) Subject to Section 6.07, the parties hereto intend that each of the conveyances contemplated hereby be sales from the Originator to the Depositor of all of the Originator's right, title and interest in and to the Assigned Assets and other property described above. In the event the transactions set forth herein are deemed not to be a sale, the Originator hereby grants to the Depositor a security interest in all of the Originator's right, title and interest in, to and under the Assigned Assets, whether now existing or hereafter created, to secure all of the Originator's obligations hereunder, and this Agreement shall constitute a security agreement under applicable law.

Section 2.02 Obligations of Originator.

(a) On or prior to the Closing Date and each Transfer Date, as applicable, the Initial Noteholder shall have received evidence satisfactory to it of (i) the completion of all recordings, registrations and filings as may be necessary or, in the opinion of the Initial Noteholder, reasonably desirable to perfect or evidence the assignment by the Originator to the Depositor of the Originator's ownership interest in the applicable Assigned Assets to be assigned to the Depositor on such date, including, without limitation, the applicable Transferred Loans and Related Property and other collateral constituting part of the Assigned Assets with respect to such Transferred Loans, (ii) the completion of all recordings, registrations and filings as may be necessary or, in the opinion of the Initial Noteholder, reasonably desirable to perfect or evidence the assignment by the Depositor to the Issuer of the Depositor's ownership interest in the Assigned Assets and (iii) the completion of all recordings, registrations and filings as may be necessary or, in the opinion of the Initial Noteholder, reasonably desirable to perfect or evidence the grant of a first priority perfected security interest in the Assigned Assets in favor of the Indenture Trustee as Collateral pursuant to the Indenture. The Originator agrees to file all UCC-1 financing statements (and all continuation statements and amendments thereto) necessary to perfect the interest of the Depositor and the Issuer and the Indenture Trustee in and to the Assigned Assets and to take such other action as may be necessary or, in the opinion of the Depositor or the Initial Noteholder, desirable to perfect or evidence the Depositor's, the Issuer's and Indenture Trustee's interest in the Assigned Assets conveyed under the Basic Documents.

(b) In connection with each sale and contribution of a Transferred Loan hereunder, the Originator shall deliver to, and deposit with the Collateral Custodian, as the designated agent of the Indenture Trustee, as assignee of the Depositor and the Issuer, on or before the related Transfer Date, the Loan File with respect to each Transferred Loan conveyed on such Transfer Date.

It is understood and agreed that the obligations set forth in this Section 2.02(b) shall survive delivery of the Loan Files to the Collateral Custodian (as the designated agent of the Indenture Trustee) and shall inure to the benefit of the Securityholders, the Depositor, the Servicer, the Backup Servicer, the Indenture Trustee and the Issuer.

(c) [Reserved].

(d) The Originator hereby further confirms to the Depositor that, within one Business Day after the Closing Date and each Transfer Date, it shall cause the portions of the Originator's electronic ledger relating to the Assigned Assets to be clearly and unambiguously marked to indicate that the Assigned Assets have been sold to the Depositor hereunder, the Purchased Assets have been sold by the Depositor to the Issuer under the Sale and Servicing Agreement, and the Purchased Assets have been pledged to the Indenture Trustee by the Issuer as Collateral pursuant to the Indenture.

(e) On and after each Transfer Date, the Issuer shall own the Purchased Assets which have been identified in the related S&SA Assignment as being sold by the Depositor to the Issuer under the Sale and Servicing Agreement and the Originator shall not take

any action inconsistent with such ownership and shall not claim any ownership interest in any such conveyed Purchased Asset.

ARTICLE III

REPRESENTATIONS AND
WARRANTIES; REMEDIES FOR BREACH

Section 3.01 Originator's Representations and Warranties. (a) The Originator hereby makes each of the representations and warranties to the Depositor as of the Closing Date and as of each Transfer Date as are set forth in Section 3.02 of the Sale and Servicing Agreement.

(b) The Originator further hereby makes each of the representations and warranties set forth in Section 3.03 of the Sale and Servicing Agreement as of the Closing Date with respect to the Assigned Assets conveyed on the Closing Date, if any, and as of each Transfer Date with respect to the Assigned Assets conveyed on each Transfer Date.

(c) Except as otherwise expressly set forth in the Basic Documents, it is understood and agreed that the representations and warranties set forth in this Section 3.01 shall survive delivery of the respective Loan Documents and Loan Files to the Collateral Custodian (as the designated agent of the Indenture Trustee) and shall inure to the benefit of the Securityholders, the Depositor, the Servicer, the Backup Servicer, the Indenture Trustee and the Issuer. Upon the discovery by the Servicer, the Backup Servicer, the Collateral Custodian, the Indenture Trustee, the Originator, the Depositor or any Securityholder of a breach of any of the representations and warranties of the Originator set forth in Section 3.02 or 3.03 of the Sale and Servicing Agreement that materially and adversely affects the value of any of the Assigned Assets or Purchased Assets or the interests of the Securityholders in any Collateral or the Securities with respect to which such representation or warranty is made, any party discovering such breach shall give prompt written notice to the others.

Section 3.02 Retransfer of Purchased Assets.

If on any day a Transferred Loan is (or becomes) an Ineligible Loan, no later than the earlier of the Originator obtaining actual knowledge of such Transferred Loan becoming an Ineligible Loan or receipt by the Originator from the Depositor of written notice thereof, the Originator shall within ten Business Days either:

(a) make a deposit to the Collection Account (for application pursuant to Section 5.01(c)(4) or (5), as applicable, of the Sale and Servicing Agreement) in immediately available funds in an amount equal to the Retransfer Price with respect to such Transferred Loan; or

(b) subject to the satisfaction of the conditions in Section 3.03, substitute for such Ineligible Loan, a Substitute Loan.

(c) In either of the foregoing instances, the Originator may (in its discretion) accept retransfer of each such Ineligible Loan and any Related Property. Upon

confirmation of the deposit of such Retransfer Price into the Collection Account or the delivery by the Originator of a Substitute Loan for each Ineligible Loan the Depositor shall, automatically and without further action be deemed to transfer, assign and set–over to the Originator, without recourse, representation or warranty, all the right, title and interest of the Depositor in, to and under such Ineligible Loan and all future monies due or to become due with respect thereto, the Related Property and all Collections with respect to such Ineligible Loan, all rights to security for any such Ineligible Loan and all Proceeds and products of the foregoing. The Depositor shall, at the sole expense of the Originator, execute such documents and instruments of transfer as may be prepared by the Originator and take other such actions as shall reasonably be requested by the Originator to effect the transfer of such Ineligible Loan pursuant to this Section 3.02.

Section 3.03 Substitutions.

(a) Substitution of Loans. On any Business Day during the Revolving Period (and after the Revolving Period at the discretion of the Depositor), the Originator may, subject to the conditions set forth in this Section 3.03 and subject to the other restrictions contained herein, replace any Transferred Loan with one or more Eligible Loans (each, a "Substitute Loan"), *provided* that no such replacement shall occur unless each of the following conditions is satisfied as of the date of such replacement and substitution:

(i) the Originator has recommended to the Depositor in writing that the Transferred Loan to be replaced should be replaced (each a "Replaced Loan");

(ii) each Substitute Loan is an Eligible Loan on the date of substitution;

(iii) the aggregate Outstanding Loan Balance of such Substitute Loans shall be equal to or greater than the aggregate Outstanding Loan Balance of the Replaced Loans;

(iv) all representations and warranties contained in Section 3.01 shall be true and correct as of the date of substitution of any such Substitute Loan;

(v) the substitution of any Substitute Loan does not cause a Default, a Trigger Event or an Event of Default to occur;

(vi) after giving effect to the proposed substitution, the sum of the Outstanding Loan Balances of all Substitute Loans does not exceed 15% of the highest Aggregate Outstanding Loan Balance for any month during the 12 month period immediately preceding the applicable date of determination (or such lesser number of months as shall have elapsed as of such date of determination);

(vii) after giving effect to the proposed substitution, the sum of the Outstanding Loan Balances of all Substitute Loans substituted for Defaulted Loans and Charged-Off Loans shall not exceed 10% of the highest Aggregate Outstanding Loan Balance of any month during the 12 month period immediately preceding the applicable date of determination (or such lesser number of months as shall have elapsed as of such date of determination);

(viii) the remaining maturity of the Substitute Loan is less than or equal to the remaining maturity of the Replaced Loan;

(ix) the Weighted Average Life of such Substitute Loan is less than or equal to that of the Replaced Loan;

(x) no adverse selection procedures shall have been employed in the selection of such Substitute Loan from the Originator's portfolio;

(xi) all actions or additional actions (if any) necessary to perfect the security interest and assignment of such Substitute Loan and Related Property constituting part of the Assigned Assets related to such Substitute Loan to the Depositor shall have been taken as of or prior to the Substitution Date;

(xii) the Eligible Risk Rating of the Obligor relating to the Substitute Loan is equal to or better than that of the Obligor relating to the Replaced Loan;

(xiii) the Loan Rate on the Substitute Loan is not less than the Loan Rate on the Replaced Loan;

(xiv) the total interest rate (inclusive of any deferred interest component) of the Substitute Loan is greater than or equal to the total interest rate on the Transferred Loan to be replaced and reconveyed to the Originator in exchange for such Substitute Loan; and

(xv) the Originator shall deliver to the Depositor on the date of such substitution a certificate of a Responsible Officer certifying that each of the foregoing is true and correct as of such date.

(b) In connection with any such substitution, Depositor, shall, automatically and without further action (unless otherwise necessary or requested by the Originator), be deemed to transfer to the Originator, free and clear of any Lien created by this Agreement, all of the right, title and interest of the Depositor, in, to and under such Replaced Loan, but without any representation and warranty of any kind, express or implied.

Section 3.04 Deemed Collections.

(a) If on any day the Depositor does not own or have a valid and perfected first priority security interest in any Transferred Loan and Related Property (subject to Permitted Liens), if within 30 days after the earlier of the Originator's receipt of notice from the Depositor or the Originator becoming aware thereof the Originator has failed to cure such breach (if cure is reasonably possible and otherwise immediately upon receipt of such notice or upon the Originator becoming aware), the Originator shall be deemed to have received on such 30th day (or such earlier day, as applicable) a collection (a "Deemed Collection") of such Transferred Loan in full and shall on such day pay to the Depositor, an amount equal to (x) the Retransfer Price with respect to such Transferred Loan, *plus* (y) any other costs and expenses related to the retransfer of such Transferred Loan and any Related Property contemplated by this Section 3.03.

(b) In connection with any such Deemed Collection, the Depositor shall automatically and without further action (unless otherwise necessary or requested by the Originator), be deemed to release the Lien on such Transferred Loan and any Related Property created by this Agreement and transfer to the Originator, free and clear of any Lien created by this Agreement, all of the right, title and interest of the Depositor, in, to, and under the Transferred Loan and any Related Property with respect to which the Depositor has received such Deemed Collection, but without any recourse, representation and warranty of any kind, express or implied.

Section 3.05 Repurchase Limitations.

The Originator and Depositor agree that the Originator and any Affiliate of the Originator may repurchase any Assigned Assets only from the Depositor in the case of (a) an Optional Sale or (b) a repurchase or retransfer of any Assigned Assets pursuant to Section 3.01 , Section 3.02 or Section 3.04.

ARTICLE IV

ORIGINATOR COVENANTS

Section 4.01 Covenants of the Originator. The Originator hereby covenants that except for the sales hereunder, the Originator will not sell, pledge, assign or transfer to any other Person, or grant, create, incur, assume or suffer to exist any lien on, any Assigned Asset or any interest therein; and the Originator will defend the right, title and interest of the Issuer, as assignee of the Depositor, in, to and under the Assigned Assets against all claims of third parties claiming through or under the Originator.

Whenever and so often as reasonably requested by the Depositor or the Initial Noteholder, the Originator promptly will execute and deliver or cause to be executed and delivered all such other and further instruments, documents, or assurances, and promptly do or cause to be done all such other things, as may be necessary and reasonably required to vest more fully in the requesting party all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon it by this Agreement.

ARTICLE V

TERMINATION

Section 5.01 Termination. The respective obligations and responsibilities of the Originator and the Depositor created hereby shall terminate upon the Termination Date.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01 Amendment. This Agreement may be amended from time to time with the prior written consent of the Initial Noteholder, in its sole discretion, by a written agreement signed by the Originator and the Depositor.

Section 6.02 GOVERNING LAW; JURISDICTION. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND ANY APPELLATE COURT HAVING JURISDICTION TO REVIEW THE JUDGMENTS THEREOF. EACH OF THE PARTIES HEREBY WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER IN ANY OF THE AFOREMENTIONED COURTS AND CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

Section 6.03 Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given upon receipt thereof if (i) personally delivered or mailed by registered mail, postage prepaid, or (ii) transmitted by facsimile (with a copy delivered by overnight courier) upon electronic confirmation of receipt of such transmission, as follows:

(a) if to the Originator:

Hercules Technology Growth Capital, Inc.
525 University Avenue, Suite 700
Palo Alto, California 94301
Attention: Manuel A. Henriquez, Chief Executive Officer
Facsimile: 650-473-9194

and

Hercules Technology Growth Capital, Inc.
3702 River Road
Franklin Park, Illinois 60131
Attention: Scott Harvey, Chief Legal Officer
Facsimile: 866-828-6687

or, such other addresses, facsimile numbers and confirmation numbers as may hereafter be furnished to the Depositor in writing by the Originator.

(b) if to the Depositor:

Hercules Funding I LLC
525 University Avenue, Suite 700
Palo Alto, California 94301
Attention: Manuel A. Henriquez, Chief Executive Officer
Facsimile: 650-473-9194

and

Hercules Funding I LLC
3702 River Road
Franklin Park, Illinois 60131
Attention: Scott Harvey, Chief Legal Officer
Facsimile: 866-828-6687

or such other addresses, facsimile numbers and confirmation numbers as may hereafter be furnished to the Originator in writing by the Depositor.

Section 6.04 Severability of Provisions. If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such covenants, agreements, provisions or terms shall he deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

Section 6.05 Counterparts. This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed to be an original and such counterparts, together, shall constitute one and the same agreement.

Section 6.06 Further Agreements. The Originator and the Depositor each agree to execute and deliver to the other such amendments to documents and such additional documents, instruments or agreements as reasonably may be necessary or appropriate to effectuate the purposes of this Agreement or in connection with the offering of securities representing interests in the Assigned Assets.

Section 6.07 Intention of the Parties. It is the intention of the parties, other than for federal, state and local income and franchise tax purposes, that the Depositor is purchasing, and the Originator is selling, the Assigned Assets rather than pledging the Assigned Assets to secure a loan by the Depositor to the Originator. As of the Closing Date (to the extent of any Assigned Assets sold hereunder on the Closing Date) and each Transfer Date, the sale of the Assigned Assets conveyed by the Originator on the Closing Date or such Transfer Date, as the case may be, shall be reflected on the balance sheets and other financial statements of the Depositor and the Originator, as the case may be, as a sale of such Assigned Assets by the Originator to the Depositor, in accordance with GAAP.

Section 6.08 Successors and Assigns; Assignment of Loan Sale Agreement. This Agreement shall bind and inure to the benefit of and be enforceable by the Originator, the Depositor, the Indenture Trustee and the Noteholders. The obligations of the Originator under this Agreement cannot be assigned or delegated to a third party without the consent of each of the Depositor and the Initial Noteholder, which consent shall be at each such Person's sole discretion. The parties hereto acknowledge that the Depositor is acquiring the Assigned Assets for the purpose of selling them to the Issuer that will issue the related Notes, which will be secured by such Assigned Assets. As an inducement to the Depositor to purchase the Assigned Assets and to the Initial Noteholder to purchase the Note, the Originator acknowledges and consents to the assignment by the Depositor to the Issuer of all of the Depositor's rights against the Originator pursuant to this Agreement and to the enforcement or exercise of any right or remedy against the Originator pursuant to this Agreement by the Indenture Trustee, for the benefit of the Issuer and the Noteholders. Such enforcement of a right or remedy by the Indenture Trustee, for the benefit of the Issuer and the Noteholders, shall have the same force and effect as if the right or remedy had been enforced or exercised by the Depositor directly.

Section 6.09 Survival. The representations and warranties set forth in Article III and the provisions of Articles II, IV, V and VI shall survive the purchase of the Assigned Assets hereunder, the sale of the Purchased Assets by the Depositor to the Issuer pursuant to the Sale and Servicing Agreement and the pledge of such Purchased Assets by the Issuer to the Indenture Trustee as Collateral pursuant to the Indenture.

Section 6.10 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

[Signature page to follow]

IN WITNESS WHEREOF, the Originator and the Depositor have caused this Loan Sale Agreement to be duly executed on their behalf by their respective officers thereunto duly authorized as of the day and year first above written.

HERCULES FUNDING I LLC,
as Depositor

By: _____
Name: _____
Title: _____

HERCULES TECHNOLOGY GROWTH CAPITAL, INC., as
Originator

By: _____
Name: _____
Title: _____

EXHIBIT A

FORM OF LSA ASSIGNMENT

ASSIGNMENT NO. _____ OF LOANS (this "LSA Assignment"), dated August 1, 2005 the "Transfer Date"), by HERCULES TECHNOLOGY GROWTH CAPITAL, INC. (the "Originator") to HERCULES FUNDING I LLC, (the "Depositor") pursuant to the Loan Sale Agreement referred to below.

W I T N E S S E T H:

WHEREAS, the Originator and the Depositor are the parties to the Loan Sale Agreement, dated as of August 1, 2005 (the "Agreement"), hereinafter as such agreement may have been, or may from time to time be, amended, supplemented or otherwise modified;

WHEREAS, pursuant to the Agreement, the Originator wishes to sell the Assigned Assets to the Depositor in exchange for cash consideration and other good and valid consideration, the receipt and sufficiency of which is hereby acknowledged; and

WHEREAS, the Depositor is willing to acquire such Assigned Assets subject to the terms and conditions hereof and of the Agreement;

NOW THEREFORE, the Originator and the Depositor hereby agree as follows:

1. Defined Terms. All capitalized terms defined in the Agreement and used herein shall have such defined meanings when used herein, unless otherwise defined herein.

2. Designation of Loans. The Originator does hereby deliver herewith a Loan Schedule containing a true and complete list of each Loan to be conveyed on the Transfer Date. Such list is marked as Schedule A to this LSA Assignment and is hereby incorporated into and made a part of this LSA Assignment.

3. Conveyance of Assigned Assets. The Originator hereby sells, contributes and assigns to the Depositor, without recourse and on a servicing released basis, all of the right, title and interest of the Originator in and to the Assigned Assets (and all proceeds thereof and collections thereon) including the Loans listed on the Loan Schedule attached hereto and all Related Property and other related collateral constituting a part of the Assigned Assets related to such Loan, including, without limitation, all Collections on or with respect to the Loans, in each case arising on or after the related Transfer Date.

4. Depositor Acknowledges Assignment. As of the Transfer Date, pursuant to this LSA Assignment and Section 2.01(a) of the Agreement, the Depositor acknowledges its receipt of the Loans listed on the attached Loan Schedule and all Related Property and other related collateral constituting a part of the Assigned Assets related to such Loan.

5. Acceptance of Rights But Not Obligations. The foregoing sale, contribution and assignment does not, and is not intended to, result in a creation or an assumption by the Depositor of any obligation of the Originator or any other Person in connection with this LSA

Assignment or under any agreement or instrument relating thereto except as specifically set forth herein.

6. Originator Acknowledges Receipt of Purchase Price. The Originator hereby acknowledges receipt of the aggregate Purchase Price or that it has otherwise been distributed at its direction.

7. Conditions Precedent. The conditions precedent in Section 2.01(c) of the Agreement have been satisfied.

8. Amendment of the Loan Sale Agreement. The Loan Sale Agreement is hereby amended by providing that all references to the "Loan Sale Agreement," "this Agreement" and "herein" shall be deemed from and after the Transfer Date to which this LSA relates to be a dual reference to the Loan Sale Agreement as supplemented by this LSA Assignment. Except as expressly amended hereby, all of the representations, warranties, terms, covenants and conditions of the Loan Sale Agreement shall remain unamended and the Loan Sale Agreement shall continue to be, and shall remain, in full force and effect in accordance with its terms and except as expressly provided herein, this LSA Assignment shall not constitute or be deemed to constitute a waiver of compliance with or consent to noncompliance with any term or provision of the Loan Sale Agreement.

9. Counterparts. This LSA Assignment may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.

[Signature page to follow]

IN WITNESS WHEREOF, the Originator and the Depositor have caused this LSA Assignment to be duly executed on their behalf by their respective officers thereunto duly authorized as of the day and year first above written.

HERCULES FUNDING I LLC,
as Depositor

By: _____
Name: _____
Title: _____

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC., as Originator

By: _____
Name: _____
Title: _____

Schedule A

[Loan Schedule]

TRANSFERRED LOANS

Obligor	Servicer Loan No.	Outstanding Loan Balance	Origination Date	Final Maturity Date

Exhibit 99.4

SALE AND SERVICING AGREEMENT

among

HERCULES FUNDING TRUST I,
as Issuer

and

HERCULES FUNDING I LLC,
as Depositor

and

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.,
as Originator and Servicer

and

U.S. BANK NATIONAL ASSOCIATION,
as Indenture Trustee and Collateral Custodian

and

LYON FINANCIAL SERVICES, INC.,
d/b/a U.S. Bank Portfolio Services, Inc.
as Backup Servicer

ASSET BACKED NOTES

Dated as of August 1, 2005

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

SALE AND SERVICING AGREEMENT

This Sale and Servicing Agreement is entered into as of August 1, 2005, among Hercules Funding Trust I, a Delaware statutory trust, as Issuer (in such capacity, the "Issuer"), Hercules Funding I LLC, a Delaware limited liability company, as Depositor (in such capacity, the "Depositor"), Hercules Technology Growth Capital, Inc., a Maryland corporation ("Hercules"), as Originator (in such capacity, the "Originator") and as Servicer (in such capacity, the "Servicer") and U.S. Bank National Association, a national banking association, as Indenture Trustee (in such capacity, the "Indenture Trustee") and as Collateral Custodian (in such capacity, the "Collateral Custodian"), and Lyon Financial Services, Inc., a Minnesota corporation, doing business as U.S. Bank Portfolio Services, Inc., as Backup Servicer (in such capacity, the "Backup Servicer").

W I T N E S S E T H:

In consideration of the mutual agreements herein contained, the parties hereto hereby agree as follows for the benefit of each of them and for the benefit of the holders of the Securities:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions.

Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the meanings specified in this Article. Unless otherwise specified, all calculations of interest with respect to the Notes described herein shall be made on the basis of a 360-day year and the actual number of days elapsed in each Accrual Period.

"1940 Act": The Investment Company Act of 1940, as amended, and the rules and regulations promulgated thereunder.

"Accepted Servicing Practices": The servicing practices and collection procedures of the Servicer that are in accordance with the applicable Loan Documents and Applicable Law and which are consistent with the higher standard of (i) customary servicing practices of prudent institutions which service loans or other financial assets similar to the Transferred Loans for their own account or for the account of others and (ii) the same care, skill, prudence and diligence with which the Servicer services and administers loans or other financial assets which are similar to the Transferred Loans serviced or administered pursuant to this Agreement, for its own account or for the account of others.

"Account Control Agreement": The securities account control agreement, dated as of the date hereof, among the Issuer, as the debtor, the Servicer and U.S. Bank, as the account bank and as the Collateral Custodian, as the same may be amended, modified, waived, supplemented or restated from time to time.

"Accreted Interest": The accrued interest on a PIK Loan that is added to the principal amount of such PIK Loan instead of being paid as it accrues.

"Accrual Period": With respect to any Payment Date of the Notes, the period from and including the preceding Payment Date (or, in the case of the first Payment Date, the period from and including the Closing Date) to but excluding such Payment Date.

"Administration Agreement": The Administration Agreement, dated as of August 1, 2005, between the Issuer and the Administrator, as the same may be amended, modified, waived, supplemented or restated from time to time.

"Administrator": Hercules, in its capacity as Administrator under the Administration Agreement.

"Advance Rate: A percentage equal to 55%.

"Advances Outstanding: As of any date of determination, the aggregate principal amount of Borrowings outstanding on such date, after giving effect to all repayments of Borrowings and makings of new Borrowings on such date.

"Affiliate": With respect to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing; *provided*, that in the case of the Servicer or any Subsidiary, "Affiliate" shall not include any Person that is a Portfolio Investment.

"Agented Notes": One or more promissory notes issued by an Obligor wherein (a) the note(s) are originated in accordance with the Credit and Collection Policy as a part of a syndicated loan transaction, (b) the Issuer, as assignee of the note, will have all of the rights (but none of the obligations) of the Originator with respect to such note and the Related Property, including the right to receive and collect payments directly in its own name or through the Originator, as agent for the noteholders of such Obligor and to enforce its rights against the Obligor thereof, (c) the note is secured by an undivided interest in the Related Property that also secures and is shared by, on a *pro rata* basis, all other holders of such Obligor's notes of equal priority and (d) the Originator is the agent for all noteholders of such Obligor.

"Aggregate Net Mark to Market Amount": As of each Record Date, the sum of all Net Mark to Market Amounts for such date for all Hedge Counterparties.

"Aggregate Outstanding Loan Balance": As of any date of determination, the sum of the Outstanding Loan Balances of all Eligible Loans included as part of the Collateral on such date minus the Outstanding Loan Balance of all Charged-Off Loans included as part of the Collateral on such date.

"Aggregate Unpaids": At any time, an amount equal to the sum of all unpaid Advances Outstanding, Interest Payment Amounts and Interest Carry-Forward Amounts, Hedge Breakage Costs and all other amounts owed to the Depositor, the Noteholders, the Servicer, the Backup Servicer, each Hedge Counterparty and the Indenture Trustee hereunder and the Indenture (including, without limitation, all amounts in respect of indemnities hereunder, other amounts payable under Section 8.01, Section 8.03, and amounts required to be paid underSection 5.01(c)(4) and Section 5.01(c)(5)) or under any Hedging Agreement (including, without limitation, payments in respect of the termination of any such Hedging Agreement) or by the Depositor or the Issuer or any other Person under any fee letter delivered in connection with the transactions contemplated by this Agreement, in each case whether due or accrued.

"Agreement": This Sale and Servicing Agreement, as it may be amended and supplemented from time to time.

"Amortization Date": The date that occurs 364 days after the Closing Date (or, if such date is not a Business Day, the preceding Business Day), as such date may be extended pursuant to Section 2.09.

"Amortization Period": The period commencing on the Amortization Date and ending on the Termination Date.

"Applicable Law": For any Person or property of such Person, all existing and future applicable laws, rules, regulations (including proposed, temporary and final income tax regulations), statutes, treaties, codes ordinances, permits, certificates, orders and licenses of and interpretations by any Governmental Authority (including, without limitation, usury laws, predatory lending laws, the Federal Truth in Lending Act, and Regulation Z and Regulation B of the Federal Reserve Board), and applicable judgments, decrees, injunctions, writs, orders, or line action of any court, arbitrator or other administrative, judicial, or quasi-judicial tribunal or agency of competent jurisdiction.

"Assigned Assets": Has the meaning provided in the Loan Sale Agreement.

"Assignment of Mortgage": As to each Loan secured by an interest in real property, one or more assignments, notices of transfer or equivalent instruments, each in recordable form and sufficient under the laws of the relevant jurisdiction to reflect the transfer of the related mortgage, deed of trust, security deed, immovable hypothec, deed of hypothec or similar security instrument and all other documents related to such Loan to the Issuer and to Grant a perfected Lien thereon by the Issuer in favor of the Indenture Trustee, on behalf of the Noteholders, each such Assignment of Mortgage to be substantially in the form of Exhibit H hereto; *provided*, that with respect to Agented Notes, Assignment of Mortgage shall mean such documents, including assignments, notices of transfer or equivalent instruments, each in recordable form as necessary, as are sufficient under the laws of the relevant jurisdiction to reflect the transfer to the Originator, as collateral agent for all noteholders of the Obligor, of the related mortgage, deed of trust, security deed, immovable hypothec, deed of hypothec or other similar instrument securing such notes and all other documents relating to such notes and to grant a perfected Lien thereon by the Obligor in favor of the Originator, as collateral agent for all such noteholders.

"Availability": At any time during the Revolving Period, an amount equal to the excess, if any, of (i) the lesser of (a) the Facility Amount and (b) the Maximum Availability over (ii) the sum of (a) the Advances Outstanding on such day *plus* (b) the Aggregate Net Mark to Market Amount;*provided*, that on any date after the last day of the Revolving Period, the Availability shall be zero.

"Average Obligor Amount": As of any date of determination, the Aggregate Outstanding Loan Balance minus all amounts in excess of Concentration Limits (a) through (j) and (l), divided by the number of Obligors represented in the Aggregate Outstanding Loan Balance as of such date.

"Backup Servicer": Lyon Financial Services, Inc., a Minnesota corporation, doing business as U.S. Bank Portfolio Services, Inc., as Backup Servicer under this Agreement, or any successor backup servicer under this Agreement.

"Backup Servicer Expenses": The reasonable out-of-pocket expenses to be paid to the Backup Servicer under and in accordance with the Collateral Custodian and Backup Servicer Fee Letter.

"Backup Servicer Fee": The fee to be paid to the Backup Servicer under the terms of the Collateral Custodian and Backup Servicer Fee Letter.

"Bankruptcy Code": Title 11 of the United States Code.

"Bankruptcy Event": With respect to a Person, shall be deemed to have occurred if either:

(a) a case or other proceeding shall be commenced, without the application or consent of such Person, in any court seeking the liquidation, reorganization, debt arrangement, dissolution, winding up, or composition or readjustment of debts of such Person, the appointment of a trustee, receiver, custodian, liquidator, assignee, sequestrator or the like for such Person or for all or substantially all of its assets, or any similar action with respect to such Person under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such case or proceeding shall continue undismissed or unstayed, and in effect, for a period of 60 consecutive days; or an order for relief in respect of such Person shall be entered in an involuntary case or proceeding under any such law now or hereafter in effect; or

(b) such Person shall commence a voluntary case or other proceeding under any applicable bankruptcy, insolvency, reorganization, debt arrangement, dissolution or other similar law now or hereafter in effect, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) for such Person or for any substantial part of its assets, or shall make any general assignment for the benefit of creditors, or shall fail to, or admit in writing its inability to, pay its debts generally as they become due, or, if a corporation or similar entity, its board of directors shall vote to implement any of the foregoing.

"Bankruptcy Laws": The Bankruptcy Code and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency,

reorganization, suspension of payments, composition or adjustment of debts or similar debtor relief laws from time to time in effect affecting the rights of creditors generally.

"Bankruptcy Proceeding": Any case, action or proceeding before any Governmental Authority relating to a Bankruptcy Event.

"Basic Documents": This Agreement, the Indenture, the Loan Sale Agreement, the Note Purchase Agreement, the Trust Agreement, the Administration Agreement, each LSA Assignment, each S&SA Assignment, all Hedging Agreements, the Intercreditor Agreement, the Account Control Agreement, the Notes, the Fee Letter, the Collateral Custodian and Backup Servicer Fee Letter, the Warrant Pledge and Security Agreement, the Warrant Participation Agreement, any UCC financing statements (or their equivalents in any Canadian jurisdiction) filed pursuant to the terms of this Agreement, the Loan Sale Agreement or the Indenture, and any additional document, letter, fee letter, certificate, opinion, agreement or writing the execution of which is necessary or incidental to carrying out the terms of the foregoing documents.

"Borrowing": Has the meaning set forth in Section 2.01(b) hereof.

"Borrowing Base": On any date of determination, an amount equal to (i) the Aggregate Outstanding Loan Balance on such date *plus* (ii) the Outstanding Loan Balance of all Eligible Loans to become included as part of the Collateral on such date minus (iii) the amount (calculated without duplication) by which the Eligible Loans in clauses (i) and (ii) together exceed any applicable Concentration Limits *minus* (iv) the Outstanding Loan Balance of any Defaulted Loans.

"Borrowing Base Certificate": The certificate in the form attached hereto as Exhibit F.

"Borrowing Date": The date identified as such in a Borrowing Notice.

"Borrowing Notice": The notice in the form attached hereto as Exhibit A.

"Business Day": Any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in New York City, Palo Alto, California, Florence, South Carolina or in the city in which the Corporate Trust Office (as defined in the Indenture) of the Indenture Trustee or the Paying Agent is located or the city in which the Servicer's servicing operations are located, are authorized or obligated by law or executive order to be closed.

"Certificateholder": A holder of a Trust Certificate.

"Change-in-Control": The date on which (a) any Person or "group" acquires any "beneficial ownership" (as such terms are defined under Rule 13d-3 of, and Regulation 13D under the Exchange Act), either directly or indirectly, of stock or other equity interests or any interest convertible into any such interest in the Originator or Servicer having more than 50% of the voting power for the election of directors of the Originator or Servicer, if any, under ordinary circumstances, or (b) (except in connection with any Permitted Securitization) the Originator or Servicer sells, transfers, conveys, assigns or otherwise disposes of all or substantially all of the assets of the Originator or Servicer.

"Charged-Off Loan": Any Transferred Loan (i) that is 180 days or more past due (without giving effect to any Servicer Advance thereon) with respect to any interest or principal payment, (ii) as to which a Bankruptcy Event has occurred with respect to the related Obligor, (iii) as to which the related Obligor has suffered any Material Adverse Change, (iv) that is or should be written off as uncollectible by the Servicer in accordance with the Credit and Collection Policy, (v) that has been placed on non-accrual status by the Servicer in accordance with the Credit and Collection Policy, (vi) all or any portion of which has been converted into or exchanged for an Equity Security or (vii) has been sold for less than its Outstanding Loan Balance upon foreclosure or upon exercise of remedies, *provided*, that only the portion of the Transferred Loan not recouped in such sale shall be deemed to be "charged-off" for purposes of clause (vii).

"Charged-Off Ratio": With respect to any Collection Period, the percentage equivalent of a fraction, calculated as of the Record Date for the Payment Date with respect to such Collection Period, (a) the numerator of which is equal to the aggregate Outstanding Loan Balance of all Charged-Off Loans and (b) the denominator of which is equal to the decimal equivalent of a fraction (x) the numerator of which is equal to the sum of (i) the Aggregate Outstanding Loan Balance as of the first day of such Collection Period *plus* (ii) the Aggregate Outstanding Loan Balance as of the last day of such Collection Period and (y) the denominator of which is 2.

"Clean-up Call Date": The first Payment Date during the Amortization Period on which the Note Principal Balance declines to 10% or less of the aggregate Note Principal Balance as of the Amortization Date.

"Closing Date": August 1, 2005.

"Code": The Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated by the United States Treasury thereunder.

"Collateral": Has the meaning provided in the Indenture.

"Collateral Custodian": U.S. Bank National Association, a national banking association, as Collateral Custodian under this Agreement, or any successor collateral custodian under this Agreement.

"Collateral Custodian Fee": Means the fee identified as such in the Collateral Custodian and Backup Servicer Fee Letter.

"Collateral Custodian and Backup Servicer Fee Letter": Means the fee letter, dated as of the date hereof, among the Originator, U.S. Bank National Association as Indenture Trustee and as Collateral Custodian, the Backup Servicer and Citigroup Global Markets Realty Corp.

"Collection Account": The account (#790456-200) designated as such, established and maintained by the Servicer in accordance with Section 5.01(a) hereof.

"Collection Date": The date following the Termination Date on which the Note Principal Balance has been reduced to zero and paid in full.

"Collection Period": With respect to any Payment Date, the period from and including the day following the Record Date for the preceding Payment Date (or, in the case of the initial Payment Date, from and including the Closing Date) to and including the Record Date with respect to the current Payment Date.

"Collections": (a) All cash collections or other cash proceeds received by the Issuer or by the Servicer, the Depositor or the Originator on behalf of the Issuer from any source in payment of any amounts owed in respect of a Transferred Loan, including, without limitation, Interest Collections, Principal Collections, Insurance Proceeds, interest earnings in the Collection Account and the Principal Collections Account and all Recoveries, (b) all amounts received by the Depositor or the Issuer, as applicable, in connection with the removal of a Transferred Loan from the Collateral pursuant to Section 3.05, Section 3.06, Section 3.07 or Section 3.08, (c) any other funds received by or on behalf of the Issuer with respect to any Transferred Loan or Related Property, and (d) all payments received pursuant to any Hedging Agreement or Hedge Transaction, but excluding, in the case of (a), (b) or (c), as applicable, amounts in respect of any Retained Interest and Excluded Amounts.

"Commission": The Securities and Exchange Commission.

"Concentration Account": The account (#790456-700) maintained in the name of the Originator for the purpose of receiving Collections at the Concentration Account Bank.

"Concentration Account Bank": U.S. Bank National Association, a national banking association, as Concentration Account Bank under the related account agreement, or any successor concentration account bank under such account agreement.

"Concentration Limits": On any day, each of the following (calculated and expressed in each case as a percentage of the Aggregate Outstanding Loan Balance):

(a) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral to Obligors whose chief executive office is in any one state shall not exceed 70%;

(b) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral to Obligors which are in the same Industry shall not exceed 55%;

(c) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral to any one Obligor shall not exceed the Large Obligor Limit;

(d) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral the Obligors of which are Grade 3 Obligors shall not exceed 30%;

(e) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral that have interest due and payable monthly shall not be less than 75%, and

not less than 100% of the Eligible Loans included in the Collateral shall have interest due and payable no less frequently than quarterly;

(f) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral that are secured by a security interest in all assets of the related Obligor shall not be less than 70%;

(g) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral that have at least a portion of the monthly or quarterly interest that is due under such Loans payable in cash on a current basis by the Obligors thereof shall not be less than 100%;

(h) the sum of the Outstanding Loan Balances of each Eligible Loan included in the Collateral which is a PIK Loan and which is either (a) a Fixed Rate Loan having a Loan Rate of less than 7.0% *per annum* or (b) a Floating Rate Loan having a Loan Rate of less than 7.0% *per annum* shall not exceed 0%;

(i) the sum of the Outstanding Loan Balances of Eligible Loans included in the Collateral principally secured by real property shall not exceed 40%;

(j) the sum of the Outstanding Loan Balances of all Eligible Loans included in the Collateral which have been included as part of the Collateral for 15 months or more shall not exceed 60% (*provided*, that, if a portion of a Loan has been transferred, sold, contributed or otherwise conveyed to the Originator or any Affiliate thereof as part of a Permitted Securitization that is a private placement collateralized loan or collateralized debt obligation transaction, such sum shall be calculated by treating the portion of the applicable Loan remaining in the Collateral as if such Loan was first included in the Collateral as of the closing date of such Permitted Securitization);

(k) the Average Obligor Amount shall not exceed the greater of $15,000,000 and 15%; and

(l) the sum of the Outstanding Loan Balances of all Eligible Loans included in the Collateral that are Loans to Obligors organized or continued under the federal, territorial or provincial laws of, or principally located in Canada, or the Related Property by which such Loans are principally secured is located in or arises under the federal or provincial laws of, Canada shall not exceed the greater of 10% or $10,000,000.

"Continued Errors": Has the meaning set forth in Section 9.02(d) hereof.

"Credit and Collection Policy": Means the written credit and collection policies and procedures of the Originator and Servicer in effect as of the Closing Date and attached hereto as Exhibit L, as such policies and procedures may be amended or supplemented from time to time in compliance with Section 4.09(f).

"Daily Interest Accrual Amount": With respect to each day during an Accrual Period, an amount equal to the interest accrued at the Note Interest Rate on an amount equal to

the Note Principal Balance, as determined as of the preceding Business Day after giving effect to all changes to the Note Principal Balance on or prior to such preceding Business Day.

"Deemed Collection": Defined in Section 3.08.

"Default": Any occurrence that is, or with notice or the lapse of time or both would become, an Event of Default.

"Defaulted Loan": Any Transferred Loan (that is not a Charged-Off Loan) (a) that is 90 days or more past due with respect to any interest or principal payments or (b) that is or otherwise should be considered a Defaulted Loan by the Servicer in accordance with the Credit and Collection Policy.

"Default Ratio": With respect to any Collection Period, the percentage equivalent of a fraction, calculated as of the Record Date for the Payment Date with respect to such Collection Period, (a) the numerator of which is equal to the aggregate Outstanding Loan Balance of all Defaulted Loans and (b) the denominator of which is equal to the decimal equivalent of a fraction (x) the numerator of which is equal to the sum of (i) the Aggregate Outstanding Loan Balance as of the first day of such Collection Period and (ii) the Aggregate Outstanding Loan Balance as of the last day of such Collection Period and (y) the denominator of which is 2.

"Delinquent": On any day with respect to any Transferred Loan, (i) any payment, or portion thereof, due with respect thereto, has not been made by the Obligor of such Transferred Loan on the due date of such payment or (ii) the related Obligor is not paying any of the accrued and unpaid interest thereon in cash on a current basis in violation of the terms of such Transferred Loan.

"Delivery": When used with respect to Trust Account Property means:

(a) with respect to bankers' acceptances, commercial paper, negotiable certificates of deposit and other obligations that constitute "instruments" within the meaning of Section 9-105(l)(i) of the UCC and are susceptible of physical delivery (except with respect to Trust Account Property consisting of certificated securities (as defined in Section 8-102(a)(4) of the UCC)), physical delivery to the Indenture Trustee or its custodian (or the related Securities Intermediary) endorsed to the Indenture Trustee or its custodian (or the related Securities Intermediary) or endorsed in blank (and if delivered and endorsed to the Securities Intermediary, by continuous credit thereof by book-entry to the related Trust Account);

(b) with respect to a certificated security (i) delivery of such certificated security endorsed to, or registered in the name of, the Indenture Trustee or endorsed in blank to its custodian or the related Securities Intermediary and the making by such Securities Intermediary of appropriate entries in its records identifying such certificated securities as credited to the related Trust Account, or (ii) by delivery thereof to a "clearing corporation" (as defined in Section 8-102(5) of the UCC) and the making by such clearing corporation of appropriate entries in its records crediting the securities account of the related Securities Intermediary by the amount of such certificated security and the making by such Securities Intermediary of appropriate entries in its records identifying such certificated securities as

credited to the related Trust Account (all of the Trust Account Property described in Subsections (a) and (b), "Physical Property"); and, in any event, any such Physical Property in registered form shall be in the name of the Indenture Trustee or its nominee or custodian (or the related Securities Intermediary); and such additional or alternative procedures as may hereafter become appropriate to effect the complete transfer of ownership of any such Trust Account Property to the Indenture Trustee or its nominee or custodian, consistent with changes in applicable law or regulations or the interpretation thereof;

(c) with respect to any security issued by the U.S. Treasury, Fannie Mae or Freddie Mac that is a book-entry security held through the Federal Reserve System pursuant to federal book-entry regulations, the following procedures, all in accordance with applicable law, including applicable federal regulations and Articles 8 and 9 of the UCC: the making by a Federal Reserve Bank of an appropriate entry crediting such Trust Account Property to an account of the related Securities Intermediary or the securities intermediary that is (x) also a "participant" pursuant to applicable federal regulations and (y) is acting as securities intermediary on behalf of the Securities Intermediary with respect to such Trust Account Property; the making by such Securities Intermediary of appropriate entries in its records crediting such book-entry security held through the Federal Reserve System pursuant to federal book-entry regulations and Articles 8 and 9 of the UCC to the related Trust Account; and such additional or alternative procedures as may hereafter become appropriate to effect complete transfer of ownership of any such Trust Account Property to the Indenture Trustee or its nominee or custodian, consistent with changes in applicable law or regulations or the interpretation thereof; and

(d) with respect to any item of Trust Account Property that is an uncertificated security (as defined in Section 8-102(a)(18) of the UCC) and that is not governed by clause (c) above, registration in the records of the issuer thereof in the name of the related Securities Intermediary, and the making by such Securities Intermediary of appropriate entries in its records crediting such uncertificated security to the related Trust Account.

"Depositor": Hercules Funding I LLC, a Delaware limited liability company.

"Designated Depository Institution": With respect to an Eligible Account, an institution whose deposits are insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the FDIC, the long-term deposits of which shall be rated "A" or better by S&P or "A2" or better by Moody's and the short-term deposits of which shall be rated "P-1" or better by Moody's and "A-1" or better by S&P, unless otherwise approved in writing by the Initial Noteholder and which is any of the following: (A) a federal savings and loan association duly organized, validly existing and in good standing under the federal banking laws, (B) an institution duly organized, validly existing and in good standing under the applicable banking laws of any state, (C) a national banking association duly organized, validly existing and in good standing under the federal banking laws, (D) a principal subsidiary of a bank holding company or (E) approved in writing by the Initial Noteholder and, in each case acting or designated by the Servicer as the depository institution for the Eligible Account; *provided*, that any such institution or association shall have combined capital, surplus and undivided profits of at least $50,000,000.

"Distribution Account": The account established and maintained pursuant to Section 5.01(a)(2) hereof.

"Dollars" or "$" refers to lawful money of the United States of America.

"Eligible Account": At any time, an account which is: (i) maintained with a Designated Depository Institution; (ii) fully insured by either the Bank Insurance Fund or the Savings Association Insurance Fund of the FDIC; (iii) a trust account (which shall be a segregated trust account) maintained with the corporate trust department of a federal or state chartered depository institution or trust company with trust powers and acting in its fiduciary capacity for the benefit of the Indenture Trustee and the Issuer, which depository institution or trust company shall have capital and surplus of not less than $50,000,000; or (iv) with the prior written consent of the Initial Noteholder, any other account.

"Eligible Loan": On any date of determination, any Transferred Loan which complies with the representations and warranties set forth in Section 3.03.

"Eligible Obligor": On any day, any Obligor that satisfies each of the following requirements:

(i) such Obligor is not in the gaming, nuclear waste, oil and gas or real estate industries;

(ii) such Obligor is not a natural person and is a legal operating entity, duly organized and validly existing under the laws of its jurisdiction of organization;

(iii) the business being financed by such Obligor has an Operating History of at least 9 months from the date of its incorporation or formation;

(iv) such Obligor is not the subject of any Bankruptcy Event (and, as of the Transfer Date on which such Transferred Loan became part of the Collateral, such Obligor has not experienced a Material Adverse Change);

(v) such Obligor is not an Affiliate of any other Obligor hereto (other than as a result of being an Affiliate of the Originator);

(vi) no other Loan of such Obligor is Delinquent for more than 30 days;

(vii) such Obligor is not a Governmental Authority;

(viii) such Obligor is in compliance with all material terms and conditions of the Loan Documents related to the applicable Transferred Loan;

(ix) such Obligor's principal office and any Related Property are located in the United States or Canada or any other country or territory of the United States (approved by the Initial Noteholder upon receipt and review of satisfactory legal due diligence, Rating Agency discussions and credit approval);

(x) such Obligor has an Eligible Risk Rating.

"Eligible Risk Rating": As of any date of determination, with respect to a designated Obligor, a risk rating of "Grade 1," "Grade 2," or "Grade 3."

"Eligible Servicer": (x) Hercules or (y) any other Person to which the Initial Noteholder may consent in writing.

"Equity Security": Any equity security or other obligation or security that does not entitle the holder thereof to receive periodic payments of interest and one or more installments of principal.

"Errors": Has the meaning set forth in Section 9.02(d) hereof.

"Event of Default": Either a Servicer Default or an "Event of Default" under the Indenture.

"Exchange Act": The Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Excluded Amounts": Any Collections received with respect to Loans which have been removed from the Collateral pursuant to Section 3.05, Section 3.06, Section 3.07 or Section 3.08, to the extent such Collections are attributable to a time after the effective date of the applicable substitution, repurchase or release.

"Exit Fee": An amount equal to 1.00% of the amount set forth in clause (i) of the definition of Facility Amount.

"Facility Amount": On any date of determination (i) during the Revolving Period, an amount equal to $100,000,000, and (ii) after the end of the Revolving Period, an amount equal to $0.

"Fair Market Value": With respect to a Transferred Loan included in the Collateral if such Transferred Loan has been reduced in value on such date of determination below the original principal amount (other than as a result of the allocation of a portion of the original principal amount to warrants or other equity entitlements), the fair market value of such Transferred Loan as required by, and in accordance with, the 1940 Act and any orders of the Commission issued to the Originator, to be determined by the Board of Directors of the Originator and reviewed by its auditors and communicated to the Servicer.

"Fannie Mae": The Federal National Mortgage Association and any successor thereto.

"FDIC": The Federal Deposit Insurance Corporation and any successor thereto.

"Fee Letter": Means the fee letter, dated as of the date hereof, between Hercules and Citigroup Global Markets Realty Corp.

"Final Collateral Certification": The certification in the form of Exhibit E-2 hereto prepared by the Collateral Custodian.

"Fitch": Fitch Ratings or any successor in interest.

"Fixed Rate Loan": A Transferred Loan other than a Floating Rate Loan.

"Fixed Rate Loan Percentage": As of any date of determination, the percentage equivalent of a fraction (i) the numerator of which is equal to the sum of the Outstanding Loan Balances of all Fixed Rate Loans as of such date and (ii) the denominator of which is equal to the Aggregate Outstanding Loan Balance as of such date.

"Floating Rate Loan": A Transferred Loan where the interest rate payable by the Obligor thereof is based on the prime interest rate (daily rate) or the London interbank offered rate (one-month, two-month, three-month, six-month or twelve-month rate), plus some specified interest percentage in addition thereto, and such Transferred Loan provides that such interest rate will reset immediately upon any change in the related prime interest rate or London interbank offered rate.

"Freddie Mac": The Federal Home Loan Mortgage Corporation and any successor thereto.

"GAAP": Generally Accepted Accounting Principles as in effect in the United States.

"Governmental Authority": With respect to any Person, any national, government, state, province or other political division thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government, and any court or arbitrator having jurisdiction over such Person.

"Grade 1 Obligor": As of any date of determination, an Obligor of any Loan that the Servicer determines to be or, in accordance with the Credit and Collection Policy, should have determined to be, classified as "Grade 1."

"Grade 2 Obligor": As of any date of determination, an Obligor of any Loan that the Servicer determines to be or, in accordance with the Credit and Collection Policy, should have determined to be, classified as "Grade 2."

"Grade 3 Obligor": As of any date of determination, any Obligor of any Loan that the Servicer determines to be or, in accordance with the Credit and Collection Policy, should have determined to be, classified as "Grade 3."

"Grade 4 Obligor": As of any date of determination, an Obligor of any Loan that the Servicer determines to be or, in accordance with the Credit and Collection Policy, should have determined to be, classified as "Grade 4."

"Grade 5 Obligor": As of any date of determination, an Obligor of any Loan that the Servicer determines to be or, in accordance with the Credit and Collection Policy, should have determined to be, classified as "Grade 5."

"Grant": Shall have the meaning provided in the Indenture.

"Hedge Breakage Costs": With respect to each Hedge Counterparty upon the early termination of any Hedge Transaction with such Hedge Counterparty, the net amount, if any, payable by the Issuer to such Hedge Counterparty for the early termination of that Hedge Transaction or any portion thereof.

"Hedge Collateral": Defined in Section 7.02(b).

"Hedge Counterparty": Means (a) Citibank N.A., New York and (b) any other entity that (i) on the date of entering into any Hedge Transaction (x) is an interest rate swap dealer that has been approved in writing by (I) at any time when there are two or fewer Noteholders party hereto, each Noteholder, and (II) at any time when there are more than two Noteholders party hereto, the Initial Noteholder (which approval shall not, in the case of either clause (I) or clause (II), be unreasonably withheld), and (y) has a long-term unsecured debt rating of not less than "A" by S&P, not less than "A2" by Moody's and not less than "A" by Fitch (if such entity is rated by Fitch) (the "Long-term Rating Requirement") and a short-term unsecured debt rating of not less than "A-1" by S&P, not less than "P-1" by Moody's and not less than "F1" by Fitch (if such entity is rated by Fitch) (the "Short-term Rating Requirement"), and (ii) in a Hedging Agreement (x) consents to the assignment of the Issuer's rights under the Hedging Agreement to the Indenture Trustee on behalf of the Noteholders pursuant to Section 7.02(b) and (y) agrees that in the event that Moody's, S&P or Fitch reduces its long-term unsecured debt rating below the Long-term Rating Requirement or reduces it short-term debt rating below the Short-Term Rating Requirement, it shall either collateralize its obligations in a manner satisfactory to (I) at any time when there are two or fewer Lenders party hereto, each Noteholder, and (II) at any time when there are more than two Noteholders party hereto, the Initial Noteholder, or transfer its rights and obligations under each Hedging Agreement (excluding, however, any right to net payments or Hedge Breakage Costs under any Hedge Transaction, to the extent accrued to such date or to accrue thereafter and owing to the transferring Hedge Counterparty as of the date of such transfer) to another entity that meets the requirements of clauses (b)(i) and (b)(ii) hereof and has entered into a Hedging Agreement with the Issuer on or prior to the date of such transfer.

"Hedge Transaction": Each interest rate swap, index rate swap or interest rate cap transaction or comparable derivative arrangements between the Issuer and a Hedge Counterparty that is entered into pursuant to Section 7.02(a) and is governed by a Hedging Agreement.

"Hedging Agreement": The agreement between the Issuer and a Hedge Counterparty that governs one or more Hedge Transactions entered into by the Issuer and such Hedge Counterparty pursuant to Section 7.02(a), which agreement shall consist of a "Master Agreement" in a form published by the International Swaps and Derivatives Association, Inc., together with a "Schedule" thereto, and each "Confirmation" thereunder confirming the specific terms of each such Hedge Transaction.

"Indemnified Parties": Has the meaning set forth in Section 8.01(c) hereof.

"Indenture": The Indenture dated as of August 1, 2005, between the Issuer and the Indenture Trustee, as it may be amended or supplemented from time to time.

"Indenture Trustee": U.S. Bank National Association, a national banking association, as indenture trustee under the Indenture, or any successor indenture trustee under the Indenture.

"Indenture Trustee Fee": Shall have the meaning given such term in the Collateral Custodian and Backup Servicer Fee Letter.

"Independent": When used with respect to any specified Person, such Person (i) is in fact independent of the Originator, the Servicer, the Depositor or any of their respective Affiliates, (ii) does not have any direct financial interest in, or any material indirect financial interest in, the Originator, the Servicer, the Depositor or any of their respective Affiliates and (iii) is not connected with the Originator, the Depositor, the Servicer or any of their respective Affiliates, as an officer, employee, promoter, underwriter, trustee, partner, director or Person performing similar functions; *provided*, however, that a Person shall not fail to be Independent of the Originator, the Depositor, the Servicer or any of their respective Affiliates merely because such Person is the beneficial owner of 1% or less of any class of securities issued by the Originator, the Depositor, the Servicer or any of their respective Affiliates, as the case may be.

"Industry": The industry of an Obligor as determined, in the discretion of the Originator, by reference to either (a) the four digit standard industry classification (SIC) codes or (b) the Dow Jones VentureOne Industry Segments.

"Ineligible Loan": Shall have the meaning given such term in Section 3.05(b)(i).

"Initial Collateral Certification": The certification in the form of Exhibit E-1 hereto prepared by the Collateral Custodian.

"Initial Noteholder": Citigroup Global Markets Realty Corp., a New York corporation.

"Insurance Policy": With respect to any Transferred Loan included in the Collateral, an insurance policy covering physical damage to or loss to any assets or Related Property of the Obligor securing such Transferred Loan.

"Insurance Proceeds": Any amounts payable or any payments made to the Depositor or to the Servicer on its behalf under any Insurance Policy.

"Intercreditor Agreement": The Intercreditor and Concentration Account Administration Agreement, dated as of the date hereof, by and among U.S. Bank National Association, as the Indenture Trustee, Hercules Technology Growth Capital, Inc., as the originator and as the original servicer, Hercules Funding Trust I, as the issuer and each other Person that from time to time executes a joinder thereto, as amended, modified, waived, supplemented, restated or replaced from time to time.

"Interest Carry-Forward Amount": With respect to any Payment Date, an amount equal to the excess, if any, of the Interest Payment Amount for the immediately preceding Payment Date *over* the amount that was actually paid from the Distribution Account in respect of interest on the immediately preceding Payment Date, together with any Interest Carry-Forward Amount remaining unpaid from any previous Payment Date, with interest on any such unpaid amounts at the Note Interest Rate.

"Interest Collections": Any and all amounts received with respect to a Transferred Loan from or on behalf of the related Obligor that are deposited into the Collection Account, or received by the Issuer or by the Servicer or Originator on behalf of the Depositor in respect of Transferred Loans, not constituting Principal Collections, and, solely for the purposes of calculating the Portfolio Yield, any and all amounts accrued in respect of any fees (but only to the extent such fees are not part of the Retained Interest or were not received during such Collection Period) owed by any Obligor in respect of any Transferred Loan (net of any payment owed by the Issuer to, and including any receipts from, any Hedge Counterparties).

"Interest Payment Amount": With respect to any Payment Date, the sum of the Daily Interest Accrual Amounts for all days in the related Accrual Period.

"ISDA Definitions": The 2000 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc.

"Issuer": Hercules Funding Trust I, a Delaware statutory trust.

"Large Obligor Limit": As of any date of determination, an amount equal to the greater of (i) 10% of the Aggregate Outstanding Loan Balance as of such date and (ii) $10,000,000.

"LIBOR Business Day": Any day on which banks in the City of London are open and conducting transactions in United States dollars.

"LIBOR Determination Date": With respect to each Accrual Period, the second LIBOR Business Day prior to the end of the month immediately preceding the month in which such Accrual Period commenced.

"LIBOR Margin": Has the meaning set forth in the Fee Letter.

"Lien": With respect to any asset, (a) any mortgage, lien, pledge, charge, security interest, hypothecation, option or encumbrance of any kind in respect of such asset or (b) the interest of a vendor or lessor under any conditional sale agreement, financing lease or other title retention agreement relating to such asset.

"Loan": Any senior or subordinate loan arising from the extension of credit to an Obligor in the ordinary course of the Originator's business including, without limitation, all Revolving Loans, PIK Loans and Agented Notes, and including monies due and owing and all Interest Collections, Principal Collections and other amounts received from time to time with respect to such loan or note receivable and all Proceeds thereof.

"Loan Checklist" means the list delivered to the Indenture Trustee and Collateral Custodian pursuant to Section 2.04 of this Agreement that identifies the documents contained in the related Loan File.

"Loan Documents": With respect to any Loan, each related promissory note and any related loan agreement, security agreement, mortgage, moveable or immoveable hypothec, deed of hypothec, assignments, guarantees, note purchase agreement, intercreditor and/or subordination agreement, and UCC financing statements and continuation statements (including amendments or modifications thereof) executed by the Obligor thereof or by another Person on the Obligor's behalf in respect of such Loan and each related promissory note, including, without limitation, general or limited guaranties and, for each Loan secured by real property an Assignment of Mortgage, and for each promissory note, an assignment (which may be by allonge), in blank, signed by an officer of the Originator.

"Loan File": With respect to any Loan, each of the Loan Documents related thereto as reflected on the Loan Checklist accompanying such File..

"Loan Rate": For each Transferred Loan in a Collection Period, the current cash pay interest rate for such Transferred Loan in such period, as specified in the related Loan Documents.

"Loan Sale Agreement": The Loan Sale Agreement, between Hercules, as seller, and the Depositor, as purchaser, dated as of August 1, 2005, as it may be supplemented and amended from time to time.

"Loan Schedule": The schedule of Loans conveyed to the Issuer on each Transfer Date and delivered to the Initial Noteholder (with a copy to the Indenture Trustee and the Collateral Custodian) in connection with each Borrowing or as new Loans are contributed to the Depositor, initially as set forth in Exhibit D hereto.

"Loan Tape": Has the meaning set forth in theSection 4.13(b)(ii).

"LSA Assignment": The assignment of Assigned Assets from the Originator to the Depositor under the Loan Sale Agreement.

"Lyon Financial": Lyon Financial Services, Inc., a Minnesota company, d/b/a U.S. Bank Portfolio Services.

"Majority Certificateholders": Has the meaning set forth in the Trust Agreement.

"Majority Noteholders": The holder or holders of in excess of 50% of the Note Principal Balance. In the event of the release of the Lien of the Indenture in accordance with the terms thereof, the Majority Noteholders shall mean the Majority Certificateholders.

"Material Adverse Change": With respect to any Person, any material adverse change in the business, condition (financial or otherwise), operations, performance, properties or prospects of such Person.

"Material Adverse Effect": With respect to any event or circumstance, means a material adverse effect on, as applicable, (a) the business, condition (financial or otherwise), operations, performance, properties or prospects of the Servicer, the Depositor, the Backup Servicer or the Collateral Custodian, (b) the validity, enforceability or collectibility of this Agreement, any other Basic Document or the Purchased Assets, (c) the rights and remedies of the Initial Noteholder or the Indenture Trustee on behalf of the Noteholders under this Agreement or any Basic Document or (d) the ability of any of the Servicer, the Depositor, the Issuer, the Backup Servicer or the Collateral Custodian to perform its obligations under this Agreement or any other Basic Document, or (e) the status, existence, perfection, priority, or enforceability of the interest of the Issuer in the Purchased Assets or of the Indenture Trustee on behalf of the Noteholders in the Collateral.

"Maximum Availability": On any date of determination (a) during the Revolving Period, an amount equal to the sum of (i) the lesser of (x) the Borrowing Base *minus* the Required Equity Contribution and (y) the product of the Borrowing Base*times* the Advance Rate *plus* (ii) the amount of Principal Collections on deposit in the Collection Account and the Principal Collections Account received in reduction of the Outstanding Loan Balance of any Transferred Loan, and (b) after the Revolving Period, an amount equal to the Advances Outstanding.

"Moody's": Moody's Investors Service, Inc., or any successor thereto.

"Net Mark to Market Amount": With respect to each Hedge Counterparty, as set forth on each Servicer Report for each Record Date, the excess, if any, of (a) the amount that would be payable by the Issuer to such Hedge Counterparty *over* (b) the amount that would be payable by such Hedge Counterparty to the Issuer, if all Hedge Transactions of the Issuer with such Hedge Counterparty were being terminated as of such date, which amount (i) shall have been provided to the Servicer by such Hedge Counterparty for inclusion in each Servicer Report and (ii) shall have been determined by such Hedge Counterparty in good faith and in accordance with its usual business practices; *provided*, that such valuation will be based on a mid-market valuation of each such Hedge Transaction and as such will be an indicative valuation calculation, it being understood that the amount that would be payable by either party in the event of any termination of any Hedge Transaction would be determined in accordance with the provisions of the applicable Hedging Agreement governing a termination due to an event of default or termination event and would be subject to market conditions at the time the applicable Hedge Transaction is terminated.

"Net Worth": With respect to any Person, the excess of total assets of such Person, over total liabilities of such Person, determined in accordance with GAAP.

"Nonutilization Fee": Has the meaning set forth in the Fee Letter.

"Note": Has the meaning set forth in the Indenture.

"Noteholder": Has the meaning set forth in the Indenture.

"Note Interest Rate": With respect to each Accrual Period, a *per annum* interest rate equal to One-Month LIBOR for the related LIBOR Determination Date plus the LIBOR Margin.

"Note Majority": With respect to Agented Notes, the holders of the notes evidencing not less than 66⅔% of the outstanding amount of all such notes issued by the Obligor.

"Note Principal Balance": With respect to the Notes, as of any date of determination (a) the aggregate of all Borrowings consummated on or prior to such date of determination *minus* (b) the aggregate of all amounts previously distributed in respect of principal of the Notes on or prior to such date of determination.

"Note Purchase Agreement": The Note Purchase Agreement among the Initial Noteholder, the Issuer and the Depositor, dated as of August 1, 2005, as it may be amended or supplemented from time to time.

"Obligor": With respect to any Loan, the Person or Persons obligated to make payments pursuant to such Loan, including any guarantor thereof. For purposes of calculating any of the Concentration Limits, all Loans included in the Collateral or to become part of the Collateral the Obligor of which is an Affiliate of another Obligor shall be aggregated with all Loans of such other Obligor, for example, if Corporation A is an Affiliate of Corporation B; and the aggregate Outstanding Loan Balance of all of Corporation A's Loans in the Collateral constitutes 10% of the Aggregate Outstanding Loan Balance and the aggregate Outstanding Loan Balance of all Corporation B's Loans in the Collateral constitute 10% of the Aggregate Outstanding Loan Balance, the Obligor concentration for Corporation A would be 20% and the Obligor concentration for Corporation B would be 20%.

"Officer's Certificate": A certificate signed by a Responsible Officer of the Person delivering such certificate, in each case as required by this Agreement.

"One-Month LIBOR": For any Accrual Period and any Borrowing, the rate determined by the Initial Noteholder on the related Borrowing Date on the basis of the offered rate for one-month U.S. dollar deposits, as such rate appears on Telerate Page 3750 as of 11:00 a.m. (London time) on such date (rounded up to the nearest whole multiple of 1/16%); *provided*, that if such rate does not appear on Telerate Page 3750, the rate for such date will be the rate determined by reference to such other comparable publicly available service publishing such rates as may be selected by the Initial Noteholder in its sole reasonable discretion and communicated to the Servicer. The Initial Noteholder shall have the sole discretion to reset One-Month LIBOR daily.

"Operating History": With respect to any specified Person, the time since the date of such Person's incorporation or formation that it has continuously operated its business; *provided*, that the Operating History of any Person, newly formed as a result of a merger of two or more Persons or as a result of the acquisition of one or more Persons by a newly formed Person ("Merged Parties") shall be based on the weighted average (by relative sales) of the Operating Histories of the Merged Parties (excluding for such purposes, entities that are created

only for the purpose of being acquisition entities), for example, if Corporation A with sales of $10 million has an Operating History of four years and Corporation B with sales of $20 million has an Operating History of eight years, merge to form NEWCO, the Operating History of NEWCO will be 6.67 years.

"Opinion of Counsel": A written opinion of counsel who may be employed by the Servicer, the Depositor, the Originator or any of their respective Affiliates, in form and substance satisfactory to the Initial Noteholder.

"Optional Sale Date": Any Business Day during the Revolving Period, provided 30 days' prior written notice is given in accordance with Section 3.06(a)(i).

"Originator": Hercules and its permitted successors and assigns.

"Originator Indemnified Party": Has the meaning set forth in Section 8.01(c) hereof.

"Outstanding Loan Balance": With respect to any Loan, as of any date of determination, the lesser of (i) the Fair Market Value of such Loan and (ii) the total remaining amounts of principal payable by the Obligor thereof, excluding principal payments in respect of Accreted Interest (it being understood that any principal amount previously covered by a Servicer Advance will be excluded from the principal amounts payable for purposes of this definition).

"Owner Trustee": Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee under the Trust Agreement, and any successor owner trustee under the Trust Agreement.

"Owner Trustee Fee": Means the fee identified as such in the Owner Trustee Fee Letter.

"Owner Trustee Fee Letter": Means the fee letter, dated as of the date hereof, among the Originator, the Depositor and the Owner Trustee.

"Paying Agent": A Person that meets the eligibility standards for the Indenture Trustee specified in Section 3.03 of the Indenture and authorized by the Issuer to make payments to and distributions from the Distribution Account, including payment of principal of or interest on the Notes on behalf of the Issuer. The initial Paying Agent for all purposes under the Basic Documents shall be the Indenture Trustee.

"Payment Date": The 15th day of each calendar month, or if any such day is not a Business Day, the first Business Day following such day, commencing on September 15, 2005.

"Percentage Interest": Has the meaning set forth in the Trust Agreement and the Indenture, as applicable.

"Permitted Investments": Each of the following:

(a) Direct general obligations of the United States or the obligations of any agency or instrumentality of the United States fully and unconditionally guaranteed, the timely payment or the guarantee of which constitutes a full faith and credit obligation of the United States;

(b) Federal Housing Administration debentures rated "Aa2" or higher by Moody's and "AA" or better by S&P;

(c) Freddie Mac senior debt obligations rated "Aa2" or higher by Moody's and "AA" or better by S&P;

(d) Federal Home Loan Banks' consolidated senior debt obligations rated "Aa2" or higher by Moody's and "AA" or better by S&P;

(e) Fannie Mae senior debt obligations rated "Aa2" or higher by Moody's;

(f) Federal funds, certificates of deposit, time and demand deposits, and bankers' acceptances (having original maturities of not more than 365 days) of any domestic bank, the short-term debt obligations of which have been rated "A-1" or better by S&P and "P-1" or better by Moody's;

(g) Investment agreements approved by the Initial Noteholder;*provided*:

1. the agreement is with a bank or insurance company which has an unsecured, uninsured and unguaranteed obligation (or claims-paying ability) rated "Aa2" or better by Moody's and "AA" or better by S&P; and
2. monies invested thereunder may be withdrawn without any penalty, premium or charge upon not more than one day's notice (provided such notice may be amended or canceled at any time prior to the withdrawal date); and
3. the agreement is not subordinated to any other obligations of such insurance company or bank; and
4. the same guaranteed interest rate will be paid on any future deposits made pursuant to such agreement; and
5. the Indenture Trustee and the Initial Noteholder receive an Opinion of Counsel that such agreement is an enforceable obligation of such insurance company or bank;

(h) Commercial paper (having original maturities of not more than 365 days) rated "A-1" or better by S&P and "P-1" or better by Moody's;

(i) Investments in money market funds rated "AAAM" or "AAAM-G" by S&P and "Aaa" or "P-1" by Moody's;

(j) Investments approved in writing by the Initial Noteholder;

provided that no instrument described above is permitted to evidence either the right to receive (i) only interest with respect to obligations underlying such instrument or (ii) both principal and interest payments derived from obligations underlying such instrument and the interest and principal payments with respect to such instrument provided a yield to maturity at par greater than 120% of the yield to maturity at par of the underlying obligations; and *provided*, *further*, that no instrument described above may be purchased at a price greater than par if such instrument may be prepaid or called at a price less than its purchase price prior to stated maturity.

Each of the Permitted Investments may be purchased by the Indenture Trustee or through an Affiliate of the Indenture Trustee.

"Permitted Liens": (a) With respect to the Transferred Loans, Liens in favor of the Issuer created pursuant to this Agreement and Liens in favor of the Indenture Trustee, on behalf of the Noteholders, created pursuant to the Indenture; and

(b) with respect to the Issuer's interest in the Related Property, any of the following as to which no enforcement, collection, execution, levy, foreclosure or realization proceedings shall have been commenced:

(i) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings; *provided*, that such Liens do not have priority over any of the Originator's Liens and the related Obligor maintains adequate reserves therefor in accordance with GAAP;

(ii) Liens securing claims or demands of materialmen, artisans, mechanics, carriers, warehousemen, landlords and other like Persons arising in the ordinary course of the related Obligor's business and imposed without action of such parties; provided, that the payment thereof is not yet required;

(iii) Liens arising from judgments, decrees or attachments in circumstances which do not constitute an "event of default" under the related Loan Documents;

(iv) the following deposits, to the extent made in the ordinary course of business: deposits under worker's compensation, unemployment insurance, social security and other similar laws, or to secure the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure indemnity, performance or other similar bonds for the performance of bids, tenders or contracts (other than for the repayment of borrowed money) or to secure statutory obligations (other than liens arising under ERISA or environmental liens) or surety or appeal bonds, or to secure indemnity, performance or other similar bonds;

(v) purchase money liens on equipment (to the extent permitted under the related Loan Documents) which has been acquired or held by the related Obligor

and such Liens are incurred for financing the acquisition of the equipment, if, the Liens are confined to the equipment and proceeds of the equipment;

(vi) Liens incurred in connection with the extension, renewal or refinancing of the indebtedness secured by Liens of the type described in clauses (i) through (iv) above; provided, that any extension, renewal or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed or refinanced (as may have been reduced by any payment thereon) does not increase;

(vii) Liens held by senior lenders with respect to subordinated Transferred Loans;

(viii) the rights of a Hedge Counterparty under its Hedging Agreement; and

(ix) with respect to Agented Notes, Liens in favor of the collateral agent on behalf of all noteholders of the related Obligor.

"Permitted Securitization": Any financing transaction undertaken by the Originator, the Depositor or an Affiliate of the Originator or the Depositor that is secured, directly or indirectly, by any Loan currently or formerly included in the Collateral or any portion thereof or interest therein, including any sale, lease, whole loan sale, asset securitization, secured loan or other transfer.

"Person": Any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, national banking association, unincorporated organization or government or any agency or political subdivision thereof.

"Physical Property": Has the meaning set forth in clause (b) of the definition of "Delivery" above.

"PIK Loan": A Loan which provides for a portion of the interest that accrues thereon to be added to the principal amount of such Loan for some period of time prior to such Loan requiring the current cash payment of such interest on a monthly or quarterly basis, which cash payment shall be treated as Interest Collections at the time it is received.

"Portfolio Investment": Any investment made by the Originator in the ordinary course of business in a Person that is accounted for under GAAP as a portfolio investment of the Originator.

"Portfolio Yield": As of each Record Date, the annualized percentage equivalent of a fraction (a) the numerator of which is equal to all Interest Collections deposited in the Collection Account during the related Collection Period *minus* the sum of (i) the Interest Payment Amount and any Interest Carry-Forward Amount, (ii) the Servicing Fee and (iii) any Trust Fees and Expenses and (b) denominator of which is equal to the Aggregate Outstanding Loan Balance as of the first day of the related Collection Period.

"Prepaid Loan": Any Transferred Loan (other than a Charged-Off Loan) that was terminated or has been prepaid in full or in part prior to its scheduled maturity date.

"Predecessor Servicer Work Product": Has the meaning set forth in Section 9.02(d) hereof.

"Proceeding": Any suit in equity, action at law or other judicial or administrative proceeding.

"Proceeds": With respect to any Collateral, whatever is receivable or received when such Collateral is sold, collected, liquidated, foreclosed, exchanged, or otherwise disposed of, whether such disposition is voluntary or involuntary, and includes all rights to payment with respect to any Insurance Policy relating to such Collateral.

"Purchased Assets": All right, title and interest, whether now owned or hereafter acquired or arising, and wherever located, of the Depositor in and to the property described in clauses (i) through (xi) below and all accounts, cash and currency, chattel paper, tangible chattel paper, electronic chattel paper, copyrights, copyright licenses, other intellectual property rights, equipment, fixtures, contract rights, general intangibles, instruments, certificates of deposit, certificated securities, uncertificated securities, financial assets, securities entitlements, commercial tort claims, deposit accounts, inventory, investment property, letter-of-credit rights, software, supporting obligations, accessions, and other property consisting of, arising out of, or related to any of the following (in each case excluding the Retained Interest and the Excluded Amounts):

(i) the Transferred Loans, and all monies due or to become due in payment of such Transferred Loans on and after the related Transfer Date, including but not limited to all Collections and all obligations owed to the Originator in connection with the Transferred Loans;

(ii) any Related Property securing or purporting to secure the Transferred Loans (to the extent the Originator, other than solely in its capacity as collateral agent under any loan agreement with an Obligor, has been granted a Lien thereon) including the related security interest granted by the Obligor under the Transferred Loans, all proceeds from any sale or other disposition of such Related Property;

(iii) all security interests, Liens, guaranties, warranties, letters of credit, accounts, bank accounts, mortgages or other encumbrances and property subject thereto from time to time purporting to secure payment of any Transferred Loan, together with all UCC financing statements or similar filings relating thereto;

(iv) all claims (including "claims" as defined in Bankruptcy Code § 101(5)), suits, causes of action, and any other right of the Originator, whether known or unknown, against the related Obligors, if any, or any of their respective Affiliates, agents, representatives, contractors, advisors, or any other Person that in any way is based upon, arises out of or is related to any of the foregoing, including, to the extent permitted to be assigned under applicable law, all claims (including contract claims, tort claims, malpractice claims, and claims under any law governing the purchase and sale of, or indentures for, securities), suits, causes of action, and any other right of the Originator

against any attorney, accountant, financial advisor, or other Person arising under or in connection with the related Loan Documents;

(v) all cash, securities, or other property, and all setoffs and recoupments, received or effected by or for the account of the Originator under such Transferred Loans (whether for principal, interest, fees, reimbursement obligations, or otherwise) after the related Transfer Date, including all distributions obtained by or through redemption, consummation of a plan of reorganization, restructuring, liquidation, or otherwise of any related Obligor or the related Loan Documents, and all cash, securities, interest, dividends, and other property that may be exchanged for, or distributed or collected with respect to, any of the foregoing;

(vi) all Insurance Policies;

(vii) the Loan Documents with respect to such Transferred Loans;

(viii) the Collection Account, the Principal Collections Account, the Distribution Account, the Concentration Account (to the extent that amounts on deposit in or credited to the Concentration Account relate to the Collateral), together with all funds held in or credited to such accounts (to the extent that amounts on deposit in or credited to the Concentration Account relate to the Collateral), and all certificates and instruments, if any, from time to time representing or evidencing each of the foregoing or such funds;

(ix) any Hedging Agreement and any payment from time to time due thereunder;

(x) the Loan Sale Agreement and the assignment to the Indenture Trustee of all UCC financing statements filed by the Depositor against the Originator under or in connection with the Loan Sale Agreement; and

(xi) the proceeds of each of the foregoing.

"Rating Agencies": S&P, Moody's and Fitch or such other nationally recognized credit rating agencies as may from time to time be designated in writing by the Majority Noteholders in their sole discretion.

"Record Date": With respect to each Payment Date, the second Business Day before such Payment Date.

"Recoveries": With respect to any Defaulted Loan or Charged-Off Loan, proceeds of the sale of any Related Property, proceeds of any related Insurance Policy, and any other recoveries with respect to such Transferred Loan and Related Property, and amounts representing late fees and penalties, net of Liquidation Expenses and amounts, if any, received that are required to be refunded to the Obligor on such Transferred Loan.

"Reference Bank": Any bank that provides information for purposes of determining One-Month LIBOR.

"Related Property": With respect to any Loan, any property or other assets of the Obligor thereunder pledged or purported to be pledged as collateral or in which a Lien has been granted or purported to be granted to secure the repayment of such Loan and including, without limitation, intellectual property rights. In no event shall Related Property include any Warrant Assets.

"Released Amounts": With respect to any payment or Collection received with respect to any Transferred Loan on any Business Day (whether such payment or Collection is received by the Servicer, the Originator or the Depositor), an amount equal to that portion of such payment or collection constituting Excluded Amounts or Retained Interest.

"Renewal Fee": A fee payable by the Issuer in connection with any extension of the Amortization Date pursuant to Section 2.09, in an amount equal to the product of (a) 0.25% *times* (b) the Borrowing Base as determined as of the Business Day prior to the effective date of such extension of the Amortization Date.

"Replaced Loan": Defined in Section 3.05(a).

"Required Equity Contribution": As of any date of determination, an amount equal to the greater of (i) the sum of the Outstanding Loan Balances of the four largest Transferred Loans included in the Collateral as of such date and (ii) $20,000,000.

"Reserve Interest Rate": With respect to any LIBOR Determination Date, the rate *per annum* that the Initial Noteholder determines to be either (i) the arithmetic mean (rounded to the nearest whole multiple of 1/16%) of the one-month U.S. dollar lending rates which New York City banks selected by the Initial Noteholder are quoting on the relevant LIBOR Determination Date to the principal London offices of leading banks in the London interbank market or (ii) in the event that the Initial Noteholder can determine no such arithmetic mean, the lowest one-month U.S. dollar lending rate which New York City banks selected by the Initial Noteholder are quoting on such LIBOR Determination Date to leading European banks.

"Responsible Officer": When used with respect to:

(a) the Indenture Trustee, the Collateral Custodian or the Paying Agent, any officer within the Corporate Trust Office of such Person, including any Vice President, Assistant Vice President, Secretary, Assistant Secretary or any other officer of such Person customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject;

(b) the Issuer, any officer of the Owner Trustee who is authorized to act for the Owner Trustee in matters relating to the Issuer and any officer of the Administrator who is identified on the list of Responsible Officers delivered by the Administrator on the date hereof (as such list may be modified or supplemented from time to time thereafter) to the Indenture Trustee and the Owner Trustee; and

(c) the Depositor, the Servicer, the Originator or any Affiliate of any of them, the Controller, the President, any Vice President or the Treasurer of such Person.

"Retained Interest": With respect to each Transferred Loan, the following interests, rights and obligations in such Transferred Loan and under the associated Loan Documents, which are being retained by the Originator: (a) all of the obligations, if any, to provide additional funding with respect to such Transferred Loan, (b) all of the rights and obligations, if any, of the agent(s) under the documentation evidencing such Transferred Loan, (c) the applicable portion of the interests, rights and obligations under the documentation evidencing such Transferred Loan that relate to such portion(s) of the indebtedness that is owned by another lender or is being retained by the Originator, (d) any unused, commitment or similar fees associated with the additional funding obligations that are not being transferred in accordance with clause (a) of this definition, (e) any agency or similar fees associated with the rights and obligations of the agent that are not being transferred in accordance with clause (b) of this definition, (f) any advisory, consulting or similar fees due from the Obligor associated with services provided by the agent that are not being transferred in accordance with clause (b) of this definition, and (g) any origination or underwriting fee paid to the Originator in connection with the origination or acquisition of such Transferred Loan.

"Retransfer Price": Defined in Section 3.05(b).

"Review Criteria": Defined in Section 2.05(b)(ii).

"Revolving Loan": Any Loan that is a line of credit or other similar extension of credit by the Originator where the Originator's commitment under such Loan is not fully funded and/or the proceeds of such Loan may be repaid and reborrowed.

"Revolving Period": The period commencing on the Closing Date and ending on the Business Day preceding the earlier of (i) the Amortization Date and (ii) the Termination Date.

"RIC/BDC Requirements": The requirements (including, without limitation, requirements pertaining to asset diversification) Hercules Technology Growth Capital, Inc. must satisfy to maintain its status as a "business development company," within the meaning of the Small Business Incentive Act of 1980, and its election to be treated as a "registered investment company" under the Code.

"RIC/BDC Sale": Defined in Section 3.07(a).

"RIC/BDC Sale Date": The Business Day identified by the Borrower to the Initial Noteholder and the Trustee in a RIC/BDC Sale Notice as the proposed date of a RIC/BDC Sale.

"RIC/BDC Sale Notice": Defined in Section 3.07(a)(i).

"Rolling Three-Month Charged-Off Ratio": As of any date, the percentage equivalent of a fraction (a) the numerator of which equals the sum of the Charged-Off Ratios for the three Collection Periods immediately preceding such date (or such lesser number of Collection Periods as shall have elapsed as of such date), and (b) the denominator of which equals three (or such lesser number described in clause (a)).

"Rolling Three-Month Default Ratio": As of any date, the percentage equivalent of a fraction (a) the numerator of which equals the sum of the Default Ratios for the three Collection Periods immediately preceding such date (or such lesser number of Collection Periods as shall have elapsed as of such date), and (b) the denominator of which equals three (or such lesser number described in clause (a)).

"Rolling Three-Month Yield": As of any date, the percentage equivalent of a fraction (a) the numerator of which equals the sum of the Portfolio Yields for the three Collection Periods immediately preceding such date (or such lesser number of Collection Periods as shall have elapsed as of such date), and (b) the denominator of which equals three (or such lesser number described in clause (a)).

"Rolling Twelve-Month Charged-Off Ratio": As of any Record Date, the percentage equivalent of a fraction (a) the numerator of which is equal to the sum of the Charged-Off Ratios for the Collection Period related to such Record Date and each of 11 preceding Record Dates (or such lesser number of Collection Periods as shall have elapsed as of such date), and (b) the denominator of which is 12 (or such lesser number described in clause (a)).

"S&P": Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc.

"S&SA Assignment": An assignment of Purchased Assets from the Depositor to the Issuer pursuant to this Agreement, in the form of Exhibit C hereto.

"Sales Price": With respect to any Transferred Loan and all Related Property and other Collateral constituting part of the Purchased Assets with respect to such Transferred Loan, an amount determined by multiplying the Advance Rate *times* the Outstanding Loan Balance of such Transferred Loan.

"Scheduled Payment": On any Record Date, with respect to any Transferred Loan, each monthly or quarterly payment (whether principal, interest or principal and interest) scheduled to be made by the related Obligor after such Record Date under the terms of such Transferred Loan.

"Securities": The Notes and the Trust Certificates.

"Securities Act": The Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Securities Intermediary": A "securities intermediary" as defined in Section 8-102(a)(14) of the UCC that is holding a Trust Account for the Indenture Trustee as the sole "entitlement holder" with respect thereto as defined in Section 8-102(a)(7) of the UCC.

"Securityholder": Any Noteholder or Certificateholder.

"Servicer": Hercules, in its capacity as the servicer hereunder, or any successor appointed as herein provided.

"Servicer Advance": Defined in Section 4.05 hereof.

"Servicer Default": Has the meaning set forth in Section 9.01 hereof.

"Servicer Indemnified Party": Has the meaning set forth in Section 8.01(a) hereof.

"Servicer Report": A report substantially in the form of Exhibit B hereto, to be delivered as contemplated by Section 4.17(a).

"Servicing Fee": For each Payment Date, an amount equal to the sum of the products, for each day during the related Collection Period, of (a) a fraction, the numerator of which is the sum of (i) the Aggregate Outstanding Loan Balance as of the first day of such Collection Period *plus* (ii) the Aggregate Outstanding Loan Balance as of the last day of such Collection Period, and the denominator of which is two, (b) the Servicing Fee Rate, and (c) a fraction, the numerator of which is 1 and the denominator of which is 360.

"Servicing Fee Rate": A rate equal to 1.0%*per annum.*

"Servicing Records": All documents, books, records and other information (including, without limitation, computer programs, tapes, disks, data processing software and related property rights) prepared and maintained by the Servicer with respect to the Loans, any item of Related Property and the related Obligors, other than the Loan Documents.

"Servicing Officer": Any officer of the Servicer involved in, or responsible for, the administration and servicing of the Loans whose name and specimen signature appears on a list of servicing officers annexed to an Officer's Certificate furnished by the Servicer on the date hereof to the Issuer and the Indenture Trustee, on behalf of the Noteholders, as such list may from time to time be amended.

"Solvent": As to any Person at any time, having a state of affairs such that all of the following conditions are met: (a) the fair value of the property owned by such Person is greater than the amount of such Person's liabilities (including disputed, contingent and unliquidated liabilities) as such value is established and liabilities evaluated for purposes of Section 101(32) of the Bankruptcy Code; (b) the present fair salable value of the property owned by such Person in an orderly liquidation of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured; (c) such Person is able to realize upon its property and pay its debts and other liabilities (including disputed, contingent and unliquidated liabilities) as they mature in the normal course of business; (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature; and (e) such Person is not engaged in business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute unreasonably small capital.

"State": Any one of the states of the United States of America or the District of Columbia.

"Subsidiary": With respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

"Successor Engagement Fee": The "One-Time Successor Engagement Fee," as defined in the Collateral Custodian and Backup Servicer Fee Letter.

"Successor Servicer": Defined in Section 9.02(a).

"Tangible Net Worth": With respect to any Person, as of any date of determination, the consolidated Net Worth of such Person and its Subsidiaries, less the consolidated net book value of all assets of such Person and its Subsidiaries (to the extent reflected as an asset in the balance sheet of such Person or any Subsidiary at such date) which will be treated as intangibles under GAAP, including, without limitation, such items as deferred financing expenses, net leasehold improvements, good will, trademarks, trade names, service marks, copyrights, patents, licenses and unamortized debt discount and expense; *provided*, that residual securities issued by such Person or its Subsidiaries shall not be treated as intangibles for purposes of this definition.

"Termination Date": The earliest of (i) the date designated as such by the Initial Noteholder in its sole discretion by written notice to the Servicer and the Indenture Trustee following the occurrence of an Event of Default or a Trigger Event, (ii) the date upon which this Agreement terminates pursuant to Section 10.01 or is optionally terminated by the Servicer pursuant to Section 10.02, (iii) the date of the occurrence of a Bankruptcy Event with respect to the Servicer, the Depositor or the Issuer and (iv) the date that is six months following the Amortization Date.

"Termination Price": Has the meaning set forth in Section 10.02 hereof.

"Third Party Claim": Has the meaning set forth in Section 8.01(d) hereof.

"Transfer Date": With respect to each Transferred Loan, the date specified as the "Transfer Date" in the related S&SA Assignment, on and after which Collections on such Transferred Loan shall be included as part of the Collateral.

"Transferred Loans": Each Loan that is purchased by the Depositor or received by the Depositor as a contribution to the capital of the Depositor under the Loan Sale Agreement, and sold or contributed to the Issuer hereunder; *provided*, that the term Transferred Loan shall not include any Retained Interests.

"Transition Costs": Has the meaning set forth in Section 9.02(a) hereof.

"Trigger Event": Shall exist, as of any date of determination, if any of the following events shall have occurred and be continuing:

(i) the Rolling Three-Month Yield is less than 8.0%;

(ii) the weighted average Risk Rating of Obligors with respect to the Transferred Loans included in the Collateral is less than 3.0;

(iii) the Rolling Three-Month Charged-Off Ratio as of any Record Date is greater than 4.0%;

(iv) the Rolling Three-Month Default Ratio as of any Record Date is greater than 6.0%;

(v) Rolling Twelve-Month Charged-Off Ratio as of any Record Date is greater than 12.0%; or

(vi) The amount described in clause (ii) of the definition of "Availability" shall exceed the amount described in clause (i) of the definition of "Availability" and such condition shall not be cured within three Business Days of the occurrence thereof.

"Trust Account Property": The Trust Accounts, all amounts and investments held from time to time in the Trust Accounts and all proceeds of the foregoing.

"Trust Accounts": The Distribution Account, the Collection Account and the Principal Collections Account.

"Trust Agreement": The Trust Agreement dated as of August 1, 2005 between the Depositor and the Owner Trustee, as it may be amended and supplemented from time to time.

"Trust Certificate": Has the meaning set forth in the Trust Agreement.

"Trust Fees and Expenses": As of each Payment Date, an amount equal to the Owner Trustee Fee, if applicable, and the Indenture Trustee Fee, the Collateral Custodian Fee, the Backup Servicer Fee, the Backup Servicer Expenses, and any expenses of the Servicer, the Owner Trustee, the Indenture Trustee, the Collateral Custodian and the Backup Servicer under any Basic Documents.

"UCC": The Uniform Commercial Code as in effect in the State of New York.

"UCC Assignment": A financing statement meeting the requirements of the UCC of the relevant jurisdiction to reflect an assignment of a secured party's interest in collateral.

"UCC Financing Statement": A financing statement meeting the requirements of the UCC of the relevant jurisdiction.

"Underlying Note": Each promissory note of an Obligor evidencing a Loan.

"Unreimbursed Servicer Advances": As of any Payment Date, the amount of all previous Servicer Advances (or portions thereof) as to which the Servicer has not been reimbursed as of such time pursuant to Section 5.01(c) on a prior Payment Date.

"U.S. Bank": U.S. Bank National Association, a national banking association.

"Warrant Asset": Means any equity purchase warrants or similar rights convertible into or exchangeable or exercisable for any equity interests received by Hercules as an "equity kicker" from the Obligor in connection with such Transferred Loan; *provided* that the term Warrant shall in no event include the right of Hercules to participate as an investor in future equity financings by an Obligor.

"Warrant Participation Agreement": The warrant participation agreement relating to the Warrant Assets, dated as of August 1, 2005, by and among the Originator and the Initial Noteholder.

"Warrant Pledge and Security Agreement": The warrant pledge and security agreement relating to the Warrant Assets, dated as of August 1, 2005, by and among the Originator, the Initial Noteholder, Alcmene Funding L.L.C., a Delaware limited liability company, and U.S. Bank, as the escrow agent thereunder.

"Weighted Average Life": At any date of determination, with respect to any Loan, is determined by: (a) multiplying the number of months from and including the month in which such date of determination falls to but excluding the month when each Scheduled Payment is to be received under such Loan by the amount of each such Scheduled Payment, (b) summing said products, (c) dividing the sum total by the total amount of all Scheduled Payments to be received under the Loan, and (d) dividing the total by 12.

Section 1.02. Other Definitional Provisions.

(a) Any agreement, instrument or statute defined or referred to herein or in any instrument or certificate delivered in connection herewith means such agreement, instrument or statute as from time to time amended, modified or supplemented and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein; references to a Person are also to its permitted successors and assigns.

(b) All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.

(c) As used in this Agreement and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in this Agreement or in any such certificate or other document, and accounting terms partly defined in this Agreement or in any such certificate or other document to the extent not defined, shall have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Agreement or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Agreement or in any such certificate or other document shall control.

(d) The words “hereof,” “herein,” “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; Article, Section, Schedule and Exhibit references contained in this Agreement are references to Articles, Sections, Schedules and Exhibits in or to this Agreement unless otherwise specified; and the term “including” shall mean “including without limitation.”

(e) The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.

ARTICLE II

CONVEYANCE OF THE PURCHASED ASSETS; BORROWINGS

Section 2.01. Conveyance of the Purchased Assets; Borrowings.

(a) Conveyance of the Purchased Assets. (i) On each Transfer Date during the Revolving Period, in consideration of the payment of the Sales Price therefor and subject to the satisfaction of the conditions to each Transfer set forth in Section 2.08 hereof, the Depositor hereby sells and assigns to the Issuer, without recourse, but subject to the other terms and provisions of this Agreement, all of the right, title and interest of the Depositor in and to the Purchased Assets identified in the applicable S&SA Assignment and the related Loan Schedule, together with all of the Depositor’s right, title and interest in and to (but none of its obligations under) the Loan Sale Agreement and all proceeds of the foregoing.

(ii) On each Transfer Date, the Issuer hereby purchases, and acknowledges the conveyance to it, of the Purchased Assets identified in the applicable S&SA Assignment and the related Loan Schedule, receipt of which is hereby acknowledged by the Issuer. Concurrently with such delivery, as of the applicable Transfer Date, the Issuer Grants the Purchased Assets identified in the applicable S&SA Assignment and the related Loan Schedule (a copy of which has or will concurrently therewith be delivered to the Indenture Trustee) to the Indenture Trustee pursuant to the Indenture as security for the Issuer’s obligations under the Indenture and the other Basic Documents.

(iii) On the Closing Date, and in exchange for the conveyances of Purchased Assets contemplated hereby, the Owner Trustee, pursuant to the instructions of the Depositor, has executed (not in its individual capacity, but solely as Owner Trustee on behalf of the Issuer) and caused the Trust Certificates to be authenticated and delivered (which may be by facsimile transmission or in an electronic format) to or at the direction of the Depositor.

(iv) Notwithstanding anything to the contrary herein, in no event shall the Issuer be required to purchase the Purchased Assets identified in any S&SA Assignment and the related Loan Schedule on any Transfer Date if the conditions precedent to the applicable Transfer set forth in Section 2.08 have not been fulfilled.

(v) The Servicer shall, at its own expense, within one Business Day following each Transfer Date, indicate in its computer files that the Purchased Assets identified in the applicable S&SA Assignment and the related Loan Schedule have been sold to the Issuer pursuant to this Agreement.

(vi) Subject to Section 3.01(o), the parties hereto intend that the conveyances contemplated hereby be sales from the Depositor to the Issuer of the Purchased Assets identified in each S&SA Assignment and related Loan Schedule. In the event the transactions with respect to the Purchased Assets set forth herein are deemed not to be a sale, the Depositor hereby grants to the Issuer a security interest in all of the Depositor's right, title and interest in, to and under such Purchased Assets, to secure all of the Depositor's obligations hereunder, and this Agreement shall constitute a security agreement under Applicable Law.

(b) Borrowings. (i) Pursuant to the Note Purchase Agreement, the Issuer may, at its sole option, from time to time request by delivery to the Initial Noteholder (with a copy to the Indenture Trustee) of a Borrowing Notice, that the Initial Noteholder make an advance of funds to the Issuer (each, a "Borrowing") on any Borrowing Date and, upon satisfaction of the conditions precedent to such Borrowing in Section 2.07 hereof and Section 3.01 of the Note Purchase Agreement, the Initial Noteholder shall remit on such Borrowing Date, to or at the direction of the Depositor, an amount equal to the requested Borrowing. The amount of any Borrowing shall be at least equal to $1,000,000.

(ii) The Servicer shall appropriately note each Borrowing (and the increased Note Principal Balance) in each Servicer Report; *provided*, that the failure to make any such notation or any error in such notation shall not adversely affect any Noteholder's rights with respect to its Note Principal Balance and its right to receive interest and principal payments in respect of the Note Principal Balance held by such Noteholder. The Initial Noteholder shall record on the schedule attached to such Noteholder's Note, the date and amount of any Borrowing advanced by it; *provided*, that failure to make such recordation on such schedule or any error in such schedule shall not adversely affect any Noteholder's rights with respect to its Note Principal Balance and its right to receive interest and principal payments in respect of the Note Principal Balance held by such Noteholder.

(iii) Absent manifest error, the Note Principal Balance of each Note as set forth in the Initial Noteholder's records shall be binding upon the Indenture Trustee, the Noteholders and the Issuer, notwithstanding any notation made by the Servicer in its Servicer Report pursuant to the preceding paragraph.

(iv) Notwithstanding anything to the contrary herein, in no event shall the Initial Noteholder be required to advance Borrowings if the conditions precedent to the making of Borrowings set forth in Section 2.07 hereof and Section 3.01 of the Note Purchase Agreement have not been fulfilled.

Section 2.02. Ownership and Possession of Loan Files.

With respect to each Loan, as of the related Transfer Date, the ownership of the related Loan Documents shall be vested in the Issuer as part of the Collateral for the benefit of the Noteholders, and the related Loan Documents shall be Granted and pledged to the Indenture Trustee on behalf of the Noteholders, and the Collateral Custodian shall take possession of the Loan Files as contemplated in Section 2.04 hereof.

Section 2.03. Books and Records; Intention of the Parties.

On the Closing Date, the Depositor shall, at such party's sole expense, cause to be filed UCC Financing Statements naming the Issuer as "secured party" and describing the Purchased Assets being sold by the Depositor to the Issuer with the office of the Secretary of State of the state in which the Depositor is "located" for purpose of the applicable UCC and in any other jurisdictions as shall be necessary to perfect a security interest in the Purchased Assets. In addition, on the Closing Date, the Originator shall, at its expense, cause to be filed UCC Financing Statements naming the Depositor as "secured party" and describing the Assigned Assets being sold by the Originator to the Depositor with the office of the Secretary of the State in which the Originator is "located" for purpose of the applicable UCC and in such other jurisdictions as shall be necessary to perfect a security interest in the Assigned Assets.

Section 2.04. Delivery of Loan Files.

(a) The Originator shall, with respect to each Loan subject to a Transfer, as of the related Transfer Date, (i) no later than 12:00 p.m. New York City time on the related Transfer Date, deliver or cause to be delivered to the Collateral Custodian, as the designated agent of the Indenture Trustee, by facsimile transmission or in an electronic format mutually agreed to by the Originator, the Initial Noteholder and the Indenture Trustee, the Loan Schedule and a copy of each executed Underlying Note endorsed in blank and (ii) within two Business Days after such Transfer Date, deliver (or caused to be delivered) to the Collateral Custodian each original and duly executed Underlying Note and Assignment of Mortgage (if any), in each case endorsed in blank, any security agreement related to each such Loan, and all other Loan Documents for each such Loan, including a Loan Checklist for such Loan being transferred (on which List the Collateral Custodian shall rely).

(b) The Indenture Trustee shall cause the Collateral Custodian to take and maintain continuous physical possession of the Loan Files delivered to it by the Originator in the State of South Carolina and, in connection therewith, shall act solely as agent for the Indenture Trustee on behalf of the Noteholders in accordance with the terms hereof and not as agent for the Originator, the Servicer or any other party.

Section 2.05. Acceptance by the Indenture Trustee of the Loan Files; Certification by the Collateral Custodian.

(a) Based on the Final Collateral Certification received by it from the Collateral Custodian and as of the date of delivery thereof, the Indenture Trustee acknowledges receipt of the Loan Files delivered to the Collateral Custodian on behalf of the Indenture Trustee pursuant to Section 2.04 and declares that it holds and will continue to hold directly the Loan Documents and any amendments, replacements or supplements thereto and all other assets

constituting the Collateral delivered to it in trust for the use and benefit of all present and future Noteholders.

(b) (i) On or before 3:00 p.m. New York City time on the related Transfer Date, the Collateral Custodian will deliver to the Initial Noteholder, with a copy to the Indenture Trustee, the Backup Servicer, the Collateral Custodian and the Originator, an Initial Collateral Certification, confirming whether or not it has received a copy of each executed Underlying Note endorsed in blank, for each Loan identified on the Loan Schedule to the S&SA Assignment with respect to such Transfer Date.

(ii) Within five Business Days after its receipt of the remaining Loan Documents for each such Transferred Loan, the Collateral Custodian shall review the related Loan Documents to confirm that: (A) each related Underlying Note has been properly executed and has no missing or mutilated pages, (B) UCC Financing Statements and other filings required by the related Loan Documents have been made, (C) other than in the case of a Transferred Loan secured by receivables only (as identified on the Loan Checklist), an Insurance Policy is contained in such Loan Documents with respect to any real or personal property constituting the Related Property for such Transferred Loan, (D) the related Outstanding Loan Balance, and Obligor name with respect to such Transferred Loan is accurately reflected on the related Loan Schedule and (E) based on the Loan Documents received, such Transferred Loan is not already included in the Collateral (collectively, the "Review Criteria"). Upon completion of such review the Collateral Custodian will deliver a Final Collateral Certification to the Initial Noteholder, with a copy to the Indenture Trustee, the Backup Servicer, the Collateral Custodian and the Originator, confirming its receipt of the Loan Documents. Such certification will also contain an exception report attached as Attachment A thereto which will identify any Transferred Loans for which (i) the Collateral Custodian has not received a Loan Document or (ii) any Review Criteria is not satisfied.

(iii) The Originator shall have ten Business Days to deliver any missing Loan Documents or correct any non-compliance with any Review Criteria. If after the conclusion of such time period the Originator has not delivered such missing Loan Document or cured any non-compliance by a Transferred Loan with any Review Criteria and such failure has a material adverse effect on the value or enforceability of any Transferred Loan or the interests of the Noteholders in any Transferred Loan, such Transferred Loan shall be deemed to be an Ineligible Loan and the Depositor shall repurchase such Transferred Loan pursuant to Section 3.05(b) within one Business Day after notice thereof at the Retransfer Price thereof by depositing such Retransfer Price in the Collection Account; provided that the Originator shall not be required to pay the Retransfer Price with respect to any such Transferred Loan to the extent that, after giving effect to the removal of such Loan from the Collateral, the Availability shall exceed $0. In lieu of such a repurchase, the Depositor and Originator may comply with the substitution provisions of Section 3.05(a). On or prior to the date of such substitution or repurchase, the Originator shall deliver to the Initial Noteholder, with a copy to the Indenture Trustee, the Backup Servicer and the Collateral Custodian, a certification of a Responsible Officer indicating that the Originator intends to cause the Issuer to repurchase or substitute such Transferred Loan.

(iv) It is understood and agreed that the obligation of the Originator to repurchase or substitute any such Transferred Loan pursuant to this Section 2.05(b) and Section 3.05 shall constitute the sole remedy with respect to such failure to comply with the foregoing delivery requirements.

(c) In performing its reviews of the Loan Documents, the Collateral Custodian shall have no responsibility to determine the genuineness of any document contained therein and any signature thereon. The Collateral Custodian shall not have any responsibility for determining whether any document is valid and binding, whether the text of any assignment or endorsement is in proper or recordable form, whether any document has been recorded in accordance with the requirements of any applicable jurisdiction or whether a blanket assignment is permitted in any applicable jurisdiction.

Section 2.06. Conditions Precedent to Closing. The effectiveness of this Agreement shall be subject to the satisfaction of the following conditions precedent as of the Closing Date:

(a) all conditions precedent to closing under Section 4.01 of the Note Purchase Agreement shall have been fulfilled;

(b) all conditions precedent to the Depositor's purchase and contribution of any Purchased Assets to be transferred on the Closing Date pursuant to the Loan Sale Agreement shall have been fulfilled;

(c) the Originator and the Initial Noteholder shall have executed and delivered the Warrant Participation Agreement;

(d) the Originator shall have delivered to the Initial Noteholder a copy of the Credit and Collection Policy;

(e) the Originator, the Initial Noteholder and the Indenture Trustee shall have executed and delivered the Warrant Pledge and Security Agreement ;

(f) the Originator shall have delivered to the Initial Noteholder evidence of the amendment or partial termination, as the case may be, in form and substance reasonably satisfactory to the Initial Noteholder, of the UCC-1 financing statement previously filed with the Maryland Department of Assessments and Taxation naming Hercules Technology Growth Capital, Inc. as debtor and Alcmene Funding, L.L.C. as the secured party;

(g) the Originator shall have delivered to the Initial Noteholder copies of fully-executed amendments, in form and substance reasonably satisfactory to the Initial Noteholder, to (i) that certain Credit Agreement, dated as of April 12, 2005, among Hercules, Alcmene Funding, L.L.C. and the other lenders party thereto, and (ii) that certain Pledge and Security Agreement, dated as of April 12, 2005, by Hercules in favor of Alcmene Funding, L.L.C., together with such other amendments or terminations of security documents or other ancillary documents related to such credit agreement as the Initial Noteholder may reasonably require;

(h) the Depositor shall have taken any action reasonably requested by the Indenture Trustee, the Issuer or the Initial Noteholder required to maintain or evidence the ownership interest of the Issuer in the Purchased Assets and the security interest of the Indenture Trustee in the Collateral.

Section 2.07. Conditions to Borrowings. On the Closing Date and on any Business Day during the Revolving Period, the Issuer may, upon two Business Days' notice to the Initial Noteholder (with a copy to the Indenture Trustee), request a Borrowing from the Initial Noteholder. Any Borrowing (including any Borrowing made on the Closing Date) shall be subject to the following conditions:

(a) the Servicer shall have delivered on behalf of the Issuer a Borrowing Notice and a Borrowing Base Certificate;

(b) all conditions precedent to the Noteholders' advance of the Borrowing under Section 3.01 of the Note Purchase Agreement shall have been fulfilled as of such Borrowing Date.

(c) as of such date, neither the Originator nor the Depositor shall have reason to believe that its insolvency is imminent;

(d) on and as of such date, after giving effect to such Borrowing, the Availability shall exceed zero;

(e) the Depositor shall have taken any action reasonably requested by the Indenture Trustee, the Issuer or the Initial Noteholder required to maintain or evidence the ownership interest of the Issuer in the Purchased Assets and the security interest of the Indenture Trustee in the Collateral;

(f) the Depositor shall have deposited, or caused to be deposited, in the Collection Account all Collections received with respect to each of the Loans Transferred on and after the Closing Date;

(g) neither the Termination Date nor the Amortization Date shall have occurred;

(h) each of the representations and warranties made by the Originator contained in Section 3.03 with respect to the Loans on the Closing Date shall be true and correct as of the applicable Borrowing Date (in the case of a Borrowing other than on the Closing Date, with the same effect as if then made) and each of the Depositor and the Originator shall have performed all obligations to be performed by it under the Basic Documents on or prior to such Borrowing Date; *provided* that, if any representation or warranty made by the Originator pursuant to Section 3.03 shall be incorrect as of any Transfer Date with respect to any Loan to be purchased on such date, the Issuer shall only be relieved of its obligation to purchase such Loan affected by such breach and, assuming satisfaction or waiver of the other conditions set forth in this clause (h), the Issuer shall nonetheless be obligated to purchase all Loans to be purchased on such date that are unaffected by such breach; and

(i) it shall be a condition to the initial Borrowing that the Servicer shall have delivered the form of Servicer Report, to be attached hereto as Exhibit B, to the Backup Servicer, the Indenture Trustee and the Initial Noteholder.

Section 2.08. Conditions to Transfers of Loans. On the Closing Date and on any Business Day during the Revolving Period, the Depositor may convey Loans to the Issuer (each such conveyance, a "Transfer"). Any Transfer (including any Transfer made on the Closing Date) shall be subject to the following conditions:

(a) At least two Business Days prior to the proposed Transfer Date, the Servicer shall give notice to the Initial Noteholder and the Indenture Trustee (with a copy to the Collateral Custodian and the Backup Servicer) of such proposed Transfer Date and provide an estimate of the number of Loans and aggregate Outstanding Loan Balance of such Loans proposed to be conveyed to the Issuer on such Transfer Date.

(b) On the Business Day prior to the proposed Transfer Date, the Issuer shall deliver to the Initial Noteholder and the Indenture Trustee (with a copy to the Collateral Custodian and the Backup Servicer) a final Loan Schedule setting forth the Loans proposed to be transferred on such Transfer Date.

(c) On the applicable Transfer Date, the Issuer shall deliver to the Initial Noteholder and the Indenture Trustee (with a copy to the Collateral Custodian and the Backup Servicer) a fully-executed S&SA Assignment and a final Loan Schedule setting forth the Loans Transferred on such Transfer Date.

(d) If the Issuer will consummate a Borrowing on such Date in connection with the applicable Transfer, the conditions precedent to such Borrowing set forth in Section 2.07 hereof and Section 3.01 of the Note Purchase Agreement shall be satisfied.

(e) As of the applicable Transfer Date, neither the Originator nor the Depositor shall have reason to believe that its insolvency is imminent.

(f) The Depositor shall have taken any action reasonably requested by the Indenture Trustee, the Issuer or the Initial Noteholder required to maintain or evidence the ownership interest of the Issuer in the Purchased Assets and the security interest of the Indenture Trustee in the Collateral.

(g) Neither the Termination Date nor the Amortization Date shall have occurred.

(h) Each of the representations and warranties made by the Originator contained in Section 3.03 with respect to the Loans made on the Closing Date shall be true and correct as of the applicable Transfer Date, with the same effect as if then made, and each of the Depositor and the Originator shall have performed all obligations to be performed by it under the Basic Documents on or prior to such Transfer Date; *provided* that, if any representation or warranty made by the Originator pursuant to Section 3.03 shall be incorrect as of any Transfer Date with respect to any Loan to be purchased on such date, the Issuer shall only be relieved of its obligation to purchase such Loan affected by such breach and, assuming satisfaction or

waiver of the other conditions set forth in this clause (h), the Issuer shall nonetheless be obligated to purchase all Loans to be purchased on such date that are unaffected by such breach.

Section 2.09. Extension of Amortization Date; Commencement of Amortization Period; Permitted Securitization Transactions

(a) Hercules and the Initial Noteholder may, within 30 days prior to the Amortization Date, agree in writing to an extension of the then-current Amortization Date for an additional period of up to 364 days; *provided* that any such extension shall be subject to the payment by the Issuer of the Renewal Fee. The Initial Noteholder agrees to respond to any request by Hercules for such an extension not later than 20 days prior to the Amortization Date.

(b) If Hercules shall decline to extend the then-current Amortization Date, the Exit Fee shall become due and payable by Hercules to the Initial Noteholder on the next Payment Date unless (x) Hercules and the Initial Noteholder shall have entered into a binding commitment letter pursuant to which all or substantially all of the Transferred Loans then included in the Collateral shall be refinanced pursuant to either (i) a Permitted Securitization in which an Affiliate of the Initial Noteholder shall act as sole lead manager or (ii) another financing transaction in a form to be agreed between Hercules and the Initial Noteholder pursuant to such Commitment Letter, under which the Initial Noteholder or an Affiliate of the Initial Noteholder will arrange or provide financing for such Transferred Loans, or (y) the Initial Noteholder shall have declined to offer to enter into a binding commitment letter with Hercules with respect to a refinancing transaction of the type contemplated by clauses (x)(i) or (ii) above on terms not materially less favorable to Hercules and substantially similar to terms generally available to Hercules in the securitization market (as evidenced by not less than two binding commitment letters from investment banks and/or commercial banks of national or international standing proposing such a refinancing transaction).

(c) In the event that the Amortization Date is not extended pursuant toSection 2.09(a), the Amortization Period shall automatically commence on the Amortization Date. The Servicer shall deliver notice of any extension or non-extension pursuant to this Section 2.09 to the Indenture Trustee promptly, and in no event later than the Business Day following such extension or non-extension.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01. Representations and Warranties of the Depositor.

The Depositor hereby represents, warrants and covenants to the other parties hereto and the Noteholders that as of the Closing Date and as of each Transfer Date:

(a) The Depositor is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has, and had at all relevant times, full power to own its property, to carry on its business as currently conducted and to enter into and perform its obligations under each Basic Document to which it is a party;

(b) The execution and delivery by the Depositor of each Basic Document to which the Depositor is a party and its performance of and compliance with all of the terms thereof will not violate the Depositor's organizational documents or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, or result in the breach or acceleration of, any material contract, agreement or other instrument to which the Depositor is a party or which are applicable to the Depositor or any of its assets;

(c) The Depositor has the full power and authority to enter into and consummate the transactions contemplated by each Basic Document to which the Depositor is a party, has duly authorized the execution, delivery and performance of each Basic Document to which it is a party and has duly executed and delivered each Basic Document to which it is a party; each Basic Document to which it is a party, assuming due authorization, execution and delivery by the other party or parties thereto, constitutes a valid, legal and binding obligation of the Depositor, enforceable against it in accordance with the terms thereof, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other similar laws relating to or affecting the rights of creditors generally, and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(d) The Depositor is not in violation of, and the execution and delivery by the Depositor of each Basic Document to which the Depositor is a party and its performance and compliance with the terms of each Basic Document to which the Depositor is a party will not constitute a violation with respect to any order or decree of any court or any order or regulation of any federal, state, municipal or governmental agency having jurisdiction over it or its business, which violation would materially and adversely affect the financial condition or operations of the Depositor or any of its properties or materially and adversely affect the performance of any of its duties hereunder;

(e) There are no actions or proceedings against, or investigations of, the Depositor currently pending with regard to which the Depositor has received service of process, and no action or proceeding against, or investigation of, the Depositor is, to the knowledge of the Depositor, threatened or otherwise pending before any court, administrative agency or other tribunal that (A) would prohibit its entering into any of the Basic Documents to which it is a party or render the Securities invalid, (B) seeks to prevent the issuance of the Securities or the consummation of any of the transactions contemplated by any of the Basic Documents to which it is a party or (C) would prohibit or materially and adversely affect the performance by the Depositor of its obligations under, or the validity or enforceability of, any of the Basic Documents to which it is a party or the Securities;

(f) No consent, approval, authorization or order of any court or governmental agency or body is required for the execution, delivery and performance by the Depositor of, or compliance by the Depositor with, any of the Basic Documents to which the Depositor is a party or the Securities, or for the consummation of the transactions contemplated by any of the Basic Documents to which the Depositor is a party, except for such consents, approvals, authorizations and orders, if any, that have been obtained prior to such date;

(g) The Depositor is solvent, is able to pay its debts as they become due and has capital sufficient to carry on its business and its obligations hereunder; it will not be rendered insolvent by the execution and delivery of any of the Basic Documents to which it is a party or the assumption of any of its obligations thereunder; no petition of bankruptcy (or similar Bankruptcy Proceeding) has been filed by or against the Depositor;

(h) The Depositor did not transfer the Purchased Assets sold to the Issuer with any intent to hinder, delay or defraud any of its creditors; nor will the Depositor be rendered insolvent as a result of such sale or pledge;

(i) The Depositor had good and valid title to, and was the sole owner of the Purchased Assets sold by the Depositor to the Issuer, free and clear of any Lien other than Permitted Liens and any such Lien released simultaneously with the sale contemplated herein, and, immediately upon each transfer and assignment herein contemplated, the Depositor will have delivered to the Issuer good and valid title to, and the Issuer will be the sole owner of, each item in the Purchased Assets transferred by the Depositor and, subject to the Indenture, the Indenture Trustee will have a first priority perfected security interest in each item of Collateral, in each case free and clear of any Lien;

(j) The Depositor acquired title to the Purchased Assets in good faith, without notice of any adverse claim;

(k) None of the Basic Documents to which the Depositor is a party, nor any Officer's Certificate, statement, report or other document prepared by the Depositor and furnished or to be furnished by it pursuant to any of the Basic Documents to which it is a party or in connection with the transactions contemplated thereby contains any untrue statement of material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading;

(l) The Depositor is not required to be registered as an "investment company," under the 1940 Act;

(m) The Depositor's principal place of business and chief executive offices are located at 525 University Avenue, Suite 700, Palo Alto, California 94301, or at such other address as shall be designated by such party in a written notice to the other parties hereto;

(n) The Depositor covenants that during the continuance of this Agreement it will comply in all respects with the provisions of its organizational documents in effect from time to time; and

(o) The transfer of the Purchased Assets by the Depositor to the Issuer pursuant to the Basic Documents upon completion pursuant to the Basic Documents of the sale of the Notes by the Issuer to the Initial Noteholder, was intended to constitute a financing of such Purchased Assets for tax and consolidated accounting purposes (with a notation that it is treating the transfers as a sale for legal and all other purposes on its books, records and financial statements, in each case, consistent with GAAP).

Section 3.02. Representations and Warranties of the Originator.

The Originator hereby represents and warrants to the other parties hereto and the Noteholders that as of the Closing Date and as of each Transfer Date:

(a) The Originator is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, is duly qualified, in good standing and licensed to carry on its business in each state where the conduct of its business requires it to be so qualified and licensed and has full corporate power and authority to own its property, to carry on its business as currently conducted and to enter into and perform its obligations under each Basic Document to which it is a party;

(b) The execution and delivery by the Originator of each Basic Document to which it is a party and its performance of and compliance with the terms thereof will not violate the Originator's organizational documents or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, or result in the breach or acceleration of, any material contract, agreement or other instrument to which the Originator is a party or which may be applicable to the Originator or any of its assets in each case that is likely to affect materially and adversely its ability to carry out the transactions contemplated hereby;

(c) The Originator has the full power and authority to enter into and consummate all transactions contemplated by the Basic Documents to be consummated by it, has duly authorized the execution, delivery and performance of each Basic Document to which it is a party and has duly executed and delivered each Basic Document to which it is a party; each Basic Document to which it is a party, assuming due authorization, execution and delivery by each of the other parties thereto, constitutes a valid, legal and binding obligation of the Originator, enforceable against it in accordance with the terms hereof, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other similar laws relating to or affecting the rights of creditors generally, and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law);

(d) The Originator is not in violation of, and the execution and delivery of each Basic Document to which it is a party by the Originator and its performance and compliance with the terms of each Basic Document to which it is a party will not constitute a violation with respect to, any order or decree of any court or any order or regulation of any federal, state, municipal or governmental agency having jurisdiction over it or its business, which violation would materially and adversely affect the financial condition, business or operations of the Originator or its properties or materially and adversely affect the performance of its duties under any Basic Document to which it is a party;

(e) There are no actions or proceedings against, or investigations of, the Originator currently pending with regard to which the Originator has received service of process, and no action or proceeding against, or investigation of, the Originator is, to the Originator's knowledge, threatened or otherwise pending before any court, administrative agency or other tribunal that (A) would prohibit its entering into any Basic Document to which it is a party or render the Securities invalid, (B) seeks to prevent the issuance of the Securities or the consummation of any of the transactions contemplated by any Basic Document to which it is a party or (C) would prohibit or materially and adversely affect the sale and contribution of the

Assigned Assets to the Depositor, the performance by the Originator of its obligations under, or the validity or enforceability of, any Basic Document to which it is a party or the Securities;

(f) No consent, approval, authorization or order of any court or governmental agency or body is required for: (1) the execution, delivery and performance by the Originator of, or compliance by the Originator with, any Basic Document to which it is a party, (2) the sale and contribution of the Assigned Assets to the Depositor, or (3) the consummation of the transactions required of it by any Basic Document to which it is a party, except such as shall have been obtained before such date, other than: (A) the filing or recording of financing statements, instruments of assignment and other similar documents necessary in connection with the sale of the Purchased Assets to the Issuer, (B) such consents, approvals, authorizations, qualifications, registrations, filings or notices as have been obtained or made and (C) where the lack of such consent, approval, authorization, qualification, registration, filing or notice is unlikely to have a material adverse effect on its performance hereunder;

(g) Immediately prior to the sale of the Assigned Assets to the Depositor, the Originator had good and valid title to the Assigned Assets sold by it on such date free and clear of all Liens other than Permitted Liens;

(h) The Originator is solvent, is able to pay its debts as they become due and has capital sufficient to carry on its business and its obligations under each Basic Document to which it is a party; it will not be rendered insolvent by the execution and delivery of this Agreement or by the performance of its obligations under each Basic Document to which it is a party; no petition of bankruptcy (or similar Bankruptcy Proceeding) has been filed by or against the Originator prior to the date hereof;

(i) The Originator has transferred the Assigned Assets transferred by it on each Transfer Date without any intent to hinder, delay or defraud any of its creditors;

(j) The Originator has received fair consideration and reasonably equivalent value in exchange for the Assigned Assets sold and contributed by it on each Transfer Date to the Depositor;

(k) The Originator has not dealt with any broker or agent or other Person who might be entitled to a fee, commission or compensation in connection with the transaction contemplated by this Agreement;

(l) The Originator's principal place of business and chief executive offices are located at 525 University Avenue, Suite 700, Palo Alto, California 94301 or at such other address as shall be designated by such party in a written notice to the other parties hereto;

(m) The Originator and the Servicer acknowledge and agree that the Servicing Fee represents reasonable compensation for the performance of the servicing duties hereunder and that the entire Servicing Fee shall be treated by the Servicer and the Originator, for accounting purposes, as compensation for the servicing and administration of the Transferred Loans pursuant to this Agreement; and

(n) The Originator is in compliance with the financial covenants set forth in Section 7.01.

It is understood and agreed that the representations and warranties set forth in thisSection 3.02 shall survive delivery of the respective Loan Files to the Collateral Custodian, as the agent of the Indenture Trustee, and shall inure to the benefit of the Noteholders, the Depositor, the Servicer, the Indenture Trustee, the Owner Trustee and the Issuer. Upon discovery by the Originator, the Servicer, the Indenture Trustee or the Issuer of a breach of any of the foregoing representations and warranties that materially and adversely affects the value of any item of Collateral or the interests of the Noteholders in any item of Collateral or in the Securities, the party discovering such breach shall give prompt written notice to the other parties. The fact that the Initial Noteholder has conducted or has failed to conduct any partial or complete due diligence investigation of the Loan Files shall not affect any rights of the Securityholders' under this Agreement.

Section 3.03. Representations and Warranties Regarding the Loans.

The Originator hereby represents and warrants, to the Indenture Trustee, for the benefit of the Noteholders, that as of the Closing Date with respect to each Loan sold to the Issuer on the Closing Date, if any, and as of each Transfer Date with respect to each Loan sold to the Issuer on each Transfer Date:

(a) the Loan is evidenced by a promissory note that has been duly authorized and that, together with the related Loan Documents, is in full force and effect and constitutes the legal, valid and binding obligation of the Obligor of such Loan to pay the stated amount of the Loan and interest thereon, and the related Loan Documents are enforceable against such Obligor in accordance with their respective terms;

(b) the Loan was originated in accordance with the terms of the Credit and Collection Policy and arose in the ordinary course of the Originator's business from the lending of money to the related Obligor;

(c) the Loan is not a Defaulted Loan or a Charged-Off Loan, and no payment or portion thereof is more than 30 days Delinquent;

(d) the Obligor of such Loan has executed all appropriate documentation required by the Originator, as required by, and in accordance with, the Credit and Collection Policy;

(e) the Loan, together with the Loan Documents related thereto, is a "general intangible," an "instrument," a "payment intangible," an "account," or "chattel paper" within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(f) all material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the making of such Loan have been duly obtained, effected or given and are in full force and effect;

(g) any applicable taxes in connection with the transfer of such Loan have been paid and the Obligor has been given any assurances (including with respect to the payment of transfer taxes and compliance with securities laws) required by the Loan Documents in connection with the transfer of the Loan;

(h) the Loan is denominated and payable only in Dollars in the United States;

(i) the Loan bears some current cash interest, which is due and payable monthly or quarterly;

(j) the Loan, together with the related Loan Documents, was originated in accordance with, and does not contravene in any material respect any Applicable Laws (including, without limitation, laws, rules and regulations relating to usury, predatory lending, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(k) the Loan, together with the related Loan Documents, is fully assignable without consent of the applicable Obligor or any agent with respect to the Loan (except for such consents which have been obtained prior to the related Transfer Date), (and, if such Loan is secured by an interest in real property, an Assignment of Mortgage, in a form reasonably approved by the Initial Noteholder and attached hereto as Exhibit H prior to the first Borrowing pursuant to which a Loan secured by an interest in real property shall become part of the Collateral, has been delivered to the Collateral Custodian);

(l) the Loan was documented and closed in accordance with the Credit and Collection Policy, and there is only one current original of each promissory note representing all or a portion of the Outstanding Loan Balance of any Loan that is included in the Collateral, and each such note has been delivered to the Collateral Custodian on behalf of the Indenture Trustee, duly endorsed as Collateral;

(m) the Loan and the Depositor's interest in all related Collateral and Related Property are free of any Liens, except for Permitted Liens and all filings and other actions required to perfect the security interest of (a) the Indenture Trustee, on behalf of the Noteholders, in the Collateral have been made or taken and (b) in the case of Agented Notes, the collateral agent, as agent for all noteholders of the related Obligor, in the Related Property, have been made or taken;

(n) the Loan has an original term to maturity of no more than 60 months, and is either fully amortizing in installments (which installments need not be in identical amounts) over such term or the principal amount thereof is due in a single installment at the end of such term (and with respect to Loans to Obligors located in Canada, in which case the original term to maturity of such Loan shall be such as to permit compliance with the representations and warranties in Item 1 of Exhibit M);

(o) no right of rescission, set off, counterclaim, defense or other material dispute has been asserted with respect to such Loan;

(p) any Related Property with respect to such Loan is insured to the extent consistent with the Credit and Collection Policy;

(q) the Loan Documents with respect to such Loan are complete in accordance with the Credit and Collection Policy;

(r) the Obligor with respect to such Loan is an Eligible Obligor;

(s) such Loan does not contain any confidentiality provision which would purport to restrict disclosure of data or other information related to such Loan or the related Obligor to any Rating Agency, investment bank or independent accounting firm in connection with a Permitted Securitization if such Rating Agency, investment bank or independent accounting firm is otherwise subject to confidentiality restrictions that reasonably protect against the disclosure of such data or other information;

(t) the Loan does not by its terms permit the payment obligation of the Obligor thereunder to be converted into or exchanged for equity capital of such Obligor;

(u) if such Loan was originated after August 1, 2005, the Obligor of such Loan has waived all rights of set-off and/or counterclaim against the Originator of the Loan and all assignees thereof;

(v) with respect to Agented Notes, the related Loan Documents (a) shall include a note purchase agreement containing provisions relating to the appointment and duties of a payment agent and a collateral agent and intercreditor and (if applicable) subordination provisions substantially similar to the forms provided to and approved by the Initial Noteholder and attached hereto as Exhibit G prior to the first Borrowing pursuant to which an Agented Note shall become part of the Collateral, and (b) are duly authorized, fully and properly executed and are the valid, binding and unconditional payment obligation of the Obligor thereof;

(w) with respect to Agented Notes, the Originator has been appointed the collateral agent of the security and the payment agent for all such notes prior to such Agented Note becoming a part of the Collateral;

(x) with respect to Agented Notes, if the entity serving as the collateral agent of the security for all syndicated notes of the Obligor has or will change from the time of the origination of the notes, all appropriate assignments of the collateral agent's rights in and to the collateral on behalf of the noteholders have been executed and filed or recorded as appropriate prior to such Agented Note becoming a part of the Collateral;

(y) with respect to Agented Notes, all required notifications, if any, have been given to the collateral agent, the payment agent and any other parties required by the Loan Documents, and all required consents, if any, have been obtained with respect to, the Originator's assignment of the Agented Notes and the Originator's right, title and interest in the Related Property to the Depositor and the security interest therein of the Issuer and of the Indenture Trustee for the benefit of the Noteholders;

(z) with respect to Agented Notes, the right to control the actions of and to replace the collateral agent and/or the paying agent of the syndicated notes is by the Note Majority;

(aa) with respect to Agented Notes, all syndicated notes of the Obligor of the same priority are cross-defaulted, the Related Property securing such notes is held by the collateral agent for the benefit of all holds of the syndicated notes and all holders of such notes (a) have an undivided interest in the collateral securing such notes, (b) share in the proceeds of the sale or other disposition of such collateral on a *pro rata* basis and (c) may transfer or assign their right, title and interest in the Related Property;

(bb) all information on the Loan Schedule delivered to the Collateral Custodian on behalf of the Indenture Trustee with respect to such Loan is true and correct;

(cc) if the Obligor with respect to such Loan is organized or continued under the federal, territorial or provincial laws of, or principally located in Canada, or the Related Property by which such Loan is principally secured is located in or arises under the federal, territorial or provincial laws of, Canada, the Loan complies with the additional criteria attached hereto as Exhibit M; and

(dd) if the Obligor with respect to such Loan is organized or continued under the provincial laws of, or principally located in the Province of Quebec, or the Related Property by which such Loan is principally secured is located in or arises under the provincial laws of, the Province of Quebec, the Loan complies with the additional criteria attached hereto as Exhibit N.

It is understood and agreed that the representations and warranties set forth herein shall survive delivery of the respective Loan Files to the Issuer and/or the Collateral Custodian and shall inure to the benefit of the Issuer or Depositor, as applicable, and their successors and assigns, notwithstanding any restrictive or qualified endorsement or assignment.

Section 3.04. Notice of Breach of Representations and Warranties. It is understood and agreed that the representations and warranties set forth in Section 3.03 shall survive the conveyance of the Purchased Assets to the Issuer and the Grant by the Issuer of an interest in the Collateral to the Indenture Trustee, as applicable, and the delivery of the Notes to the Noteholders. Upon discovery by the Depositor, the Servicer, the Originator, the Collateral Custodian, the Issuer, the Indenture Trustee or any Securityholder of a breach of any of such representations and warranties or the representations and warranties of the Originator set forth in Section 3.02 or 3.03, which breach materially and adversely affects the value or enforceability of all or any portion of the Purchaser Assets or the interests of the Noteholders in all or any portion of the Collateral, any party discovering such breach shall give prompt written notice to the others.

Section 3.05. Substitution of Loans; Repurchase or Substitutions of Ineligible Loans.

(a) Substitution of Loans. On any Business Day during the Revolving Period (and after the Revolving Period at the discretion of the Initial Noteholder), the Depositor may, subject to the conditions set forth in this Section 3.05 and subject to the other restrictions contained herein, replace any Transferred Loan with one or more Eligible Loans (each, a

"Substitute Loan"), *provided* that no such replacement shall occur unless each of the following conditions is satisfied as of the date of such replacement and substitution:

(i) the Depositor has recommended to the Initial Noteholder (with a copy to the Indenture Trustee and the Collateral Custodian) in writing that the Transferred Loan to be replaced should be replaced (each a "Replaced Loan");

(ii) each Substitute Loan is an Eligible Loan on the date of substitution;

(iii) the aggregate Outstanding Loan Balance of such Substitute Loans shall be equal to or greater than the aggregate Outstanding Loan Balance of the Replaced Loans;

(iv) all representations and warranties contained in Section 3.03 shall be true and correct as of the date of substitution of any such Substitute Loan;

(v) the substitution of any Substitute Loan does not cause a Default, a Trigger Event or an Event of Default to occur;

(vi) after giving effect to the proposed substitution, the sum of the Outstanding Loan Balances of all Substitute Loans does not exceed 15% of the highest Aggregate Outstanding Loan Balance for any month during the 12 month period immediately preceding the applicable date of determination (or such lesser number of months as shall have elapsed as of such date of determination);

(vii) after giving effect to the proposed substitution, the sum of the Outstanding Loan Balances of all Substitute Loans substituted for Defaulted Loans and Charged-Off Loans shall not exceed 10% of the highest Aggregate Outstanding Loan Balance for any month during the 12 month period immediately preceding the applicable date of determination (or such lesser number of months as shall have elapsed as of such date of determination);

(viii) the remaining maturity of the Substitute Loan is less than or equal to the remaining maturity of the Replaced Loan;

(ix) the Weighted Average Life of such Substitute Loan is less than or equal to that of the Replaced Loan;

(x) no adverse selection procedures shall have been employed in the selection of such Substitute Loan from the Originator's portfolio;

(xi) all actions or additional actions (if any) necessary to perfect the security interest and assignment of such Substitute Loan and Related Property constituting part of the Purchased Assets related to such Substitute Loan to the Issuer and the Grant of a security interest therein to the Indenture Trustee shall have been taken as of or prior to the Substitution Date;

(xii) the Eligible Risk Rating of the Obligor relating to the Substitute Loan is equal to or better than that of the Obligor relating to the Replaced Loan;

(xiii) the Loan Rate on the Substitute Loan is not less than the Loan Rate on the Replaced Loan;

(xiv) the total interest rate (inclusive of any deferred interest component) of the Substitute Loan is greater than or equal to the total interest rate on the Transferred Loan to be replaced and reconveyed to the Depositor in exchange for such Substitute Loan; and

(xv) the Depositor shall deliver to the Initial Noteholder (with a copy to the Indenture Trustee) on the date of such substitution (i) a certificate of a Responsible Officer certifying that each of the foregoing is true and correct as of such date and (ii) a Borrowing Base Certificate (including a calculation of the Availability after giving effect to such substitution).

In addition, the Depositor shall in connection with such substitution deliver to the Collateral Custodian the related Loan Documents and shall pay to each Hedge Counterparty, as applicable, all Hedge Breakage Costs, if any, incurred in connection with the substitution of such Transferred Loan pursuant to this Section 3.05 and the termination of any Hedge Transactions, in whole or in part, in connection therewith. In connection with any such substitution, the Indenture Trustee, on behalf of Noteholders, shall, automatically and without further action (unless otherwise necessary or requested by the Issuer or the Servicer), be deemed to transfer to the Issuer (for transfer to the Depositor), free and clear of any Lien created by the Indenture, all of the right, title and interest of the Indenture Trustee, on behalf of the Noteholders, in, to and under such Replaced Loan, but without any representation and warranty of any kind, express or implied.

(b) Repurchase or Substitution of Ineligible Loans.

(i) Subject to Section 3.05(b)(ii), in the event of a breach of (A) any representation or warranty set forth inSection 3.03 with respect to a Transferred Loan (or the Related Property and other related collateral constituting part of the Purchased Assets related to such Transferred Loan) (each such Transferred Loan, an "Ineligible Loan"), no later than 30 days after the earlier of (x) knowledge of such breach on the part of the Depositor or the Servicer and (y) receipt by the Depositor or the Servicer of written notice thereof given by the Initial Noteholder or the Indenture Trustee on its behalf, or (B) the applicable Transferred Loan is identified for repurchase pursuant to Section 2.05(b)(ii), the Issuer shall either (1) repay Advances Outstanding in an amount equal to the aggregate Retransfer Price of such Ineligible Loan(s) to which such breach relates on the terms and conditions set forth below, or (2) substitute for such Ineligible Loan a Substitute Loan; *provided*, that no such repayment shall be required to be made with respect to any Ineligible Loan (and such Transferred Loan shall cease to be an Ineligible Loan) if, on or before the expiration of such 30 day period, the representations and warranties in Section 3.03 with respect to such Ineligible Loan shall be made true and correct in all material respects with respect to such Ineligible Loan as if such Ineligible Loan had become part of the Collateral on such day. If the Issuer will repay Advances Outstanding pursuant to clause (1) above, the Depositor shall make a contemporaneous deposit to the Collection Account of the related Retransfer Price, as contemplated by Section 3.05(b)(iii).

(ii) Notwithstanding anything contained in this Section 3.05(b) to the contrary, in the event that a Transferred Loan is determined to be an Ineligible Loan by reason of a breach of any representation and warranty set forth in Section 3.03 with respect to each Transferred Loan, the Related Property and other related collateral constituting part of the Purchased Assets related to such Transferred Loan having been (A) conveyed to the Issuer or Granted to the Indenture Trustee, on behalf of the Noteholders, free and clear of any Lien of any Person claiming through or under the Originator or the Depositor and their respective Affiliates and (B) in compliance, in all material respects, with all Applicable Law, immediately upon the earlier to occur of the discovery of such breach by the Issuer or receipt by the Issuer of written notice of such breach given by the Initial Noteholder (or the Indenture Trustee on its behalf), the Depositor shall make a contemporaneous deposit to the Collection Account as contemplated by Section 3.05(b)(iii) to enable the Issuer to repay, and the Issuer shall repay, Advances Outstanding in an amount equal to the sum of (I) the aggregate Outstanding Loan Balance of such Ineligible Loan(s), (II) any accrued and unpaid interest thereon, (III) any outstanding Servicer Advances thereon and (IV) all Hedge Breakage Costs owed to any relevant Hedge Counterparty for any termination of one or more Hedge Transactions, in whole or in part, as required by the terms of any Hedge Agreement incurred in connection with the retransfer of such Transferred Loan pursuant to this Section 3.05(b) and the termination of any Hedge Transactions in whole or in part in connection therewith, (collectively, the "Retransfer Price"), and the Indenture Trustee on behalf of the Noteholders shall release to Issuer (for release to the Depositor) any such Ineligible Loan(s) and relinquish any Lien created pursuant to the Indenture, this Agreement or otherwise. On and after the date of payment of the Retransfer Price, the applicable Ineligible Loan and the Related Property and other related collateral constituting part of the Purchased Assets with respect to such Ineligible Loan shall not be included in the Collateral.

(iii) In consideration of any such release by the Issuer (and by the Indenture Trustee on behalf of the Noteholders), the Depositor shall, on the date of such repayment, deposit to the Collection Account, in immediately available funds, an amount equal to the Retransfer Price therefor. Upon each such repayment, the Indenture Trustee, on behalf of the Noteholders, shall automatically and without further action be deemed to release to the Issuer (which shall release to the Depositor) all the right, title and interest of the Indenture Trustee on behalf of the Noteholders (and all right, title and interest of the Issuer) in, to and under such Ineligible Loan(s) and all monies due or to become due with respect thereto, all proceeds thereof and all rights to security for any such Ineligible Loan, and all proceeds and products of the foregoing. The Issuer and the Indenture Trustee shall, at the sole expense of the Issuer, execute such documents and instruments of transfer as may be prepared by the Issuer and the Depositor (or the Servicer on their behalf) and take such other actions as shall reasonably be requested by the Issuer to effect the transfer of such Ineligible Loan pursuant to this Section 3.05.

(iv) The Issuer hereby agrees that if any real property collateral securing any Transferred Loan becomes the subject of any claims, proceedings, Liens or encumbrances with respect to any material violation or claimed material violation of any Environmental Law, such Transferred Loan shall for all purposes hereunder be deemed

an Ineligible Loan at and following the time of discovery of such fact by the Servicer, the Issuer, the Initial Noteholder, the Collateral Custodian or the Indenture Trustee, and the Depositor shall either deposit to the Collection Account an amount equal to the Retransfer Price of such Ineligible Loan or replace such Ineligible Loan with a Substitute Loan. Such Ineligible Loan shall otherwise be treated in accordance with this Section 3.05.

Section 3.06. Optional Sales.

(a) During the Revolving Period and prior to the occurrence of a Trigger Event, a Default or an Event of Default, on any Optional Sale Date, the Issuer shall have the right to prepay all or a portion of the Advances Outstanding in connection with the sale and assignment to the Depositor by the Issuer, and the release from the Lien of the Indenture by the Indenture Trustee on behalf of the Noteholders, of all or a portion of the Transferred Loans in connection with a Permitted Securitization (each, an "Optional Sale"), subject to the following terms and conditions:

(i) The Servicer on behalf of the Depositor and the Issuer shall have given the Initial Noteholder (with a copy to the Indenture Trustee) at least 30 Business Days' prior written notice of its intent to effect an Optional Sale, unless such notice requirement is waived or reduced by the Initial Noteholder;

(ii) Any Optional Sale shall be in connection with a Permitted Securitization;

(iii) Unless an Optional Sale is to be effected on a Payment Date (in which case the relevant calculations with respect to such Optional Sale shall be reflected on the applicable Servicer Report), the Servicer shall deliver to the Initial Noteholder (with a copy to the Indenture Trustee) a certificate and evidence to the reasonable satisfaction of the Initial Noteholder (which evidence may consist solely of an Officer's Certificate from the Servicer) that the Issuer shall have sufficient funds on the related Optional Sale Date to effect the contemplated Optional Sale in accordance with this Agreement. In effecting an Optional Sale, the Issuer may use the Proceeds of sales of the Transferred Loans to repay all or a portion of the Aggregate Unpaids;

(iv) After giving effect to the Optional Sale and the assignment to the Issuer of all or a portion of the Transferred Loans, as the case may be, on any Optional Sale Date, (a) the Availability shall be greater than or equal to zero, (b) the representations and warranties contained in Section 3.03 hereof shall continue to be correct and (c) none of a Trigger Event, a Default or an Event of Default shall have resulted from the Optional Sale;

(v) On the related Optional Sale Date, the Noteholders, the Hedge Counterparties, the Indenture Trustee, the Collateral Custodian and the Backup Servicer, as applicable, shall have received, as applicable, in immediately available funds, an amount equal to the sum of (a) the portion of the Advances Outstanding to be repaid (that are attributable to the Purchased Assets to be sold by the Issuer in connection with such Optional Sale) *plus* (b) an amount equal to all unpaid Interest Payment Amounts and

Interest Carry-Forward Amounts to the extent reasonably determined by the Initial Noteholder to be attributable to that portion of the Advances Outstanding to be repaid in connection with the Optional Sale *plus* (c) an aggregate amount equal to the sum of all other amounts due and owing to the Noteholders, the Indenture Trustee, the Backup Servicer, the Collateral Custodian, the Indemnified Parties and the Hedge Counterparties, as applicable, under this Agreement and the other Basic Documents, to the extent accrued to such date and to accrue thereafter to the next Payment Date and attributed to that portion of the Advances Outstanding to be repaid in connection with the Optional Sale; *provided* that the Initial Noteholder shall have the right in connection with a Permitted Securitization to determine whether the amount paid (or proposed to be paid) by the Issuer on the Optional Sale Date is sufficient to satisfy the requirements of clauses (a) through (c) and is sufficient to reduce the Advances Outstanding to the extent requested by the Issuer in connection with the Optional Sale;

(vi) On or prior to each Optional Sale Date, the Servicer on behalf of the Issuer shall have delivered to the Initial Noteholder (with a copy to the Indenture Trustee and the Collateral Custodian) a list specifying all Transferred Loans to be sold and assigned pursuant to such Optional Sale; and

(vii) No selection procedure adverse to the interests of the Noteholders shall have been employed in the selection of the Transferred Loans to be sold and assigned pursuant to such Optional Sale.

(b) In connection with any Optional Sale, upon receipt by the Noteholders, the Hedge Counterparties, the Indenture Trustee, the Collateral Custodian and the Backup Servicer, as applicable, of the amounts referred to in clause (a)(v) above (receipt of which by the Noteholders and the Hedge Counterparties shall be confirmed to the Collateral Custodian and Trustee), there shall be sold and assigned to the Depositor without recourse, representation or warranty all of the right, title and interest of the Issuer, in, to and under the portion of the Purchased Assets so retransferred and such portion of the Purchased Assets so retransferred shall be released from the Lien of this Agreement and the Lien of the Indenture and shall no longer be a part of the Collateral under the Indenture.

(c) The Originator hereby agrees to pay the reasonable legal fees and expenses of the Initial Noteholder and each party hereto in connection with any Optional Sale (including, but not limited to, expenses incurred in connection with the release of the Lien of the Indenture Trustee on behalf of the Noteholders and any other party having an interest in the Collateral in connection with such Optional Sale).

(d) In connection with any Optional Sale, on the related Optional Sale Date, the Indenture Trustee, on behalf of the Noteholders, shall, at the expense of the Issuer, and the Issuer shall, at the request of the Depositor, as the case may be, (i) execute such instruments of release in favor of the Issuer or the Depositor, as applicable, with respect to the portion of the Collateral to be retransferred to the Issuer and the portion of the Purchased Assets to be retransferred to the Depositor, as applicable, as the Issuer, the Depositor or the Initial Noteholder, as applicable, may reasonably request (in recordable form if necessary and, in each case, without recourse), (ii) deliver any portion of the Collateral to be retransferred to the Issuer

and the portion of the Purchased Assets to be retransferred to the Depositor, as applicable, in its possession to the Issuer or the Depositor, as applicable, and (iii) otherwise take such actions, and cause or permit the Issuer or the Indenture Trustee to take such actions, as are necessary and appropriate to release the Lien of the Indenture Trustee on the portion of the Collateral to be retransferred to the Issuer (and the Depositor) and release and deliver to the Depositor such portion of the Purchased Assets to be retransferred to the Depositor.

(e) Notwithstanding anything in this Section 3.06 the Issuer shall not, and the Servicer shall not on the Issuer's behalf, purchase, sell or substitute any Transferred Loan with the primary purpose of recognizing gain or decreasing losses on such Transferred Loan or in any manner that would cause the Issuer not to be in compliance with the requirements of Rule 3a-7 under the 1940 Act.

Section 3.07. RIC/BDC Sales.

(a) During the Revolving Period, and prior to the occurrence of a Trigger Event, a Default or an Event of Default, on any RIC/BDC Sale Date, the Issuer shall have the right to prepay all or a portion of the Advances Outstanding in connection with the sale and assignment to a third party by the Issuer, and the release from the Lien of the Indenture by the Indenture Trustee of one or more Transferred Loans (each, a "RIC/BDC Sale"), subject to the following terms and conditions:

(i) At least five Business Days prior to such RIC/BDC Sale Date, the Servicer on behalf of the Issuer shall have recommended to the Initial Noteholder in writing that the related Transferred Loan should be sold and shall have given the Initial Noteholder (with a copy to the Indenture Trustee and the Collateral Custodian) written notice of its intent to effect a RIC/BDC Sale (each such notice, a "RIC/BDC Sale Notice"), specifying the RIC/BDC Sale Date, including a list of all Transferred Loans to be sold and assigned pursuant to such RIC/BDC Sale and demonstrating that after such RIC/BDC Sale, the RIC/BDC Requirements shall be satisfied;

(ii) Any RIC/BDC Sale shall be made by the Issuer to an unaffiliated third party purchaser in a transaction (x) in accordance with Accepted Servicing Practices, (y) reflecting arms-length market terms and (z) in which the Issuer makes no representations, warranties or covenants and provides no indemnification for the benefit of any other party to the RIC/BDC Sale (other than any representations, warranties or covenants relating to the Issuer's ownership of or title to the Transferred Loan that is the subject of the RIC/BDC Sale that are standard and customary in connection with such a sale or for which the Originator has agreed to fully indemnify the Issuer);

(iii) The Servicer shall deliver to the Initial Noteholder (with a copy to the Indenture Trustee and the Collateral Custodian) a completed Borrowing Base Certificate and other evidence to the reasonable satisfaction of the Initial Noteholder that (w) the RIC/BDC Requirements are not satisfied prior to the related RIC/BDC Sale and after such sale the RIC/BDC Requirements shall be satisfied or the extent of compliance with the RIC/BDC Requirements will be improved, (x) the requirements of Section 3.07(a)(v) will be satisfied on the related RIC/BDC Sale Date after giving effect to the contemplated

RIC/BDC Sale, (y) the sum of the Outstanding Loan Balances of all Transferred Loans that have been sold pursuant to RIC/BDC Sales does not exceed 10% of the highest Aggregate Outstanding Loan Balance for any month during the 12 month period immediately preceding the applicable date of determination (or such lesser number of months as shall have elapsed as of such date of determination);

(iv) After giving effect to the RIC/BDC Sale and the release to the Issuer of the related Collateral on any RIC/BDC Sale Date, (a) the Availability shall be equal to or greater than zero, (b) the representations and warranties contained in Section 3.03 hereof shall continue to be correct, and (c) none of a Trigger Event, a Default or an Event of Default shall have resulted;

(v) On the related RIC/BDC Sale Date, the Indenture Trustee on behalf of the Noteholders shall have received, into the Collection Account, in immediately available funds, an amount equal to the sum of (a) the portion of the Advances Outstanding to be prepaid that are attributable to the Collateral to be sold by the Issuer pursuant to this Section 3.07 *plus* (b) an amount equal to all unpaid Interest Payment Amounts and Interest Carry-Forward Amounts to the extent reasonably determined by the Initial Noteholder to be attributable to that portion of the Advances Outstanding to be paid in connection with the RIC/BDC Sale *plus* (c) an aggregate amount equal to the sum of all other amounts due and owing to the Noteholders, the Indenture Trustee, the Collateral Custodian and the Backup Servicer, the Indemnified Parties and the Hedge Counterparties, as applicable, under this Agreement and the other Basic Documents, to the extent accrued to such date and to accrue to the next Payment Date (including, without limitation, Hedge Breakage Costs and any other payments owing to the Hedge Counterparties in respect of the termination of any Hedge Transaction) in each case, to the extent attributable to the Collateral to be sold by the Issuer pursuant to this Section 3.07; *provided* that the Initial Noteholder shall have the right to determine whether the amount paid (or proposed to be paid) by the Issuer on the RIC/BDC Sale Date is sufficient to satisfy the requirements in clauses (a) through (c) and is sufficient to reduce the Advances Outstanding to the extent requested by the Issuer in connection with the RIC/BDC Sale; *provided, further*, that any proceeds of such RIC/BDC Sale in excess of the amount so deposited into the Collection Account also shall be deposited into the Collection Account and used to prepay Advances Outstanding on such RIC/BDC Sale Date; and

(vi) Any RIC/BDC Sale shall be made only to the extent such sale is necessary (as certified by a Responsible Officer of the Servicer in the related RIC/BDC Sale Notice) to satisfy the RIC/BDC Requirements.

(b) In connection with any RIC/BDC Sale, following receipt by the Noteholders of the amounts referred to in clause (v) above (receipt of which shall be confirmed to the Collateral Custodian and Indenture Trustee), there shall be released to the Issuer (for further sale to a third-party unaffiliated with the Issuer, the Originator or the Servicer) without recourse, representation or warranty all of the right, title and interest of the Indenture Trustee and the Noteholders in, to and under the portion of the Collateral so released and such portion of the

Collateral so released shall be released from the Lien of the Indenture and this Agreement (subject to the requirements of clauses (iii) and (iv) above).

(c) The Originator hereby agrees to pay the reasonable legal fees and expenses of the Initial Noteholder and each party hereto in connection with any RIC/BDC Sale (including, but not limited to, expenses incurred in connection with the release of the Lien of the Indenture Trustee on behalf of the Noteholders and any other party having an interest in the portion of the Collateral to be released in connection with such RIC/BDC Sale).

(d) In connection with any RIC/BDC Sale, on the related RIC/BDC Sale Date, the Indenture Trustee on behalf of the Noteholders shall, at the expense of the Issuer (i) execute such instruments of release with respect to the portion of the Collateral to be released to the Issuer, in recordable form if necessary, in favor of the Issuer as the Servicer on behalf of the Issuer may reasonably request, (ii) deliver any portion of the Collateral to be released to the Issuer in its possession to the Issuer and (iii) otherwise take such actions, and cause or permit the Indenture Trustee to take such actions, as are determined by the Issuer or Servicer to be reasonably necessary and appropriate to release the Lien of the Indenture on the portion of the Collateral to be released to the Issuer and release and deliver to the Issuer such portion of the Collateral to be released to the Issuer.

(e) Notwithstanding anything in this Section 3.07 the Issuer shall not, and the Servicer shall not on the Issuer's behalf, purchase, sell or substitute any Transferred Loan with the primary purpose of recognizing gain or decreasing losses on such Transferred Loan or in any manner that would cause the Issuer not to be in compliance with the requirements of Rule 3a-7 under the 1940 Act.

Section 3.08. Deemed Collections.

(a) If on any day the Indenture Trustee, on behalf of the Noteholders, does not own or have a valid and perfected first priority security interest in any Transferred Loan and Related Property (subject to Permitted Liens), if within 30 days after the earlier of the Servicer's receipt of notice from the Indenture Trustee or the Servicer becoming aware thereof the Servicer has failed to cure such breach (if cure is reasonably possible and otherwise immediately upon receipt of such notice or upon the Servicer becoming aware), the Depositor shall be deemed to have received on such 30th day (or such earlier day, as applicable) a collection (a "Deemed Collection") of such Transferred Loan in full and shall on such day pay to the Issuer for payment to the Noteholders (by deposit in the Collection Account), an amount equal to (x) the Retransfer Price with respect to such Transferred Loan, *plus* (y) any other costs and expenses related to the retransfer of such Transferred Loan and any Related Property contemplated by this Section 3.08.

(b) In connection with any such Deemed Collection, the Indenture Trustee, on behalf of the Noteholders, shall automatically and without further action (unless otherwise necessary or requested by the Initial Noteholder, the Issuer, the Depositor or the Servicer), be deemed to release the Lien on such Transferred Loan and any Related Property created by this Agreement and the Indenture and transfer to the Issuer, for transfer to the Depositor, free and clear of any Lien created by the Indenture or this Agreement, all of the right, title and interest of the Indenture Trustee, on behalf of the Noteholders, in, to, and under the Transferred Loan and

any Related Property with respect to which the Depositor has received such Deemed Collection, but without any recourse, representation and warranty of any kind, express or implied.

ARTICLE IV

ADMINISTRATION AND SERVICING OF LOANS

Section 4.01. Appointment of the Servicer.

The Issuer hereby appoints Hercules Technology Growth Capital, Inc. as the Servicer hereunder to service the Transferred Loans and enforce its respective rights and interests in and under each Transferred Loan in accordance with the terms and conditions of this Article IV and to serve in such capacity until the termination of its responsibilities pursuant to Section 9.01. Hercules Technology Growth Capital, Inc. hereby accepts such appointment and agrees to perform the duties and obligations with respect thereto set forth herein. The Servicer and the Issuer hereby acknowledge that the Indenture Trustee, the Initial Noteholder and the other Noteholders are third party beneficiaries of the obligations undertaken by the Servicer hereunder.

Section 4.02. Duties and Responsibilities of the Servicer.

(a) The Servicer shall conduct the servicing, administration and collection of the Transferred Loans and shall take, or cause to be taken, all such actions as may be necessary or advisable to service, administer and collect Transferred Loans from time to time on behalf of the Issuer and as the Issuer's agent. The Servicer will service, administer and make collections on the Transferred Loans with reasonable care, using that degree of skill and attention that the Servicer exercises with respect to all comparable loans that it services for itself or others.

(b) The duties of the Servicer, as the Issuer's agent, shall include, without limitation:

(i) preparing and submitting of claims to, and post-billing liaison with, Obligors on Transferred Loans;

(ii) maintaining all necessary Servicing Records with respect to the Transferred Loans and providing such reports to the Issuer, the Indenture Trustee and the Initial Noteholder in respect of the servicing of the Transferred Loans (including information relating to its performance under this Agreement) as may be required hereunder or as the Issuer, the Initial Noteholder or the Indenture Trustee may reasonably request;

(iii) maintaining and implementing administrative and operating procedures (including, without limitation, an ability to re-create Servicing Records evidencing the Transferred Loans in the event of the destruction of the originals thereof) and keeping and maintaining all documents, books, records and other information reasonably necessary or advisable for the collection of the Transferred Loans (including, without limitation, records adequate to permit the identification of each new Transferred Loan and all Collections of and adjustments to each existing Transferred Loan); *provided*, that any successor Servicer shall only be required to re-create the Servicing Records of each

prior Servicer to the extent such records have been delivered to it in a format reasonably acceptable to such successor Servicer;

(iv) promptly delivering to the Issuer, the Indenture Trustee, the Initial Noteholder and the Collateral Custodian, from time to time, such information and Servicing Records (including information relating to its performance under this Agreement) as the Issuer, the Indenture Trustee, the Initial Noteholder or the Collateral Custodian may from time to time reasonably request;

(v) identifying each Transferred Loan clearly and unambiguously in its Servicing Records to reflect that such Transferred Loan is owned by the Issuer and pledged to the Indenture Trustee, for the benefit of the Noteholders;

(vi) complying in all material respects with the Credit and Collection Policy in regard to each Transferred Loan;

(vii) complying in all material respects with all Applicable Laws with respect to it, its business and properties and all Transferred Loans and Collections with respect thereto;

(viii) preserving and maintaining its existence, rights, licenses, franchises and privileges as a corporation in the jurisdiction of its organization, and qualifying and remaining qualified in good standing as a foreign corporation and qualifying to and remaining authorized and licensed to perform obligations as Servicer (including enforcement of collection of Transferred Loans on behalf of the Issuer, the Indenture Trustee and the Noteholders) in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification would materially adversely affect (A) the rights or interests of the Issuer, the Indenture Trustee and the Noteholders in the Transferred Loans, (B) the collectibility of any Transferred Loan, or (C) the ability of the Servicer to perform its obligations hereunder;

(ix) notifying the Issuer, the Initial Noteholder and the Indenture Trustee of any material action, suit, proceeding, dispute, offset deduction, defense or counterclaim that (1) is or is threatened to be asserted by an Obligor with respect to any Transferred Loan; or (2) would reasonably be expected to have a Material Adverse Effect; and

(c) The Issuer and Servicer hereby acknowledge that none of the Indenture Trustee, the Initial Noteholder, any other Noteholder nor the Collateral Custodian shall have any obligation or liability with respect to any Transferred Loans, nor shall any of them be obligated to perform any of the obligations of the Servicer hereunder.

Section 4.03. Authorization of the Servicer.

(a) Each of the Issuer and the Indenture Trustee, on behalf of the Noteholders, hereby authorizes the Servicer (including any successor thereto) to take any and all reasonable steps in its name and on its behalf necessary or desirable and not inconsistent with the pledge of the Transferred Loans pursuant to the Indenture, in the determination of the Servicer, to collect all amounts due under any and all Transferred Loans, including, without limitation, endorsing

any of their names on checks and other instruments representing Collections, executing and delivering any and all instruments of satisfaction or cancellation, or of partial or full release or discharge, and all other comparable instruments, with respect to the Transferred Loans and, after the delinquency of any Transferred Loan and to the extent permitted under and in compliance with Applicable Law, to commence proceedings with respect to enforcing payment thereof, to the same extent as the Originator could have done if it had continued to own such Loan. The Issuer shall furnish the Servicer (and any successors thereto) with any powers of attorney and other documents necessary or appropriate to enable the Servicer to carry out its servicing and administrative duties hereunder, and shall cooperate with the Servicer to the fullest extent in order to ensure the collectibility of the Transferred Loans. In no event shall the Servicer be entitled to make the Issuer, the Collateral Custodian, the Indenture Trustee or any Noteholder a party to any litigation without such party's express prior written consent, or to make the Issuer a party to any litigation (other than any routine foreclosure or similar collection procedure) without the Indenture Trustee's consent.

(b) After a Trigger Event or an Event of Default has occurred and is continuing, at the Initial Noteholder's direction, the Servicer shall take such action as the Initial Noteholder or the Indenture Trustee may deem necessary or advisable to enforce collection of the Transferred Loans; *provided*, that the Initial Noteholder or the Indenture Trustee may, at any time after a Trigger Event or an Event of Default has occurred and is continuing, notify any Obligor with respect to any Transferred Loans of the pledge of such Transferred Loans to the Indenture Trustee and direct that payments of all amounts due or to become due to the Issuer thereunder be made directly to the Indenture Trustee or any servicer, collection agent or lock-box or other account designated by the Initial Noteholder or the Indenture Trustee and, upon such notification and at the expense of the Issuer, the Indenture Trustee may enforce collection of any such Transferred Loans and adjust, settle or compromise the amount or payment thereof. The Indenture Trustee shall give written notice to any successor Servicer of the Indenture Trustee's actions or directions pursuant to this Section 4.3(b).

Section 4.04. Collection of Payments.

(a) Collection Efforts, Modification of Loans. The Servicer will make reasonable efforts to collect all payments called for under the terms and provisions of the Transferred Loans as and when the same become due, and will follow those collection procedures as are consistent with Accepted Servicing Practices. The Servicer may not waive, modify or otherwise vary any provision of a Transferred Loan, except as may be in accordance with the Credit and Collection Policy. Notwithstanding anything to the contrary contained herein, if after giving effect to any sale (1) the amount described in clause (ii) of the definition of Availability shall exceed the amount described in clause (i) of the definition of Availability or (2) a Trigger Event, a Default or an Event of Default would occur then the Servicer prior to any such sale which would result in a loss to the Noteholders based on the Outstanding Loan Balance *plus* accrued interest and other fees due and payable shall obtain the prior written consent of the Initial Noteholder.

(b) Taxes and other Amounts. To the extent provided for in any Transferred Loan, the Servicer will use its best efforts to collect all payments with respect to amounts due for taxes, assessments and insurance premiums relating to such Transferred Loans or the Related

Property and remit such amounts to the appropriate Governmental Authority or insurer on or prior to the date such payments are due.

(c) Payments to Concentration Account. On or before the Transfer Date with respect to each Transferred Loan, the Servicer shall have instructed all Obligors to make all payments in respect of all Transferred Loans included in the Collateral directly to the Concentration Account. All proceeds in the Concentration Account shall be distributed into the Collection Account within two Business Days as provided in the Intercreditor Agreement.

(d) Control. In order to provide the Indenture Trustee with control over the Collection Account, the Principal Collections Account and the Distribution Account within the meaning of Section 9-104(a) of the UCC and any other applicable law, the Issuer and the Servicer hereby agree that the Indenture Trustee may at any time provide U.S. Bank or any successor Person that maintains the Collection Account, the Principal Collections Account and the Distribution Account with instructions as to the disposition of funds in the Collection Account, the Principal Collections Account and the Distribution Account or as to any other matters relating to the Collection Account, the Principal Collections Account and the Distribution Account without any further consent from the Issuer or the Servicer. U.S. Bank agrees with the Issuer, the Servicer and the Indenture Trustee to comply with any and all orders, notices, requests and other instructions originated by the Indenture Trustee directing disposition of the funds in the Collection Account, the Principal Collections Account and the Distribution Account without any further consent from the Issuer or the Servicer.

(e) Adjustments. If (i) the Servicer makes a deposit into the Collection Account in respect of a Collection of a Transferred Loan included in the Collateral and such Collection was received by the Servicer in the form of a check that is not honored for any reason or (ii) the Servicer makes a mistake with respect to the amount of any Collection and deposits an amount that is less than or more than the actual amount of such Collection, the Servicer shall appropriately adjust the amount subsequently deposited into the Collection Account to reflect such dishonored check or mistake. Any Scheduled Payment in respect of which a dishonored check is received shall be deemed not to have been paid.

(f) Released Amounts. The Indenture Trustee hereby agrees that it shall, at the direction of the Initial Noteholder, release to the Issuer from the Collateral, and the Issuer hereby agrees to release to the Depositor, an amount equal to the Released Amounts promptly upon receipt of an Officer's Certificate of the Servicer setting forth the calculation thereof, which release shall be automatic and shall require no further act by the Indenture Trustee or the Noteholders; *provided*, that, the Indenture Trustee and the Issuer, as applicable, shall execute and deliver such instruments of release and assignment, or otherwise confirm the foregoing release, as may reasonably be requested by the Servicer on behalf of the Issuer or the Depositor, as applicable, in writing. Upon such release, such Released Amounts shall not constitute and shall not be included in the Collateral. Immediately upon the release to the Issuer by the Indenture Trustee of the Released Amounts, the Issuer hereby irrevocably agrees to release to the Originator such Released Amounts, which release shall be automatic and shall require no further act by the Issuer; provided, that, the Issuer shall execute and deliver such instruments of release and assignment, or otherwise confirming the foregoing release of any Released Amounts, as may be reasonably requested by the Originator.

Section 4.05. Servicer Advances.

(a) For each Collection Period, if the Servicer determines that any Scheduled Payment (or portion thereof) that was due and payable pursuant to a Transferred Loan included in the Collateral during such Collection Period was not received prior to the end of such Collection Period, the Servicer may, but shall not be obligated to, make an advance in an amount up to the amount of such delinquent Scheduled Payment (or portion thereof) if the Servicer reasonably believes that the advance will be reimbursed by the related Obligor; in addition, if on any day there are not sufficient funds on deposit in the Collection Account to pay accrued Interest Payment Amounts and any Interest Carry-Forward Amounts and Trust Fees and Expenses on any Borrowing the Collection Period of which ends on such day, the Servicer may make an advance in the amount necessary to pay such Interest Payment Amounts and any Interest Carry-Forward Amounts and Trust Fees and Expenses if the Servicer reasonably believes that the advance will be reimbursed by the related Obligor (in either case, any such advance, a "Servicer Advance"). Notwithstanding the preceding sentence, any successor Servicer will not be obligated to make any Servicer Advances.

(b) The Servicer will deposit any Servicer Advances into the Collection Account on or prior to 11:00 a.m. (New York City time) on the related Payment Date, in immediately available funds. A Servicer Advance for a delinquent payment on a Transferred Loan will not result in a reclassification of the delinquency status of such Transferred Loan for reporting purposes and the Delinquent payment with respect to such Transferred Loan will continue to age as if no payment has been made.

Section 4.06. Realization Upon Defaulted Loans or Charged-Off Loans.

The Servicer will use its reasonable efforts to repossess or otherwise comparably convert the ownership of any Related Property with respect to a Defaulted Loan or Charged-Off Loan and will act as sales and processing agent for Related Property that it repossesses. The Servicer will follow the practices and procedures set forth in the Credit and Collection Policy in order to realize upon such Related Property. Without limiting the foregoing, the Servicer may sell any such Related Property with respect any Defaulted Loan or Charged-Off Loan to the Servicer or its Affiliates for a purchase price equal to the then fair market value thereof; any such sale to be evidenced by a certificate of a Responsible Officer of the Servicer delivered to the Indenture Trustee identifying the Defaulted Loan or Charged-Off Loan and the Related Property, setting forth the sale price of the Related Property and certifying that such sale price is the fair market value of such Related Property; *provided*, that if after giving effect to such sale (a) the Availability would not be greater than or equal to zero or (b) a Trigger Event, a Default or an Event of Default would occur, then the Servicer prior to selling any Related Property with respect a Defaulted Loan or Charged-Off Loan shall obtain the prior written consent of the initial Noteholder. In any case in which any such Related Property has suffered damage, the Servicer will not expend funds in connection with any repair or toward the repossession of such Related Property unless it reasonably determines that such repair and/or repossession will increase the Recoveries by an amount greater than the amount of such expenses. The Servicer will remit to the Collection Account the Recoveries received in connection with the sale or disposition of Related Property with respect to a Defaulted Loan or Charged-Off Loan.

Section 4.07. Maintenance of Insurance Policies.

The Servicer will require that each Obligor with respect to a Transferred Loan maintain an Insurance Policy with respect to each Transferred Loan and the Related Property, to the extent consistent with the Credit and Collection Policy. In connection with its activities as Servicer, the Servicer agrees to present, on behalf of the Issuer and the Indenture Trustee, on behalf of the Noteholders, with respect to the respective interests, claims to the insurer under each Insurance Policy and any such liability policy, and to settle, adjust and compromise such claims, in each case, consistent with the terms of each related Transferred Loan.

Section 4.08. Representations and Warranties of the Servicer.

The Servicer hereby represents and warrants as follows:

(a) Organization and Good Standing; Power and Authority. The Servicer is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation with all requisite corporate power and authority to own its properties and to conduct its business as presently conducted and to enter into and perform its obligations pursuant to this Agreement and each other Basic Document to which it is a party.

(b) Due Qualification. The Servicer is qualified to do business as a corporation, is in good standing, and has obtained all licenses and approvals as required under the laws of all jurisdictions in which the ownership or lease of its property and or the conduct of its business (other than the performance of its obligations hereunder) requires such qualification, standing, license or approval, except to the extent that the failure to so qualify, maintain such standing or be so licensed or approved would not have an adverse effect on the interests of the Issuer or of the Initial Noteholder. The Servicer is qualified to do business as a corporation, is in good standing, and has obtained all licenses and approvals as required under the laws of all states in which the performance of its obligations pursuant to this Agreement requires such qualification, standing, license or approval, except where the failure to qualify or obtain such license or approval would not reasonably be expected to have a Material Adverse Effect on its ability to perform hereunder.

(c) Due Authorization. The Servicer has duly authorized the execution, delivery and performance of this Agreement by all requisite corporate action.

(d) No Violation. The consummation of the transactions contemplated by, and the fulfillment of the terms of, this Agreement by the Servicer (with or without notice or lapse of time) will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute a default under, the articles of incorporation or by-laws of the Servicer, or any material Contractual Obligation to which the Servicer is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any such Contractual Obligation (other than this Agreement or the Loan Sale Agreement), or (iii) violate in any material respect any Applicable Law.

(e) No Consent. No consent, approval, authorization, order, registration, filing, qualification, license or permit of or with any Governmental Authority having jurisdiction over the Servicer or any of its properties is required to be obtained by or with respect to the

Servicer in order for the Servicer to enter into this Agreement or perform its obligations hereunder.

(f) Binding Obligation. This Agreement constitutes a legal, valid and binding obligation of the Servicer, enforceable against the Servicer in accordance with its terms, except as such enforceability may be limited by (i) applicable Bankruptcy Laws and (ii) general principles of equity (whether considered in a suit at law or in equity).

(g) No Proceedings. Except as previously disclosed to the Initial Noteholder in writing, there are no proceedings or investigations (formal or informal) pending or threatened against the Servicer, before any Governmental Authority (i) asserting the invalidity of this Agreement, (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or (iii) seeking any determination or ruling that would (in the reasonable judgment of the Servicer) be expected to have a Material Adverse Effect.

(h) Reports Accurate. All Servicer Certificates, information, exhibits, financial statements, documents, books, Servicing Records or reports furnished or to be furnished by the Servicer to the Initial Noteholder, the Indenture Trustee or any other party in connection with this Agreement are and will be accurate, true and correct in all material respects.

(i) No Servicer Default. No event has occurred and is continuing and no condition exists, or would result from a Borrowing or from the application of the proceeds therefrom, which constitutes or may reasonably be expected to constitute a Servicer Default.

(j) Material Adverse Change. Since December 31, 2004, there has been no Material Adverse Change with respect to the initial Servicer.

(k) Credit and Collection Policy. It has at all times, since the adoption of the Credit and Collection Policy, complied with the Credit and Collection Policy with respect to each Transferred Loan.

Section 4.09. Covenants of the Servicer.

The Servicer hereby covenants that:

(a) Compliance with Law. The Servicer will comply in all material respects with all Applicable Laws, including those with respect to the Transferred Loans, the Related Property and Loan Documents or any part thereof.

(b) Preservation of Corporate Existence. The Servicer will preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its formation, and qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where the failure to maintain such existence, rights, franchises, privileges and qualification could reasonably be expected to have, a Material Adverse Effect.

(c) Obligations with Respect to Transferred Loans. The Servicer will duly fulfill and comply with all obligations on the part of the Issuer to be fulfilled or complied with under or in connection with each Transferred Loan and will do nothing to impair the rights of the

Issuer or the Indenture Trustee, on behalf of the Noteholders, or of the Noteholders in, to and under the Collateral.

(d) Preservation of Security Interest. The Issuer or the Servicer on behalf of the Issuer will execute and file (or cause the execution and filing of) such financing and continuation statements and any other documents and take such other actions that may be required by any law or regulation of any Governmental Authority to preserve and protect fully the interest of the Indenture Trustee, on behalf of the Noteholders, in, to and under the Collateral.

(e) Change of Name or Location; Records. The Servicer (i) shall not change its name, move the location of its principal executive office or change its jurisdiction of incorporation, without 30 days' prior written notice to the Issuer, the Initial Noteholder and the Indenture Trustee, and (ii) shall not move, or consent to the Collateral Custodian moving the Loan Documents without 45 days' prior written notice to the Issuer, the Initial Noteholder and the Indenture Trustee and (iii) will promptly take all actions required of each relevant jurisdiction in order to continue the first priority perfected security interest of the Indenture Trustee, on behalf of the Noteholders, in all Collateral, including delivery of an Opinion of Counsel.

(f) Credit and Collection Policy. The initial Servicer will (i) comply in all material respects with the Credit and Collection Policy in regard to each Transferred Loan and the Related Property included in the Collateral, including, without limitation, performing the loan grading and asset valuation functions specified in the Credit and Collection Policy on a quarterly basis, and (ii) furnish to the Initial Noteholder, prior to its effective date, prompt notice of any change in the Credit and Collection Policy. The initial Servicer will not agree or otherwise permit (x) any change in the Credit and Collection Policy which would materially and adversely affect or impair the collectibility of any Transferred Loan, or (y) to occur any material change in the Credit and Collection Policy, without the prior written consent of the Initial Noteholder.

(g) Notice of Certain Events. The Servicer will furnish to the Initial Noteholder, as soon as possible and in any event within one Business Day after the Servicer shall have knowledge of the occurrence of any Trigger Event, Default or Event of Default, a written statement setting forth the details of such event and the action that the Servicer proposes to take with respect thereto.

(h) Extension or Amendment of Transferred Loans. The Servicer will not, except as otherwise permitted in Section 4.04(a), extend, amend or otherwise modify the terms of any Transferred Loan.

(i) Other. The Servicer will furnish to the Issuer, the Indenture Trustee and the Initial Noteholder such other information, documents records or reports respecting the Transferred Loans or the condition or operations, financial or otherwise of the Servicer as the Issuer, the Indenture Trustee or the Initial Noteholder may from time to time reasonably request in order to protect the respective interests of the Issuer, the Indenture Trustee and the Noteholders under or as contemplated by this Agreement or any other Basic Document.

(j) Agented Notes. Except as provided in Section 4.04(a), the Servicer and the Originator covenant that they shall not without the prior written consent of the Initial Noteholder (i) make or consent to any amendment or alteration of the terms of any Agented Note or related Loan Documents, including without limitation the payments due thereunder, (ii) undertake to release or authorize or consent to the release of any collateral or security for the Agented Notes, (iii) accelerate or extend the maturity of any Agented Note or (iv) waive any claim against the Obligor or any applicable guarantor thereof, where the effect of any of the foregoing would have a material adverse effect on the Collateral, any Noteholder or the interest of the Indenture Trustee on behalf of the Noteholders in any Collateral.

(k) Inspection of Records. The Servicer will, at any time and from time to time during regular business hours, as requested by the Indenture Trustee or the Initial Noteholder, permit the Indenture Trustee or the Initial Noteholder, or their respective agents or representatives, (i) to examine and make copies of and take abstracts from all books, records and documents (including computer tapes and disks) relating to the Transferred Loans and the related Loan Documents and (ii) to visit the offices and properties of the Issuer, the Originator or the Servicer, as applicable, for the purpose of examining such materials described in clause (i), and to discuss matters relating to the Transferred Loans or the Issuer's, the Originator's or the Servicer's performance hereunder, under the Loan Documents and under the other Basic Documents to which such Person is a party with such officers, directors, employees or independent public accountants of the Issuer, the Originator or the Servicer, as applicable, as might reasonably be determined to have knowledge of such matters. Prior to the occurrence of an Event of Default or a Trigger Event, the Servicer shall bear the expense of up to two such inspections in any 12-month period, subject to a maximum of $40,000 of such expenses in the aggregate, and any additional inspections or expenses in excess of $40,000 shall be for the account of the Initial Noteholder. Upon and after the occurrence of an Event of Default or a Trigger Event, the Servicer shall be required to bear the expense of all such inspections.

(l) Keeping of Records. The Servicer will maintain and implement administrative and operating procedures (including an ability to recreate records evidencing Transferred Loans and the related Loan Documents in the event of the destruction of the originals thereof), and keep and maintain, all documents, books, computer tapes, disks, records and other information reasonably necessary or advisable for the collection of all Transferred Loans (including records adequate to permit the daily identification of each new Transferred Loan and all Collections of and adjustments to each existing Transferred Loan). The Servicer shall give the Initial Noteholder (with a copy to Indenture Trustee and the Collateral Custodian) prompt notice of any material change in its administrative and operating procedures referred to in the previous sentence.

(m) Compliance with Transferred Loans. The Servicer will (i) at its own expense, timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by it under the Transferred Loans and the related Loan Documents; and (ii) timely and fully comply in all material respects with the Credit and Collection Policy with respect to each Transferred Loan and the related Loan Documents.

(n) Consolidation or Merger of the Servicer. The initial Servicer shall not consolidate or merge with or into, or sell, lease or transfer all or substantially all of its assets to,

any other Person, unless, in the case of any such action (i) no Trigger Event, Event of Default or Material Adverse Effect would occur or be reasonably likely to occur as a result of such transaction, (ii) the Initial Noteholder provides its prior written consent to such transaction and (iii) such Person executes and delivers to the Initial Noteholder (with a copy to the Indenture Trustee) an agreement by which such Person assumes the obligations of the Servicer hereunder and under the other Basic Documents to which it is a party, or confirms that such obligations remain enforceable against it, together with such certificates and opinions of counsel as the Initial Noteholder may reasonably request.

(o) RIC/BDC Requirements. The initial Servicer shall at all times maintain compliance with the RIC/BDC Requirements.

Section 4.10. The Collateral Custodian.

(a) Appointment; Custodial Duties. The Issuer and the Initial Noteholder each hereby appoints U.S. Bank to act as Collateral Custodian hereunder, for the benefit of the Issuer, the Indenture Trustee and the Noteholders, as provided herein. U.S. Bank hereby accepts such appointment and agrees to perform the duties and responsibilities with respect thereto set forth herein.

The Collateral Custodian shall take and retain custody of the Loan Files delivered by the Issuer or on its behalf pursuant to Section 2.04 hereof in accordance with the terms and conditions of this Agreement, all for the benefit of the Noteholders and subject to the Lien thereon in favor of the Indenture Trustee, on behalf of the Noteholders. Upon receipt of any such Loan File, the Collateral Custodian shall perform the review and certification functions with respect thereto specified in Section 2.05.

In taking and retaining custody of the Loan Files, the Collateral Custodian shall be acting as the agent of the Indenture Trustee on behalf of the Noteholders; *provided*, that the Collateral Custodian makes no representations as to the existence, perfection or priority of any Lien on the Loan Files or the instruments therein; *provided*, *further*, that, the Collateral Custodian's duties as agent shall be limited to those expressly contemplated herein. All Loan Files shall be kept in fire-resistant vaults or cabinets at the location specified in Section 11.05 hereof, or at such other office as shall be specified to the Indenture Trustee and the Issuer (with a copy to the Initial Noteholder) by the Collateral Custodian in a written notice delivered at least 45 days prior to such change. All Loan Files shall be segregated with an appropriate identifying label and maintained in such a manner so as to permit retrieval and access. All Loan Files shall be clearly segregated from any other documents or instruments maintained by the Collateral Custodian. The Collateral Custodian shall clearly indicate that such Loan Files are the sole property of Issuer, subject to the security interest of the Indenture Trustee, on behalf of the Noteholders. In performing its duties, the Collateral Custodian shall use the same degree of care and attention as it employs with respect to similar loan files that it holds as collateral custodian for others.

(b) Concerning the Collateral Custodian.

(i) Except for its willful misconduct, gross negligence or bad faith, the Collateral Custodian may conclusively rely on and shall be fully protected in acting upon

any certificate, instrument, opinion, notice, letter, telegram or other document delivered to it and that in good faith it reasonably believes to be genuine and that has been signed by the proper party or parties. Except for its willful misconduct, gross negligence or bad faith, the Collateral Custodian may rely conclusively on and shall be fully protected in acting upon the written instructions of any designated officer of the Initial Noteholder. In no event shall the Collateral Custodian be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits).

(ii) The Collateral Custodian may consult counsel satisfactory to it and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(iii) The Collateral Custodian shall not be liable for any error of judgment, or for any act done or step taken or omitted by it, in good faith, or for any mistakes of fact or law, or for anything that it may do or refrain from doing in connection herewith except in the case of its willful misconduct, gross negligence or bad faith.

(iv) The Collateral Custodian makes no warranty or representation and shall have no responsibility (except as expressly set forth in this Agreement) as to the content, enforceability, completeness, validity, sufficiency, value, genuineness, ownership or transferability of the Loans or the Loan Documents, and will not be required to and will not make any representations as to the validity or value of any of the Loans. The Collateral Custodian shall not be obligated to take any legal action hereunder that might in its judgment involve any expense or liability unless it has been furnished with an indemnity reasonably satisfactory to it.

(v) The Collateral Custodian shall have no duties or responsibilities except such duties and responsibilities as are specifically set forth in this Agreement and no covenants or obligations shall be implied in this Agreement against the Collateral Custodian.

(vi) The Collateral Custodian shall not be required to expend or risk its own funds in the performance of its duties hereunder.

(vii) It is expressly agreed and acknowledged that the Collateral Custodian is not guaranteeing performance of or assuming any liability for the obligations of the other parties hereto or any parties to the Transferred Loans.

(viii) The parties hereto hereby acknowledge and agree that the Collateral Custodian's execution of this Agreement shall constitute the Collateral Custodian's written acknowledgment and agreement that the Collateral Custodian is holding any Collateral it receives that may be perfected by possession under the UCC on behalf of and for the benefit of the Indenture Trustee and the Noteholders.

(c) Release for Servicing. From time to time and as appropriate for the enforcement or servicing of any of the Transferred Loans, the Collateral Custodian is hereby authorized, upon receipt from the Servicer on behalf of the Issuer, of a written request for release

of documents and receipt in the form annexed hereto as Exhibit J and upon receipt from the Initial Noteholder of its written consent to such request and receipt, to release to the Servicer the related Loan File or the documents set forth in such request and receipt to the Servicer; *provided*, however, notwithstanding the foregoing or any other provision of this Agreement, upon its receipt of written instructions from the Initial Noteholder, the Collateral Custodian shall cease releasing documents to the Servicer. All documents so released to the Servicer on behalf of the Issuer shall be held by the Servicer in trust for the benefit of the Issuer, the Indenture Trustee and the Noteholders, with respect to their respective interests, in accordance with the terms of this Agreement. The Servicer, on behalf of the Issuer, shall return to the Collateral Custodian the Loan File or other such documents when the Servicer's need therefor in connection with such foreclosure or servicing no longer exists, unless the Transferred Loan shall be liquidated, in which case, upon receipt of an additional request for release of documents and receipt certifying such liquidation from the Servicer to the Collateral Custodian in the form annexed hereto as Exhibit J, the Servicer's request and receipt submitted pursuant to the first sentence of this Section 4.10(c) shall be released by the Collateral Custodian to the Servicer. Notwithstanding anything in this Section 4.10(c) to the contrary, in no event shall the Collateral Custodian release any Loan File or part thereof to the Servicer for any reason without the Initial Noteholder's prior written consent.

(d) Release for Payment. Upon receipt by the Collateral Custodian of the Servicer's request for release of documents and receipt in the form annexed hereto as Exhibit J (which certification shall include a statement to the effect that all amounts received in connection with such payment or repurchase have been credited to the Collection Account as provided in this Agreement), the Collateral Custodian shall promptly release the related Loan File to the Servicer, on behalf of the Issuer.

(e) Collateral Custodian Compensation. As compensation for its activities hereunder, the Collateral Custodian shall be entitled to a Collateral Custodian Fee from the Servicer. To the extent that such Collateral Custodian Fee is not paid by the Servicer, the Collateral Custodian shall be entitled to receive the unpaid balance of such Collateral Custodian Fee to the extent of funds available therefor pursuant to the provision of Sections 5.01(c)(4) and (5). The Collateral Custodian's entitlement to receive the Collateral Custodian Fee (other than due and unpaid Collateral Custodian Fees owed through such date) shall cease on the earlier to occur of: (i) its removal as Collateral Custodian or (ii) the termination of this Agreement.

(f) Replacement of the Collateral Custodian. The Collateral Custodian may be replaced by the Issuer with the prior consent of the Initial Noteholder; *provided* that no such replacement shall be effective until a replacement Collateral Custodian has been appointed, has agreed to act as Collateral Custodian hereunder and has received all Loan Files held by the previous Collateral Custodian.

(g) Release of Loan Documents Following Optional Sale or RIC/BDC Sale To the extent that portions of Transferred Loans are transferred pursuant to an Optional Sale or RIC/BDC Sale under Sections 3.06 or 3.07 and such portions of Transferred Loans are part of a Permitted Securitization or have been sold in a RIC/BDC Sale, the Collateral Custodian may, but only with the Initial Noteholder's prior written consent, and upon terms and conditions satisfactory to the Initial Noteholder, including without limitation the execution by the Servicer

of all such documents as the Initial Noteholder or the Indenture Trustee may require, release original Loan Documents (excluding the related original Underlying Note(s) evidencing the portion of the Transferred Loan, if any, remaining as part of the Collateral) to the servicer of such sold Loans for the purposes of enforcing or servicing such Loans in connection with a Permitted Securitization.

Section 4.11. Representations and Warranties of the Collateral Custodian.

The Collateral Custodian represents and warrants as follows:

(a) Organization and Good Standing. It is a national banking association duly organized, validly existing and in good standing under the laws of the United States with all requisite power and authority to own its properties and to conduct its business as presently conducted and to enter into and perform its obligations pursuant to this Agreement.

(b) Due Qualification. It is duly qualified to do business as a national banking association and is in good standing, and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of its property or the conduct of its business requires such qualification, licenses or approval except where the failure to so qualify or have such licenses or approvals has not had, and would not be reasonably expected to have, a Material Adverse Effect.

(c) Power and Authority. It has the power and authority to execute and deliver this Agreement and each other Basic Document to which it is a party and to carry out their respective terms. It has duly authorized the execution, delivery and performance of this Agreement and each other Basic Document to which it is a party by all requisite action.

(d) No Violation. The consummation of the transactions contemplated by, and the fulfillment of the terms of, this Agreement and each other Basic Document to which it is a party by it will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute a default under, its articles of association, or any Contractual Obligation to which it is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any Contractual Obligation, or (iii) violate any Applicable Law.

(e) No Consents. No consent, approval, authorization, order, registration, filing, qualification, license or permit of or with any Governmental Authority having jurisdiction over it or any of its respective properties is required to be obtained in order for it to enter into this Agreement or perform its obligations hereunder.

(f) Binding Obligation. This Agreement constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as such enforceability may be limited by (i) applicable Bankruptcy Laws and (ii) general principles of equity (whether considered in a suit at law or in equity).

(g) No Proceedings. There are no proceedings or investigations pending or, to the best of its knowledge, threatened, against it before any Governmental Authority (i) asserting the invalidity of this Agreement, (ii) seeking to prevent the consummation of any of the

transactions contemplated by this Agreement or (iii) seeking any determination or ruling that might (in its reasonable judgment) have a Material Adverse Effect.

Section 4.12. Covenants of the Collateral Custodian.

The Collateral Custodian hereby covenants that:

(a) Compliance with Law. The Collateral Custodian will comply in all material respects with all Applicable Laws.

(b) Preservation of Existence. The Collateral Custodian will preserve and maintain its existence, rights, franchises and privileges as a national banking association in good standing under the laws of the United States.

(c) No Bankruptcy Petition. Prior to the date that is one year and one day (or such longer preference period as shall then be in effect) after the Collection Date, it will not institute against the Issuer, or join any other Person in instituting against the Issuer, any Bankruptcy Proceedings or other similar proceedings under the laws of the United States or any state of the United States. This Section 4.12(c) will survive the termination of this Agreement.

(d) Loan Files. The Collateral Custodian will not dispose of any documents constituting the Loan Files in any manner that is inconsistent with the performance of its obligations as the Collateral Custodian pursuant to this Agreement and will not dispose of any Transferred Loan except as contemplated by this Agreement.

(e) Location of Loan Files. The Loan Files shall remain at all times in the possession of the Collateral Custodian at the address set forth on Annex 1 hereto unless notice of a different address is given in accordance with the terms hereof.

(f) No Changes in Collateral Custodian Fee. The Collateral Custodian will not make any changes to the Collateral Custodian Fee set forth in the Collateral Custodian and Backup Servicer Fee Letter without the prior written approval of the Initial Noteholder.

Section 4.13. The Backup Servicer.

(a) Appointment. The Issuer and the Initial Noteholder hereby appoint Lyon Financial to act as Backup Servicer for the benefit of the Issuer, the Indenture Trustee and the Noteholders in accordance with the terms of this Agreement. Lyon Financial hereby accepts such appointment and agrees to perform the duties and responsibilities with respect thereto set forth herein.

(b) Duties. On or before the initial Borrowing Date, and until the receipt by the Servicer of a notice of termination pursuant to Section 9.01 hereof, the Backup Servicer shall perform, on behalf of the Issuer and the Indenture Trustee for the benefit of the Noteholders, the following duties and obligations:

(i) On or before the Closing Date, the Backup Servicer shall accept from the Servicer delivery of the information required to be set forth in the Servicer Reports in hard copy and in an agreed upon electronic format.

(ii) Not later than 12:00 noon (New York City time) on each Record Date (or with respect to the initial Payment Date, the fourth Business Day preceding the Payment Date), the Servicer shall provide to the Backup Servicer and the Backup Servicer shall accept delivery of tape in an agreed upon electronic format (the "Loan Tape") from the Servicer, which shall include but not be limited to the following information: (x) for each Transferred Loan, the name and number of the related Obligor, the collection status, the loan status, the date of each Scheduled Payment and the Outstanding Loan Balance and (y) the Aggregate Outstanding Loan Balance.

(iii) Prior to the related Payment Date, the Backup Servicer shall review the Servicer Report to ensure that it is complete on its face and that the following items in such Servicer Report have been accurately calculated, if applicable, and reported: (A) the Availability, (B) the Aggregate Outstanding Loan Balance, (C) the Backup Servicer Fee, (D) the Transferred Loans that are 30 or more days Delinquent (other than Defaulted Loans and Charged-Off Loans), (E) the Defaulted Loans (other than Charged-Off Loans), (F) the Charged-Off Loans, (G) the Portfolio Yield, (H) the Rolling Three-Month Portfolio Yield, (I) the Rolling Three-Month Default Ratio, (J) the Rolling Three-Month Charged-Off Ratio and (K) the Rolling Twelve-Month Portfolio Charged-Off Ratio. The Backup Servicer shall notify the Initial Noteholder, the Indenture Trustee and the Servicer of any disagreements with the Servicer Report based on such review not later than the Business Day preceding such Payment Date.

(iv) If the Issuer or the Servicer disagrees with the report provided under Section 4.13(b)(iii) by the Backup Servicer or if the Issuer or the Servicer or any subservicer has not reconciled such discrepancy, the Backup Servicer agrees to confer with the Issuer or the Servicer to resolve such disagreement on or prior to the next succeeding Record Date and shall settle such discrepancy with the Issuer or the Servicer if possible, and notify the Initial Noteholder and the Indenture Trustee of the resolution thereof. The Issuer or the Servicer hereby agree to cooperate at their own expense, with the Backup Servicer in reconciling any discrepancies herein. If within 20 days after the delivery of the report provided under Section 3.13(b)(iii) by the Backup Servicer, such discrepancy is not resolved, the Backup Servicer shall promptly notify the Initial Noteholder, the Indenture Trustee and the Servicer of the continued existence of such discrepancy. Following receipt of such notice by the Servicer, the Servicer shall deliver to the Issuer, the Indenture Trustee, the Initial Noteholder and the Backup Servicer no later than the related Payment Date a certificate describing the nature and amount of such discrepancies and the actions the Servicer proposes to take with respect thereto.

With respect to the duties described in this Section 4.13(b), in the absence of bad faith or gross negligence, the Backup Servicer, in the performance of its duties and obligations hereunder, is entitled to rely conclusively, and shall be fully protected in so relying, on the contents of each Loan Tape, including, but not limited to, the completeness and accuracy thereof, provided by the Servicer.

(c) Transition to Servicer Role. After the receipt by the Servicer of an effective notice of termination pursuant to Section 9.01, all authority, power, rights and responsibilities of the Servicer, under this Agreement, whether with respect to the Transferred Loans or otherwise, shall pass to and be vested in the Backup Servicer, subject to and in accordance with the provisions of Section 4.26, as long as the Backup Servicer is not prohibited by Applicable Law from fulfilling the same, as evidenced by an Opinion of Counsel.

(d) Merger or Consolidation. Any Person (i) into which the Backup Servicer may be merged or consolidated, (ii) that may result from any merger or consolidation to which the Backup Servicer shall be a party, or (iii) that may succeed to the properties and assets of the Backup Servicer substantially as a whole, which Person in any of the foregoing cases executes an agreement of assumption to perform every obligation of the Backup Servicer hereunder, shall be the successor to the Backup Servicer under this Agreement without further act on the part of any of the parties to this Agreement.

(e) Backup Servicing Compensation. As compensation for its backup servicing activities hereunder, the Backup Servicer shall be entitled to receive the Backup Servicer Fee from the Servicer. To the extent such Backup Servicer Fee is not paid by the Servicer, the Backup Servicer shall be entitled to receive the unpaid balance of its Backup Servicer Fee to the extent of funds available therefor pursuant to the provision of Sections 5.01(c)(4) and (5). The Backup Servicer's entitlement to receive the Backup Servicer Fee (other than due and unpaid Backup Servicer Fees owed through such date) shall cease on the earliest to occur of: (i) it becoming the successor Servicer, (ii) its removal as Backup Servicer, or (iii) the Termination of this Agreement.

(f) Backup Servicer Removal. The Backup Servicer may be removed with or without cause by the Initial Noteholder, or by the Issuer with the prior written approval of the Initial Noteholder by notice given in writing to the Backup Servicer. In the event of any such removal, a replacement Backup Servicer may be appointed by (i) the Issuer, acting with the written consent of the Initial Noteholder or (ii) if no such replacement is appointed within 30 days following such removal, by the Initial Noteholder.

(g) Scope of Backup Servicing Duties. The Backup Servicer undertakes to perform only such duties and obligations as are specifically set forth in this Agreement, it being expressly understood by all parties hereto that there are no implied duties or obligations of the Backup Servicer hereunder. Without limiting the generality of the foregoing, the Backup Servicer, except as expressly set forth herein, shall have no obligation to supervise, verify, monitor or administer the performance of the Servicer. The Backup Servicer may act through its agents, attorneys and custodians in performing any of its duties and obligations under this Agreement, it being understood by the parties hereto that the Backup Servicer will be responsible for any misconduct or negligence on the part of such agents, attorneys or custodians acting on the routine and ordinary day-to-day operations for and on behalf of the Backup Servicer. Neither the Backup Servicer nor any of its officers, directors, employees or agents shall be liable, directly or indirectly, for any damages or expenses arising out of the services performed under this Agreement other than damages or expenses that result from the gross negligence or bad faith of it or them or the failure to perform materially in accordance with this Agreement.

(h) Limitation on Liability. Except for its willful misconduct, gross negligence or bad faith, the Backup Servicer shall not be liable for any obligation of the Servicer contained in this Agreement or for any errors of the Servicer contained in any computer tape, certificate or other data or document delivered to the Backup Servicer hereunder or on which the Backup Servicer must rely in order to perform its obligations hereunder, and the Issuer, the Indenture Trustee, the Collateral Custodian, the Backup Servicer and the Noteholders each agree to look only to the Servicer to perform such obligations. Except for its willful misconduct, gross negligence or bad faith, the Backup Servicer shall have no responsibility and shall not be in default hereunder or incur any liability for any failure, error, malfunction or any delay in carrying out any of their respective duties under this Agreement if such failure or delay results from the Backup Servicer acting in accordance with information prepared or supplied by a Person other than the Backup Servicer or the failure of any such other Person to prepare or provide such information. Except for its gross negligence or bad faith, the Backup Servicer shall have no responsibility, shall not be in default and shall incur no liability for (i) any act or failure to act of any third party, including the Servicer (ii) any inaccuracy or omission in a notice or communication received by the Backup Servicer from any third party, (iii) the invalidity or unenforceability of any Transferred Loan or Loan Document under Applicable Law, (iv) the breach or inaccuracy of any representation or warranty made with respect to any Transferred Loan, or (v) the acts or omissions of any successor Backup Servicer.

Section 4.14. Representations and Warranties of the Backup Servicer.

The Backup Servicer hereby represents and warrants as follows:

(a) Organization and Good Standing. It is a national banking association duly organized, validly existing and in good standing under the laws of the United States with all requisite power and authority to own its properties and to conduct its business as presently conducted and to enter into and perform its obligations pursuant to this Agreement.

(b) Due Qualification. The Backup Servicer is duly qualified to do business as a national banking association and is in good standing, and have obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of its property and the conduct of its business requires such qualification, licenses or approvals except where the failure to so qualify or have such licenses or approvals has not had, and would not be reasonably expected to have, a Material Adverse Effect.

(c) Power and Authority. It has the power and authority to execute and deliver this Agreement and to carry out its terms. It has duly authorized the execution, delivery and performance of this Agreement by all requisite action.

(d) No Violation. The consummation of the transactions contemplated by, and the fulfillment of the terms of, this Agreement by it will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute a default under, its articles of association or any Contractual Obligation by which it or any of its property is bound, (ii) result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any Contractual Obligation (other than the Agreement), or (iii) violate any Applicable Law.

(e) No Consents. No Consents of or with any Governmental Authority having jurisdiction over it or any of its respective properties is required to be obtained in order for it to enter into this Agreement or perform its obligations hereunder.

(f) Binding Obligation. This Agreement constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as such enforceability may be limited by (i) applicable Bankruptcy Laws and (ii) general principles of equity (whether considered in a suit at law or in equity).

(g) No Proceedings. There are no proceedings or investigations pending or, to the best of its knowledge, threatened, against it before any Governmental Authority (i) asserting the invalidity of this Agreement, (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or (iii) seeking any determination or ruling that might (in its reasonable judgment) have a Material Adverse Effect.

Section 4.15. Covenants of the Backup Servicer.

The Backup Servicer hereby covenants that:

(a) Compliance with Law. The Backup Servicer will comply in all material respects with all Applicable Laws.

(b) Preservation of Existence. The Backup Servicer will preserve and maintain its existence, rights, franchises and privileges as a national banking association in good standing under the laws of the United States.

(c) No Bankruptcy Petition. Prior to the date that is one year and one day (or such longer preference period as shall then be in effect) after the Collection Date, the Backup Servicer will not institute against the Issuer, or join any other Person in instituting against the Issuer, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceedings under the laws of the United States or any state of the United States. This Section 4.15(c) will survive the termination of this Agreement.

(d) No Changes in Backup Servicer Fee. The Backup Servicer will not make any changes to Backup Servicer Fee set forth in the Collateral Custodian and Backup Servicer Fee Letter without the prior written approval of the Initial Noteholder.

Section 4.16. Payment of Certain Expenses by the Servicer and the Issuer.

(a) The Servicer will be required to pay all fees and expenses incurred by it in connection with the transactions and activities contemplated by this Agreement, including fees and disbursements of legal counsel and independent accountants, taxes imposed on the Servicer, expenses incurred in connection with payments and reports pursuant to this Agreement, and all other fees and expenses not expressly stated under this Agreement for the account of the Issuer. In consideration for the payment by the Issuer of the Servicing Fee, the Servicer will be required to pay all reasonable fees and expenses owing to any bank or trust company in connection with the maintenance of the Trust Accounts and the Backup Servicer Fee and the Collateral Custodian Fee pursuant to the Collateral Custodian and Backup Servicer Fee Letter. The Servicer shall be

required to pay such expenses for its own account and shall not be entitled to any payment therefor other than the Servicing Fee.

(b) The Issuer will be required to pay all fees and expenses incurred by the Indenture Trustee and the Initial Noteholder in connection with the transactions and activities contemplated by this Agreement, including reasonable fees and disbursements of legal counsel and independent accountants.

Section 4.17. Reports.

(a) Servicer Report. With respect to each Record Date and the related Collection Period, the Servicer will provide to the Issuer, the Backup Servicer, the Indenture Trustee and the Initial Noteholder, on the related Record Date, a monthly statement (a "Servicer Report"), signed by a Responsible Officer of the Servicer and substantially in the form of Exhibit B. Except as otherwise set forth herein, the Backup Servicer shall have no obligation to review any information in the Servicer Report.

(b) Servicer's Certificate. Together with each Servicer Report, the Servicer shall submit to the Issuer, the Backup Servicer, the Indenture Trustee and the Initial Noteholder a certificate substantially in the form of Exhibit K (a "Servicer's Certificate"), signed by a Responsible Officer of the Servicer, which shall include a certification by such Responsible Officer that no Trigger Event, Default or Event of Default has occurred and is continuing. Except as otherwise set forth herein, the Backup Servicer shall have no duty to review any information set forth in the Servicer's Certificate.

(c) Financial Statements. The Servicer will submit to the Issuer, the Backup Servicer, the Indenture Trustee and the Initial Noteholder, within 45 days following the end of each of the Servicer's fiscal quarters (other than the final fiscal quarter), commencing for the fiscal quarter ending on June 30, 2005, unaudited financial statements of the Servicer (including an analysis of delinquencies and losses for each fiscal quarter) as of the end of each such fiscal quarter. The Servicer shall submit to the Issuer, the Indenture Trustee and the Initial Noteholder, within 90 days following the end of the Servicer's fiscal year, commencing with the fiscal year ending on December 31, 2005, annual audited financial statements as of the end of such fiscal year. Except as otherwise set forth herein, the Backup Servicer shall have no duty to review any of the financial information set forth in such financial statements.

Section 4.18. Annual Statement as to Compliance.

The Servicer will provide to the Issuer, the Backup Servicer, the Indenture Trustee, the Collateral Custodian and the Initial Noteholder, within 90 days following the end of each fiscal year of the Servicer, commencing with the fiscal year ending on December 31, 2005, an annual report signed by a Responsible Officer of the Servicer certifying that (a) a review of the activities of the Servicer, and the Servicer's performance pursuant to this Agreement, for the period ending on the last day of such fiscal year has been made under such Responsible Officer's supervision and (b) the Servicer has performed or has caused to be performed in all material respects all of its obligations under this Agreement throughout such year and no Servicer Default has occurred and is continuing (or if a Servicer Default has occurred and is continuing, specifying each such event,

the nature and status thereof and the steps necessary to remedy such event, and, if a Servicer Default occurred during such year and no notice thereof has been given to the Initial Noteholder (with a copy to the Indenture Trustee), specifying such Servicer Default and the steps taken to remedy such event).

Section 4.19. Annual Independent Public Accountant's Servicer Reports

The Servicer will cause a firm of nationally recognized independent public accountants (who may also render other services to the Servicer) to furnish to the Issuer, the Indenture Trustee, the Collateral Custodian and the Initial Noteholder (with a copy to the Backup Servicer), within 90 days following the end of each fiscal year of the Servicer, commencing with the fiscal year ending on December 31, 2005, (i) a report relating to such fiscal year to the effect that (A) such firm has reviewed certain documents and records relating to the servicing of the Transferred Loans, and (B) based on such examination, such firm is of the opinion that the Servicer Reports for such year were prepared in compliance with this Agreement, except for such exceptions as it believes to be immaterial and such other exceptions as will be set forth in such firm's report and (ii) a report covering such fiscal year to the effect that such accountants have applied certain agreed-upon procedures (which procedures shall not be amended from those procedures in effect as of the Closing Date without the prior approval of the Issuer and the Initial Noteholder) to certain documents and records relating to the servicing of Transferred Loans under this Agreement, compared the information contained in the Servicer Reports and the Servicer's Certificates delivered during the period covered by such report with such documents and records and that no matters came to the attention of such accountants that caused them to believe that such servicing was not conducted in compliance with this Article IV of this Agreement, except for such exceptions as such accountants shall believe to be immaterial and such other exceptions as shall be set forth in such statement.

Section 4.20. Limitation on Liability.

Except as provided herein, none of the directors or officers or employees or agents of the Servicer shall be under any liability to the Issuer, the Initial Noteholder, the other Noteholders or any other Person for any action taken or for refraining from the taking of any action as expressly provided for in this Agreement; *provided*, that this provision shall not protect any such Person against any liability that would otherwise be imposed by reason of its willful misfeasance, bad faith or gross negligence in the performance of duties or by reason of its failure to perform materially in accordance with this Agreement.

The Servicer shall not be under any obligation to appear in, prosecute or defend any legal action that is not incidental to its duties to service the Transferred Loans in accordance with this Agreement that in its reasonable opinion may involve it in any expense or liability. The Servicer may, in its sole discretion, undertake any legal action relating to the servicing, collection or administration of Transferred Loans and the Related Property that it may reasonably deem necessary or appropriate for the benefit of the Issuer and the Noteholders with respect to this Agreement and the rights and duties of the parties hereto and the respective interests of the Issuer and the Noteholders hereunder.

Section 4.21. The Servicer, the Backup Servicer and the Collateral Custodian Not to Resign

None of the Servicer, the Backup Servicer or the Collateral Custodian shall resign from the obligations and duties hereby imposed on such Person except upon such Person's determination that (i) the performance of its duties hereunder is or becomes impermissible under Applicable Law and (ii) there is no reasonable action that such Person could take to make the performance of its duties hereunder permissible under Applicable Law. Any such determination permitting the resignation of the Servicer, the Backup Servicer, the Collateral Custodian shall be evidenced as to clause (i) above by an Opinion of Counsel to such effect delivered to the Issuer and the Initial Noteholder. No such resignation shall become effective until a successor shall have assumed the responsibilities and obligations of such Person in according with the terms of this Agreement.

Section 4.22. Access to Certain Documentation and Information Regarding the Transferred Loans

The Issuer, the Servicer or the Collateral Custodian, as applicable, shall provide to the Indenture Trustee, Backup Servicer, and the Initial Noteholder access to the Loan Documents and all other documentation regarding the Transferred Loans included as part of the Collateral and the Related Property in such cases where the Indenture Trustee and the Initial Noteholder is required in connection with the enforcement of the rights or interests of the Initial Noteholder or the other Noteholders, or by applicable statutes or regulations, to review such documentation, such access being afforded without charge but only (i) upon two Business Days' prior written request, (ii) during normal business hours and (iii) subject to the Servicer's and the Collateral Custodian's normal security and confidentiality procedures. From and after the Closing Date and periodically thereafter at the discretion of the Initial Noteholder, the Initial Noteholder or its agents may review the Issuer's and the Servicer's collection and administration of the Transferred Loans in order to assess compliance by the Servicer with the Servicer's written policies and procedures, as well as with this Agreement and may conduct an audit of the Transferred Loans, Loan Documents and Records in conjunction with such a review. Such review shall be reasonable in scope and shall be completed in a reasonable period of time. The Issuer shall bear the cost of such audits.

Section 4.23. Identification of Records.

The Servicer shall clearly and unambiguously identify each Transferred Loan that is part of the Collateral and the Related Property in its computer or other records to reflect that the interest in such Transferred Loans and Related Property have been transferred to and are owned by the Issuer and that the Indenture Trustee, on behalf of the Noteholders, has the interest therein Granted by Issuer pursuant to the Indenture.

ARTICLE V

ESTABLISHMENT OF TRUST ACCOUNTS

Section 5.01. Collection Account, Principal Collections Account and Distribution Account.

(a) (1) Establishment of Collection Account. The Servicer, for the benefit of the Indenture Trustee and the Noteholders, shall cause to be established and maintained one Collection Account (the "Collection Account"), which shall be a separate Eligible Account entitled "Hercules Funding Trust I Collection Account, Hercules Technology Growth Capital, Inc., as Servicer, for the benefit of the Indenture Trustee and the holders of the Asset Backed Notes." Funds in the Collection Account shall be invested in accordance with Section 5.03(b).

(2) Establishment of Principal Collections Account. The Servicer, for the benefit of the Indenture Trustee and the Noteholders, shall cause to be established and maintained one Principal Collections Account (the "Principal Collections Account"), which shall be a separate Eligible Account entitled "Hercules Funding Trust I Principal Collections Account, Hercules Technology Growth Capital, Inc., as Servicer, for the benefit of the Indenture Trustee and the holders of the Asset Backed Notes." Funds in the Principal Collections Account shall be invested in accordance with Section 5.03(b).

(3) Establishment of Distribution Account. The Indenture Trustee, for the benefit of the Noteholders, shall cause to be established and maintained, one or more Distribution Accounts (collectively, the "Distribution Account"), which shall be a separate Eligible Account, entitled "Hercules Funding Trust I Distribution Account." Funds in the Distribution Account shall remain uninvested.

(4) Notice of Change in Trust Accounts. The Servicer will deliver prior written notice to the Indenture Trustee of any change in the location of any Trust Account, which notice shall include the name of the Designated Depository Institution to which any such account has been transferred, complete wire transfer instructions for such account, and such notice shall be deemed a representation and warranty by the Servicer that each such new account is an Eligible Account.

(b) Deposits to Collection Account. The Servicer shall deposit or cause to be deposited (without duplication):

(1) all Collections on or in respect of each Transferred Loan collected on or after the related Transfer Date (to the extent received by the Servicer, including, without limitation, amounts received in or credited to account number 4720029656 maintained at Union Bank of California, N.A.) within two Business Days after receipt thereof;

(2) in the event of an early termination of this Agreement, the Termination Price in accordance with Section 10.02; and

(3) any amount required to be remitted by Hercules pursuant to Section 10.01 of the Note Purchase Agreement within one (1) Business Day after receipt of notice thereof.

The Servicer agrees that it will cause the Originator, Depositor or other appropriate Person paying such amounts, as the case may be, to remit directly to the Collection Account, within two Business Days after receipt thereof, all amounts referenced in clauses (1) and (2) to the extent such amounts are received by such Person.

(c) Withdrawals From Collection Account; Deposits to the Distribution Account

(1) Withdrawals From Collection Account — Reimbursement Items The Servicer shall periodically but in any event on each Payment Date, make the following withdrawals from the Collection Account prior to any other withdrawals, in no particular order of priority:

(i) to withdraw any amount not required to be deposited in the Collection Account or deposited therein in error,

(ii) to withdraw amounts and remit to the Indenture Trustee for deposit in the Distribution Account for payments required pursuant to Section 5.01(c)(4) and Section 5.01(c)(5); and

(iii) [Reserved].

(iv) to clear and terminate the Collection Account in connection with the termination of this Agreement.

(2) [Reserved].

(3) [Reserved].

(4) Withdrawals From Distribution Account During the Revolving Period — Payment Dates On each Payment Date occurring during the Revolving Period, to the extent funds are available in the Distribution Account, the Paying Agent (based on the information provided by the Servicer contained in the Servicer Report for such Payment Date) shall make withdrawals therefrom for application in the following order of priority:

(i) the following amounts in the following order: (a) *pro rata*, based on the amounts owed to such Persons under this clause (a), to the Hedge Counterparties, any amounts for the current and any prior Payment Dates owing to the Hedge Counterparties under Hedging Agreements (other than Hedge Breakage Costs), together with interest accrued thereon; (b) to the Indenture Trustee, an amount equal to the Indenture Trustee Fee and all unpaid Indenture Trustee Fees from prior Payment Dates and all amounts owing to the Indenture Trustee pursuant to Section 6.07 of the Indenture; (c) to the Servicer, to the extent of Collections received with respect to the specific Transferred Loans for which such Servicer Advances were made, an amount equal to any Unreimbursed Servicer

Advances on such Transferred Loans, and, if Hercules is not the Servicer, an amount equal to the Servicing Fee; (d) upon the appointment of the Back-up Servicer as successor servicer hereunder, the Successor Engagement Fee and to the reimbursement or payment of any expenses incurred by the Indenture Trustee or Backup Servicer in connection with the appointment of a successor Servicer pursuant to Section 9.02; (e) to the Backup Servicer, to the extent not paid by the Servicer, an amount equal to the Backup Servicer Fee and any unpaid Backup Servicer Expenses; (f) to the Collateral Custodian, an amount equal to the Collateral Custodian Fee; and (g) on the Payment Date preceding each anniversary of the Closing Date, to the Owner Trustee, an amount equal to the Owner Trustee Fee;

(ii) to the holders of the Notes *pro rata*, the sum of the Interest Payment Amount for such Payment Date and the Interest Carry-Forward Amount;

(iii) to the Noteholders, *pro rata* based on the proportion of the Note Principal Balance held by each Noteholder, the Nonutilization Fee for such Payment Date, together with any Nonutilization Fees remaining unpaid from any prior Payment Dates;

(iv) to the holders of the Notes *pro rata*, the amount required to cause the Availability to exceed zero as of such Payment Date; *provided* that if (a) a Trigger Event shall have occurred and be continuing or (b) an Event of Default shall have occurred and be continuing, the holders of the Notes shall receive, all remaining amounts on deposit in the Distribution Account, until the Advances Outstanding and all other amounts due to the Noteholders are reduced to zero;

(v) to the Servicer, an amount equal to all Unreimbursed Servicer Advances, to the extent not reimbursed pursuant to Section 5.01(c)(4)(i) and, if Hercules is the Servicer, to the Servicer, an amount equal to the Servicing Fee and all unpaid Servicing Fee from prior Payment Dates;

(vi) to the appropriate Person, amounts in respect of Issuer/Depositor Indemnities (as defined in the Trust Agreement) until such amounts are paid in full;

(vii) to the Owner Trustee, all amounts owing to the Owner Trustee pursuant to the Trust Agreement and the Owner Trustee Fee Letter and not otherwise paid, other than the Owner Trustee Fee if the applicable Payment Date is not the Payment Date described in Section 5.01(c)(4)(i)(g);

(viii) *pro rata*, based on the amounts owed to such Persons under this clause (viii), to the Hedge Counterparties, any unpaid Hedge Breakage Costs, together with interest accrued thereon

(ix) to any Successor Servicer, any accrued and unpaid Transition Costs; and

(x) to the Paying Agent, for distribution to the holders of the Trust Certificates, in accordance with Section 5.2(b) of the Trust Agreement, all amounts remaining in the Distribution Account.

Pro rata payments to the Noteholders shall be paid in accordance with Section 5.02.

(5) Withdrawals From Distribution Account After the Revolving Period Notwithstanding anything herein to the contrary, on each Payment Date after the Revolving Period, to the extent funds are available in the Distribution Account, the Paying Agent (based on the information provided by the Servicer contained in the Servicer Report for such Payment Date) shall make withdrawals therefrom for application in the following order of priority:

(i) the following amounts in the following order: (a) *pro rata*, based on the amounts owed to such Persons under this clause (a), to the Hedge Counterparties, any amounts for the current and any prior Payment Dates owing to the Hedge Counterparties under Hedging Agreements (other than Hedge Breakage Costs), together with interest accrued thereon; (b) the Indenture Trustee, an amount equal to the Indenture Trustee Fee and all unpaid Indenture Trustee Fees from prior Payment Dates and all amounts owing to the Indenture Trustee pursuant to Section 6.07 of the Indenture; (c) to the Servicer, to the extent of Collections received with respect to the specific Transferred Loans for which such Servicer Advances were made, an amount equal to any Unreimbursed Servicer Advances on such Transferred Loans, and, if Hercules is not the Servicer, an amount equal to the Servicing Fee; (d) upon the appointment of the Back-up Servicer as successor servicer hereunder, the Successor Engagement Fee and the reimbursement or payment of any expenses incurred by the Indenture Trustee and the Backup Servicer in connection with the appointment of a successor Servicer pursuant to Section 9.02; (e) to the Backup Servicer, to the extent not paid by the Servicer, an amount equal to the Backup Servicer Fee and any unpaid Backup Servicer Expenses; (f) to the Collateral Custodian, an amount equal to the Collateral Custodian Fee; and (g) on the Payment Date preceding each anniversary of the Closing Date, to the Owner Trustee, an amount equal to the Owner Trustee Fee;

(ii) to the holders of the Notes *pro rata*, the sum of the Interest Payment Amount for such Payment Date and the Interest Carry-Forward Amount;

(iii) to the holders of the Notes *pro rata*, until the Advances Outstanding and all other amounts due to the Noteholders are reduced to zero;

(iv) to the Servicer, an amount equal to all Unreimbursed Servicer Advances, to the extent not reimbursed pursuant to Section 5.01(c)(5)(i) and, if Hercules is the Servicer, to the Servicer, an amount equal to the Servicing Fee and all unpaid Servicing Fee from prior Payment Dates;

(v) to the appropriate Person, amounts in respect of Issuer/Depositor Indemnities (as defined in the Trust Agreement) until such amounts are paid in full;

(vi) to the Owner Trustee, all amounts owing to the Owner Trustee pursuant to the Trust Agreement and the Owner Trustee Fee Letter and not otherwise paid, other than the Owner Trustee Fee if the applicable Payment Date is not the Payment Date described in Section 5.01(c)(5)(i)(g);

(vii) *pro rata*, based on the amounts owed to such Persons under this clause (vii), to the Hedge Counterparties, any unpaid Hedge Breakage Costs, together with interest accrued thereon;

(viii) to any Successor Servicer, any accrued and unpaid Transition Costs; and

(ix) to the Paying Agent, for distribution to the holders of the Trust Certificates, in accordance with Section 5.2(b) of the Trust Agreement, all amounts remaining in the Distribution Account.

Pro rata payments to the Noteholders shall be paid in accordance with Section 5.02.

Notwithstanding that the Notes have been paid in full, the Paying Agent and the Servicer shall continue to maintain the Distribution Account, the Collection Account and the Principal Collections Account hereunder until this Agreement has been terminated.

Section 5.02. Payments to Securityholders.

(a) All distributions made on the Notes on each Payment Date or pursuant to Section 5.04(b) of the Indenture will be made on a *pro rata* basis among the Noteholders of record of the Notes on the related Record Date based on the Percentage Interest represented by their respective Notes, without preference or priority of any kind, and, except as otherwise

provided in the next succeeding sentence, shall be made by wire transfer of immediately available funds to the account such Noteholder shall have so notified the Paying Agent five Business Days prior to the related Record Date, and otherwise by check mailed to the address of such Noteholder appearing in the Notes Register. The final distribution on each Note will be made in like manner, but only upon presentment and surrender of such Note at the location specified in the notice to Noteholders of such final distribution.

(b) All distributions made on the Trust Certificates on each Payment Date or pursuant to Section 5.04(b) of the Indenture will be made in accordance with the Percentage Interest among the holders of the Trust Certificates of record on the related Record Date based on their Percentage Interests on the date of distribution, without preference or priority of any kind, and, except as otherwise provided in the next succeeding sentence, shall be made by wire transfer of immediately available funds to the account of each such holder, if such holder shall own of record a Trust Certificate in an original denomination aggregating at least 25% of the Percentage Interests and shall have so notified the Paying Agent and the Indenture Trustee five Business Days prior to the related Record Date, and otherwise by check mailed to the address of such Certificateholder appearing in the Certificate Register. The final distribution on each Trust Certificate will be made in like manner, but only upon presentment and surrender of such Trust Certificate at the location specified in the notice to holders of the Trust Certificates of such final distribution. Any amount distributed to the holders of the Trust Certificates on any Payment Date shall not be subject to any claim or interest of the Noteholders.

Section 5.03. Trust Accounts; Trust Account Property.

(a) Control of Trust Accounts. Each of the Trust Accounts established hereunder has been pledged by the Issuer to the Indenture Trustee under the Indenture and shall be subject to the Lien of the Indenture. Amounts distributed from each Trust Account in accordance with the terms of this Agreement shall be released for the benefit of the Securityholders from the Collateral upon such distribution thereunder or hereunder. The Indenture Trustee on behalf of the Noteholders shall possess all right, title and interest in and to all funds on deposit from time to time in the Trust Accounts and in all proceeds thereof (including all income thereon), and all such funds, investments, proceeds and income shall be part of the Trust Account Property and the Collateral. If, at any time, any Trust Account ceases to be an Eligible Account, the Servicer shall, within ten Business Days (i) establish a new Trust Account as an Eligible Account, (ii) terminate the ineligible Trust Account, and (iii) transfer any cash and investments from such ineligible Trust Account to such new Trust Account.

With respect to the Trust Accounts, the Issuer, the Indenture Trustee, the Depositor and the Originator and Servicer agree that the Distribution Account, the Collection Account and the Principal Collections Account shall be subject to the sole and exclusive dominion, custody and control of the Paying Agent on behalf of the Indenture Trustee, for the benefit of the Noteholders, and, except as expressly provided in this Agreement with respect to the Servicer's rights to withdraw funds from the Trust Accounts but subject in all events to Section 4.04(d), the Indenture Trustee and the Paying Agent on behalf of the Indenture Trustee, as applicable, shall have sole signature and withdrawal authority with respect thereto.

(b) (1) Investment of Funds. Funds held in the Collection Account and the Principal Collections Account may be invested (to the extent practicable and consistent with any requirements of the Code) in Permitted Investments by or at the direction of the Servicer. In any case, funds in the Collection Account and the Principal Collections Account must be available for withdrawal without penalty, and any Permitted Investments must mature or otherwise be available for withdrawal, one Business Days prior to the next Payment Date and shall not be sold or disposed of prior to its maturity subject to Subsection (b)(2) of this Section. All interest and any other investment earnings on amounts or investments held in the Collection Account and the Principal Collections Account shall be retained by the Servicer.

(2) Insufficiency and Losses in Trust Accounts. If any amounts are needed for disbursement from the Collection Account or the Principal Collections Account and sufficient uninvested funds are not available to make such disbursement, the Servicer shall cause to be sold or otherwise converted to cash a sufficient amount of the investments in the Collection Account and the Principal Collections Account. The Servicer shall be liable for any investment loss or other charge resulting therefrom.

If any losses are realized in connection with any investment in the Collection Account or the Principal Collections Account pursuant to this Agreement, then the Servicer shall deposit the amount of such losses (to the extent not offset by income from other investments in the Collection Account or the Principal Collections Account) into the Collection Account or the Principal Collections Account promptly upon the realization of such loss.

(c) Subject to Section 6.01 of the Indenture, the Indenture Trustee shall not in any way be held liable by reason of any insufficiency in any Trust Account held by the Indenture Trustee resulting from any investment loss on any Permitted Investment included therein.

(d) With respect to the Trust Account Property, each of the Servicer and the Indenture Trustee acknowledges and agrees that:

(1) any Trust Account Property that is held in deposit accounts shall be held solely in the Eligible Accounts, subject to the last sentence of Subsection (a) of this Section 5.03; and each such Eligible Account shall be subject to the sole and exclusive dominion, custody and control of the Paying Agent on behalf of the Indenture Trustee; and, without limitation on the foregoing, the Paying Agent on behalf of the Indenture Trustee shall have sole signature authority with respect thereto;

(2) any Trust Account Property that constitutes Physical Property shall be delivered to the Indenture Trustee or the Paying Agent on behalf of the Indenture Trustee in accordance with paragraphs (a) and (b) of the definition of "Delivery" in Section 1.01 and shall be held, pending maturity or disposition, solely by the Paying Agent on behalf of the Indenture Trustee or the Indenture Trustee or a securities intermediary (as such term is defined in Section 8-102(a)(14) of the UCC) acting solely for the Indenture Trustee;

(3) any Trust Account Property that is a book-entry security held through the Federal Reserve System pursuant to federal book-entry regulations shall be delivered in accordance with paragraph (c) of the definition of "Delivery" in Section 1.01 and shall be maintained by the Paying Agent on behalf of the Indenture Trustee or the Indenture Trustee, pending maturity or disposition, through continued book-entry registration of such Trust Account Property as described in such paragraph; and

(4) any Trust Account Property that is an "uncertificated security" under Article 8 of the UCC and that is not governed by clause (3) above shall be delivered to the Paying Agent on behalf of the Indenture Trustee or the Indenture Trustee in accordance with paragraph (d) of the definition of "Delivery" in Section 1.01 and shall be maintained by the Paying Agent on behalf of the Indenture Trustee or the Indenture Trustee, pending maturity or disposition, through continued registration of the Paying Agent on behalf of the Indenture Trustee or the Indenture Trustee's (or its nominee's) ownership of such security.

ARTICLE VI

SPECIFICATION OF TAX MATTERS

Section 6.01. Specification of Certain Tax Matters.

The Paying Agent shall comply with all requirements of the Code and applicable state and local law with respect to the withholding from any distributions made to any Securityholder of any applicable withholding taxes imposed thereon and with respect to any applicable reporting requirements in connection therewith, giving due effect to any applicable exemptions from such withholding and effective certifications or forms provided by the recipient. Any amounts withheld pursuant to this Section 6.02 shall be deemed to have been distributed to the Securityholders, as the case may be, for all purposes of this Agreement. Neither the Paying Agent nor the Indenture Trustee shall have any responsibility for preparing or filing any tax returns.

ARTICLE VII

COVENANTS

Section 7.01. Financial Covenants of Hercules.

(a) At all times during the term of this Agreement, Hercules shall maintain a minimum consolidated Tangible Net Worth of $90,000,000.

(b) Hercules may not exceed a maximum leverage ratio (the ratio of total consolidated liabilities (exclusive of non-recourse debt but including, without limitation, any convertible debt), determined in accordance with GAAP, to its consolidated Tangible Net Worth) of 3.0:1 as of any date of determination.

Section 7.02. Hedge Covenants.

(a) The Issuer shall, prior to entering into any Hedge Transaction, provide the Initial Noteholder written notice of its intent to do so and shall deliver a summary of the material terms of such Hedge Transaction with such notice.

(b) The Originator, the Servicer and the Depositor hereby acknowledge that the Issuer will Grant to the Indenture Trustee pursuant to the Indenture, all right, title and interest of the Issuer in any Hedging Agreement, Hedge Transaction, and all present and future amounts payable by a Hedge Counterparty to the Issuer under or in connection with the any such Hedging Agreement and Hedge Transaction(s) with the applicable Hedge Counterparty (the "Hedge Collateral"), and the Issuer hereby Grants a security interest to the Indenture Trustee, on behalf of the Noteholders, in any Hedge Collateral. The Issuer acknowledges that, as a result of that assignment, the Issuer may not, without the prior written consent of the Initial Noteholder, exercise any rights under any Hedging Agreement or Hedge Transaction, except for Issuer's right under any Hedging Agreement to enter into Hedge Transactions in order to meet the Issuer's obligations under Section 7.02(a) hereof. Nothing herein shall have the effect of releasing the Issuer from any of its obligations under any Hedging Agreement or any Hedge Transaction, nor be construed as requiring the consent of the Indenture Trustee or any Noteholder for the performance by Issuer of any such obligations.

(c) Any Hedge Transaction shall be entered into with a Hedge Counterparty and governed by a Hedging Agreement. The Issuer shall, promptly upon execution thereof, provide to the Indenture Trustee and the Initial Noteholder, a copy of each Hedging Agreement entered into in connection with this Agreement.

Section 7.03. Covenants Regarding Purchased Assets.

(a) Protect Collateral. Each of the Depositor and the Originator agrees that it shall not sell, assign, transfer, pledge or encumber in any other manner the Purchased Assets (except for the assignment and pledge to the Issuer hereunder and the Grant of a security interest in the Collateral to the Indenture Trustee under the Indenture). Each of the Depositor and the Originator shall warrant and defend the right and title herein granted unto the Issuer in and to the Purchased Assets (and all right, title and interest represented by the Collateral) against the claims and demands of all Persons whomsoever.

(b) Further Assurances. The Depositor and the Originator shall, at their own expense, promptly execute and deliver all further instruments (including financing statements, stock powers, other powers and other instruments of transfer or control) requested by the Initial Noteholder to perfect and protect any security interest granted or purported to be granted hereby or to enable the Issuer and/or the Indenture Trustee, as applicable, to exercise and enforce its rights and remedies hereunder with respect to the Purchased Assets or under the Indenture with respect to any Collateral, including the rights and remedies under Article V of the Indenture. In addition, the Depositor and the Originator shall, at their own expense, promptly take all further action that the Initial Noteholder may request in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Issuer and/or the Indenture Trustee, as applicable, to exercise and enforce its rights and remedies hereunder with respect to the Purchased Assets or under the Indenture with respect to any Collateral, including the rights and remedies under Article V of the Indenture.

(c) Collections Held in Trust. If Depositor or the Originator receives any Collections, each of the Depositor and the Originator, as applicable, shall hold such Collections separate and apart from its other property in trust for the Issuer and shall, within two Business Days after receipt thereof, deposit such Collections to the Collection Account.

(d) Consents. The Depositor and the Originator shall execute and deliver to the Issuer and/or the Indenture Trustee, as applicable, upon request and at the time the Issuer and/or the Indenture Trustee, as applicable, exercises its remedies, any document deemed necessary by the Issuer and/or the Indenture Trustee, as applicable, in order to evidence the Depositor and the Originator's consent to the Issuer and/or the Indenture Trustee exercising their respective remedies hereunder with respect to the Purchased Assets or under the Indenture with respect to any Collateral, including the rights and remedies under Article V of the Indenture.

ARTICLE VIII

THE SERVICER AND THE COLLATERAL CUSTODIAN

Section 8.01. Indemnification; Third Party Claims.

(a) The Servicer shall indemnify the Originator, the Owner Trustee, the Issuer, the Paying Agent, the Depositor, the Indenture Trustee, the Collateral Custodian, the Backup Servicer and the Noteholders, their respective officers, directors, employees, agents and "control persons," as such term is used under the Securities Act and under the Exchange Act (each a "Servicer Indemnified Party") and hold harmless each of them against any and all claims, losses, damages, penalties, fines, forfeitures, reasonable legal fees and related costs, judgments, and other costs and expenses resulting from any claim, demand, defense or assertion based on or grounded upon, or resulting from, a breach of any of the Servicer's representations and warranties and covenants contained in this Agreement or in any way relating to the failure of the Servicer to perform its duties and service the Transferred Loans in compliance with the terms of this Agreement except to the extent such loss arises out of such Servicer Indemnified Party's fraud, gross negligence or willful misconduct; *provided*, however, that if the Servicer is not liable pursuant to the provisions ofSection 8.01(b) hereof for its failure to perform its duties and service the Transferred Loans in compliance with the terms of this Agreement, then the provisions of this Section 8.01 shall have no force and effect with respect to such failure; *provided*, *further* that (i) no successor Servicer shall be liable for the actions or omissions of a predecessor Servicer; and (ii) the Servicer shall not be so required to indemnify a Servicer Indemnified Party or to otherwise be liable to an Servicer Indemnified Party for any losses in respect of the non-performance of the Transferred Loans, the creditworthiness of the Obligors with respect to the Transferred Loans, changes in the market value of the Transferred Loans or other similar investment risks associated with the Transferred Loans arising from a breach of any representation or warranty set forth in Section 3.03 hereto if the effect of such indemnity would be to provide credit recourse to the Originator for the performance of the Transferred Loans.

(b) None of the Depositor or the Servicer or any of their respective Affiliates, directors, officers, employees or agents shall be under any liability to the Owner Trustee, the Issuer, the Indenture Trustee or the Securityholders for any action taken, or for refraining from the taking of any action, in good faith pursuant to this Agreement, or for errors in judgment;

provided, however, that this provision shall not protect the Depositor, the Servicer or any of their respective Affiliates, directors, officers, employees, agents against the remedies provided herein for the breach of any warranties, representations or covenants made herein, or against any expense or liability specifically required to be borne by such party without right of reimbursement pursuant to the terms hereof, or against any expense or liability which would otherwise be imposed by reason of misfeasance, bad faith or negligence in the performance of the respective duties of the Servicer, the Depositor or the Originator, as the case may be. The Originator, the Depositor, the Servicer and any of their respective Affiliates, directors, officers, employees, agents may rely in good faith on any document of any kind which, prima facie, is properly executed and submitted by any Person respecting any matters arising hereunder.

(c) The Originator agrees to indemnify and hold harmless the Depositor, the Indenture Trustee and the Noteholders, as the ultimate assignees from the Depositor (each an "Originator Indemnified Party," together with the Servicer Indemnified Parties, the "Indemnified Parties"), from and against any loss, liability, expense, damage, claim or injury arising out of or based on (i) any breach of any representation, warranty or covenant of the Originator, the Servicer or their Affiliates, in any Basic Document, including, without limitation, by reason of any acts, omissions, or alleged acts or omissions arising out of activities of the Originator, the Servicer or their Affiliates, and (ii) any untrue statement by the Originator, the Servicer or its Affiliates of any material fact, including, without limitation, any Officer's Certificate, statement, report or other document or information prepared by any such Person and furnished or to be furnished by it pursuant to or in connection with the transactions contemplated thereby and not corrected prior to completion of the relevant transaction including, without limitation, such written information as may have been and may be furnished in connection with any due diligence investigation with respect to the Transferred Loans or any such Person's business, operations or financial condition, including reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim; *provided* that the Originator shall not indemnify an Originator Indemnified Party to the extent such loss, liability, expense, damage or injury is due to either an Originator Indemnified Party's willful misfeasance, bad faith or negligence or by reason of an Originator Indemnified Party's reckless disregard of its obligations hereunder; *provided*, *further*, that the Originator shall not be so required to indemnify an Originator Indemnified Party or to otherwise be liable to an Originator Indemnified Party for any losses in respect of the non-performance of the Transferred Loans, the creditworthiness of the Obligors with respect to the Transferred Loans, changes in the market value of the Transferred Loans or other similar investment risks associated with the Transferred Loans arising from a breach of any representation or warranty set forth in Section 3.03 hereto if the effect of such indemnity would be to provide credit recourse to the Originator for the performance of the Transferred Loans. The provisions of this indemnity shall run directly to and be enforceable by an Originator Indemnified Party subject to the limitations hereof.

(d) With respect to a claim subject to indemnity hereunder made by any Person against an Indemnified Party (a "Third Party Claim"), such Indemnified Party shall notify the related indemnifying parties (each an "Indemnifying Party") in writing of the Third Party Claim within a reasonable time after receipt by such Indemnified Party of written notice of the Third Party Claim unless the Indemnifying Parties shall have previously obtained actual knowledge thereof. Thereafter, the Indemnified Party shall deliver to the Indemnifying Parties, within a reasonable time after the Indemnified Party's receipt thereof, copies of all notices and

documents (including court papers) received by the Indemnified Party relating to the Third Party Claim. No failure to give such notice or deliver such documents shall effect the rights to indemnity hereunder. Each Indemnifying Party shall promptly notify the Indenture Trustee and the Indemnified Party (if other than the Indenture Trustee) of any claim of which it has been notified and shall promptly notify the Indenture Trustee and the Indemnified Party (if applicable) of its intended course of action with respect to any claim.

(e) If a Third Party Claim is made against an Indemnified Party, while maintaining control over its own defense, the Indemnified Party shall cooperate and consult fully with the Indemnifying Party in preparing such defense, and the Indemnified Party may defend the same in such manner as it may deem appropriate, including settling such claim or litigation after giving notice to the Indemnifying Party of such terms and the Indemnifying Party will promptly reimburse the Indemnified Party upon written request; *provided*, however, that the Indemnified Party may not settle any claim or litigation without the consent of the Indemnifying Party; *provided*, *further*, that the Indemnifying Party shall have the right to reject the selection of counsel by the Indemnified Party if the Indemnifying Party reasonably determines that such counsel is inappropriate in light of the nature of the claim or litigation and shall have the right to assume the defense of such claim or litigation if the Indemnifying Party determines that the manner of defense of such claim or litigation is unreasonable.

Section 8.02. Relationship of Servicer to Issuer, Owner Trustee and Indenture Trustee.

The relationship of the Servicer (and of any successor to the Servicer as servicer under this Agreement) to the Issuer, the Owner Trustee and the Indenture Trustee under this Agreement is intended by the parties hereto to be that of an independent contractor and not of a joint venturer, agent or partner of the Issuer, the Owner Trustee or the Indenture Trustee.

Section 8.03. Servicer May Own Securities.

Each of the Servicer and any Affiliate of the Servicer may in its individual or any other capacity become the owner or pledgee of Securities with the same rights as it would have if it were not the Servicer or an Affiliate thereof except as otherwise specifically provided herein; *provided*, however, that at any time that Hercules or any of its Affiliates is the Servicer, neither the Servicer nor any of its Affiliates (other than an Affiliate which is a corporation whose purpose is limited to holding securities and related activities and which cannot incur recourse debt) may be a Noteholder. Securities so owned by or pledged to the Servicer or such Affiliate shall have an equal and proportionate benefit under the provisions of this Agreement, without preference, priority, or distinction as among all of the Securities; *provided,* that any Securities owned by the Servicer or any Affiliate thereof, during the time such Securities are owned by them, shall be without voting rights for any purpose set forth in this Agreement or the Indenture unless the Servicer or such Affiliate owns all outstanding Securities of the related class. The Servicer shall notify the Indenture Trustee promptly after it or any of its Affiliates becomes the owner or pledgee of a Security.

Section 8.04. Indemnification of the Indenture Trustee, the Owner Trustee and Initial Noteholder.

Hercules agrees to indemnify the Indenture Trustee, Collateral Custodian, Backup Servicer, and their respective employees, officers, directors and agents, and reimburse its reasonable out-of-pocket expenses in accordance with Section 6.07 of the Indenture as if it was a signatory thereto. Hercules agrees to indemnify the Initial Noteholder in accordance with Section 9.01 of the Note Purchase Agreement as if it were a signatory thereto. Hercules agrees to indemnify the Owner Trustee in accordance with Section 8.2 of the Trust Agreement as if it were a signatory thereto. This Section 8.04 shall survive the termination of this Agreement.

ARTICLE IX

SERVICER DEFAULT

Section 9.01. Servicer Default.

(a) The occurrence of any of the following events shall constitute a "Servicer Default":

(1) any failure by the Servicer to make any payment, transfer or deposit or to give instructions or notice to the Issuer, the Indenture Trustee or the Initial Noteholder as required by this Agreement, or to deliver any Servicer Report or other report required hereunder on or before the date occurring two Business Days after the date such payment, transfer, deposit, instruction of notice or report is required to be made or given, as the case may be, under the terms of this Agreement;

(2) any failure on the part of the Servicer duly to observe or perform in any material respect any of the other covenants or agreements on the part of the Servicer contained in any Basic Document to which it is a party, which continues unremedied for a period of 30 days after the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Servicer by any other party hereto or thereto or to the Servicer (with copy to each other party hereto), by Holders of 25% of the Percentage Interests of the Notes or the Trust Certificates;

(3) any breach on the part of the Servicer of any representation or warranty contained in any Basic Document to which it is a party that has a material adverse affect on the interests of any of the parties hereto or thereto or any Securityholder and which continues unremedied for a period of 30 days after the date on which notice of such breach, requiring the same to be remedied, shall have been given to the Servicer by any other party hereto or to the Servicer (with copy to each other party hereto) by the Initial Noteholder or Holders of 25% of the Percentage Interests of the Notes;

(4) a Bankruptcy Event shall occur with respect to the Servicer;

(5) so long as the Servicer or the Originator is an Affiliate of either of the Depositor or the Issuer, any "event of default" by the Servicer or the Originator occurs under any of the Basic Documents;

(6) Hercules fails to comply with the financial covenants set forth in Section 7.01;

(7) the Servicer shall fail in any material respect to service the Transferred Loans in accordance with the Credit and Collection Policy;

(8) the Servicer agrees to or otherwise permits (x) any change in the Credit and Collection Policy which would materially and adversely affect or impair the collectibility of any Transferred Loan, or (y) any material change in the Credit and Collection Policy without the prior written consent of the Initial Noteholder;

(9) any financial or asset information reasonably requested by the Initial Noteholder as provided herein is not provided as requested within five Business Days of the receipt by the Servicer of such request;

(10) the rendering against the Servicer of a final judgment, decree or order for the payment of money in excess of $7,000,000 (individually or in the aggregate) and the continuance of such judgment, decree or order unsatisfied and in effect for any period of 61 or more consecutive days without a stay of execution;

(11) the failure of the Servicer to make any payment due with respect to aggregate recourse debt or other obligations with an aggregate principal amount exceeding $5,000,000 or the occurrence of any event or condition that would permit acceleration of such recourse debt or other obligations if such event or condition has not been waived;

(12) the Servicer fails to maintain a minimum Net Worth of at least $90,000,000*plus* seventy-five (75%) percent of any new equity and subordinated debt issued after June 13, 2005;

(13) any Change-in-Control of the Servicer is made without the prior written consent of the Issuer and the Indenture Trustee;

(14) the Servicer shall fail to satisfy the RIC/BDC Requirements or otherwise fail to maintain its status as a business development company or as a registered investment company under the 1940 Act;

(15) any change in the management of the Servicer (whether by resignation, termination, disability, death or lack of day to day management) relating to either of Manuel A. Henriquez or H. Scott Harvey, or any failure by either of the aforementioned Persons to provide active and material participation in the Servicer's daily activities including, but not limited to, general management, underwriting, and the credit approval process and credit monitoring activities, which no later than 30 days after the occurrence of any event specified above is not (x) cured by the Servicer hiring a reputable, experienced individual satisfactory to the Initial Noteholder to replace the Person who is no longer

actively participating in the management of the Servicer or (y) waived in writing by the Initial Noteholder; or

(16) as of any date prior to September 1, 2005, the Initial Noteholder, in its sole discretion, is not satisfied with the results of its July 2005 investigations into the respective backgrounds of any of Manuel A. Henriquez, Glen C. Howard, H. Scott Harvey, Dave Lund, Samir Bhaumik, Kathleen Conte or Roy Y. Liu.

(b) Upon the occurrence of (i) an Event of Default, (ii) a Trigger Event or (iii) any event, condition or circumstance shall occur or exist as shall have a Material Adverse Effect on the Servicer, the Indenture Trustee or the Majority Noteholders, by notice in writing to the Servicer (with a copy to the Backup Servicer and the Collateral Custodian) may, in addition to whatever rights such Person may have at law or in equity to damages, including injunctive relief and specific performance, on thirty days' notice, terminate all the rights and obligations of the Servicer under this Agreement and in and to the Transferred Loans and the proceeds thereof, as servicer under this Agreement. Within a commercially reasonable time following receipt by the Servicer of such written notice, all authority and power of the Servicer under this Agreement, whether with respect to the Transferred Loans or otherwise, shall, subject to Section 9.02, pass to and be vested in a successor servicer, and the successor servicer is hereby authorized and empowered to execute and deliver, on behalf of the Servicer, as attorney-in-fact or otherwise, any and all documents and other instruments and do or cause to be done all other acts or things necessary or appropriate to effect the purposes of such notice of termination, including, but not limited to, the transfer and endorsement or assignment of the Transferred Loans and related documents. The Servicer agrees to cooperate with the successor servicer in effecting the termination of the Servicer's responsibilities and rights hereunder, including, without limitation, the transfer to the successor servicer for administration by it of all amounts which shall at the time be credited by the Servicer to the Collection Account or the Principal Collections Account or thereafter received with respect to the Purchased Assets.

Section 9.02. Appointment of Successor.

(a) On and after the date the Servicer receives a notice of termination pursuant to Section 9.01 hereof, or the Owner Trustee receives the resignation of the Servicer evidenced by an Opinion of Counsel or accompanied by the consents required by Section 8.04 hereof then the Backup Servicer shall automatically succeed and assume all obligations of the Servicer hereunder, and all authority and power of the Servicer under this Agreement shall pass to and be vested in the Backup Servicer. As compensation therefor, the Backup Servicer shall be entitled to the Servicing Fee and the Successor Engagement Fee in addition to reimbursement of expenses incurred by the Backup Servicer in connection with the transition of the servicing obligations ("Transition Costs"); *provided*, however, in no event shall such Transition Costs exceed $50,000.00 in the aggregate. In the event that there is no Backup Servicer or the Backup Servicer is unable to assume such obligations on such date, the Indenture Trustee shall submit to Hercules the name of a proposed successor servicer (the "Successor Servicer"). Hercules shall have the right to reject one proposed Successor Servicer within two (2) Business Days of the Indenture Trustee's submission and, upon such rejection Hercules shall have no further consent rights with respect to the appointment of any Successor Servicer. If Hercules shall not have rejected such proposed Successor Servicer within such two (2) Business Day period, the

Indenture Trustee shall, as promptly as possible, appoint such Successor Servicer as servicer hereunder so long as such proposed Successor Servicer is acceptable to the Initial Noteholder. The Successor Servicer shall accept its appointment by a written assumption in a form acceptable to the Indenture Trustee and the Majority Noteholders. In the event that a Successor Servicer has not accepted its appointment at the time when the Servicer ceases to act as Servicer, the Indenture Trustee shall petition a court of competent jurisdiction to appoint any established financial institution, having a net worth of not less than United States $50,000,000 and whose regular business includes the servicing of assets similar to the Transferred Loans, as the Successor Servicer hereunder.

(b) Upon its appointment, the Backup Servicer or the Successor Servicer, as applicable, shall be the successor in all respects to the Servicer with respect to servicing functions under this Agreement and shall be subject to all the responsibilities, duties and liabilities relating thereto placed on the Servicer by the terms and provisions hereof, and all references in this Agreement to the Servicer shall be deemed to refer to the Backup Servicer or the Successor Servicer, as applicable; *provided*, however, that the Backup Servicer or Successor Servicer, as applicable, shall have (i) no liability with respect to any action performed by the terminated Servicer prior to the date that the Backup Servicer or Successor Servicer, as applicable, becomes the successor to the Servicer or any claim of a third party based on any alleged action or inaction of the terminated Servicer, (ii) no obligation to perform any advancing obligations, if any, of the Servicer unless it elects to in its sole discretion, (iii) no obligation to pay any taxes required to be paid by the Servicer (*provided* that the Backup Servicer or Successor Servicer, as applicable, shall pay any income taxes for which it is liable), (iv) no obligation to pay any of the fees and expenses of any other party to the transactions contemplated hereby, and (v) no liability or obligation with respect to any indemnification obligations of any prior Servicer, including the original Servicer. The indemnification obligations of the Backup Servicer or the Successor Servicer, as applicable, upon becoming a successor servicer, are expressly limited to those instances of negligence or willful misconduct of the Backup Servicer or Successor Servicer, as applicable.

(c) All authority and power granted to the Servicer under this Agreement shall automatically cease and terminate upon termination of this Agreement and shall pass to and be vested in the Issuer and, without limitation, the Issuer is hereby authorized and empowered to execute and deliver, on behalf of the Servicer, as attorney-in-fact or otherwise, all documents and other instruments, and to do and accomplish all other acts or things necessary or appropriate to effect the purposes of such transfer of servicing rights. The Servicer agrees to cooperate with the Seller in effecting the termination of the responsibilities and rights of the Servicer to conduct servicing of the Transferred Loans.

(d) Upon the Backup Servicer receiving notice that it is required to serve as the Servicer hereunder pursuant to the foregoing provisions of this Section 9.02, the Backup Servicer will promptly begin the transition to its role as Servicer. Notwithstanding the foregoing, the Backup Servicer may, in its discretion, appoint, or petition a court of competent jurisdiction to appoint, any established servicing institution as the successor to the Servicer hereunder in the assumption of all or any part of the responsibilities, duties or liabilities of the Servicer hereunder. As compensation, any Successor Servicer so appointed shall be entitled to receive the Servicing Fee, together with any other servicing compensation in the form of assumption fees, late

payment charges or otherwise as provided herein that accrued prior thereto, as well as Transition Costs. In the event the Backup Servicer is required to solicit bids as provided herein, the Backup Servicer shall solicit, by public announcement, bids from banks meeting the qualifications set forth in this Section 9.02. Such public announcement shall specify that the Successor Servicer shall be entitled to the full amount of the Servicing Fee as servicing compensation, together with any other servicing compensation in the form of assumption fees, late payment charges or otherwise as provided herein that accrued prior thereto, in addition to Transition Costs. Within 30 days after any such public announcement, the Backup Servicer shall negotiate and effect the sale, transfer and assignment of the servicing rights and responsibilities hereunder to the qualified party submitting the highest qualifying bid. The Backup Servicer shall deduct from any sum received by the Backup Servicer from the successor to the Servicer in respect of such sale, transfer and assignment all costs and expenses of any public announcement and of any sale, transfer and assignment of the servicing rights and responsibilities hereunder and the amount of any Unreimbursed Servicer Advances. After such deductions, the remainder of such sum shall be paid by the Backup Servicer to the Servicer at the time of such sale, transfer and assignment to the Servicer's successor. The Backup Servicer and such successor shall take such action, consistent with this Agreement, as shall be necessary to effectuate any such succession. No appointment of a successor to the Servicer hereunder shall be effective until written notice of such proposed appointment shall have been provided by the Backup Servicer to the Indenture Trustee and the Noteholders and the Backup Servicer shall have consented thereto. The Backup Servicer shall not resign as servicer until a Successor Servicer has been appointed and accepted such appointment. Notwithstanding anything to the contrary contained herein, in no event shall Lyon Financial or the Indenture Trustee, in any capacity, be liable for any Servicing Fee or for any differential in the amount of the Servicing Fee paid hereunder and the amount necessary to induce any Successor Servicer under this Agreement and the transactions set forth or provided for by this Agreement.

If Lyon Financial becomes the Successor Servicer, Lyon Financial shall be required to service the Transferred Loans in accordance with the Loan Documents and Accepted Servicing Practices.

Notwithstanding anything contained in this Agreement to the contrary, Lyon Financial as successor Servicer, and any other successor servicer, is authorized to accept and rely on all of the accounting, records (including computer records) and work of the prior Servicer relating to the Transferred Loans (collectively, the "Predecessor Servicer Work Product") without any audit or other examination thereof, except where, in the exercise of reasonable care, such audit or examination would be advisable, and Lyon Financial shall have no duty, responsibility, obligation or liability for the acts and omissions of the prior Servicer. If any error, inaccuracy, omission or incorrect or non-standard practice or procedure (collectively, "Errors") exist in any Predecessor Servicer Work Product and such Errors make it materially more difficult to service or should cause or materially contribute to Lyon Financial making or continuing any Errors (collectively, "Continued Errors"), Lyon Financial shall have no duty, responsibility, obligation or liability to perform servicing or for such Continued Errors; *provided*, however, that Lyon Financial agrees to use commercially reasonable efforts to prevent further Continued Errors. In the event that Lyon Financial becomes aware of Errors or Continued Errors, Lyon Financial shall, with the prior consent of the Initial Noteholder, use its best efforts to reconstruct and reconcile such data as is commercially reasonable to correct such Errors and Continued

Errors and to prevent future Continued Errors. Lyon Financial shall be entitled to recover its costs thereby expended in accordance with Section 5.01(c)(4)(i) of this Agreement or Section 5.04(b) of the Indenture, as applicable.

Section 9.03. Waiver of Defaults.

The Initial Noteholder may waive any events permitting removal of the Servicer as servicer pursuant to Section 9.01. Upon any waiver of a past default, such default shall cease to exist and any Servicer Default or Trigger Event arising therefrom shall be deemed to have been remedied for every purpose of this Agreement. No such waiver shall extend to any subsequent or other default or impair any right consequent thereto except to the extent expressly so waived.

Section 9.04. Accounting Upon Termination of Servicer.

Upon termination of the Servicer under this Article IX, the Servicer shall, at its own expense:

(a) deliver to its successor or, if none shall yet have been appointed, to the Paying Agent, the funds in the Collection Account, the Principal Collections Account and, if any, the Distribution Account;

(b) deliver to its successor or, if none shall yet have been appointed, to the Collateral Custodian all Loan Files and related documents and statements held by it hereunder and a copy of the Loan Tape;

(c) deliver to its successor, the Indenture Trustee, the Issuer and the Securityholders a full accounting of all funds, including a statement showing the Scheduled Payments with respect to the Transferred Loans collected by it and a statement of monies held in trust by it for payments or charges with respect to the Transferred Loans; and

(d) execute and deliver such instruments and perform all acts reasonably requested in order to effect the orderly and efficient transfer of servicing of the Transferred Loans to its successor and to more fully and definitively vest in such successor all rights, powers, duties, responsibilities, obligations and liabilities of the Servicer under this Agreement.

ARTICLE X

TERMINATION

Section 10.01. Termination.

(a) This Agreement shall terminate upon either: (A) the later of (i) the satisfaction and discharge of the Indenture and the provisions thereof, and payment to the Noteholders of all amounts due and owing in accordance with the provisions hereof or (ii) the disposition of all funds with respect to the last Transferred Loan and the remittance of all funds due hereunder and the payment of all amounts due and payable, including, in both cases, without limitation, indemnification payments payable pursuant to any Basic Document to the Indenture

Trustee, the Owner Trustee, the Issuer, the Servicer and the Collateral Custodian, written notice of the occurrence of either of which shall be provided to the Indenture Trustee by the Servicer; or (B) the mutual consent of the Servicer, the Depositor and all Noteholders in writing and delivered to the Indenture Trustee by the Servicer.

(b) The Securities shall be subject to an early redemption or termination at the option of the Servicer and the Initial Noteholder in the manner and subject to the provisions of Section 10.02 of this Agreement.

(c) Except as provided in this Article X, none of the Depositor, the Servicer nor any Certificateholder or Noteholder shall be entitled to revoke or terminate the Issuer.

Section 10.02. Optional Termination.

(a) The Servicer may, at its option, effect an early termination of this Agreement on any Business Day on or after the Clean-up Call Date. The Servicer shall effect such early termination by providing at least ten Business Days' notice thereof to the Initial Noteholder, the Indenture Trustee and the Owner Trustee and paying all amounts due the Indenture Trustee, the Backup Servicer, the Owner Trustee, the Hedge Counterparties and the Noteholders hereunder (the "Termination Price").

(b) Any such early termination by the Servicer shall be accomplished by depositing into the Collection Account on the third Business Day prior to the Payment Date on which the purchase is to occur the amount of the Termination Price to be paid. The Termination Price and any amounts then on deposit in the Collection Account and the Principal Collections Account (other than any amounts withdrawable pursuant to Section 5.01(c)(1) hereof) shall be deposited in the Distribution Account and distributed by the Paying Agent in accordance with the priority of payments set forth in Section 5.01(c)(5) of this Agreement and Section 9.1 of the Trust Agreement on the next succeeding Payment Date; and any Collections received with respect to the Purchased Assets subsequent to the final Payment Date shall belong to the purchaser thereof (which may be the Originator).

Section 10.03. Notice of Termination Date; Amounts Due and Payable.

On the Termination Date, the Indenture Trustee shall, by notice to the Issuer, the Servicer and the Noteholders (in accordance with Section 11.05 of the Indenture), declare the Termination Date to have occurred and all amounts due the Noteholders, the Indenture Trustee, the Backup Servicer, the Owner Trustee, the Hedge Counterparties shall be immediately due and payable. Such amounts due and payable as of the Termination Date shall be distributed by the Paying Agent in accordance with the priority of payments set forth in Section 5.01(c)(5) of this Agreement and Section 9.1 of the Trust Agreement on the next succeeding Payment Date.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.01. Acts of Securityholders.

Except as otherwise specifically provided herein and except with respect to Section 11.02(b), whenever action, consent or approval of the Securityholders is required under this Agreement, such action, consent or approval shall be deemed to have been taken or given on behalf of, and shall be binding upon, all Securityholders if the Majority Noteholders agree to take such action or give such consent or approval.

Section 11.02. Amendment.

(a) This Agreement may be amended from time to time by the Depositor, the Servicer, the Paying Agent, the Originator, the Collateral Custodian, the Backup Servicer, the Indenture Trustee and the Issuer by written agreement with notice thereof to the Securityholders, without the consent of any of the Securityholders, to cure any error or ambiguity, to correct or supplement any provisions hereof which may be defective or inconsistent with any other provisions hereof or to add any other provisions with respect to matters or questions arising under this Agreement; *provided*, however, that such action will not adversely affect in any material respect the interests of the Securityholders, as evidenced by an Opinion of Counsel to such effect provided at the expense of the party requesting such amendment.

(b) This Agreement may also be amended from time to time by the Depositor, the Servicer, the Paying Agent, the Originator, the Collateral Custodian, the Backup Servicer, the Indenture Trustee and the Issuer by written agreement, with the prior written consent of the Majority Noteholders, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement, or of modifying in any manner the rights of the Securityholders; *provided*, however, that no such amendment shall (i) reduce in any manner the amount of, or delay the timing of, collections of payments on the Transferred Loans or distributions which are required to be made on any Security, without the consent of the holders of 100% of the Securities, (ii) adversely affect in any material respect the interests of any of the holders of the Securities in any manner other than as described in clause (i), without the consent of the holders of 100% of the Securities, or (iii) reduce the percentage of the Securities the consent of which is required for any such amendment without the consent of the holders of 100% of the Securities.

(c) It shall not be necessary for the consent of Securityholders under this Section to approve the particular form of any proposed amendment, but it shall be sufficient if such consent shall approve the substance thereof.

Prior to the execution of any amendment to this Agreement, the Issuer and the Indenture Trustee shall be entitled to receive and rely upon an Opinion of Counsel stating that the execution of such amendment is authorized or permitted by this Agreement. The Issuer and the Indenture Trustee may, but shall not be obligated to, enter into any such amendment which affects the Issuer's own rights, duties or immunities of the Issuer or the Indenture Trustee, as the case may be, under this Agreement.

Any amendment to this Agreement which affects the rights or duties of the Owner Trustee shall require the prior written consent of the Owner Trustee.

Section 11.03. Duration of Agreement.

This Agreement shall continue in existence and effect until terminated as herein provided.

Section 11.04. GOVERNING LAW; JURISDICTION.

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND ANY APPELLATE COURT HAVING JURISDICTION TO REVIEW THE JUDGMENTS THEREOF. EACH OF THE PARTIES HEREBY WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER IN ANY OF THE AFOREMENTIONED COURTS AND CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

Section 11.05. Notices.

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered personally, mailed by overnight mail, certified mail or registered mail, postage prepaid, or (ii) transmitted by telecopy, upon telephone confirmation of receipt thereof, as follows: (A) in the case of the Depositor, to Hercules Funding I LLC, 525 University Avenue, Suite 700, Palo Alto, California 94301, Attention: Manuel A. Henriquez, telecopy number 650-473-9194, with a copy to Scott Harvey, Chief Legal Officer, Hercules Funding I LLC Capital, Inc., 3702 River Road, Franklin Park, Illinois 60131, telecopy number: 866-828-6687 or such other addresses or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Depositor; (B) in the case of the Issuer, to Hercules Funding Trust I, c/o Wilmington Trust Company, as Owner Trustee, 1100 North Market Street, Wilmington, Delaware 19801, telecopy (302) 636-4140, telephone (302) 651-1000, or such other address or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Issuer; (C) in the case of the Originator, to Hercules Technology Growth Capital, Inc., 525 University Avenue, Suite 700, Palo Alto, California 94301, Attention: Manuel A. Henriquez, telecopy number 650-473-9194, with a copy to Scott Harvey, Chief Legal Officer, Hercules Technology Growth Capital, Inc., 3702 River Road, Franklin Park, Illinois 60131, telecopy number: 866-828-6687, or such other addresses or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Originator, (D) in the case of the Servicer, to Hercules Technology Growth Capital, Inc., 525 University Avenue, Suite 700, Palo Alto, California 94301, Attention: Manuel A. Henriquez, telecopy number 650-473-9194, with a copy to Scott Harvey, Chief Legal Officer, Hercules Technology Growth Capital, Inc., 3702 River Road, Franklin Park, Illinois 60131, telecopy number: 866-828-6687, or such other addresses or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Servicer; (E) in the case of the Collateral Custodian, to its Corporate Trust Office, with a copy to the Indenture Trustee or such other addresses or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Indenture Trustee; (F) in the case of the Backup Servicer to Lyon Financial Services, Inc., d/b/a U.S. Bancorp Portfolio Services, 1310 Madrid, Suite 103,

Marshall MN 56258, Attention: Joseph Andries, Ref: Hercules Funding Trust I, phone: (507) 532-7129, fax: (507) 537-5201, or such other addresses or telecopy or telephone numbers as may hereafter be furnished to the Noteholders and the other parties hereto in writing by the Backup Servicer; (G) in the case of the Indenture Trustee, at the Corporate Trust Office, as defined in the Indenture; and (H) in the case of the Initial Noteholder, to Citigroup Global Markets Realty Corp., 390 Greenwich Street, 6th Floor, New York, NY 10013, Attention: Monitoring Group - James Xanthos, Martin Lifschultz and Christian Anderson, telecopy number (212) 723-8591; any such notices shall be deemed to be effective with respect to any party hereto upon the receipt of such notice or telephone confirmation thereof by such party.

Section 11.06. Severability of Provisions.

If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other covenants, agreements, provisions or terms of this Agreement.

Section 11.07. No Partnership.

Nothing herein contained shall be deemed or construed to create any partnership or joint venture between the parties hereto.

Section 11.08. Counterparts.

This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts (including by fax or other electronic means), each of which, when so executed, shall be deemed to be an original and such counterparts, together, shall constitute one and the same Agreement.

Section 11.09. Successors and Assigns.

This Agreement shall inure to the benefit of and be binding upon the Servicer, the Originator, the Depositor, the Indenture Trustee, the Issuer and the Securityholders and their respective successors and permitted assigns.

Section 11.10. Headings.

The headings of the various Sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be part of this Agreement.

Section 11.11. Actions of Securityholders.

(a) Subject to Section 11.01, any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Agreement to be given or taken by Securityholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Securityholders in person or by an agent duly appointed in writing; and except as herein otherwise expressly provided, such action shall become effective when such

instrument or instruments are delivered to the Depositor, the Servicer or the Issuer. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Agreement and conclusive in favor of the Depositor, the Servicer and the Issuer if made in the manner provided in this Section 11.11.

(b) The fact and date of the execution by any Securityholder of any such instrument or writing may be proved in any reasonable manner which the Depositor, the Servicer or the Issuer may deem sufficient.

(c) Any request, demand, authorization, direction, notice, consent, waiver or other act by a Securityholder shall bind every holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done, or omitted to be done, by the Depositor, the Servicer or the Issuer in reliance thereon, whether or not notation of such action is made upon such Security.

(d) The Depositor, the Servicer or the Issuer may require additional proof of any matter referred to in this Section 11.11 as it shall deem necessary.

Section 11.12. Non-Petition Agreement.

Notwithstanding any prior termination of any Basic Document, the Originator, the Paying Agent, the Servicer, the Depositor, the Collateral Custodian, the Backup Servicer and the Indenture Trustee each severally and not jointly covenants that it shall not, prior to the date which is one year and one day, or, if longer, the applicable preference period then in effect, after the payment in full of the all of the Notes, acquiesce, petition or otherwise, directly or indirectly, invoke or cause the Issuer or the Depositor to invoke the process of any governmental authority for the purpose of commencing or sustaining a case against the Issuer or Depositor under any Bankruptcy Law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or Depositor or any substantial part of their respective property or ordering the winding up or liquidation of the affairs of the Issuer or the Depositor.

Section 11.13. Due Diligence.

The Originator acknowledges that the Initial Noteholder may purchase Notes and advance Borrowings and may enter into transactions based solely upon the information provided by the Originator to the Initial Noteholder in the Loan Schedule and the representations, warranties and covenants contained herein, and that the Initial Noteholder, at its option, has the right prior to such purchase of the Notes or the advance of any Borrowing therein or such Transactions to conduct a partial or complete due diligence review on some or all of the Transferred Loans securing such purchase, including, without limitation, re-generating the information used to originate each such Transferred Loan. The Initial Noteholder may underwrite such Transferred Loans itself or engage a mutually agreed upon third party underwriter to perform such underwriting. The Originator agrees to cooperate with the Initial Noteholder and any third party underwriter in connection with such underwriting, including, but not limited to, providing the Initial Noteholder and any third party underwriter with access to any and all documents, records, agreements, instruments or information relating to such Transferred Loans in the possession, or under the control, of the Servicer. The Originator also shall make

available to the Initial Noteholder a knowledgeable financial or accounting officer for the purpose of answering questions respecting the Loan Files and the Transferred Loans. Each Noteholder agrees (on behalf of itself and its Affiliates, directors, officers, employees and representatives) to use reasonable precaution to keep confidential, in accordance with its customary procedures for handling confidential information and in accordance with safe and sound practices, and not to disclose to any third party, any non-public information supplied to it or otherwise obtained by it hereunder with respect to the Originator or any of its Affiliates; *provided*, however, that nothing herein shall prohibit the disclosure of any such information to the extent required by statute, rule, regulation or judicial process; *provided*, *further* that, unless specifically prohibited by applicable law or court order, the Noteholder shall, prior to disclosure thereof, notify the Originator of any request for disclosure of any such non-public information. The Noteholder further agrees not to use any such non-public information for any purpose unrelated to this Agreement and that each such Noteholder shall not disclose such non public information to any third party underwriter without obtaining a written agreement from such third party underwriter to comply with the confidentiality provisions of this Section 11.13.

Section 11.14. No Reliance.

Each of the Originator, the Depositor and the Issuer hereby acknowledges that it has not relied on the Initial Noteholder or any of its officers, directors, employees, agents and "control persons" as such term is used under the Securities Act and under the Exchange Act, for any tax, accounting, legal or other professional advice in connection with the transactions contemplated by the Basic Documents, that each of the Originator, the Depositor and the Issuer has retained and been advised by such tax, accounting, legal and other professionals as it has deemed necessary in connection with the transactions contemplated by the Basic Documents and that the Initial Noteholder makes no representation or warranty, and shall have no liability with respect to, the tax, accounting or legal treatment or implications relating to the transactions contemplated by the Basic Documents.

Section 11.15. Conflicts.

Notwithstanding anything contained in the Basic Documents to the contrary, in the event of the conflict between the terms of this Agreement and any other Basic Document, the terms of this Agreement shall control.

Section 11.16. Limitation on Liability.

It is expressly understood and agreed by the parties hereto that (a) this Agreement is executed and delivered by Wilmington Trust Company, not individually or personally, but solely as Owner Trustee of Hercules Funding Trust I, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Issuer is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose for binding only the Issuer, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under

no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of the Issuer or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Issuer under this Agreement or any other related documents.

Section 11.17. No Agency.

Nothing contained herein or in the Basic Documents shall be construed to create an agency or fiduciary relationship between the Initial Noteholder, the Noteholders or any of their Affiliates and the Issuer, the Depositor, the Originator or the Servicer. None of the Initial Noteholder, any Noteholders or any of their Affiliates shall be liable for any acts or actions affected in connection with an Optional Sale in connection with any Permitted Securitization.

Section 11.18. Third Party Beneficiaries.

The Owner Trustee is an intended third party beneficiary of this Agreement.

Section 11.19. Performance by U.S. Bank.

The parties expressly acknowledge and consent to U.S. Bank acting in the capacities of successor Servicer and in the capacity as Indenture Trustee and the Collateral Custodian. U.S. Bank may, in such dual capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principles, duty of loyalty principles or other breach of fiduciary duties to the extent that any such conflict or breach arises from the performance by U.S. Bank of express duties set forth in this Agreement in any of such capacities, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto except in the case of negligence (other than errors in judgment) and willful misconduct by U.S. Bank.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed by their respective officers thereunto duly authorized, as of the day and year first above written, to this Agreement.

HERCULES FUNDING TRUST I, as Issuer

By: Wilmington Trust Company, not in its individual capacity but solely as Owner Trustee

By: _____
Name: _____
Title: _____

HERCULES FUNDING I LLC, as Depositor

By: _____
Name: _____
Title: _____

HERCULES TECHNOLOGY GROWTH CAPITAL, INC., as Originator and Servicer

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION, as Indenture Trustee and Collateral Custodian

By: _____
Name: _____
Title: _____

LYON FINANCIAL SERVICES, INC. as Backup Servicer

By: _____
Name: _____
Title: _____

EXHIBIT A
FORM OF BORROWING NOTICE

[Date]

Citigroup Global Markets Realty Corp.
390 Greenwich Street
6th Floor
New York, NY 10013
Attention: Monitoring Group -
James Xanthos, Martin Lifschultz and Christian Anderson
Fax: (212) 723-8591

U.S. Bank National Association
One Federal Street, 3rd Floor
Boston, Massachusetts 02110
Attention: Corporate Trust Services
Ref: Hercules Funding Trust I

Re: Hercules Funding Trust I Asset Backed Notes

Reference is made to the Sale and Servicing Agreement, dated as of August 1, 2005 (the "Sale and Servicing Agreement"), among Hercules Funding Trust I, as Issuer, Hercules Funding I LLC, as Depositor, Hercules Technology Growth Capital, Inc., as Originator and Servicer, and U.S. Bank National Association, as Indenture Trustee and Collateral Custodian, and Lyon Financial Services, Inc. doing business as U.S. Bank Portfolio Services, as Backup Servicer. Capitalized terms not defined herein shall have the meanings assigned to such terms in the Sale and Servicing Agreement.

The undersigned _____, a duly appointed _____ of _____, acting in such capacity, hereby requests a Borrowing in an amount of $_____, such amount to be advanced on _____, 200__, a Business Day not later than the next Business Day after the date hereof (such date, the "Borrowing Date").

Very truly yours,

HERCULES FUNDING TRUST I

By: _____
Name: _____
Title: _____

EXHIBIT B

FORM OF SERVICER REPORT

HERCULES FUNDING TRUST I

SALE AND SERVICING AGREEMENT DATED AUGUST 1, 2005

RECORD DATE: MM/DD/YY

[TO BE PROVIDED]

EXHIBIT C
FORM OF S&SA ASSIGNMENT

ASSIGNMENT NO. ____ OF LOANS ("S&SA Assignment"), dated as of [_____] [____], 2005 (the "Transfer Date"), by Hercules Funding I LLC, (the "Depositor") to Hercules Funding Trust I (the "Issuer") pursuant to the Sale and Servicing Agreement referred to below.

WITNESSETH:

WHEREAS, the Depositor and the Issuer are parties to the Sale and Servicing Agreement dated as of August 1, 2005 (the "Sale and Servicing Agreement") among Hercules Funding Trust I, as Issuer, Hercules Funding I LLC, as Depositor, Hercules Technology Growth Capital, Inc., as Originator and Servicer, U.S. Bank National Association, as Indenture Trustee and Collateral Custodian, and Lyon Financial services doing business as U.S. Bank Portfolio Services, as Backup Servicer, hereinafter as such agreement may have been, or may from time to time be, amended, supplemented or otherwise modified;

WHEREAS, pursuant to the Sale and Servicing Agreement, the Depositor wishes to sell, convey, transfer and assign Purchased Assets to the Issuer in exchange for cash consideration, the Trust Certificates and other good and valid consideration the receipt and sufficiency of which is hereby acknowledged; and

WHEREAS, the Issuer is willing to acquire such Purchased Assets subject to the terms and conditions hereof and of the Sale and Servicing Agreement;

NOW THEREFORE, the Depositor and the Issuer hereby agree as follows:

1. Defined Terms. All capitalized terms defined in the Sale and Servicing Agreement and used herein shall have such defined meanings when used herein, unless otherwise defined herein.

2. Designation of Loans. The Depositor does hereby deliver herewith a Loan Schedule containing a true and complete list of each Loan to be conveyed on the Transfer Date. Such list is marked as Schedule A to this S&SA Assignment and is hereby incorporated into and made a part of this S&SA Assignment.

3. Conveyance of Purchased Assets. The Depositor hereby sells, transfers, assigns and conveys to the Issuer, without recourse, all of the right, title and interest of the Depositor in and to the Loans listed on the Loan Schedule attached hereto and all Related Property and other related collateral constituting part of the Purchased Assets related to such Loan, including, without limitation, all Collections on or with respect to the Loans, in each case arising on or after the related Transfer Date.

4. Issuer Acknowledges Assignment. As of the Transfer Date, pursuant to this S&SA Assignment and Section 2.01(a) of the Sale and Servicing Agreement, the Issuer acknowledges its receipt of the Loans listed on the attached Loan Schedule and all Related

Property and other related collateral constituting part of the Purchased Assets related to such Loan.

5. Acceptance of Rights But Not Obligations. The foregoing sale, transfer, assignment, set over and conveyance does not, and is not intended to, result in a creation or an assumption by the Issuer of any obligation of the Depositor, the Originator or any other Person in connection with this S&SA Assignment or under any agreement or instrument relating thereto except as specifically set forth herein.

6. Depositor Acknowledges Receipt of Sales Price. The Depositor hereby acknowledges receipt of the Sales Price or that is otherwise distributed at its direction.

7. Conditions Precedent. The conditions precedent in Section 2.08 of the Sale and Servicing Agreement have been satisfied.

8. Amendment of the Sale and Servicing Agreement. The Sale and Servicing Agreement is hereby amended by providing that all references to the "Sale and Servicing Agreement," "this Agreement" and "herein" shall be deemed from and after the Transfer Date to which this S&SA relates to be a dual reference to the Sale and Servicing Agreement as supplemented by this S&SA Assignment. Except as expressly amended hereby, all of the representations, warranties, terms, covenants and conditions of the Sale and Servicing Agreement shall remain unamended and the Sale and Servicing Agreement shall continue to be, and shall remain, in full force and effect in accordance with its terms and except as expressly provided herein, this S&SA Assignment shall not constitute or be deemed to constitute a waiver of compliance with or consent to noncompliance with any term or provision of the Sale and Servicing Agreement.

9. Counterparts. This S&SA Assignment may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have caused this S&SA Assignment to be duly executed and delivered by their respective duly authorized officers on the day and year first above written.

HERCULES FUNDING I LLC, as Depositor

By: _____
Name: _____
Title: _____

HERCULES FUNDING TRUST I, as Issuer

By: Hercules Technology Growth Capital, Inc., as Servicer and Administrator

By: _____
Name: _____
Title: _____

EXHIBIT D
FORM OF LOAN SCHEDULE

TRANSFERRED LOANS

Obligor	Servicer Loan No.	Outstanding Loan Balance	Origination Date	Final Maturity Date

EXHIBIT E-1
FORM OF INITIAL COLLATERAL CERTIFICATION

BY FACSIMILE:

Citigroup Global Markets Realty Corp.
390 Greenwich Street
6th Floor
New York, NY 10013
Attention: Monitoring Group -
James Xanthos, Martin Lifschultz and Christian Anderson
Fax: (212) 723-8591

Ellen Simone
Citigroup Global Markets Realty Corp
Mortgage Products Group
333 West 34th Street, 4th Floor
NY, NY 10001
Phone: 212-615-7725
Fax: 212-615-9236

Re: Sale and Servicing Agreement dated as of August 1, 2005 (the "Agreement"), by and among Hercules Funding Trust I as Issuer, Hercules Funding I LLC, as Depositor, Hercules Technology Growth Capital, Inc. as the Originator and Servicer, and U.S. Bank National Association, as Indenture Trustee and as Collateral Custodian.

Ladies and Gentlemen:

In accordance with the provisions of Section 2.05(b)(i) of the above-referenced Agreement, the undersigned, as the Collateral Custodian, hereby certifies as to each Loan in the Loan Schedule attached hereto that it has received a copy of each executed Underlying Note endorsed in blank. The Collateral Custodian makes no representations as to (i) the validity, legality, enforceability, sufficiency, due authorization or genuineness of any of the Underlying Notes or (ii) the collectibility, insurability, effectiveness or suitability of any such Loan.

The Collateral Custodian hereby confirms that it is holding each such Underlying Note with respect to each Loan as agent and bailee of, and custodian for the exclusive use and benefit, and subject to the sole direction, of the Indenture Trustee pursuant to the terms and conditions of the Agreement.

The Collateral Custodian will accept and act on instructions with respect to the Loans subject hereto upon surrender of this Trust Receipt and Collateral Certification at its office at U.S. Bank National Association, 1719 Range Way, Florence, South Carolina 29501.

Capitalized terms used herein shall have the meaning ascribed to them in the Agreement.

U.S. Bank National Association, as Collateral Custodian

By: _____
Name: _____
Title: _____

EXHIBIT E-2
FORM OF FINAL COLLATERAL CERTIFICATION

BY FACSIMILE:

Citigroup Global Markets Realty Corp.
390 Greenwich Street
6th Floor
New York, NY 10013
Attention: Monitoring Group -
James Xanthos, Martin Lifschultz and Christian Anderson
Fax: (212) 723-8591

Ellen Simone
Citigroup Global Markets Realty Corp
Mortgage Products Group
333 West 34th Street, 4th Floor
NY, NY 10001
Phone: 212-615-7725
Fax: 212-615-9236

Re: Sale and Servicing Agreement dated as of August 1, 2005 (the "Agreement"), by and among Hercules Funding Trust I as Issuer, Hercules Funding I LLC, as Depositor, Hercules Technology Growth Capital, Inc. as the Originator and Servicer, and U.S. Bank National Association, as Indenture Trustee and as Collateral Custodian.

Ladies and Gentlemen:

In accordance with the provisions of Section 2.05(b) of the above-referenced Agreement, the undersigned, as the Collateral Custodian, hereby certifies as to each Loan in the Loan Schedule attached hereto that it has received the Loan Files with respect to each Loan, with the exception of the missing items listed on Attachment A hereto. The Collateral Custodian makes no representations as to (i) the validity, legality, enforceability, sufficiency, due authorization or genuineness of any of the documents constituting the Loan Documents or (ii) the collectibility, insurability, effectiveness or suitability of any such Loan.

The Collateral Custodian hereby confirms that it is holding each such Loan Document with respect to each Loan as agent and bailee of, and custodian for the exclusive use and benefit, and subject to the sole direction, of the Indenture Trustee pursuant to the terms and conditions of the Agreement.

The Collateral Custodian will accept and act on instructions with respect to the Loans subject hereto upon surrender of this Trust Receipt and Collateral Certification at its office at at U.S. Bank National Association, 1719 Range Way, Florence, South Carolina 29501.

Capitalized terms used herein shall have the meaning ascribed to them in the Agreement.

U.S. Bank National Association, as Collateral Custodian

By: _____
Name: _____
Title: _____

EXHIBIT F
FORM OF BORROWING BASE CERTIFICATE

[DATE]

Citigroup Global Markets Realty Corp.
390 Greenwich Street
6th Floor
New York, NY 10013
Attention: Monitoring Group -
James Xanthos, Martin Lifschultz and Christian Anderson
Fax: (212) 723-8591

Ladies and Gentlemen:

This Borrowing Base Certificate is delivered to you pursuant to (i) Section 2.02 of the Note Purchase Agreement (the "Note Purchase Agreement"), dated as of August 1, 2005, among Hercules Funding Trust I, as Issuer, Hercules Funding I LLC, as Depositor, Hercules Technology Growth Capital, Inc., as Originator ("Hercules") and Citigroup Global Markets Realty Corp., as Purchaser and (ii) Section 2.07 of the Sale and Servicing Agreement (the "Sale and Servicing Agreement"; and together with the Loan Sale Agreement, the "Agreements"), dated as of August 1, 2005, among the Issuer, the Depositor, Hercules, as Originator and Servicer, U.S. Bank National Association, as Indenture Trustee and Collateral Custodian, and Lyon Financial services doing business as U.S. Bank Portfolio Services, as Backup Servicer. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Agreements.

As of the date hereof, Hercules hereby makes the following representations and warranties:

(1) Attached hereto as Schedule 1 is a true, correct and complete copy of the borrowing base report, which sets forth the calculation of the Borrowing Base and all components thereof;

(2) All conditions precedent to the related Borrowing Date set forth in Section 2.07 of the Sale and Servicing Agreement have been satisfied as of the date hereof and will remain satisfied on the related Borrowing Date;

(3) All of the representations and warranties set forth in Article III of the Sale and Servicing Agreement are true and correct as of the date hereof and as of the related Borrowing Date;

(4) All of the conditions precedent set forth in Section 3.01 of the Note Purchase Agreement have been satisfied as of the date hereof and will remain satisfied on the related Borrowing Date;

(5) All of the representations and warranties set forth in Article V of the Note Purchase Agreement are true and correct as of the date hereof and as of the related Borrowing Date;

(6) Neither the Amortization Date nor the Termination Date has occurred; and

(7) Each of the Originator, the Servicer, the Issuer and the Depositor is in compliance with the covenants set forth in the Basic Documents.

IN WITNESS WHEREOF, the undersigned have executed this Borrowing Base Certificate this_____ day of _____, 200__.

HERCULES TECHNOLOGY GROWTH CAPITAL, INC., as Servicer

By: _____
Name: _____
Title: _____

Schedule 1

BORROWING BASE REPORT

Calculation of Availability: the excess, if any of (A *over* B)

A. The lesser of:

(i) Facility Amount: $ _____

and
(ii) Maximum Availability (a + b):

the sum of:

(a) the lesser of:

(I) the difference of ((1)- (2))

(1) Borrowing Base (w + x - y - z):

the balance of:

(w) Aggregate Outstanding Loan Balance: $ _____

plus

(x) Outstanding Loan Balance of all Eligible Loans to become included a part of the Collateral on such date: $ _____

minus

(y) The amount (calculated without duplication) by which the Eligible Loans in clauses (w) and (x) exceed any applicable Concentration Limits: $ _____

minus

(z) Outstanding Loan Balance of any Defaulted Loans: $ _____

(1) = (w) + (x) - (y) - (z) = $ _____

minus

(2) Required Equity Contribution: $ _____

(I) = (1) - (2) = $ _____

and

(II) the product of ((1) X (2)) $ _____

(1) Borrowing Base: $ _____

multiplied by

(2) 55% $ _____

(II) = (1) x (2) = $ _____

(a) = the lesser of (I) and (II) = $ _____

plus

(b) the amount of Principal Collections on deposit in the Collection Account and the Principal Collections Account received in the reduction of the Outstanding Loan Balance of any Loan: $ _____

(ii) = (a) + (b) = $ _____

(A) = lesser of (i) and (ii) = $ _____

B. The sum of:

(i) Advances Outstanding: $ _____

plus

(ii) Aggregate Net Mark to Market Amount: $ _____

(B) = (i) + (ii) = $ _____

Availability: the excess, if any, of (A over B) = $ _____

C. After the Revolving Period:

Availability = $0

Maximum Availability = Advances Outstanding

EXHIBIT G

FORM OF AGENT AND INTERCREDITOR PROVISIONS FOR AGENTED NOTES

[TO BE PROVIDED BY HERCULES]

EXHIBIT H

FORM OF ASSIGNMENT OF MORTGAGE

[TO BE PROVIDED BY HERCULES]

EXHIBIT I

SECTION 7.01 CERTIFICATION

I, _____, _____ of Hercules Technology Growth Capital, Inc., a Maryland corporation (the "Company"), do hereby certify that:

(i) the Company is in compliance with all provisions and terms of the Sale and Servicing Agreement, dated as of August 1, 2005 (the "Sale and Servicing Agreement"), by and among Hercules Funding Trust I, a Delaware statutory trust, Hercules Funding I LLC, a Delaware corporation, as Depositor, the Company, as Originator and as Servicer, and U.S. Bank National Association, a national banking association, as Indenture Trustee on behalf of the Noteholders and as Collateral Custodian;

(ii) no Default has occurred under the Sale and Servicing Agreement;

(iii) the consolidated Tangible Net Worth of the Company is not less than $90,000,000;

(iv) the leverage ratio (the ratio of the Company's total consolidated liabilities (exclusive of non recourse debt but including, without limitation, any convertible debt), determined in accordance with GAAP, to its consolidated Tangible Net Worth) of the Company does not exceed 3.0:1; and

(v) calculations of the Company's consolidated Tangible Net Worth and leverage ratio are set forth on Schedule I attached hereto.

Capitalized terms used but not defined herein shall have the meanings assigned thereto in the Sale and Servicing Agreement.

IN WITNESS WHEREOF, I have signed this certificate.

Date: _____, 200__

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC.

By: _____
Name: _____
Title: _____

SCHEDULE I TO SECTION 7.01 CERTIFICATION

Consolidated Tangible Net Worth Calculation:

Line	Item	Total (in US$)
1	Total Consolidated Assets	
2	Total Consolidated Liabilities	
3	Consolidated Net Worth (Line 1 minus Line 2)	
4	Consolidated Net Book Value of Intangibles	
5	Consolidated Tangible Net Worth (Line 3 minus Line 4)	

Leverage Ratio Calculation:

Line	Item	Total
1	Total Consolidated Liabilities (exclusive of non recourse debt but including, without limitation, any convertible debt)	$
2	Consolidated Tangible Net Worth (from above)	$
3	Leverage Ratio (Line 1 divided by Line 2)	___:1

EXHIBIT J

FORM OF REQUEST FOR RELEASE OF DOCUMENTS AND RECEIPT

[Delivery Date]

BY FACSIMILE: ( ) [ ]-[ ]

U.S. Bank National Association
1719 Range Way
Florence, South Carolina 29501
Attn: Sandra Farrow
Ref: Hercules Funding I LLC
Mail Code: Ex - SC - FLOR

Re: Sale and Servicing Agreement, dated as of August 1, 2005 (as amended, modified, waived, supplemented or restated from time to time, the "Agreement"), by and among Hercules Funding Trust I as the issuer, Hercules Funding I LLC, as the depositor, Hercules Technology Growth Capital, Inc., as the originator and as the servicer, U.S. Bank National Association, as the indenture trustee and as the collateral custodian, and Lyon Financial Services, Inc doing business as U.S. Bank Portfolio Services, as the backup servicer.

Ladies and Gentlemen:

In connection with the administration of the Transferred Loans held by you as the Collateral Custodian on behalf of the Indenture Trustee under the Agreement, we request the release, and acknowledge receipt, of the Loan File for the Transferred Loan described below, for the reason indicated.

Obligor's Name, Address & Zip Code:

Loan Number:

Reason for Requesting Documents (check one)

____ 1. Transferred Loan Paid in Full. (The Servicer hereby certifies that all amounts received in connection therewith have been credited to the account of the Deal Agent.)

____ 2. Transferred Loan Liquidated By _____ (The Servicer hereby certifies that all proceeds of foreclosure, insurance, condemnation or other liquidation have been finally received and credited to the account of the Deal Agent.)

____ 3. Transferred Loan in Foreclosure.

____ 4. Other (explain).

If box 1 or 2 above is checked, and if all or part of the Loan File was previously released to us, please release to us our previous request and receipt on file with you, as well as any additional documents in your possession relating to the specified Loan.

If box 3 or 4 above is checked, upon our return of all of the above documents to you as the Collateral Custodian, please acknowledge your receipt by signing in the space indicated below, and returning this form.

Capitalized terms used but not defined herein have the meanings provided in the Agreement.

[SIGNATURES FOLLOW ON NEXT PAGE]

HERCULES TECHNOLOGY GROWTH CAPITAL, INC., as the Servicer

By: _____
Name: _____
Title: _____
Date: _____

Acknowledgment of Documents returned to the Collateral Custodian:

U.S. BANK NATIONAL ASSOCIATION,
as the Collateral Custodian

By: _____
Name: _____
Title: _____

The Initial Noteholder and the Indenture Trustee, at the direction of the Initial Noteholder, hereby consents to the Collateral Custodian's releasing the Loan File or a part thereof to the Servicer designated above:

CITIGROUP GLOBAL MARKETS REALTY CORP., as the Initial Noteholder

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION,
as the Indenture Trustee

By: _____
Name: _____
Title: _____

EXHIBIT K

FORM OF SERVICER'S CERTIFICATE

This Servicer's Certificate is delivered pursuant to the provisions of Section 4.17(b) of the Sale and Servicing Agreement, dated as of August 1, 2005, by and among Hercules Funding Trust I, as the issuer, Hercules Funding I LLC, as the depositor, Hercules Technology Growth Capital, Inc., as the originator and as the servicer (the "Servicer"), U.S. Bank National Association, as the indenture trustee and as the collateral custodian, and Lyon Financial Services, Inc. doing business as U.S. Bank Portfolio Services, as the backup servicer (as such agreement may have been, or may from time to time be amended, supplemented or otherwise modified, the "Agreement"). This Servicer's Certificate relates to the Collection Period and related Payment Date, to which the Servicer Report attached hereto relates.

1. Capitalized terms used and not otherwise defined herein have the meanings assigned them in the Agreement. References herein and in the attached Servicer Report to certain sections are to the applicable subsections of the Agreement.
2. The Servicer is the Servicer under the Agreement.
3. The undersigned hereby certifies to the Issuer, the Backup Servicer, the Indenture Trustee and the Initial Noteholder that:

   1) all of the foregoing information and all of the information set forth on attached Servicer Report is true and accurate in all material respects of the date hereof; and

   2) as of the date hereof, no Trigger Event, Default or Event of Default has occurred and is continuing.

IN WITNESS WHEREOF, the undersigned has caused this Servicer's Certificate to be duly executed this [____] day of [_____], [____].

HERCULES TECHNOLOGY GROWTH
CAPITAL, INC.,
as the Servicer

By: _____
Name: _____
Title: _____

EXHIBIT L

CREDIT AND COLLECTION POLICY

[TO BE PROVIDED BY HERCULES]

EXHIBIT M

CANADIAN LOAN CRITERIA

1. All amounts payable pursuant to or in connection with the Loan Documents related to the Loan will be exempt from withholding tax imposed under the *Income Tax Act* (Canada) and the Loan Documents will provide that payments of amounts owing thereunder shall be made free and clear of and without deduction for any such tax unless the applicable Obligor is required to deduct any such tax from such payments, in which case (i) the sum payable shall be increased as necessary so that, after making all required deductions, the payee receives an amount equal to the sum it would have received had no such deduction been made, (ii) the Obligor shall make such deduction and (iii) the Obligor shall pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.

2. The Loan Documents related to the Loan will provide that, for the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest or any fee to be paid under or in connection with the Loan Documents is to be calculated on the basis of a 360 or 365-day year (or any other period less than a calendar year), the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 360, 365 or such other period as the case may be.

3. The Loan Documents related to the Loan will provide that if, for the purposes of obtaining judgment in any court in any jurisdiction with respect to any amount owing under or in connection with the Loan Documents, it becomes necessary to convert into the currency of such jurisdiction (the "Judgment Currency") any such amount due in Dollars, and the amount of Dollars which can be purchased by the obligee with the amount of the Judgment Currency obtained pursuant to the judgment is less than the amount of Dollars originally due to it, then the Obligor shall indemnify and save the obligee harmless from and against all loss or damage arising as a result of such deficiency.

EXHIBIT N

QUEBEC LOAN CRITERIA

1. The Loan Documents related to the Loan are not governed by the laws of the Province of Quebec.

2. The amounts payable under the Loan Documents related to the Loan are not payable in the Province of Quebec.

Exhibit 99.5

INDENTURE

between

HERCULES FUNDING TRUST I,
as Issuer,

and

U.S. BANK NATIONAL ASSOCIATION,
as Indenture Trustee

Dated as of August 1, 2005

HERCULES FUNDING TRUST I
ASSET BACKED NOTES

EXHIBITS

INDENTURE

INDENTURE dated as of August 1, 2005 (this "Indenture"), between Hercules Funding Trust I, a Delaware statutory trust, as Issuer (the "Issuer") and U.S. Bank National Association, a national banking association, as Indenture Trustee (the "Indenture Trustee").

WITNESSETH THAT:

In consideration of the mutual covenants herein contained, the Issuer has duly authorized the execution and delivery of this Indenture to provide for the issuance of Notes, issuable as provided in this Indenture. All covenants and agreements made by the Issuer herein are for the benefit and security of the Noteholders.

GRANTING CLAUSE

Subject to the terms of this Indenture, the Issuer hereby Grants on the Closing Date, to the Indenture Trustee, as Indenture Trustee for the benefit of the Noteholders, all of the Issuer's right, title and interest, whether now owned or hereafter acquired, in and to: (i) the Transferred Loans and other Purchased Assets currently or from time to time to become subject to the Sale and Servicing Agreement and all proceeds of all of the foregoing, (ii) all payments in respect of interest and principal with respect to each Transferred Loan received on or after the applicable Transfer Date, (iii) such assets and funds (other than Excluded Amounts) as are from time to time deposited in the Distribution Account, the Principal Collections Account and the Collection Account, including, without limitation, amounts on deposit in such accounts that are invested in Permitted Investments, (iv) all right, title and interest of each of the Depositor, the Originator and the Issuer in and under the Basic Documents including, without limitation, the obligations of the Originator under the Loan Sale Agreement, and all proceeds of any of the foregoing, (v) all right, title and interest of the Issuer in and to the Sale and Servicing Agreement, (vi) all other property of the Issuer from time to time and (vii) all present and future claims, demands, causes of action and choses in action in respect of any or all of the foregoing and all payments on or under and all proceeds of every kind and nature whatsoever in respect of any or all of the foregoing, including all proceeds of the conversion thereof, voluntary or involuntary, into cash or other liquid property, all cash proceeds, accounts, accounts receivable, notes, drafts, acceptances, chattel paper, checks, deposit accounts, insurance proceeds, condemnation awards, rights to payment of any and every kind and other forms of obligations and receivables, instruments and other property which at any time constitute all or part of or are included in the proceeds of any of the foregoing (collectively, the "Collateral").

The foregoing Grant is made in trust to secure the payment of principal of and interest on, and any other amounts owing in respect of, the Notes, and to secure compliance with the provisions of this Indenture, all as provided in this Indenture.

The Indenture Trustee, as Indenture Trustee on behalf of the Noteholders, acknowledges such Grant, accepts the trust hereunder and agrees to perform its duties required in this Indenture to the best of its ability to the end that the interests of the Noteholders may adequately and effectively be protected.

Section .01. Definitions. (a) Except as otherwise specified herein, the following terms have the respective meanings set forth below for all purposes of this Indenture.

"Act" has the meaning specified in Section 11.03(a) hereof.

"Administration Agreement" means the Administration Agreement dated as of August 1, 2005.

"Administrator" means Hercules Technology Growth Capital, Inc., in its capacity as Administrator, or any successor Administrator under the Administration Agreement.

"Collateral" has the meaning specified in the Granting Clause of this Indenture.

"Corporate Trust Office" means with respect to (i) the Indenture Trustee and the Initial Paying Agent, a principal office of the Indenture Trustee at which at any particular time its corporate trust business shall be administered, which office at date of execution of this Indenture is located at One Federal Street, Third Floor, Boston, MA 02110, Attn: Corporate Trust Services, Ref. Hercules Funding Trust I, telecopy: (503) 258-6028 or at such other address as the Indenture Trustee may designate from time to time by notice to the Noteholders and the Issuer, or the principal corporate trust office of any successor Indenture Trustee at the address designated by such successor Indenture Trustee by notice to the Noteholders and the Issuer (ii) the Collateral Custodian, the office of the Collateral Custodian at which at any particular time it shall hold the Collateral Documents, which office at date of execution of this Indenture is located at U.S. Bank National Association, 1719 Range Way, Florence, South Carolina 29501, Attn: Sandra Farrow, Ref: Hercules Funding I LLC, Mail Code: Ex - SC - FLOR, telecopy: (843) 673-4925 or at such other address as the Collateral Custodian may designate from time to time by notice to the Noteholders and the Issuer, or the principal corporate office of any successor Collateral Custodian at the address designated by such successor Collateral Custodian by notice to the Noteholders and the Issuer.

"Default" means any occurrence that is, or with notice or the lapse of time or both would become, an Event of Default.

"Depository Institution" means any depository institution or trust company, including the Indenture Trustee, that (a) is incorporated under the laws of the United States of America or any State thereof; (b) is subject to supervision and examination by federal or state banking authorities and (c) has outstanding unsecured commercial paper or other short-term unsecured debt obligations that are rated at a rating to which the Majority Noteholders consent in writing.

"Event of Default" has the meaning specified in Section 5.01 hereof.

"Grant" means mortgage, pledge, bargain, sell, warrant, alienate, remise, release, convey, assign, transfer, create and grant a lien upon and a security interest in and right of set-off against, deposit, set over and confirm pursuant to this Indenture. A Grant of the Collateral or of

any other agreement or instrument shall include all rights, powers and options (but none of the obligations) of the granting party thereunder, including the immediate and continuing right to claim for, collect, receive and give receipt for principal and interest payments in respect of the Collateral and all other moneys payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the granting party or otherwise, and generally to do and receive anything that the granting party is or may be entitled to do or receive thereunder or with respect thereto.

"Holder" means, as of any date of determination, the Person in whose name a Note is registered on the Note Register as of such date.

"ICA Owner" means "beneficial owner" as such term is used in Section 3(c)(1) of the Investment Company Act of 1940, as amended (other than any persons who are excluded from such term or from the 100-beneficial owner test of Section 3(c)(1) by law or regulations adopted by the Commission).

"Indenture" means this Indenture and any amendments hereto.

"Initial Paying Agent" means the person initially designated as Paying Agent pursuant to the Sale and Servicing Agreement.

"Issuer Order" and "Issuer Request" mean a written order or request signed in the name of the Issuer by any one of its Responsible Officers and delivered to the Indenture Trustee.

"Note" means any Note authorized by and authenticated and delivered under this Indenture.

"Note Register" and "Note Registrar" have the respective meanings specified in Section 2.03 hereof

"Noteholder" means the Person in whose name a Note is registered on the Note Register.

"Officer's Certificate" means a certificate signed by any Responsible Officer of the Issuer or the Administrator, under the circumstances described in, and otherwise complying with, the applicable requirements of Section 11.01 hereof, and delivered to the Indenture Trustee. Unless otherwise specified, any reference in this Indenture to an Officer's Certificate shall be to an Officer's Certificate of any Responsible Officer of the Issuer or the Administrator.

"Opinion of Counsel" means one or more written opinions of counsel who may, except as otherwise expressly provided in this Indenture, be an employee of or counsel to the Issuer, and which opinion or opinions shall be addressed to the Indenture Trustee, as Indenture Trustee, and shall comply with any applicable requirements of Section 11.01 hereof and shall be in form and substance reasonably satisfactory to the Indenture Trustee.

"Outstanding" means, with respect to any Note and as of the date of determination, any Note theretofore authenticated and delivered under this Indenture except:

(i) Notes theretofore canceled by the Note Registrar or delivered to the Note Registrar for cancellation;

(ii) Notes or portions thereof the payment for which money in the necessary amount has theretofore been deposited with the Indenture Trustee or any Paying Agent in trust for the Noteholders (provided, however, that if such Notes are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision for such notice satisfactory to the Indenture Trustee has been made); and

(iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture unless proof satisfactory to the Indenture Trustee is presented that any such Notes are held by a bona fide purchaser; provided, however, that in determining whether the Noteholders representing the requisite Percentage Interests of the Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder or under any Basic Document, Notes owned by the Issuer, any other obligor upon the Notes, the Depositor or any Affiliate of any of the foregoing Persons shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Indenture Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes that the Indenture Trustee actually knows to be owned in such manner shall be disregarded. Notes owned in such manner that have been pledged in good faith may be regarded as Outstanding if the pledgee certifies to the Indenture Trustee (y) that the pledgee has the right so to act with respect to such Notes and (z) that the pledgee is not the Issuer, any other obligor upon the Notes, the Depositor or any Affiliate of any of the foregoing Persons.

"Percentage Interest" means, with respect to any Note and as of any date of determination, the percentage equal to a fraction, the numerator of which is the principal balance of such Note as of such date of determination and the denominator of which is the Note Principal Balance.

"Predecessor Note" means, with respect to any particular Note, every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purpose of this definition, any Note authenticated and delivered under Section 2.04 hereof in lieu of a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note.

"Purchaser" has the meaning assigned to such term in the Note Purchase Agreement.

"Redemption Date" means in the case of a redemption of the Notes pursuant toSection 10.01 hereof, the Payment Date specified by the Servicer pursuant to such Section 10.01.

"Sale Agent" has the meaning assigned to such term in Section 5.11 hereof.

"Sale and Servicing Agreement" means the Sale and Servicing Agreement dated as of August 1, 2005, among the Issuer, the Depositor, the Servicer, the Originator, the Collateral

Custodian, the Backup Servicer and the Indenture Trustee, on behalf of the Noteholders, as the same may be amended and supplemented from time to time.

"State" means any one of the States of the United States of America or the District of Columbia.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended, and the rules and regulations promulgated thereunder.

(b) Except as otherwise specified herein or as the context may otherwise require, capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Sale and Servicing Agreement for all purposes of this Indenture.

Section .02. Rules of Construction. Unless the context otherwise requires:

(i) a term has the meaning assigned to it;

(ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(iii) "or" is not exclusive;

(iv) "including" means including without limitation;

(v) words in the singular include the plural and words in the plural include the singular; and

(vi) any agreement, instrument or statute defined or referred to herein or in any instrument or certificate delivered in connection herewith means such agreement, instrument or statute as from time to time amended, modified or supplemented (as provided in such agreements) and includes (in the case of agreements or instruments) references to all attachments thereto and instruments incorporated therein; references to a Person are also to its permitted successors and assigns.

GENERAL PROVISIONS WITH RESPECT TO THE NOTES

Section .01. Method of Issuance and Form of Notes.

(a) The Notes shall be designated generally as the "Hercules Funding Trust I Asset Backed Notes" of the Issuer. Each Note shall bear upon its face the designation so selected for the Notes. All Notes shall be identical in all respects except for the denominations thereof. All Notes issued under this Indenture shall be in all respects equally and ratably entitled to the benefits thereof without preference, priority or distinction on account of the actual time or times of authentication and delivery, all in accordance with the terms and provisions of this Indenture.

(b) The Notes may be typewritten, printed, lithographed or engraved or produced by any combination of these methods, all as determined by the officers executing such Notes, as evidenced by their execution of such Notes.

(c) Each Note shall be dated the date of its authentication. The terms of the Notes shall be set forth in this Indenture.

(d) The Notes shall be in definitive form and shall bear a legend substantially in the form which appears on the Form of Note attached hereto as Exhibit A.

Section .02. Execution, Authentication, Delivery and Dating. (a) The Notes shall be executed on behalf of the Issuer by a Responsible Officer of the Owner Trustee or the Administrator. The signature of any such Responsible Officer on the Notes may be manual or facsimile. Notes bearing the manual or facsimile signature of individuals who were at any time Responsible Officers of the Owner Trustee or the Administrator shall bind the Issuer, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the date of such Notes.

(b) Subject to the satisfaction of the conditions set forth in Section 2.08 hereof, the Indenture Trustee shall upon Issuer Order authenticate and deliver the Notes. The Notes that are authenticated and delivered by the Indenture Trustee to or upon the order of the Issuer on the Closing Date shall be dated as of such Closing Date. All other Notes that are authenticated after the Closing Date for any other purpose under the Indenture shall be dated the date of their authentication. The Notes shall be issued in such denominations as may be agreed by the Issuer and the Noteholders.

(c) No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by the Indenture Trustee by the manual signature of one of its authorized signatories, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

Section .03. Registration; Registration of Transfer and Exchange. (a) The Issuer shall cause to be kept a register (the "Note Register") in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Notes and the registration of transfers of Notes. The Indenture Trustee initially shall be the "Note Registrar" for the purpose of registering Notes and transfers of Notes as herein provided. Upon any resignation of any Note Registrar, the Issuer shall promptly appoint a successor or, if it elects not to make such an appointment, assume the duties of the Note Registrar.

(b) If a Person other than the Indenture Trustee is appointed by the Issuer as Note Registrar, the Issuer will give the Indenture Trustee prompt written notice of the appointment of such Note Registrar and of the location, and any change in the location, of the Note Register, and the Indenture Trustee shall have the right to inspect the Note Register at all reasonable times and to obtain copies thereof, and the Indenture Trustee shall have the right to rely upon a certificate executed on behalf of the Note Registrar by a Responsible Officer thereof as to the names and addresses of the Noteholders and the principal amounts and number of the Notes.

(c) Upon surrender for registration of transfer of any Note at the office or agency of the Issuer to be maintained as provided in Section 3.02 hereof, the Issuer shall execute, and the Indenture Trustee shall authenticate and the Noteholder shall obtain from the Indenture Trustee, in the name of the designated transferee or transferees, one or more new Notes in any authorized denominations, of a like aggregate Note Principal Balance.

(d) At the option of the Holder, Notes may be exchanged for other Notes in any authorized denominations, of a like aggregate principal amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Issuer shall execute, and the Indenture Trustee shall authenticate and the Noteholder shall obtain from the Indenture Trustee, the Notes which the Noteholder making the exchange is entitled to receive.

(e) All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Notes surrendered upon such registration of transfer or exchange. Every Note presented or surrendered for registration of transfer or exchange shall be duly endorsed by, or be accompanied by a written instrument of transfer in the form attached to the Form of Note attached as Exhibit A hereto duly executed by the Holder thereof or such Holder's attorney duly authorized in writing, with such signature guaranteed by an "eligible guarantor institution" meeting the requirements of the Securities Transfer Agents' Medallion Program ("STAMP"). No service charge shall be made to a Noteholder for any registration of transfer or exchange of Notes, but the Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Section 9.05 hereof not involving any transfer.

(f) The preceding provisions of this Section 2.03 notwithstanding, the Issuer shall not be required to make, and the Note Registrar need not register, transfers or exchanges of Notes selected for redemption or of any Note for a period of 15 days preceding the due date for any payment with respect to such Note.

Section .04. Mutilated, Destroyed, Lost or Stolen Notes. (a) If (i) any mutilated Note is surrendered to the Indenture Trustee, or the Indenture Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (ii) there is delivered to the Issuer and Indenture Trustee such security or indemnity as may reasonably be required by it to hold the Issuer and the Indenture Trustee, as applicable, harmless, then, in the absence of notice to the Issuer, the Note Registrar or the Indenture Trustee that such Note has been acquired by a bona fide purchaser, a Responsible Officer of the Owner Trustee or the Administrator on behalf of the Issuer shall execute, and upon its written request the Indenture Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a replacement Note; provided, however, that if any such destroyed, lost or stolen Note, but not a mutilated Note, shall have become or within seven days shall be due and payable, or shall have been called for redemption, instead of issuing a replacement Note, the Issuer may pay such destroyed, lost or stolen Note when so due or payable or upon the Redemption Date without

surrender thereof. If, after the delivery of such replacement Note or payment of a destroyed, lost or stolen Note pursuant to the proviso to the preceding sentence, a bona fide purchaser of the original Note in lieu of which such replacement Note was issued presents for payment such original Note, the Issuer shall be entitled to recover such replacement Note (or such payment) from the Person to which it was delivered or any Person taking such replacement Note from such Person to which such replacement Note was delivered or any assignee of such Person, except a bona fide purchaser, and the Issuer and the Indenture Trustee shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Issuer or the Indenture Trustee in connection therewith.

(b) Upon the issuance of any replacement Note under this Section 2.04, the Issuer may require the payment by the Holder of such Note of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other reasonable expenses (including the fees and expenses of the Indenture Trustee) connected therewith.

(c) Every replacement Note issued pursuant to this Section 2.04 in replacement of any mutilated, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Issuer, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

(d) The provisions of this Section 2.04 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section .05. Persons Deemed Noteholders. Prior to due presentment for registration of transfer of any Note, the Issuer, the Paying Agent, the Indenture Trustee and any agent of the Issuer or the Indenture Trustee may treat the Person in the name of which any Note is registered (as of the day of determination) as the Noteholder for the purpose of receiving payments of principal of and interest, if any, on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and none of the Issuer, the Paying Agent, the Indenture Trustee or any agent of the Issuer, the Paying Agent, or the Indenture Trustee shall be affected by notice to the contrary.

Section .06. Payment of Principal and/or Interest; Defaulted Interest.

(a) The Notes shall accrue interest at the Note Interest Rate, and such interest shall be payable on each Payment Date, subject to Section 3.01 hereof. All principal payments on the Notes shall be made pro rata to the Noteholders based on their respective Percentage Interests. Any installment of interest or principal, if any, payable on any Note that is punctually paid or duly provided for by the Issuer on the applicable Payment Date shall be paid to the Person in the name of which such Note (or one or more Predecessor Notes) is registered on the preceding Record Date based on the Percentage Interest represented by its respective Note, without preference or priority of any kind, and, except as otherwise provided in the next succeeding sentence, shall be made by wire transfer of immediately available funds to the account of such Noteholder, if such Noteholder shall have so notified the Paying Agent and the Indenture Trustee in writing at least seven Business Days prior to the related Payment Date, and otherwise by check mailed to the address of such Noteholder appearing in the Note Register no

less than five days preceding the related Record Date. The final installment of principal payable with respect to such Note shall be payable as provided in Section 2.06(b) below. The funds represented by any such checks returned undelivered shall be held in accordance with Section 3.03 hereof.

(b) The principal of each Note shall be payable to the extent of amounts available therefor on each Payment Date as provided in Sections 5.01 and 5.02 of the Sale and Servicing Agreement and Section 5.04(b) hereof. Notwithstanding the foregoing, the entire unpaid principal amount of the Notes shall be due and payable, if not previously paid, on the earlier of (i) the Termination Date, (ii) the Redemption Date and (iii) the date on which (x) an Event of Default of the type specified in Section 5.01(g) or (h) hereof shall have occurred, or (y) the Indenture Trustee or the Majority Noteholders shall have declared the Notes to be immediately due and payable in the manner provided in Section 5.02 hereof after the occurrence of an Event of Default of the type specified in Section 5.01(a)-(f) or (i) hereof.

(c) The Paying Agent shall notify the Person in the name of which a Note is registered at the close of business on the Record Date preceding the Payment Date on which the Issuer expects that the final installment of principal of and interest on such Note will be paid. Such notice shall be mailed or transmitted by facsimile prior to such final Payment Date and shall specify that such final installment will be payable only upon presentation and surrender of such Note and shall specify the place where such Note may be presented and surrendered for payment of such installment. Notices in connection with redemptions of Notes shall be provided to Noteholders as set forth in Section 10.02 hereof.

Section .07. Cancellation. All Notes surrendered for payment, registration of transfer, exchange or redemption shall, if surrendered to any Person other than the Indenture Trustee, be delivered to the Indenture Trustee and shall promptly be canceled by the Indenture Trustee. The Issuer may at any time deliver to the Indenture Trustee for cancellation any Notes previously authenticated and delivered hereunder which the Issuer may have acquired in any manner whatsoever, and all Notes so delivered shall promptly be canceled by the Indenture Trustee. No Notes shall be authenticated in lieu of or in exchange for any Notes canceled as provided in this Section 2.07, except as expressly permitted by this Indenture. All canceled Notes may be held or disposed of by the Indenture Trustee in accordance with its standard retention or disposal policy as in effect at the time unless the Issuer shall direct by an Issuer Order that they be destroyed or returned to it; provided, however, that such Issuer Order is timely and the Notes have not been previously disposed of by the Indenture Trustee.

Section .08. Conditions Precedent to the Authentication of the Notes. The Notes may be authenticated by the Indenture Trustee upon receipt by the Indenture Trustee of the following:

(a) An Issuer Order authorizing authentication of such Notes by the Indenture Trustee;

(b) An executed counterpart of each Basic Document;

(c) One or more Opinions of Counsel addressed to the Indenture Trustee to the effect that:

(i) the Owner Trustee has power and authority to execute, deliver and perform its obligations under the Trust Agreement;

(ii) the Issuer has been duly formed, is validly existing as a statutory trust under the laws of the State of Delaware, 12 Del. C. Section 3801et seq., and has power, authority and legal right to execute and deliver this Indenture, the Note Purchase Agreement and the Sale and Servicing Agreement;

(iii) assuming due authorization, execution and delivery hereof by the Indenture Trustee, the Indenture is a valid, legal and binding obligation of the Issuer, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent or preferential conveyance and other similar laws of general application affecting the rights of creditors generally and to general principles of equity (regardless of whether such enforcement is considered in a Proceeding in equity or at law);

(iv) the Notes, when executed and authenticated as provided herein and delivered against payment therefor, will be the valid, legal and binding obligations of the Issuer pursuant to the terms of this Indenture, entitled to the benefits of this Indenture, and will be enforceable in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent or preferential conveyance and other similar laws of general application affecting the rights of creditors generally and to general principles of equity (regardless of whether such enforcement is considered in a Proceeding in equity or at law);

(v) this Indenture is not required to be qualified under the Trust Indenture Act;

(vi) no authorization, approval or consent of any governmental body having jurisdiction over the Issuer or its assets which has not been obtained by the Issuer is required to be obtained by the Issuer for the valid issuance and delivery of the Notes, except that no opinion need be expressed with respect to any such authorizations, approvals or consents as may be required under any state securities or "blue sky" laws; and

(vii) any other matters that the Indenture Trustee may reasonably request;provided that the Indenture Trustee shall have no obligation to make any such request.

(d) An Officer's Certificate complying with the requirements of Section 11.01, hereof and stating that:

(i) the Issuer is not in Default under this Indenture and the issuance of the Notes applied for will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, the Trust Agreement, any indenture, mortgage, deed of trust or other agreement or instrument to which the Issuer is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which the Issuer is a party or by which it may be bound or to which it

may be subject, and that all conditions precedent provided in this Indenture relating to the authentication and delivery of the Notes applied for have been complied with;

(ii) the Issuer is the owner of all of the Purchased Assets, the Issuer has not assigned any interest or participation in any of the Purchased Assets (or, if any such interest or participation has been assigned, it has been released), and the Issuer has the right to Grant all of the Purchased Assets to the Indenture Trustee; and

(iii) the Issuer has Granted to the Indenture Trustee all of its right, title and interest in and to the Collateral, and has delivered, transferred or assigned, as applicable or caused the same to be delivered, transferred or assigned, as applicable to the Indenture Trustee.

Section .09. Release of Collateral. (a) Except as otherwise expressly provided by the terms of the Basic Documents, the Indenture Trustee shall release the Collateral from the Lien of this Indenture only upon receipt of an Issuer Request accompanied by the written instructions furnished by the Noteholders and otherwise in accordance with Section 8.05. To the extent it deems necessary, the Indenture Trustee may seek direction from the Noteholders with regard to the release of Collateral other than the Loan File.

(b) The Indenture Trustee shall, if requested by the Servicer, temporarily release to the Servicer a Loan File for purposes of facilitating the servicing or administration of a Transferred Loan; provided, however, that the Collateral Custodian's records shall indicate the Issuer's pledge to the Indenture Trustee under the Indenture.

Section .10. Borrowings. The Noteholders shall give written notice to the Indenture Trustee and the Paying Agent of any Borrowings on which notice the Indenture Trustee and Paying Agent may conclusively rely in good faith for all purposes of this Indenture and Basic Documents. In the event of an advance in respect of a Borrowing by the Noteholders as provided in Section 2.01(b) of the Sale and Servicing Agreement, each Noteholder shall, and is hereby authorized to, record on the schedule attached to its Note the date and amount of any Borrowing advanced by it, and each repayment thereof; *provided* that failure to make any such recordation on such schedule or any error in such schedule shall not adversely affect any Noteholder's rights with respect to any Borrowing it shall have advanced and its right to receive interest payments in respect of the Note Principal Balance held by such Noteholder. Absent manifest error, the Note Principal Balance of each Note as set forth in the notations made by the Initial Noteholder on such Note shall be binding upon the Indenture Trustee and the Issuer.

Section .11. Tax Treatment. The Issuer has entered into this Indenture, and the Notes will be issued, with the intention that for all purposes, including federal, state and local income, single business and franchise tax purposes, the Notes will qualify as indebtedness of the Issuer secured by the Collateral. The Issuer, by entering into this Indenture, and each Noteholder, by its acceptance of a Note, agree to treat the Notes for all purposes, including federal, state and local income, single business and franchise tax purposes, as indebtedness of the Issuer. The Indenture Trustee will have no responsibility for filing or preparing any tax returns.

Section .12. Limitations on Transfer of the Notes.

(a) The Notes have not been and will not be registered under the Securities Act and will not be listed on any exchange. No transfer of a Note shall be made unless such transfer is made pursuant to an effective registration statement under the Securities Act and all applicable state securities laws or is exempt from the registration requirements under the Securities Act and such state securities laws. In order to assure compliance with the Securities Act and state securities laws, any transfer of a Note shall be made (A) in reliance on Rule 144A under the Securities Act, in which case, the Indenture Trustee shall require that the transferor deliver a certification substantially in the form of Exhibit B-1 hereto and that the transferee deliver a certification substantially in the form ofExhibit B-3 hereto, or (B) to an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act that is not a "qualified institutional buyer," in which case the Indenture Trustee shall require that the transferee deliver a certification substantially in the form of Exhibit B-2 hereto. The Indenture Trustee shall not make any transfer or re-registration of the Notes if after such transfer or re-registration, there would be more than five (5) registered Noteholders. Each Noteholder shall, by its acceptance of a Note, be deemed to have represented and warranted that the number of ICA Owners with respect to all of its Notes shall not exceed four (4).

(b) The Note Registrar shall not register the transfer of any Note unless the Indenture Trustee has received a certificate from the transferee in the form ofExhibit B-2 or B-3, as applicable, to the effect that either (i) the transferee is not an employee benefit plan or other retirement plan or arrangement subject to Title I of the Employee Retirement Income Security Act of 1974, as amended, or Section 4975 of the Internal Revenue Code of 1986, as amended (each, a "Plan"), and is not acting on behalf of or investing the assets of a Plan or (ii) if the transferee is a Plan or is acting on behalf of or investing the assets of a Plan, the conditions for exemptive relief under at least one of the following prohibited transaction class exemptions have been satisfied: Prohibited Transaction Class Exemption ("PTCE") 96-23 (relating to transactions effected by an "in-house asset manager"), PTCE 95-60 (relating to transactions involving insurance company general accounts), PTCE 91-38 (relating to transactions involving bank collective investment funds), PTCE 90-1 (relating to transactions involving insurance company pooled separate accounts) and PTCE 84-14 (relating to transactions effected by a "qualified professional asset manager").

(c) The Indenture Trustee and Note Registrar shall not be responsible for ascertaining whether any transfer complies with, or otherwise to monitor or determine compliance with, the requirements or terms of the Securities Act, applicable state securities laws, ERISA, the Code or the Investment Company Act; except that if a transfer certificate or opinion is specifically required by the terms of this Section to be provided to the Indenture Trustee or Note Registrar by a prospective transferee or transferor, the Indenture Trustee or Note Registrar, as applicable, shall be under a duty to receive and examine the same to determine whether it conforms substantially on its face to the applicable requirements of this Section.

COVENANTS

Section .01. Payment of Principal and/or Interest. The Issuer will duly and punctually pay (or will cause to be paid duly and punctually) the principal of and interest on the Notes in accordance with the terms of the Notes, this Indenture and the Sale and Servicing

Agreement. The Paying Agent shall notify the Person in the name of which a Note is registered and the Indenture Trustee at the close of business on the Record Date preceding the Payment date on which the Issuer expects that the final installment of principal of and interest on such Note will be paid. Amounts properly withheld under the Code by any Person from a payment to any of the Noteholders of interest and/or principal shall be considered as having been paid by the Issuer to such Noteholder for all purposes of this Indenture. The Notes shall be non-recourse obligations of the Issuer and shall be limited in right of payment to amounts available from the Collateral, as provided in this Indenture. The Issuer shall not otherwise be liable for payments on the Notes. If any other provision of this Indenture shall be deemed to conflict with the provisions of this Section 3.01, the provisions of this Section 3.01 shall control.

Section .02. Maintenance of Office or Agency. The Indenture Trustee shall maintain at the Corporate Trust Office an office or agency where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served. The Indenture Trustee shall give prompt written notice to the Issuer of the location, and of any change in the location, of any such office or agency.

Section .03. Money for Payments to Be Held in Trust (a) As provided in Section 8.02(a) and (b) hereof, all payments of amounts due and payable with respect to any Notes that are to be made from amounts withdrawn from the Distribution Account pursuant to Section 8.02(c) hereof shall be made on behalf of the Issuer by the Indenture Trustee or by the Paying Agent, as applicable, and no amounts so withdrawn from the Distribution Account for payments of Notes shall be paid over to the Issuer except as provided in this Section 3.03.

(b) Any Paying Agent shall be appointed by the Issuer, with the consent of the Majority Noteholders with written notice thereof to the Indenture Trustee. The initial Paying Agent shall be the Indenture Trustee. The Issuer shall not appoint any Paying Agent (other than the Indenture Trustee) which is not, at the time of such appointment, a Depository Institution.

(c) The Issuer will cause each Paying Agent other than the Indenture Trustee to execute and deliver to the Indenture Trustee an instrument in which such Paying Agent shall agree with the Indenture Trustee (and if the Indenture Trustee acts as Paying Agent, it hereby so agrees), subject to the provisions of this Section 3.03, that such Paying Agent will:

(i) hold all sums held by it for the payment of amounts due with respect to the Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided and pay such sums to such Persons as herein provided;

(ii) give the Indenture Trustee notice of any Default by the Issuer (or any other obligor upon the Notes) of which it has actual knowledge in the making of any payment required to be made with respect to the Notes;

(iii) at any time during the continuance of any such Default, upon the written request of the Majority Noteholders or the Indenture Trustee, forthwith pay to the Indenture Trustee all sums so held in trust by such Paying Agent;

(iv) immediately resign as a Paying Agent and forthwith pay to the Indenture Trustee all sums held by it in trust for the payment of Notes if at any time it ceases to meet the standards required to be met by a Paying Agent at the time of its appointment; and

(v) comply with all requirements of the Code with respect to the withholding from any payments made by it on any Notes of any applicable withholding taxes imposed thereon and with respect to any applicable reporting requirements in connection therewith; provided, however, that with respect to withholding and reporting requirements applicable to original issue discount (if any) on the Notes, the Issuer shall have first provided the calculations pertaining thereto to the Indenture Trustee.

(d) Subject to applicable laws with respect to escheat of funds or abandoned property, any money held by the Indenture Trustee or any Paying Agent in trust for the payment of any amount due with respect to any Note and remaining unclaimed for two years after such amount has become due and payable shall be discharged from such trust and be paid to the Issuer on Issuer Request; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Issuer for payment thereof (but only to the extent of the amounts so paid to the Issuer), and all liability of the Indenture Trustee or such Paying Agent with respect to such trust money shall thereupon cease; provided, however, that the Indenture Trustee or such Paying Agent, before being required to make any such repayment, shall at the expense and direction of the Issuer cause to be published, once in a newspaper of general circulation in the City of New York customarily published in the English language on each Business Day, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Issuer. The Indenture Trustee shall also adopt and employ any other reasonable means of notification of such repayment (including, but not limited to, mailing notice of such repayment to Noteholders whose Notes have been called but have not been surrendered for redemption or whose right to or interest in moneys due and payable but not claimed at the last address of record for each such Noteholder determinable from the records of the Indenture Trustee or of any Paying Agent). Any costs and expenses of the Indenture Trustee and the Paying Agent incurred in the holding of such funds shall be charged against such funds. Monies so held shall not bear interest.

Section .04. Existence. (a) Subject to subparagraph (b) of this Section 3.04, the Issuer will keep in full effect its existence, rights and franchises as a statutory trust under the laws of the State of Delaware (unless it becomes, or any successor Issuer hereunder is or becomes, organized under the laws of any other State or of the United States of America, in which case the Issuer will keep in full effect its existence, rights and franchises under the laws of such other jurisdiction) and will obtain and preserve its qualification to do business in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Indenture, the Notes and the Collateral. The Issuer shall comply in all respects with the covenants contained in the Trust Agreement, including without limitation, the "special purpose entity" covenants set forth in Section 4.1 thereof.

(b) Any successor to the Owner Trustee appointed pursuant to Section 10.2 of the Trust Agreement shall be the successor Owner Trustee under this Indenture without the execution or filing of any paper, instrument or further act to be done on the part of the parties hereto.

(c) Upon any consolidation or merger of or other succession to the Owner Trustee, the Person succeeding to the Owner Trustee under the Trust Agreement may exercise every right and power of the Owner Trustee under this Indenture with the same effect as if such Person had been named as the Owner Trustee herein.

Section .05. Protection of Collateral. The Issuer shall from time to time execute and deliver all such reasonable supplements and amendments hereto and all such financing statements, continuation statements, instruments of further assurance and other instruments, and will take such other action necessary or advisable to:

(i) provide further assurance with respect to the Grant of all or any portion of the Collateral;

(ii) maintain or preserve the lien and security interest (and the priority thereof) of this Indenture or carry out more effectively the purposes hereof;

(iii) perfect, publish notice of or protect the validity of any Grant made or to be made by this Indenture;

(iv) enforce any rights with respect to the Collateral; and

(v) preserve and defend title to the Collateral and the rights of the Indenture Trustee and the Noteholders in such Collateral against the claims of all Persons and parties.

The Issuer hereby designates the Servicer, its agent and attorney-in-fact to execute any financing statement, continuation statement or other instrument required to be executed pursuant to this Section 3.05.

Section .06. Negative Covenants. Without the written consent of the Majority Noteholders, so long as any Notes are Outstanding, the Issuer shall not:

(i) except as expressly permitted by the Basic Documents, sell, transfer, exchange or otherwise dispose of any of its properties or assets, including those included in any part of the Owner Trust Estate (as defined in the Trust Agreement), unless directed to do so by the requisite Noteholders as permitted herein;

(ii) claim any credit on, or make any deduction from the principal or interest payable in respect of, the Notes (other than amounts properly withheld from such payments under the Code) or assert any claim against any present or former Noteholder by reason of the payment of the taxes levied or assessed upon any part of the Owner Trust Estate;

(iii) engage in any business or activity other than as expressly permitted by this Indenture and the other Basic Documents, other than in connection with, or relating

to, the issuance of Notes pursuant to this Indenture, or amend this Indenture as in effect on the Closing Date other than in accordance with Article IX hereof;

(iv) issue any debt obligations except under this Indenture;

(v) incur or assume any indebtedness or guaranty any indebtedness of any Person, except for such indebtedness as may be incurred by the Issuer in connection with the issuance of the Notes pursuant to this Indenture;

(vi) dissolve or liquidate in whole or in part or merge or consolidate with any other Person;

(vii) (A) permit the validity or effectiveness of this Indenture to be impaired, or permit the Lien of this Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to the Notes except as may expressly be permitted hereby, (B) except as provided in the Basic Documents, permit any Lien, charge, excise, claim, security interest, mortgage or other encumbrance to be created on or extend to or otherwise arise upon or burden the Collateral; or any part thereof or any interest therein or the proceeds thereof, or (C) except as provided in the Basic Documents, permit any Person other than itself, the Owner Trustee and the Noteholders to have any right, title or interest in the Collateral;

(viii) remove the Administrator without cause and without the prior written consent of the Majority Noteholders; or

(ix) take any other action or fail to take any action which may cause the Issuer to be taxable as (a) an association pursuant to Section 7701 of the Code and the corresponding regulations, or (b) as a taxable mortgage pool pursuant to Section 7701(i) of the Code.

Section .07. Performance of Obligations; Servicing of Transferred Loans. (a) The Issuer shall not take any action and will use its commercially reasonable efforts not to permit any action to be taken by others that would release any Person from any of such Person's material covenants or obligations under any instrument or agreement included in the Collateral or that would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, any such instrument or agreement, except as expressly provided in the Basic Documents or such other instrument or agreement.

(b) The Issuer may contract with or otherwise obtain the assistance of other Persons (including, without limitation, the Administrator under the Administration Agreement) to assist it in performing its duties under this Indenture, and any performance of such duties by a Person identified to the Indenture Trustee in an Officer's Certificate of the Issuer shall be deemed to be action taken by the Issuer. Initially, the Issuer has contracted with the Servicer to assist the Issuer in performing its duties under this Indenture.

(c) The Issuer will punctually perform and observe all of its obligations and agreements contained in this Indenture, in the Basic Documents and in the instruments and agreements included in the Collateral, including but not limited to filing or causing to be filed all

UCC financing statements and continuation statements required to be filed by the terms of this Indenture and the Sale and Servicing Agreement, in accordance with and within the time periods provided for in this Indenture and/or the Sale and Servicing Agreement, as applicable. Except as otherwise expressly provided therein, the Issuer shall not waive, amend, modify, supplement or terminate any Basic Document or any provision thereof without the consent of the Indenture Trustee and the Majority Noteholders.

(d) If the Issuer shall have knowledge of the occurrence of a Servicer Default or an Event of Default, the Issuer shall promptly notify the Indenture Trustee and the Majority Noteholder thereof; and shall specify in such notice the action, if any, the Issuer is taking with respect to such default. If a Servicer Default shall be continuing due to the failure of the Servicer to perform any of its duties or obligations under the Sale and Servicing Agreement with respect to the Transferred Loans, the Issuer shall take all reasonable steps available to it to remedy such failure.

(e) Upon any termination of the Servicer's rights and powers pursuant to the Sale and Servicing Agreement, the Issuer shall promptly notify the Indenture Trustee. As soon as a successor servicer is appointed, the Issuer shall notify the Indenture Trustee of such appointment, specifying in such notice the name and address of such successor servicer.

(f) Without derogating from the absolute nature of the assignment granted to the Indenture Trustee under this Indenture or the rights of the Indenture Trustee (who shall act at direction of Majority Noteholders) hereunder, the Issuer agrees (i) that it will not, without the prior written consent of the Indenture Trustee, amend, modify, waive, supplement, terminate or surrender, or agree to any amendment, modification, supplement, termination, waiver or surrender of, the terms of any Collateral (except to the extent otherwise permitted by the Sale and Servicing Agreement) or the Basic Documents, or waive timely performance or observance by the Servicer or the Depositor under the Sale and Servicing Agreement; and (ii) that any such amendment shall not (A) increase or reduce in any manner the amount of, or accelerate or delay the timing of, distributions that are required to be made for the benefit of the Noteholders or (B) reduce the aforesaid percentage of the Notes that is required to consent to any such amendment, without the consent of Noteholders evidencing 100% of the Percentage Interests of the Outstanding Notes. If any such amendment, modification, supplement or waiver shall so be consented to by the Indenture Trustee, the Issuer agrees, promptly following a request by the Indenture Trustee to do so, to execute and deliver, in its own name and at its own expense, such agreements, instruments, consents and other documents as the Indenture Trustee may deem necessary or appropriate in the circumstances.

Section .08. Reserved.

Section .09. Annual Statement as to Compliance. So long as the Notes are Outstanding, the Issuer will deliver to the Indenture Trustee, within 120 days after the end of each fiscal year of the Issuer (commencing with the fiscal year beginning on August 1, 2005), an Officer's Certificate stating, as to the Responsible Officer signing such Officer's Certificate, that:

(i) a review of the activities of the Issuer during such year and of its performance under this Indenture has been made under such Responsible Officer's supervision; and

(ii) to the best of such Responsible Officer's knowledge, based on such review, the Issuer has materially complied with all conditions and covenants under this Indenture throughout such year, or, if there has been a default in its compliance with any such condition or covenant, specifying each such default known to such Responsible Officer and the nature and status thereof.

Section .10. Covenants of the Issuer. All covenants of the Issuer in this Indenture are covenants of the Issuer and are not covenants of the Owner Trustee. The Owner Trustee is, and any successor Owner Trustee under the Trust Agreement will be, entering into this Indenture solely as Owner Trustee under the Trust Agreement and not in its respective individual capacity, and in no case whatsoever shall the Owner Trustee or any such successor Owner Trustee be personally liable on, or for any loss in respect of, any of the statements, representations, warranties or obligations of the Issuer hereunder, as to all of which the parties hereto agree to look solely to the property of the Issuer.

Section .11. Servicer's Obligations. The Issuer shall cause the Servicer to comply with the Sale and Servicing Agreement.

Section .12. Restricted Payments. The Issuer shall not, directly or indirectly, (i) pay any dividend or make any distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, to the Owner Trustee or any owner of a beneficial interest in the Issuer or otherwise with respect to any ownership or equity interest or security in or of the Issuer or to the Servicer, (ii) redeem, purchase, retire or otherwise acquire for value any such ownership or equity interest or security or (iii) set aside or otherwise segregate any amounts for any such purpose; provided, however, that the Issuer may make, or cause to be made distributions to the Servicer, the Indenture Trustee, the Owner Trustee and the Noteholders and the holders of the Trust Certificates as contemplated by, and to the extent funds are available for such purpose under, the Sale and Servicing Agreement or the Trust Agreement. The Issuer will not, directly or indirectly, make or cause to be made payments to or distributions from the Distribution Account except in accordance with this Indenture and the Basic Documents.

Section .13. Treatment of Notes as Debt for All Purposes. The Issuer shall, and shall cause the Administrator to, treat the Notes as indebtedness for all purposes.

Section .14. Notice of Events of Default. The Issuer shall give the Indenture Trustee and the Noteholders prompt written notice of each Event of Default hereunder and each default on the part of the Servicer or the Originator of their respective obligations under any of the Basic Documents.

Section .15. Further Instruments and Acts. Upon request of the Indenture Trustee, the Issuer will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

Section .01. Satisfaction and Discharge of Indenture. This Indenture shall cease to be of further effect with respect to the Notes (except as to (i) rights of registration of transfer and exchange, (ii) substitution of mutilated, destroyed, lost or stolen Notes, (iii) rights of Noteholders to receive payments of principal thereof and interest thereon, (iv) Sections 3.03, 3.04 and 3.10 hereof, (v) the rights, obligations and immunities of the Indenture Trustee hereunder (including the rights of the Indenture Trustee under Section 6.07 hereof and the obligations of the Indenture Trustee under Section 4.02 hereof) and (vi) the rights of Noteholders as beneficiaries hereof with respect to the property so deposited with the Indenture Trustee payable to all or any of them), and the Indenture Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments satisfactory to it, and prepared and delivered to it by the Issuer, acknowledging satisfaction and discharge of this Indenture with respect to the Notes, when all of the following have occurred:

(A) either

(1) all Notes theretofore authenticated and delivered (other than (i) Notes that have been destroyed, lost or stolen and that have been replaced or paid as provided in Section 2.04 hereof and (ii) Notes for the payment of which money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust, as provided in Section 3.03 hereof) shall have been delivered to the Indenture Trustee for cancellation; or

(2) all Notes not theretofore delivered to the Indenture Trustee for cancellation

a. shall have become due and payable, or

b. are to be called for redemption within one year under arrangements satisfactory to the Indenture Trustee for the giving of notice of redemption by the Indenture Trustee in the name, and at the expense, of the Issuer,

c. and the Issuer, in the case of clause a. or b. above, has irrevocably deposited or caused irrevocably to be deposited with the Indenture Trustee cash or direct obligations of or obligations guaranteed by the United States of America (which will mature prior to the date such amounts are payable), in trust for such purpose, in an amount sufficient to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Indenture Trustee for cancellation when due to the applicable Termination Date or the Redemption Date (if Notes shall have been called for redemption pursuant to Section 10.01 hereof), as the case may be; and

(B) the latest of (a) the payment in full of all outstanding obligations under the Notes, (b) the payment in full of all unpaid Trust Fees and Expenses and (c) the date on which the Issuer has paid or caused to be paid all other sums payable hereunder by the Issuer; and

(C) the Issuer shall have delivered to the Indenture Trustee an Officer's Certificate and an Opinion of Counsel, each meeting the applicable requirements of Section 11.01 hereof and, subject to Section 11.02 hereof, each stating that all conditions precedent herein provided for, relating to the satisfaction and discharge of this Indenture with respect to the Notes, have been complied with.

Section .02. Application of Trust Money. All moneys deposited with the Indenture Trustee pursuant to Sections 3.03 and 4.01 hereof shall be held in trust and applied by it in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent, as the Indenture Trustee may determine, to the Noteholders for the payment or redemption of which such moneys have been deposited with the Indenture Trustee, of all sums due and to become due thereon for principal and/or interest; but such moneys need not be segregated from other funds except to the extent required herein or in the Sale and Servicing Agreement or required by law.

Section .03. Repayment of Moneys Held by Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to the Notes, all moneys then held by any Paying Agent other than the Indenture Trustee under the provisions of this Indenture with respect to such Notes shall, upon demand of the Issuer, be paid to the Indenture Trustee to be held and applied according to Section 3.03 hereof, and thereupon such Paying Agent shall be released from all further liability with respect to such moneys.

REMEDIES

Section .01. Events of Default. "Event of Default," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) notwithstanding any insufficiency of funds in the Distribution Account for payment thereof on the related Payment Date, default in the payment of any interest on any Note within five days of when the same becomes due and payable; or

(b) notwithstanding any insufficiency of funds in the Distribution Account for payment thereof on the related Payment Date, default in the payment of any installment of the principal required to be made pursuant to the Sale and Servicing Agreement on any Payment Date; or

(c) the occurrence of a Servicer Default; or

(d) default in the observance or performance in any material respect of any covenant or agreement of the Issuer made in any Basic Document to which it is a party (other than a covenant or agreement, a default in the observance or performance of which is elsewhere in this Section 5.01 specifically dealt with), or any representation or warranty of the Issuer made in any Basic Document to which it is a party or in any certificate or other writing delivered

pursuant thereto or in connection therewith proves to have been incorrect when made, and the circumstance or condition in respect of which such misrepresentation or warranty was incorrect has a material adverse effect on the Noteholders, and such default shall continue or not be cured, or such circumstance or condition shall not have been eliminated or otherwise cured, for a period of 30 days after there shall have been given, by registered or certified mail, to the Issuer by the Indenture Trustee, or to the Issuer, the Depositor and the Indenture Trustee by Noteholders evidencing at least 25% of the Percentage Interests of the Outstanding Notes, a written notice specifying such default or incorrect representation or warranty and requiring it to be remedied and stating that such notice is a notice of Default hereunder, or

(e) default in the observance or performance in any material respect of any covenant or agreement of the Servicer or Depositor made in any Basic Document to which either is a party (other than a covenant or agreement, a default in the observance or performance of which is elsewhere in this Section 5.01 specifically dealt with), or any representation or warranty of either of the Servicer or the Depositor (except as otherwise expressly provided in the Basic Documents with respect to representations and warranties regarding the Transferred Loans, in which case any breach of such representations and warranties shall be deemed cured for purposes of this Section 5.01 and shall not give rise to an Event of Default hereunder if the Originator has substituted or repurchased the applicable loan or loans in accordance with the Sale and Servicing Agreement) or the Originator made in any Basic Document to which they are a party, proves to have been incorrect when made, and the circumstance or condition in respect of which such misrepresentation or warranty was incorrect has a material adverse effect on the Noteholders, and such default shall continue or not be cured, or such circumstance or condition shall not have been eliminated or otherwise cured, for a period of 30 days after there shall have been given, by registered or certified mail, to the Issuer and the Depositor by the Indenture Trustee, or to the Issuer, the Depositor and the Indenture Trustee by Noteholders evidencing at least 25% of the Percentage Interests of the Outstanding Notes, a written notice specifying such Default or incorrect representation or warranty and requiring it to be remedied and stating that such notice is a notice of Default hereunder; or

(f) default in the observance or performance of any covenant or agreement of the Originator made in any repurchase agreement, loan and security agreement or other similar credit facility agreement entered into by the Originator and any third party for borrowed funds in excess of $3,000,000, which entitles any party to require acceleration of prepayment of any indebtedness thereunder, it being understood that a default under another agreement shall constitute an Event of Default hereunder only when and if the lender or counterparty under the other agreement is presently entitled to exercise default remedies by the terms of that other agreement; or

(g) the filing of a decree or order for relief by a court having jurisdiction over the Issuer, the Depositor or the Originator or all or substantially all of the Collateral in an involuntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or the appointing of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Issuer, the Depositor or the Originator or for all or substantially all of the Collateral, or the ordering of the winding-up or liquidation of the affairs of the Issuer, the Depositor or the Originator, and such decree or order shall remain unstayed and in effect for a period of sixty (60) consecutive days; or

(h) the commencement by the Issuer, the Depositor or the Originator of a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or the consent by the Issuer, the Depositor or the Originator to the entry of an order for relief in an involuntary case under any such law, or the consent by the Issuer to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Issuer, the Depositor or the Originator or for any substantial part of the Collateral, or the making by the Issuer, the Depositor or the Originator of any general assignment for the benefit of creditors, or the failure by the Issuer, the Depositor or the Originator generally to pay its respective debts as such debts become due, or the taking of any action by the Issuer, the Depositor or the Originator in furtherance of any of the foregoing; or

(i) the Notes shall be Outstanding on the day after the end of the Amortization Period.

The Issuer shall deliver to the Indenture Trustee, within five days after the occurrence thereof, written notice in the form of an Officer's Certificate of any event which with the giving of notice and the lapse of time would become an Event of Default under clause (d) above, the status of such event and what action the Issuer is taking or proposes to take with respect thereto.

Section .02. Acceleration of Maturity: Rescission and Annulment. (a) If (x) an Event of Default of the type specified in Section 5.01(a)-(f) or (i) hereof should occur, then and in every such case the Indenture Trustee, at the written direction of the Majority Noteholders shall, or upon the prior written consent of the Majority Noteholders, may, declare all the Notes to be immediately due and payable, by a notice in writing to the Issuer (and to the Indenture Trustee if given by Noteholders), and upon any such declaration, or (y) an Event of Default of the type specified in Section 5.01(g) or (h) hereof should occur, then immediately and automatically upon the occurrence thereof, the unpaid principal amount of the Notes, together with accrued and unpaid interest thereon through the date of acceleration, shall become immediately due and payable.

(b) At any time after such declaration of acceleration of maturity has been made and before a judgment or decree for payment of the moneys due has been obtained by the Indenture Trustee as hereinafter in this Article V provided, the Majority Noteholders, by written notice to the Issuer and the Indenture Trustee, may rescind and annul such declaration and its consequences if:

(1) the Issuer has paid or deposited with the Indenture Trustee a sum sufficient to pay:

a. all payments of principal of and/or interest on all Notes and all other amounts that would then be due hereunder or upon such Notes if the Event of Default giving rise to such acceleration had not occurred; and

b. all sums paid or advanced by the Indenture Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Indenture Trustee and its agents and counsel; and

(2) all Events of Default, other than the nonpayment of the principal of the Notes that has become due solely by such acceleration, have been cured or waived as provided in Section 5.12 hereof. No such rescission shall affect any subsequent default or impair any right consequent thereto.

Section .03. Collection of Indebtedness and Suits for Enforcement by Indenture Trustee. (a) The Issuer covenants that if (i) default is made in the payment of any interest on any Note when the same becomes due and payable, and such default continues for a period of five days, or (ii) default is made in the payment of the principal of or any installment of the principal of any Note when the same becomes due and payable, the Issuer will, upon demand of the Indenture Trustee, pay to the Indenture Trustee, for the benefit of the Noteholders, the whole amount then due and payable on such Notes for principal and/or interest, with interest upon the overdue principal and, to the extent payment at such rate of interest shall be legally enforceable, upon overdue installments of interest at the rate borne by the Notes and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Indenture Trustee and its agents and counsel.

(b) In case the Issuer shall fail forthwith to pay such amounts upon such demand, the Indenture Trustee shall at the written direction of the Majority Noteholders, subject to Section 5.06(c) institute a Proceeding for the collection of the sums so due and unpaid, and may prosecute such Proceeding to judgment or final decree, and may enforce the same against the Issuer or other obligor upon such Notes and collect in the manner provided by law out of the property of the Issuer or other obligor upon such Notes, wherever situated, the moneys adjudged or decreed to be payable.

(c) If an Event of Default occurs and is continuing, the Indenture Trustee shall at the written direction of the Majority Noteholders, as more particularly provided in Section 5.04 hereof, subject to Sections 5.06(c) and 5.11 hereof, proceed to protect and enforce its rights and the rights of the Noteholders by such appropriate Proceedings as the Indenture Trustee shall deem most effective to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy or legal or equitable right vested in the Indenture Trustee by this Indenture or by law.

(d) In case there shall be pending, relative to the Issuer or any other obligor upon the Notes or any Person having or claiming an ownership interest in the Collateral, Proceedings under Title 11 of the United States Code or any other applicable federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or its property or such other obligor or Person, or in case of any other comparable judicial Proceedings relative to the Issuer or other obligor upon the Notes, or to the creditors or property of the Issuer or such other obligor, the Indenture Trustee, irrespective of whether the principal of any Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Indenture

Trustee shall have made any demand pursuant to the provisions of this Section 5.03, shall be entitled and empowered by intervention in such Proceedings or otherwise:

(i) to file and prove a claim or claims for the whole amount of principal and/or interest owing and unpaid in respect of the Notes and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Indenture Trustee (including any claim for reasonable compensation to the Indenture Trustee, each predecessor Indenture Trustee, and its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Indenture Trustee and each predecessor Indenture Trustee, except as a result of negligence or bad faith) and of the Noteholders allowed in such Proceedings;

(ii) unless prohibited by applicable law and regulations, to vote on behalf of the Noteholders in any election of a trustee, a standby trustee or Person performing similar functions in any such Proceedings;

(iii) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute all amounts received with respect to the claims of the Noteholders and the Indenture Trustee on their behalf; and

(iv) to file such proofs of claim and other papers or documents and take such other action (including sitting as a committee of creditors) as may be necessary or advisable in order to have the claims of the Indenture Trustee or the Noteholders allowed in any judicial proceedings relative to the Issuer its creditors and its property; and any trustee, receiver, liquidator, custodian or other similar official in any such Proceeding is hereby authorized by each of such Noteholders to make payments to the Indenture Trustee and, in the event that the Indenture Trustee shall consent to the making of payments directly to such Noteholders, to pay to the Indenture Trustee such amounts as shall be sufficient to cover reasonable compensation to the Indenture Trustee, each predecessor Indenture Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities incurred and all advances made by the Indenture Trustee and each predecessor Indenture Trustee except as a result of negligence or bad faith.

(e) Nothing herein contained shall be deemed to authorize the Indenture Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Noteholder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Indenture Trustee to vote in respect of the claim of any Noteholder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar Person.

(f) All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Indenture Trustee without the possession of any of the Notes or the production thereof in any trial or other Proceedings relative thereto, and any such action or Proceedings instituted by the Indenture Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Indenture Trustee, each predecessor Indenture Trustee

and their respective agents, attorneys and counsel, shall be for the ratable benefit of the Noteholders.

(g) In any Proceedings brought by the Indenture Trustee (and also any Proceedings involving the interpretation of any provision of this Indenture to which the Indenture Trustee shall be a party), the Indenture Trustee shall be held to represent all the Noteholders, and it shall not be necessary to make any Noteholder a party to any such Proceedings.

Section .04. Remedies: Priorities. (a) If an Event of Default shall have occurred, the Indenture Trustee, at the written direction of the Majority Noteholders shall, subject to Section 5.06(c), do one or more of the following (subject to Section 5.05 hereof):

(i) institute Proceedings in its own name and as trustee of an express trust for the collection of all amounts then payable on the Notes or under this Indenture with respect thereto, whether by declaration or otherwise, enforce any judgment obtained, and collect from the Issuer and any other obligor upon such Notes moneys adjudged due;

(ii) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture with respect to the Collateral;

(iii) exercise any remedies of a secured party under the UCC and take any other appropriate action to protect and enforce the rights and remedies of the Indenture Trustee or the Noteholders; and

(iv) sell the Collateral or any portion thereof or rights or interest therein in a commercially reasonable manner, at one or more public or private sales called and conducted in any manner permitted by law; provided, however, that the Indenture Trustee may not sell or otherwise liquidate the Collateral following an Event of Default, unless (A) the Holders of 100% of the Percentage Interests of the Outstanding Notes consent thereto, (B) the proceeds of such sale or liquidation distributable to the Noteholders are sufficient to discharge in full all amounts then due and unpaid upon such Notes for principal and/or interest, the fees and expenses of the Indenture Trustee and all other amounts owing under this Indenture, or (C) the Indenture Trustee determines that the Collateral will not continue to provide sufficient funds for the payment of principal of and interest on the Notes as they would have become due if the Notes had not been declared due and payable, and the Indenture Trustee obtains the consent of Holders of not less than 66-2/3% of the Percentage Interests of the Outstanding Notes. In determining such sufficiency or insufficiency with respect to Section 5.04(a)(iv)(B) and (C), the Indenture Trustee may, but need not, obtain and rely upon an opinion of an Independent investment banking or accounting firm of national reputation as to the feasibility of such proposed action and as to the sufficiency of the Collateral for such purpose.

(b) If the Indenture Trustee or Paying Agent collects any money or property pursuant to this Article V, it shall pay out the money or property in accordance with the order of priority set forth in Section 5.01(c)(5) of the Sale and Servicing Agreement; *provided* that

amounts payable to the Indenture Trustee in accordance with such provisions shall also include amounts payable to the Indenture Trustee (including its agents) or Sale Agents, as applicable, in respect of all reasonable fees and expenses incurred by them and their agents and representatives in connection with the enforcement of the remedies provided for in this Article V.

The Indenture Trustee may fix a record date and payment date for any payment to be made to the Noteholders pursuant to this Section 5.04. If such amounts are paid on a date other than a regular Payment Date, at least 15 days before such record date, the Indenture Trustee shall mail to each Noteholder and the Issuer a notice that states the record date, the payment date and the amount to be paid.

Section .05. Optional Preservation of the Collateral. If the Notes have been declared to be due and payable under Section 5.02 hereof following an Event of Default and such declaration and its consequences have not been rescinded and annulled, the Indenture Trustee may, but need not, and shall if directed by the Majority Holders (subject to Section 5.04(a)(iv), elect to maintain possession of the Collateral. It is the desire of the parties hereto and the Noteholders that there be at all times sufficient funds for the payment of principal of and interest on the Notes, and subject to Section 5.04(a)(iv), the Indenture Trustee shall take such desire into account when determining whether or not to maintain possession of the Collateral. In determining whether to maintain possession of (or liquidate) the Collateral, the Indenture Trustee, at the expense of the Issuer, may, but need not, obtain and rely upon an opinion of an Independent investment banking or accounting firm of national reputation as to the feasibility of such proposed action and as to the sufficiency of the Collateral for such purpose. In connection with the sale or liquidation of the Collateral, the Trustee may rely in good faith upon the advice of any Sale Agent, if any, appointed by the Noteholders pursuant to Section 5.11, and if a Sale Agent is not so appointed, the Trustee may so appoint a Sale Agent, which may be an Affiliate of the Noteholders or the Trustee, to effect any such sale or liquidation. Such Sale Agent shall be entitled to reasonable compensation in connection with such activities from the proceeds of such sale.

Section .06. Limitation of Suits. No Noteholder shall have any right to institute any Proceeding, judicial or otherwise, with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Noteholder has previously given written notice to the Indenture Trustee of a continuing Event of Default;

(b) the Noteholders evidencing not less than 25% of the Percentage Interests of the Outstanding Notes have made written request to the Indenture Trustee to institute such Proceeding in respect of such Event of Default in its own name as Indenture Trustee hereunder;

(c) such Noteholder or Noteholders have offered to the Indenture Trustee reasonable indemnity against the costs, expenses and liabilities (including reasonable fees and expenses of its agents and counsel) to be incurred in complying with such request;

(d) the Indenture Trustee for 30 days after its receipt of such notice, request and offer of reasonable indemnity has failed to institute such Proceeding; and

(e) no direction inconsistent with such written request has been given to the Indenture Trustee during such 30 day period by the Majority Noteholders.

It is understood and intended that no one or more Noteholders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Noteholders or to obtain or to seek to obtain priority or preference over any other Noteholders or to enforce any right under this Indenture, except in the manner herein provided.

In the event the Indenture Trustee shall receive conflicting or inconsistent requests and indemnity from two or more groups of Noteholders, neither of which evidences Percentage Interests of the Outstanding Notes greater than 50%, the Indenture Trustee in its sole discretion may determine what action, if any, shall be taken, notwithstanding any other provisions of this Indenture and shall have no obligation or liability to any such group of Noteholders for such action or inaction.

Section .07. Unconditional Rights of Noteholders to Receive Principal and/or Interest. Notwithstanding any other provisions in this Indenture, any Noteholder shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest, if any, on such Note on or after the applicable Termination Date thereof expressed in such Note or in this Indenture (or, in the case of redemption, on or after the Redemption Date) and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such Noteholder.

Section .08. Restoration of Rights and Remedies. If the Indenture Trustee or any Noteholder has instituted any Proceeding to enforce any right or remedy under this Indenture and such Proceeding has been discontinued or abandoned for any reason or has been determined adversely to the Indenture Trustee or to such Noteholder, then and in every such case the Issuer, the Indenture Trustee and the Noteholders shall, subject to any determination in such Proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Indenture Trustee and the Noteholders shall continue as though no such Proceeding had been instituted.

Section .09. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Indenture Trustee or to the Noteholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section .10. Delay or Omission Not a Waiver. No delay or omission of the Indenture Trustee or any Noteholder to exercise any right or remedy accruing upon any Default or Event of Default shall impair any such right or remedy or constitute a waiver of any such Default or Event of Default or an acquiescence therein. Every right and remedy given by this Article V or by law to the Indenture Trustee or to the Noteholders may be exercised from time to time, and as often as may be deemed expedient, by the Indenture Trustee or by the Noteholders, as the case may be.

Section .11. Control by Noteholders. The Majority Noteholders shall have the right to direct the time, method and place of conducting any Proceeding for any remedy available to the Indenture Trustee with respect to the Notes or the Collateral or exercising any trust or power conferred on the Indenture Trustee; provided, however, that:

(a) such direction shall not be in conflict with any rule of law or with this Indenture;

(b) subject to the express terms of Section 5.04(a)(iv) hereof, any direction to the Indenture Trustee to sell or liquidate the Collateral shall be by Holders of Notes representing Percentage Interests of the Outstanding Notes of not less than 100%;

(c) if the conditions set forth in Section 5.05 hereof have been satisfied and the Indenture Trustee elects to retain the Collateral pursuant to such Section, then any direction to the Indenture Trustee by Holders of Notes representing Percentage Interests of the Outstanding Notes of less than 100% to sell or liquidate the Collateral shall be of no force and effect; and

(d) the Indenture Trustee may take any other action deemed proper by the Indenture Trustee that is not inconsistent with such direction.

In connection with any sale of the Collateral in accordance with paragraph (c) above, the Majority Noteholders may, in their sole discretion appoint agents to effect the sale of the Collateral (such agents, "Sale Agents"), which Sale Agents may be Affiliates of any Noteholder. The Sale Agents shall be entitled to reasonable compensation in connection with such activities from the proceeds of such sale.

Notwithstanding the rights of the Noteholders set forth in this Section 5.11, subject to Section 6.01 hereof, the Indenture Trustee need not take any action that it determines might involve it in liability or might materially adversely affect the rights of any Noteholders not consenting to such action.

Section .12. Waiver of Past Defaults. (a) The Majority Noteholders may waive any past Default or Event of Default and its consequences, except a Default (x) in the payment of principal of or interest on any of the Notes or (y) in respect of a covenant or provision hereof that cannot be modified or amended without the consent of each Noteholder as required by Section 9.02 hereof. In the case of any such waiver, the Issuer, the Indenture Trustee and Noteholders shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto.

(a) Upon any such waiver, such Default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured and not to have occurred, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereto.

Section .13. Undertaking for Costs. All parties to this Indenture agree, and each Noteholder by such Noteholder's acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy

under this Indenture, or in any suit against the Indenture Trustee for any action taken, suffered or omitted by it as Indenture Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.13 shall not apply to (a) any suit instituted by the Indenture Trustee, (b) any suit instituted by any Noteholder, or group of Noteholders, in each case holding in the aggregate Percentage Interests of the Outstanding Notes of more than 10% or (c) any suit instituted by any Noteholder for the enforcement of the payment of principal of or interest on any Note on or after the respective due dates expressed in such Note and in this Indenture (or, in the case of redemption, on or after the Redemption Date).

Section .14. Waiver of Stay or Extension Laws. The Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead or in any manner whatsoever, claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Indenture Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section .15. Action on Notes. The Indenture Trustee's right to seek and recover judgment on the Notes or under this Indenture shall not be affected by the seeking, obtaining or application of any other relief under or with respect to this Indenture. Neither the Lien of this Indenture nor any rights or remedies of the Indenture Trustee or the Noteholders shall be impaired by the recovery of any judgment by the Indenture Trustee against the Issuer or by the levy of any execution under such judgment upon any portion of the Collateral or upon any of the assets of the Issuer. Any money or property so collected by the Indenture Trustee shall be applied in accordance with Section 5.04(b) hereof.

Section .16. Performance and Enforcement of Certain Obligations.

(a) Promptly following a request from the Indenture Trustee to do so, the Issuer shall take all such lawful action as the Indenture Trustee may request to compel or secure the performance and observance by the Originator and the Servicer, as applicable, of each of their obligations to the Issuer under or in connection with the Sale and Servicing Agreement or the Loan Sale Agreement, and to exercise any and all rights, remedies, powers and privileges lawfully available to the Issuer under or in connection with the Sale and Servicing Agreement to the extent and in the manner directed by the Indenture Trustee, including the transmission of notices of default on the part of the Originator or the Servicer thereunder and the institution of legal or administrative actions or proceedings to compel or secure performance by the Originator or the Servicer of each of their obligations under the Sale and Servicing Agreement and the Loan Sale Agreement.

(b) If an Event of Default has occurred and is continuing, the Indenture Trustee may, and at the direction (which direction shall be in writing or by telephone, confirmed in writing promptly thereafter) of the Majority Noteholders shall, subject to Section 5.06(c) exercise all rights, remedies, powers, privileges and claims of the Issuer against the Originator or

the Servicer under or in connection with the Sale and Servicing Agreement or the Loan Sale Agreement, including the right or power to take any action to compel or secure performance or observance by the Originator or the Servicer, as the case maybe, of each of their obligations to the Issuer thereunder and to give any consent, request, notice, direction, approval, extension, or waiver under the Sale and Servicing Agreement, and any right of the Issuer to take such action shall be suspended.

THE INDENTURE TRUSTEE

Section ..01. Duties of Indenture Trustee. (a) If an Event of Default has occurred and is continuing, the Indenture Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the Indenture Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Indenture Trustee; and

(ii) in the absence of bad faith on its part, the Indenture Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Indenture Trustee and conforming to the requirements of this Indenture; provided, however, that the Indenture Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture to the extent specifically set forth herein.

(c) The Indenture Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 6.01;

(ii) the Indenture Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Indenture Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Indenture Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to the provisions of this Indenture.

(d) The Indenture Trustee shall not be liable for interest on any money received by it and held in a Trust Account except as may be provided in the Sale and Servicing Agreement or as the Indenture Trustee may agree in writing with the Issuer.

(e) Money held in trust by the Indenture Trustee shall be segregated from other funds except to the extent permitted by law or the terms of this Indenture or the Sale and Servicing Agreement.

(f) No provision of this Indenture shall require the Indenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Indenture Trustee shall be subject to the provisions of this Section 6.01.

(h) The Indenture Trustee shall not be required to take notice or be deemed to have notice or knowledge of any Event of Default (other than an Event of Default pursuant to Section 5.01(a) or (b) hereof) unless a Responsible Officer of the Indenture Trustee shall have received written notice thereof or otherwise shall have actual knowledge thereof. In the absence of receipt of notice or such knowledge, the Indenture Trustee may conclusively assume that there is no Event of Default.

(i) The Indenture Trustee shall be under no obligation to institute any suit, or to take any remedial Proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder until it shall be indemnified to its satisfaction against any and all costs and expenses, outlays and counsel fees and other reasonable disbursements and against all liability, except liability that is adjudicated, in connection with any action so taken.

(j) Anything in this Indenture or any Basic Document to the contrary notwithstanding, in no event shall the Indenture Trustee be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits).

Section .02. Rights of Indenture Trustee. (a) The Indenture Trustee may rely on any document believed by it to be genuine and to have been signed or presented by the proper person. The Indenture Trustee need not investigate any fact or matter stated in the document.

(b) Before the Indenture Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel. The Indenture Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer's Certificate or Opinion of Counsel.

(c) The Indenture Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys or a custodian or nominee and shall not be responsible for the actions of any such person appointed by it with due care; provided, that notwithstanding any such delegation or use of agents, custodians or nominees, the Indenture Trustee shall remain fully liable for the performance of such duties as if such delegation or use had not occurred.

(d) The Indenture Trustee shall not be liable for (i) any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; provided, however, that such action or omission by the Indenture Trustee does not constitute willful misconduct, negligence or bad faith; or (ii) any action or inaction on the part of the Collateral Custodian.

(e) The Indenture Trustee may consult with counsel, and the advice or opinion of counsel with respect to legal matters relating to this Indenture, any Basic Document and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) Indenture Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, note, debenture, other evidence of indebtedness, or other paper or document, but Indenture Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if Indenture Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent attorney.

(g) Indenture Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of Issuer.

(h) the permissive rights of Indenture Trustee to do things enumerated in this Indenture shall not be construed as a duty.

(i) In the event that Indenture Trustee is also acting as Paying Agent or Note Registrar hereunder, the rights and protections afforded to Indenture Trustee pursuant to this Article VI shall also be afforded to such Paying Agent or Note Registrar.

(j) Nothing herein shall be construed to impose an obligation on the part of the Indenture Trustee to recalculate or verify the facts or data underlying any report, certificate or information received by it from the Seller, Issuer or any Servicer.

Section .03. Individual Rights of Indenture Trustee. The Indenture Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or its Affiliates with the same rights it would have if it were not Indenture Trustee. Any Paying Agent, Note Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Indenture Trustee must comply with Section 6.11 hereof.

Section .04. Indenture Trustee's Disclaimer. The Indenture Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Collateral or the Notes or any other Basic Document, shall not be accountable for the Issuer's use of the proceeds from the Notes, or responsible for any statement of the Issuer in the Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Indenture Trustee's certificate of authentication.

Section .05. Notices of Default. If a Default occurs and is continuing and if it is actually known to a Responsible Officer of the Indenture Trustee, the Indenture Trustee shall mail to each Noteholder a notice of the Default within two (2) Business Days after it receives actual knowledge of such occurrence.

Section .06. Reports by Paying Agent to Holders. The Paying Agent shall deliver to each Noteholder and the Indenture Trustee such information specifically requested by each Noteholder and the Indenture Trustee and in the Paying Agent's possession and relating to the Notes as may be reasonably required to enable such Noteholder to prepare its federal and state income tax returns.

Section .07. Compensation and Indemnity. (a) As compensation for its services hereunder, the Indenture Trustee shall be entitled to receive, on each Payment Date, the Indenture Trustee's Fee pursuant to Section 5.01(c)(4) and (5) of the Sale and Servicing Agreement (which compensation shall not be limited by any law on compensation of a trustee of an express trust) and shall be entitled to reimbursement by the Servicer for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Indenture Trustee's agents, counsel, accountants and experts. The Issuer agrees to cause the Servicer to indemnify the Indenture Trustee, the Paying Agent and their officers, directors, employees and agents against any and all loss, liability or expense (including reasonable attorneys' fees) incurred by it or them in connection with the administration of the trust and the performance of its or their duties under the Basic Documents. The Indenture Trustee shall notify the Issuer and the Servicer promptly of any claim for which it may seek indemnity. Failure by the Indenture Trustee to so notify the Issuer and the Servicer shall not relieve the Issuer or the Servicer of its or their obligations hereunder. The Issuer shall, or shall cause the Servicer to, defend any such claim; provided, however, that if the defendants with respect to any such claim include the Issuer and/or the Servicer and the Indenture Trustee, and the Indenture Trustee shall have reasonably concluded that there may be legal defenses available to it which are different from or in addition to those defenses available to the Issuer or the Servicer, as the case may be, the Indenture Trustee shall have the right, at the expense of the Servicer, to select separate counsel to assert such legal defenses and to otherwise defend itself against such claim. Neither the Issuer nor the Servicer need reimburse any expense or indemnify against any loss, liability or expense incurred by the Indenture Trustee through the Indenture Trustee's own willful misconduct, negligence or bad faith.

(b) The Issuer's (and Servicer's) payment obligations to the Indenture Trustee pursuant to this Section 6.07 shall survive the discharge of this Indenture and the termination, removal or resignation of the Indenture Trustee. When the Indenture Trustee incurs expenses after the occurrence of a Default specified in Section 5.01(g) or (h) hereof with respect to the Issuer, the expenses are intended to constitute expenses of administration under the Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency or similar law.

(c) Notwithstanding anything in this Section 6.07 to the contrary, all amounts due the Indenture Trustee hereunder shall be payable in the first instance by the Servicer and, if not paid by the Servicer within sixty (60) days after payment is requested from the Servicer by the Indenture Trustee, in accordance with the priorities set forth in Section 5.01 of the Sale and Servicing Agreement.

Section .08. Replacement of Indenture Trustee. No resignation or removal of the Indenture Trustee and no appointment of a successor Indenture Trustee shall become effective until the acceptance of appointment by the successor Indenture Trustee pursuant to this Section 6.08. The Indenture Trustee may resign at any time by so notifying the Issuer. The Majority Noteholders may remove the Indenture Trustee (with the consent of the Majority Certificateholders, not to be unreasonably withheld) by so notifying the Indenture Trustee and may appoint a successor Indenture Trustee; provided, that all of the reasonable costs and expenses incurred by the Indenture Trustee in connection with such removal shall be reimbursed to it prior to the effectiveness of such removal. The Issuer shall remove the Indenture Trustee if:

(a) the Indenture Trustee fails to comply with Section 6.11 hereof;

(b) the Indenture Trustee is adjudged bankrupt or insolvent;

(c) a receiver or other public officer takes charge of the Indenture Trustee or its property; or

(d) the Indenture Trustee otherwise becomes incapable of acting.

If the Indenture Trustee resigns or is removed or if a vacancy exists in the office of Indenture Trustee for any reason (the Indenture Trustee in such event being referred to herein as the retiring Indenture Trustee), the Issuer shall promptly appoint a successor Indenture Trustee which shall be eligible to become successor Indenture Trustee hereunder only if such Person satisfies the requirements of Section 6.11 hereof.

A successor Indenture Trustee shall deliver a written acceptance of its appointment to the retiring Indenture Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Indenture Trustee shall become effective, and the successor Indenture Trustee shall have all the rights, powers and duties of the Indenture Trustee under this Indenture. The successor Indenture Trustee shall mail a notice of its succession to Noteholders. The retiring Indenture Trustee shall promptly transfer all property held by it as Indenture Trustee to the successor Indenture Trustee.

If a successor Indenture Trustee does not take office within sixty (60) days after the retiring Indenture Trustee resigns or is removed, the retiring Indenture Trustee, the Issuer or the Majority Noteholders may petition any court of competent jurisdiction for the appointment of a successor Indenture Trustee.

If the Indenture Trustee fails to comply with Section 6.11 hereof, any Noteholder may petition any court of competent jurisdiction for the removal of the Indenture Trustee and the appointment of a successor Indenture Trustee.

Notwithstanding the replacement of the Indenture Trustee pursuant to this Section 6.08, the Issuer's and Servicer's obligations under Section 6.07 hereof shall continue for the benefit of the retiring Indenture Trustee.

Section .09. Successor Indenture Trustee by Merger. If the Indenture Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or

transferee corporation without any further act shall be the successor Indenture Trustee; provided, however, that such corporation or banking association shall otherwise be qualified and eligible under Section 6.11 hereof. The Indenture Trustee shall provide the Majority Noteholders written notice of any such transaction.

In case at the time such successor or successors by merger, conversion or consolidation to the Indenture Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Indenture Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Indenture Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Indenture Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Indenture Trustee shall have.

Section .10. Appointment of Co-Indenture Trustee or Separate Indenture Trustee.

(a) Notwithstanding any other provisions of this Indenture, at any time, for the purpose of meeting any legal requirement of any jurisdiction in which any part of the Collateral may at the time be located, the Indenture Trustee shall have the power and may execute and deliver all instruments to appoint one or more Persons to act as a co-trustee or co-trustees, or separate trustee or separate trustees, of all or any part of the Issuer and to vest in such Person or Persons, in such capacity and for the benefit of the Noteholders, such title to the Collateral, or any part hereof, and, subject to the other provisions of this Section 6.10, such powers, duties, obligations, rights and trusts as the Indenture Trustee may consider necessary or desirable. No co-trustee or separate trustee hereunder shall be required to meet the terms of eligibility as a successor trustee under Section 6.11 hereof, and no notice to Noteholders of the appointment of any co-trustee or separate trustee shall be required under Section 6.08 hereof.

(b) Every separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(i) all rights, powers, duties and obligations conferred or imposed upon the Indenture Trustee shall be conferred or imposed upon and exercised or performed by the Indenture Trustee and such separate trustee or co-trustee jointly (it being understood that such separate trustee or co-trustee is not authorized to act separately without the Indenture Trustee joining in such act), except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Indenture Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations (including the holding of title to the Collateral or any portion thereof in any such jurisdiction) shall be exercised and performed singly by such separate trustee or co-trustee, but solely at the direction of the Indenture Trustee;

(ii) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and

(iii) the Indenture Trustee may at any time accept the resignation of or remove any separate trustee or co-trustee.

(c) Any notice, request or other writing given to the Indenture Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article VI. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, jointly with the Indenture Trustee, subject to all the provisions of this Indenture, specifically including every provision of this Indenture relating to the conduct of, affecting the liability of, or affording protection to, the Indenture Trustee. Every such instrument shall be filed with the Indenture Trustee.

(d) Any separate trustee or co-trustee may at anytime constitute the Indenture Trustee its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Indenture Trustee, to the extent permitted by law, without the appointment of a new or successor trustee. Notwithstanding anything to the contrary in this Indenture, the appointment of any separate trustee or co-trustee shall not release the Indenture Trustee of its obligations and duties under this Indenture.

Section .11. Eligibility. The Indenture Trustee shall (i) have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition or (ii) otherwise be acceptable in writing to the Majority Noteholders.

Section .12.

The Indenture Trustee represents and warrants as follows:

(a) Organization and Good Standing. It is a national banking association duly organized, validly existing and in good standing under the laws of the United States with all requisite power and authority to own its properties and to conduct its business as presently conducted and to enter into and perform its obligations pursuant to this Indenture.

(b) Due Qualification. It is duly qualified to do business as a national banking association and is in good standing, and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of its property or the conduct of its business requires such qualification, licenses or approval except where the failure to so qualify or have such licenses or approvals has not had, and would not be reasonably expected to have, a Material Adverse Effect.

(c) Power and Authority. It has the power and authority to execute and deliver this Indenture and each other Basic Document to which it is a party and to carry out their respective terms. It has duly authorized the execution, delivery and performance of this Indenture and each other Basic Document to which it is a party by all requisite action.

(d) No Violation. The consummation of the transactions contemplated by, and the fulfillment of the terms of, this Indenture and each other Basic Document to which it is a party by it will not (i) conflict with, result in any breach of any of the terms or provisions of, or constitute a default under, its articles of association, or any Contractual Obligation to which it is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any Contractual Obligation, or (iii) violate any Applicable Law.

(e) No Consents. No consent, approval, authorization, order, registration, filing, qualification, license or permit of or with any Governmental Authority having jurisdiction over it or any of its respective properties is required to be obtained in order for it to enter into this Indenture or perform its obligations hereunder.

(f) Binding Obligation. This Indenture constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, except as such enforceability may be limited by (i) applicable Bankruptcy Laws and (ii) general principles of equity (whether considered in a suit at law or in equity).

(g) No Proceedings. There are no proceedings or investigations pending or, to the best of its knowledge, threatened, against it before any Governmental Authority (i) asserting the invalidity of this Indenture, (ii) seeking to prevent the consummation of any of the transactions contemplated by this Indenture or (iii) seeking any determination or ruling that might (in its reasonable judgment) have a Material Adverse Effect.

NOTEHOLDERS LISTS AND REPORTS

Section .01. Issuer to Furnish Indenture Trustee Names and Addresses of Noteholders. The Issuer will furnish or cause to be furnished to the Indenture Trustee (a) not more than five (5) days after the earlier of (i) each Record Date and (ii) three (3) months after the last Record Date, a list, in such form as the Indenture Trustee may reasonably require, of the names and addresses of the Noteholders as of such Record Date, (b) at such other times as the Indenture Trustee may request in writing, within thirty (30) days after receipt by the Issuer of any such request, a list of similar form and content as of a date not more than ten (10) days prior to the time such list is furnished; provided, however, that so long as the Indenture Trustee is the Note Registrar, no such list shall be required to be furnished.

Section .02. Preservation of Information. The Indenture Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of the Noteholders contained in the most recent list furnished to the Indenture Trustee as provided in Section 7.01 hereof and the names and addresses of Noteholders received by the Indenture Trustee in its capacity as Note Registrar. The Indenture Trustee may destroy any list furnished to it as provided in such Section 7.01 upon receipt of a new list so furnished.

Section .03. 144A Information. The Issuer, to the extent it has any such information in its possession, shall provide to any Noteholder and any prospective transferee designated by any such Noteholder information regarding the Notes and the Transferred Loans

and such other information as shall be necessary to satisfy the condition to eligibility set forth in Rule 144A(d)(4) under the Securities Act for transfer of any such Note without registration thereof under the Securities Act pursuant to the registration exemption provided by Rule 144A under the Securities Act.

ACCOUNTS, DISBURSEMENTS AND RELEASES

Section .01. Collection of Money. General. Except as otherwise expressly provided herein, the Indenture Trustee may demand payment or delivery of, and shall receive and collect, directly and without intervention or assistance of any intermediary, all money and other property payable to or receivable by the Indenture Trustee pursuant to this Indenture. The Indenture Trustee shall apply all such money received by it as provided in this Indenture. Except as otherwise expressly provided in this Indenture, if any default occurs in the making of any payment or performance under any agreement or instrument that is part of the Purchased Assets, the Indenture Trustee may take such action as may be appropriate to enforce such payment or performance, including the institution and prosecution of appropriate Proceedings. Any such action shall be without prejudice to any right to claim a Default or Event of Default under this Indenture and any right to proceed thereafter as provided in Article V hereof.

Section .02. Trust Accounts; Distributions. (a) On or prior to the Closing Date, the Issuer shall cause the Servicer to establish and maintain with the Indenture Trustee, in the name of the Indenture Trustee for the benefit of the Noteholders, or on behalf of the Owner Trustee for the benefit of the Securityholders, the Collection Account, the Principal Collections Account and the Distribution Account as provided in the Sale and Servicing Agreement. The Servicer shall deposit amounts into such accounts in accordance with the terms hereof and the Sale and Servicing Agreement.

(b) Distribution Account. With respect to the Distribution Account, the Servicer shall make (i) such remittances to the Indenture Trustee as specified in Section 5.01(c)(1) of the Sale and Servicing Agreement and (ii) the Paying Agent shall make such withdrawals and distributions as specified in Section 5.01(c)(4) and (5) of the Sale and Servicing Agreement in accordance with the terms thereof. Amounts in the Distribution Account shall remain uninvested.

Section .03. General Provisions Regarding Trust Accounts. (a) All or a portion of the funds in the Collection Account may be invested in Permitted Investments in accordance with the provisions of Section 5.03(b) of the Sale and Servicing Agreement.

(b) Subject to Section 6.01(c) hereof, the Indenture Trustee shall not in any way be held liable by reason of any insufficiency in the Collection Account or the Principal Collections Account resulting from any loss on any Permitted Investment included therein.

Section .04. The Paying Agent. The initial Paying Agent shall be the Indenture Trustee. The Paying Agent may be removed by the Initial Noteholder in its sole discretion at any time with written notice to the Indenture Trustee. Upon removal of the Paying Agent, the Initial Noteholder will appoint a successor Paying Agent within 30 days; provided that the Indenture

Trustee will be the Paying Agent until such successor is appointed. Upon such termination, the Paying Agent shall immediately transfer all funds in its possession to the Indenture Trustee or any successor paying agent appointed pursuant to this Indenture. Following such termination, the removed paying agent shall have no further right to make withdrawals from the Distribution Account and such right shall be vested in the successor paying agent. Upon the direction of the Majority Noteholders, the Indenture Trustee shall establish a new Distribution Account to which the Paying Agent shall have no access. Unless the Indenture Trustee is also acting as Paying Agent, the Indenture Trustee shall have no obligation to oversee or direct the actions of the Paying Agent, and the Indenture Trustee shall have no liability for any of the obligations, warranties or covenants of the Paying Agent hereunder.

Section .05. Release of the Collateral. (a) Subject to the payment of its reasonable fees and expenses pursuant toSection 6.07 hereof and upon Issuer Request, the Indenture Trustee may, and when required by the provisions of this Indenture shall, execute instruments reasonably acceptable to it and prepared and delivered to it by the Issuer or the Servicer, acting on behalf of the Issuer, to release property from the Lien of this Indenture, or convey the Indenture Trustee's interest in the same, without recourse, representation or warranty in a manner as provided in the Sale and Servicing Agreement and under circumstances that are not inconsistent with the provisions of this Indenture and the other Basic Documents. No party relying upon an instrument executed by the Indenture Trustee as provided in this Article VIII shall be bound to ascertain the Indenture Trustee's authority, inquire into the satisfaction of any conditions precedent or see to the application of any moneys.

(b) The Indenture Trustee shall, at such time as there are no Notes Outstanding and all sums due to the Noteholders (and their Affiliates), the Initial Noteholder, the Sale Agents, the Indenture Trustee, the Owner Trustee and the Collateral Custodian under the Basic Documents have been paid, release any remaining portion of the Collateral that secured the Notes from the Lien of this Indenture and release to the Issuer or any other Person entitled thereto any funds then on deposit in the Trust Accounts. The Indenture Trustee shall release property from the Lien of this Indenture pursuant to this subsection (b) only upon receipt of an Issuer Request accompanied by an Officer's Certificate and an Opinion of Counsel meeting the applicable requirements of Section 11.01 hereof

Section .06. Opinion of Counsel. Except to the extent specifically permitted by the terms of the Basic Documents, the Indenture Trustee shall receive at least seven Business Days' prior notice when requested by the Issuer or Servicer to take any action pursuant to Section 8.05(a) hereof, accompanied by copies of any instruments involved, and the Indenture Trustee may also require, as a condition to such action, an Opinion of Counsel, in form and substance satisfactory to the Indenture Trustee, from the Issuer concluding that all conditions precedent to the taking of such action have been complied with and such action will not materially and adversely impair the security for the Notes or the rights of the Noteholders in contravention of the provisions of this Indenture; provided, that, notwithstanding the foregoing, no Opinion of Counsel shall be required hereunder to release the lien of this Indenture on any Collateral related to a Loan that has been repaid in full (as certified to the Indenture Trustee by the Servicer); provided, however, that such Opinion of Counsel shall not be required to express an opinion as to the fair value of the Collateral. Counsel rendering any such opinion may rely, without independent investigation, on the accuracy and validity of any certificate or other instrument delivered to the Indenture Trustee in connection with any such action.

Section .01. Supplemental Indentures Without the Consent of the Noteholders. Without the consent of any Noteholder but with prior notice to the Majority Noteholders, the Issuer and the Indenture Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Indenture Trustee, for any of the following purposes:

(i) to correct or amplify the description of any property at any time subject to the Lien of this Indenture, or better to assure, convey and confirm unto the Indenture Trustee any property subject or required to be subjected to the Lien of this Indenture, or to subject to the Lien of this Indenture additional property;

(ii) to evidence the succession, in compliance with the applicable provisions hereof, of another Person to the Issuer, and the assumption by any such successor of the covenants of the Issuer herein and in the Notes contained;

(iii) to add to the covenants of the Issuer for the benefit of the Noteholders, or to surrender any right or power herein conferred upon the Issuer;

(iv) to convey, transfer, assign, mortgage or pledge any property to or with the Indenture Trustee;

(v) to cure any ambiguity, to correct or supplement any provision herein or in any supplemental indenture that may be inconsistent with any other provision herein or in any supplemental indenture or to make any other provisions with respect to matters or questions arising under this Indenture or in any supplemental indenture; provided, however, that such action shall not adversely affect the interests of the Noteholders as evidenced by an Officer's Certificate or Opinion of Counsel; or

(vi) to evidence and provide for the acceptance of the appointment hereunder by a successor trustee with respect to the Notes and to add to or change any of the provisions of this Indenture as shall be necessary to facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Article VI hereof.

The Indenture Trustee is hereby authorized to join in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations that may be therein contained.

Section .02. Supplemental Indentures with Consent of Noteholders. The Issuer and the Indenture Trustee, when authorized by an Issuer Order, also may, with the written consent of the Majority Noteholders, by Act of such Noteholders delivered to the Issuer and the Indenture Trustee, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, this Indenture or of modifying in any manner the rights of any Noteholder under this Indenture;

provided, however, that no such supplemental indenture shall, without the written consent of each Noteholder affected thereby:

(a) change to a later date the date of payment of any installment of principal of or interest on any Note, or reduce the principal balance thereof, the interest rate thereon or the Termination Price with respect thereto, change the provisions of this Indenture in a manner which has the effect of reducing the amount of collections received by any Noteholder on, or the proceeds of the sale of, the Collateral to payment of principal of or interest on the Notes, or change any place of payment where, or the coin or currency in which, any Note or the interest thereon is payable, or impair the right to institute suit for the enforcement of the provisions of this Indenture requiring the application of funds available therefor, as provided in Article V hereof, to the payment of any such amount due on the Notes on or after the respective due dates thereof (or, in the case of redemption, on or after the Redemption Date);

(b) reduce the Percentage Interest, the consent of the Holders of which is required for any such supplemental indenture, or the consent of the Holders of which is required for any waiver of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences provided for in this Indenture;

(c) modify or alter the provisions of the definition of the term "Outstanding" or "Percentage Interest";

(d) reduce the Percentage Interest of the Outstanding Notes, the consent of the Holders of which is required to direct the Indenture Trustee to direct the Issuer to sell or liquidate the Collateral pursuant to Section 5.04 hereof;

(e) modify any provision of this Section 9.02 except to increase any percentage specified herein or to provide that certain additional provisions of this Indenture or the Basic Documents cannot be modified or waived without the consent of the Holder of each Outstanding Note affected thereby;

(f) modify any of the provisions of this Indenture in such manner as to affect the calculation of the amount of any payment of interest or principal due on any Note on any Payment Date (including the calculation of any of the individual components of such calculation) or to adversely affect the rights of the Noteholders to the benefit of any provisions for the mandatory redemption of the Notes contained herein; or

(g) permit the creation of any lien ranking prior to or on a parity with the Lien of this Indenture with respect to any part of the Collateral or, except as otherwise permitted or contemplated herein, terminate the Lien of this Indenture on any property at any time subject hereto or deprive any Noteholder of the security provided by the Lien of this Indenture.

In connection with requesting the consent of the Noteholders pursuant to this Section 9.02, the Indenture Trustee shall mail to the Holders of the Notes to which such amendment or supplemental indenture relates a notice prepared by the Issuer setting forth in general terms the substance of such supplemental indenture. It shall not be necessary for any Act of Noteholders under this Section 9.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section .03. Execution of Supplemental Indentures. In executing, or permitting the additional trusts created by, any supplemental indenture permitted by this Article IX or the modification thereby of the trusts created by this Indenture, the Indenture Trustee shall be entitled to receive, and subject to Sections 6.01 and 6.02 hereof, shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture. The Indenture Trustee may, but shall not be obligated to, enter into any such supplemental indenture that affects the Indenture Trustee's own rights, duties, liabilities or immunities under this Indenture or otherwise.

Section .04. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture pursuant to the provisions hereof; this Indenture shall be and shall be deemed to be modified and amended in accordance therewith with respect to the Notes affected thereby, and the respective rights, limitations of rights, obligations, duties, liabilities and immunities under this Indenture of the Indenture Trustee, the Issuer and the Holders of the Notes shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section .05. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX may, and if required by the Indenture Trustee or the Issuer shall, bear a notation in form approved by the Indenture Trustee and the Issuer as to any matter provided for in such supplemental indenture. If the Issuer or the Indenture Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Indenture Trustee and the Issuer, to any such supplemental indenture may be prepared and executed by the Issuer and authenticated and delivered by the Indenture Trustee in exchange for Outstanding Notes.

REDEMPTION OF NOTES; PUT OPTION

Section .01. Redemption. The Servicer may, at its option, effect an early redemption of the Notes on any Business Day on or after the Clean-up Call Date. The Servicer shall effect such early termination in the manner specified in and subject to the provisions of Section 11.02 of the Sale and Servicing Agreement.

The Servicer shall furnish the Indenture Trustee with written notice of any such redemption at least 15 days prior to the applicable Redemption Date in order to facilitate the Indenture Trustee's compliance with its obligation to notify the Noteholders of such redemption in accordance with Section 10.02 hereof

Section .02. Form of Redemption Notice. Notice of redemption under Section 10.01 hereof shall be by first-class mail, postage prepaid, or by facsimile mailed or transmitted not later than 10 days prior to the applicable Redemption Date to each Noteholder, as of the close of business on last Business Day of the calendar month preceding the calendar month in which such Redemption Date occurs, at such Noteholder's address or facsimile number appearing in the Note Register.

All notices of redemption shall state:

(i) the Redemption Date;

(ii) that on the Redemption Date Noteholders shall receive the Note Redemption Amount; and

(iii) the place where such Notes are to be surrendered for payment of the Termination Price (which shall be the office or agency of the Issuer to be maintained as provided in Section 3.02 hereof).

Notice of redemption of the Notes shall be given by the Indenture Trustee in the name of the Issuer and at the expense of the Servicer. Failure to give to any Noteholder notice of redemption, or any defect therein, shall not impair or affect the validity of the redemption of any other Note.

Section .03. Notes Payable on Redemption Date. The Notes to be redeemed shall, following notice of redemption as required bySection 10.02 hereof (in the case of redemption pursuant to Section 10.01) hereof, on the Redemption Date become due and payable at the Note Redemption Amount and (unless the Issuer shall default in the payment of the Note Redemption Amount) no interest shall accrue thereon for any period after the date to which accrued interest is calculated for purposes of calculating the Note Redemption Amount. The Issuer may not redeem the Notes unless all outstanding obligations under the Notes have been paid in full.

MISCELLANEOUS

Section .01. Compliance Certificates and Opinions, etc. Upon any application or request by the Issuer to the Indenture Trustee to take any action under any provision of this Indenture (except with respect to the Servicer's servicing activity in the ordinary course of its business), the Issuer shall furnish to the Indenture Trustee (i) an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and (ii) an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(1) a statement that each signatory of such certificate or opinion has read or has caused to be read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such signatory, such signatory has made such examination or investigation as is necessary to enable such signatory to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such signatory, such condition or covenant has been complied with.

The Officer's Certificate issued pursuant to this Section 11.01 may be executed on behalf of the Issuer by the Administrator.

Section .02. Form of Documents Delivered to Indenture Trustee. (a) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

(b) Any certificate or opinion of a Responsible Officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which such officer's certificate or opinion is based are erroneous. Any such certificate of a Responsible Officer or Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Servicer, the Originator, the Issuer or the Administrator, stating that the information with respect to such factual matters is in the possession of the Servicer, the Originator, the Issuer or the Administrator, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

(c) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

(d) Whenever in this Indenture, in connection with any application or certificate or report to the Indenture Trustee, it is provided that the Issuer shall deliver any document as a condition of the granting of such application, or as evidence of the Issuer's compliance with any term hereof; it is intended that the truth and accuracy, at the time of the granting of such application or at the effective date of such certificate or report (as the case may be), of the facts and opinions stated in such document shall in such case be conditions precedent to the right of the Issuer to have such application granted or to the sufficiency of such certificate or report. The foregoing shall not, however, be construed to affect the Indenture Trustee's right to rely upon the truth and accuracy of any statement or opinion contained in any such document as provided in Article VI hereof.

Section .03. Acts of Noteholders. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken

by Noteholders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Noteholders in person or by agents duly appointed in writing; and except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Indenture Trustee, and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Noteholders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 6.01 hereof) conclusive in favor of the Indenture Trustee and the Issuer, if made in the manner provided in this Section 11.03.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any manner that the Indenture Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by any Noteholder shall bind the Holder of every Note issued upon the registration thereof or in exchange therefor or in lieu thereof; in respect of anything done, omitted or suffered to be done by the Indenture Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Note.

Section .04. Notices, etc., to Indenture Trustee and Issuer. Any request, demand, authorization, direction, notice, consent, waiver or Act of Noteholders or other documents provided or permitted by this Indenture shall be in writing and if such request, demand, authorization, direction, notice, consent, waiver or act of Noteholders is to be made upon, given or furnished to or filed with:

(i) the Indenture Trustee by any Noteholder or by the Issuer shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (including by facsimile) to or with the Indenture Trustee at its Corporate Trust Office, or

(ii) the Issuer by the Indenture Trustee or by any Noteholder shall be sufficient for every purpose hereunder if in writing and made, given, furnished, filed or transmitted via facsimile to the Issuer at: Hercules Funding Trust I, c/o Wilmington Trust Company, as Owner Trustee, 1100 North Market Street, Wilmington, Delaware 19801, Attention: Corporate Trust Administration, telecopy number: (302) 636-4140, telephone number: (302) 651-1000, or at any other address or facsimile number previously furnished in writing to the Indenture Trustee by the Issuer or the Administrator. The Issuer shall promptly transmit any notice received by it from the Noteholders to the Indenture Trustee.

Section .05. Notices to Noteholders; Waiver. Where this Indenture provides for notice to Noteholders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class, postage prepaid to each Noteholder affected by such event, at its address as it appears on the Note Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice. In any case where notice to Noteholders is given by mail, neither the failure to mail such notice nor

any defect in any notice so mailed to any particular Noteholder shall affect the sufficiency of such notice with respect to other Noteholders, and any notice that is mailed in the manner herein provided shall conclusively be presumed to have duly been given.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by any Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Noteholders shall be filed with the Indenture Trustee but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such a waiver.

In case, by reason of the suspension of regular mail service as a result of a strike, work stoppage or similar activity, it shall be impractical to mail notice of any event to Noteholders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Indenture Trustee shall be deemed to be a sufficient giving of such notice.

Section .06. Effect of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section .07. Successors and Assigns. All covenants and agreements in this Indenture and the Notes by the Issuer shall bind its successors and assigns, whether so expressed or not. All agreements of the Indenture Trustee in this Indenture shall bind its successors, co-trustees and agents.

Section .08. Separability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section .09. Benefits of Indenture. Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, and the Noteholders, and any other party secured hereunder, and any other Person with an ownership interest in any part of the Collateral, any benefit or any legal or equitable right, remedy or claim under this Indenture. In addition, the Owner Trustee is an intended third party beneficiary to this Indenture.

Section .10. Legal Holidays. In any case where the date on which any payment is due shall not be a Business Day, then (notwithstanding any other provision of the Notes or this Indenture) payment need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the date on which nominally due, and no interest shall accrue for the period from and after any such nominal date.

Section .11. GOVERNING LAW. THIS INDENTURE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS. THE ISSUER HEREBY WAIVES ITS RIGHT TO A TRIAL BY JURY.

Section .12. Counterparts. This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section .13. Recording of Indenture. If this Indenture is subject to recording in any appropriate public recording offices, such recording is to be effected by the Issuer and at its expense accompanied by an Opinion of Counsel (which may be counsel to the Indenture Trustee or any other counsel reasonably acceptable to the Indenture Trustee; provided, however, that the expense of such Opinion of Counsel shall in no event be an expense of the Indenture Trustee) to the effect that such recording is necessary either for the protection of the Noteholders or any other Person secured hereunder or for the enforcement of any right or remedy granted to the Indenture Trustee under this Indenture.

Section .14. Trust Obligation. No recourse may be taken, directly or indirectly, with respect to the obligations of the Issuer, the Owner Trustee or the Indenture Trustee on the Notes or, except as expressly provided for in Article VI hereof, under this Indenture or any certificate or other writing delivered in connection herewith or therewith, against (i) the Indenture Trustee or the Owner Trustee in its individual capacity, (ii) any owner of a beneficial interest in the Issuer or (iii) any partner, owner, beneficiary, agent, officer, director, employee, agent or "control person" within the meaning of the Securities Act and the Exchange Act, of the Indenture Trustee or the Owner Trustee in its individual capacity, any holder of a beneficial interest in the Issuer, the Owner Trustee or the Indenture Trustee or of any successor or assign of the Indenture Trustee or the Owner Trustee in its individual capacity, except as any such Person may expressly have agreed (it being understood that the Indenture Trustee and the Owner Trustee have no such obligations in their individual capacity) and except that any such partner, owner or beneficiary of the Issuer shall be fully liable, to the extent provided by applicable law, for any unpaid consideration for stock, unpaid capital contribution or failure to pay any installment or call owing to such entity. For all purposes of this Indenture, in the performance of any duties or obligations of the Issuer hereunder, the Owner Trustee shall be subject to, and entitled to the benefits of, the terms and provisions of Articles VI, VII and VIII of the Trust Agreement.

Section .15. No Petition. The Indenture Trustee, by entering into this Indenture, and each Noteholder, by accepting a Note, hereby covenant and agree that they will not at any time institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings under any United States federal or state bankruptcy or similar law, in connection with any obligations relating to the Notes, this Indenture or any of the Basic Documents.

Section .16. Inspection. The Issuer agrees that, on reasonable prior notice, it will permit any representative of the Indenture Trustee or the Servicer, during the Issuer's normal business hours, to examine all the books of account, records, reports and other papers of the Issuer to make copies and extracts therefrom, to cause such books to be audited by Independent certified public accountants, and to discuss the Issuer's affairs, finances and accounts with the Issuer's officers, employees, and Independent certified public accountants, all at such reasonable times and as often as may reasonably be requested and at the expense of the Servicer; provided that the Indenture Trustee shall notify the Servicer prior to any contact with such accountants and provide the Servicer with the opportunity to participate in such discussions.

The Indenture Trustee shall and shall cause its representatives to hold in confidence all such information except to the extent disclosure may be required by law (and all reasonable applications for confidential treatment are unavailing) and except to the extent that the Indenture Trustee may reasonably determine that such disclosure is consistent with its obligations hereunder. The Indenture Trustee shall be under no obligation to make any such inspection.

Section .17. Limitation on Liability. It is expressly understood and agreed by the parties hereto that (a) this Indenture is executed and delivered by Wilmington Trust Company, not individually or personally, but solely as Owner Trustee of Hercules Funding Trust I and Indenture Trustee in the exercise of the powers and authority conferred and vested in them, (b) each of the representations, undertakings and agreements herein made on the part of the Issuer or the Indenture Trustee is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose for binding only the Issuer or the Indenture Trustee, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of the Issuer or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Issuer under this Indenture or any other related documents.

IN WITNESS WHEREOF, the Issuer and the Indenture Trustee have caused this Indenture to be duly executed by their respective officers, thereunto duly authorized and duly attested, all as of the day and year first above written.

HERCULES FUNDING TRUST I

By: Wilmington Trust Company not in its individual capacity but solely as Owner Trustee

By: _____
Name:
Title:

STATE OF _____)
) ss.:
COUNTY OF _____)

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared_____, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity, but solely as Owner Trustee on behalf of Hercules Funding Trust I, a Delaware statutory trust, and that such person executed the same as the act of said statutory trust for the purpose and consideration therein expressed, and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this_____ day of July, 2005.

_____
Notary Public

(Seal)

My commission expires:

_____

U.S. BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as Indenture Trustee

By: _____
Name:
Title:

STATE OF _____)
) ss.:
COUNTY OF _____)

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared_____, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said U.S. Bank National Association, a national banking association, and that such person executed the same as the act of said corporation for the purpose and consideration therein expressed, and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this_____ day of July, 2005.

_____
Notary Public

(Seal)

My commission expires:

_____

EXHIBIT A

FORM OF NOTE

THE OUTSTANDING PRINCIPAL AMOUNT OF THIS NOTE AT ANY TIME MAY BE LESS THAN THE MAXIMUM NOTE PRINCIPAL BALANCE SHOWN ON THE FACE HEREOF. ADDITIONAL AMOUNTS IN RESPECT OF THIS NOTE MAY BE BORROWED, REPAID AND REBORROWED AFTER THE DATE OF ISSUE HEREOF IN ACCORDANCE WITH THE INDENTURE, THE SALE AND SERVICING AGREEMENT AND THE NOTE PURCHASE AGREEMENT. ANY PURCHASER OF THIS NOTE MAY ASCERTAIN THE OUTSTANDING PRINCIPAL AMOUNT HEREOF BY INQUIRY OF THE INDENTURE TRUSTEE.

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION.

THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE ONLY (A) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (B) FOR SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A OR (C) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (A)(1), (2), (3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THE NOTE FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, IN EACH CASE IN COMPLIANCE WITH THE REQUIREMENTS OF THE INDENTURE AND APPLICABLE STATE SECURITIES LAWS.

THIS NOTE MAY NOT BE TRANSFERRED UNLESS THE INDENTURE TRUSTEE HAS RECEIVED A CERTIFICATE FROM THE TRANSFEREE TO THE EFFECT THAT EITHER (I) THE TRANSFEREE IS NOT AN EMPLOYEE BENEFIT PLAN OR OTHER RETIREMENT PLAN OR ARRANGEMENT SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED, OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (EACH, A "PLAN"), AND IS NOT ACTING ON BEHALF OF OR INVESTING THE ASSETS OF A PLAN OR (II) IF THE TRANSFEREE IS A PLAN OR IS ACTING ON BEHALF OF OR INVESTING THE ASSETS OF A PLAN, THE CONDITIONS FOR EXEMPTIVE RELIEF UNDER AT LEAST ONE OF THE FOLLOWING PROHIBITED TRANSACTION CLASS EXEMPTIONS HAVE BEEN SATISFIED: PROHIBITED TRANSACTION CLASS EXEMPTION ("PTCE") 96-23 (RELATING TO TRANSACTIONS EFFECTED BY AN "IN-HOUSE ASSET MANAGER"), PTCE 95-60 (RELATING TO TRANSACTIONS INVOLVING INSURANCE COMPANY GENERAL ACCOUNTS), PTCE 91-38 (RELATING TO TRANSACTIONS INVOLVING BANK COLLECTIVE INVESTMENT FUNDS), PTCE 90-1 (RELATING TO TRANSACTIONS INVOLVING INSURANCE COMPANY POOLED SEPARATE ACCOUNTS) AND PTCE 84-14 (RELATING TO TRANSACTIONS EFFECTED BY A "QUALIFIED PROFESSIONAL ASSET MANAGER").

Maximum Note Principal Balance: $100,000,000
Initial Percentage Interest: 100%
No. 12-1

HERCULES FUNDING TRUST I

ASSET BACKED NOTES

Hercules Funding Trust I, a Delaware statutory trust (the "Issuer"), for value received, hereby promises to pay to_____, or registered assigns (the "Noteholder"), the principal sum of _____ ($_____) or so much thereof as may be advanced and outstanding hereunder and to pay interest on such principal sum or such part thereof as shall remain unpaid from time to time, at the rate and at the times provided in the Sale and Servicing Agreement and the Indenture. Principal of this Note is payable on each Payment Date in an amount equal to the result obtained by multiplying (i) the Percentage Interest of this Note by (ii) the principal amount distributed in respect of such Payment Date.

The Outstanding Note Principal Balance of this Note bears interest at the Note Interest Rate. On each Payment Date amounts in respect of interest on this Note will be paid in an amount equal to the result obtained by multiplying (i) the Percentage Interest of this Note by (ii) the aggregate amount paid in respect of interest on the Notes with respect to such Payment Date.

Capitalized terms used but not defined herein have the meanings set forth in the Indenture (the "Indenture"), dated as of August 1, 2005 between the Issuer and U.S. Bank National Association, as Indenture Trustee (the "Indenture Trustee") or, if not defined therein, the Sale and Servicing Agreement (the "Sale and Servicing Agreement"), dated as of August 1, 2005 among the Issuer, the Depositor, the Servicer, the Originator, the Collateral Custodian, the Backup Servicer and the Indenture Trustee on behalf of the Noteholders.

In the event of an advance in respect of a Borrowing by the Noteholders as provided in Section 2.01(b) of the Sale and Servicing Agreement, each Noteholder shall, and is hereby authorized to, record on the schedule attached to its Note the date and amount of any Borrowings advanced by it, and each repayment thereof; *provided* that failure to make any such recordation on such schedule or any error in such schedule shall not adversely affect any Noteholder's rights with respect to the Borrowing and its right to receive interest payments in respect of the Note Principal Balance held by such Noteholder. Absent manifest error, the Note Principal Balance of each Note as set forth in the notations made by the related Noteholder on such Note shall be binding upon the Indenture Trustee and the Issuer.

The Servicer may, at its option, effect an early redemption of the Notes for an amount equal to the Note Redemption Amount on any Business Day on or after the Clean-up Call Date. The Servicer shall effect such early termination by providing notice thereof to the Indenture Trustee and Owner Trustee and by purchasing all of the Purchased Assets at a purchase price, payable in cash, equal to the Termination Price.

Reference is hereby made to the further provisions of this Note set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

The statements in the legend set forth above are an integral part of the terms of this Note and by acceptance hereof each Holder of this Note agrees to be subject to and bound by the terms and provisions set forth in such legend.

Unless the Certificate of authentication hereon shall have been executed by a Responsible Officer of the Indenture Trustee, by manual signature, this Note shall not entitle the Noteholder hereof to any benefit under the Indenture or the Sale and Servicing Agreement and/or be valid for any purpose.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Issuer has caused this instrument to be signed, manually or in facsimile, by its Responsible Officer, as of the date set forth below.

Date: _____, 200_

HERCULES FUNDING TRUST I
By: Wilmington Trust Company, not in its individual capacity but solely as Owner Trustee

By: _____
Authorized Signatory

INDENTURE TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Notes designated above and referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, not in its individual capacity but solely as Indenture Trustee

Date : _____ __, 200_

By: _____
Authorized Signatory

[Reverse of Note]

This Note is one of the duly authorized Notes of the Issuer, designated as its Asset Backed Notes (herein called the "Notes"), all issued under the Indenture. Reference is hereby made to the Indenture and all indentures supplemental thereto, and the Sale and Servicing Agreement for a statement of the respective rights and obligations thereunder of the Issuer, the Indenture Trustee and the Holders of the Notes. To the extent that any provision of this Note contradicts or is inconsistent with the provisions of the Indenture or the Sale and Servicing Agreement, the provisions of the Indenture or the Sale and Servicing Agreement, as applicable, shall control and supersede such contradictory or inconsistent provision herein. The Notes are subject to all terms of the Indenture and the Sale and Servicing Agreement.

The principal of and interest on this Note are payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. All payments made by the Issuer with respect to this Note shall be applied in accordance with the Indenture and the Sale and Servicing Agreement.

The entire unpaid principal amount of this Note shall be due and payable on the earlier of the Termination Date and the Redemption Date. Notwithstanding the foregoing, the entire unpaid principal amount of the Notes shall be due and payable (x) in the case of an Event of Default of the type specified in Section 5.01(g) or (h) of the Indenture, on the date on which such Event of Default shall have occurred, and (y) in the case of an Event of Default of the type specified in Section 5.01(a)-(f) or (i) of the Indenture, on the date after the occurrence of such Event of Default on which the Indenture Trustee, at the direction or upon the prior written consent of the Majority Noteholders, has declared the Notes to be immediately due and payable in the manner provided in Section 5.02 of the Indenture. All principal payments on the Notes shall be made *pro rata* to the Holders of the Notes entitled thereto.

The Collateral secures this Note and all other Notes equally and ratably without prejudice, priority or distinction between any Note and any other Note. The Notes are non-recourse obligations of the Issuer and are limited in right of payment to amounts available from the Collateral, provided in the Indenture. The Issuer shall not otherwise be liable for payments on the Notes, and none of the owners, agents, officers, directors, employees, or successors or assigns of the Issuer shall be personally liable for any amounts payable, or performance due, under the Notes or the Indenture.

Any installment of interest or principal on this Note shall be paid on the applicable Payment Date to the Person in whose name this Note (or one or more Predecessor Notes) is registered in the Note Register as of the close of business on the related Record Date by wire transfer in immediately available funds to the account specified in writing by the related Noteholder to the extent provided by the Indenture and otherwise by check mailed to the Noteholder.

Any reduction in the principal amount of this Note (or any one or more Predecessor Notes) effected by any payments made on any Payment Date shall be binding upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not noted hereon. Any increase in the principal

amount of this Note (or any one or more Predecessor Notes) effected by Borrowings shall be binding upon the Issuer and shall inure to the benefit of all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof; whether or not noted hereon.

As provided in the Indenture and subject to certain limitations set forth therein, the transfer of this Note may be registered on the Note Register upon surrender of this Note for registration of transfer at the office or agency designated by the Issuer pursuant to the Indenture, duly endorsed by, or accompanied by a written instrument of transfer in the form attached hereto duly executed by, the Holder hereof or such Holder's attorney duly authorized in writing, with such signature guaranteed by an "eligible guarantor institution" meeting the requirements of the Securities Transfer Agent's Medallion Program ("STAMP"), and thereupon one or more new Notes of authorized denominations and in the same aggregate principal amount will be issued to the designated transferee or transferees. No service charge will be charged for any registration of transfer or exchange of this Note, but the Issuer may require the Noteholder to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such registration of transfer or exchange.

Each Noteholder, by acceptance of a Note or a beneficial interest in a Note, covenants and agrees that no recourse may be taken, directly or indirectly, with respect to the obligations of the Issuer, the Owner Trustee or the Indenture Trustee on the Notes or under the Indenture or any certificate or other writing delivered in connection therewith, against (i) the Indenture Trustee or the Owner Trustee in its individual capacity, (ii) any owner of a beneficial interest in the Issuer or (iii) any partner, owner, beneficiary, agent, officer, director employee or "control person" within the meaning of the Securities Act and the Exchange Act of the Indenture Trustee or the Owner Trustee in its individual capacity, any holder of a beneficial interest in the Issuer, the Indenture Trustee or the Owner Trustee or of any successor or assign of the Indenture Trustee or the Owner Trustee in its individual capacity, except as any such Person may have expressly agreed and except that any such partner, owner or beneficiary shall be fully liable, to the extent provided by applicable law, for any unpaid consideration for stock, unpaid capital contribution or failure to pay any installment or call owing to such entity.

Each Noteholder, by acceptance of a Note or a beneficial interest in a Note, covenants and agrees by accepting the benefits of the Indenture that such Noteholder will not at any time institute against the Issuer, or join in any institution against the Issuer of, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under any United States federal or state bankruptcy or similar law in connection with any obligations relating to the Notes or the Basic Documents.

The Issuer has entered into the Indenture and this Note is issued with the intention that, for federal, state and local income, single business and franchise tax purposes, the Notes will qualify as indebtedness of the Issuer secured by the Collateral. Each Noteholder, by acceptance of a Note, agrees to treat the Notes for federal, state and local income, single business and franchise tax purposes as indebtedness of the Issuer. Each Noteholder, by its acceptance of a Note, represents and warrants that the number of ICA Owners with respect to all of its Notes shall not exceed four.

Prior to the due presentment for registration of transfer of this Note, the Issuer, the Indenture Trustee and any agent of the Issuer or the Indenture Trustee may treat the Person in whose name this Note (as of the day of determination or as of such other date as may be specified in the Indenture) is registered as the owner hereof for all purposes, whether or not this Note be overdue, and none of the Issuer, the Indenture Trustee or any such agent shall be affected by notice to the contrary.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the Holders of the Notes under the Indenture at any time by the Issuer with the consent of the Majority Noteholders. The Indenture also contains provisions permitting the Holders of Notes representing specified Percentage Interests of the Outstanding Notes, on behalf of all of the Noteholders, to waive compliance by the Issuer with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note (or any one or more Predecessor Notes) shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof whether or not notation of such consent or waiver is made upon this Note. The Indenture also permits the Indenture Trustee to amend or waive certain terms and conditions set forth in the Indenture without the consent of any Noteholder.

The term "Issuer" as used in this Note includes any successor to the Issuer under the Indenture.

The Notes are issuable only in registered form in denominations as provided in the Indenture, subject to certain limitations therein set forth.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of and interest on this Note at the times, place and rate, and in the coin or currency herein prescribed.

Anything herein to the contrary notwithstanding, except as expressly provided in the Basic Documents, none of the Issuer in its individual capacity, the Owner Trustee in its individual capacity, any owner of a beneficial interest in the Issuer, or any of their respective partners, beneficiaries, agents, officers, directors, employees or successors or assigns shall be personally liable for, nor shall recourse be had to any of them for, the payment of principal of or interest on this Note or performance of, or omission to perform, any of the covenants, obligations or indemnifications contained in the Indenture. The Holder of this Note by its acceptance hereof agrees that, except as expressly provided in the Basic Documents, in the case of an Event of Default under the Indenture, the Holder shall have no claim against any of the foregoing for any deficiency, loss or claim therefrom; provided, however, that nothing contained herein shall be taken to prevent recourse to, and enforcement against, the assets of the Issuer for any and all liabilities, obligations and undertakings contained in the Indenture or in this Note.

ASSIGNMENT

Social Security or taxpayer I.D. or other identifying number of assignee:

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto: _____

(name and address of assignee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints, attorney, to transfer said Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

_____ */

Signature Guaranteed:

_____ */

_____ */NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular, without alteration, enlargement or any change whatever. Such signature must be guaranteed by an "eligible guarantor institution" meeting the requirements of STAMP.

Schedule to Note
dated as of August 1, 2005
of Hercules Funding Trust I

Date of Borrowing	Amount of advance of Borrowing	Percentage Interest	Aggregate Note Principal Balance	Note Principal Balance of Note

EXHIBIT B-1

FORM OF RULE 144A TRANSFEROR CERTIFICATE

U.S. Bank National Association
One Federal Street, Third Floor
Boston, MA 02110
Attn: Corporate Trust Services
Ref: Hercules Funding Trust I

Re: Hercules Funding Trust I Asset Backed Notes

Reference is hereby made to the Indenture dated as of August 1, 2005 (the "Indenture") between Hercules Funding Trust I (the "Issuer"), and U.S. Bank National Association (the "Indenture Trustee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Sale and Servicing Agreement dated as of August 1, 2005 among the Issuer, the Depositor, Hercules Technology Growth Capital, Inc. (the "Servicer" and the "Originator"), the Collateral Custodian, the Indenture Trustee and the Backup Servicer.

The undersigned (the "Transferor") has requested a transfer of $_____ current principal balance Notes to [insert name of transferee].

In connection with such request, and in respect of such Notes, the Transferor hereby certifies that such Notes are being transferred in accordance with (i) the transfer restrictions set forth in the Indenture and the Notes and (ii) Rule 144A under the Securities Act to a purchaser that the Transferor reasonably believes is a "qualified institutional buyer" within the meaning of Rule 144A purchasing for its own account or for the account of a "qualified institutional buyer," which purchaser is aware that the sale to it is being made in reliance upon Rule 144A, in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other applicable jurisdiction.

This certificate and the statements contained herein are made for your benefit and the benefit of the Issuer.

_____
[Name of Transferor]

By: _____
Name:
Title:

Dated: _____ __, 200_

EXHIBIT B-2

FORM OF TRANSFEREE CERTIFICATE FOR INSTITUTIONAL
ACCREDITED INVESTOR

U.S. Bank National Association
One Federal Street, Third Floor
Boston, MA 02110
Attn: Corporate Trust Services
Ref: Hercules Funding Trust I

Re: Hercules Funding Trust I

In connection with our proposed purchase of $_____ Note Principal Balance Asset Backed Notes (the "Notes") issued by Hercules Funding Trust I, we confirm that:

(1) We understand that the Notes have not been, and will not be, registered under the Securities Act of 1933, as amended (the "Securities Act") or any state securities laws, and may not be sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell any Notes we will do so only (A) pursuant to a registration statement which has been declared effective under the Securities Act, (B) for so long as the Notes are eligible for resale pursuant to Rule 144A under the Securities Act, to a Person we reasonably believe is a "qualified institutional buyer" as defined in Rule 144A that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the transfer is being made in reliance on Rule 144A, (C) to an institutional "accredited investor" within the meaning of subparagraph (a)(1), (2), (3) or (7) of Rule 501 under the Securities Act (an "Institutional Accredited Investor") that is acquiring the Notes for its own account, or for the account of such an Institutional Accredited Investor, for investment purposes and not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act, in each case in compliance with the requirements of the Indenture dated as of August 1, 2005 between Hercules Funding Trust I and U.S. Bank National Association, as Indenture Trustee, and applicable state securities laws; and we further agree, in the capacities stated above, to provide to any person purchasing any of the Notes from us a notice advising such purchaser that resales of the Notes are restricted as stated herein.

(2) We understand that, in connection with any proposed resale of any Notes to an Institutional Accredited Investor, we will be required to furnish to the Indenture Trustee and the Issuer a certification from such transferee as provided in Section 2.12 of the Indenture to confirm that the proposed sale is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

(3) We are acquiring the Notes for investment purposes and not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any account for which we are acting are each able to bear the economic risk of such investment.

(4) We are an Institutional Accredited Investor and we are acquiring the Notes purchased by us for our own account or for one or more accounts (each of which is an Institutional Accredited Investor) as to each of which we exercise sole investment discretion.

(5) We have received such information as we deem necessary in order to make our investment decision.

(6) We either (i) are not, and are not acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement subject to Title I of ERISA or Section 4975 of the Code, or (b) are, or are acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement subject to Title I of ERISA of Section 4975 of the Code and the conditions for exemptive relief under at least one of the following prohibited transaction class exemptions have been satisfied: Prohibited Transaction Class Exemption ("PTCE") 96-23 (relating to transactions effected by an "in-house asset manager"), PTCE 95-60 (relating to transactions involving insurance company general accounts), PTCE 91-38 (relating to transactions involving bank collective investment funds), PTCE 90-1 (relating to transactions involving insurance company pooled separate accounts), and PTCE 84-14 (relating to transactions effected by a "qualified professional asset manager").

Terms used in this letter which are not otherwise defined herein have the respective meanings assigned thereto in the Indenture.

You and the Issuer are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby.

_____
[Name of Transferor]

By: _____
Name:
Title:

Dated: _____ __, 200_

EXHIBIT B-3

FORM OF RULE 144A TRANSFEREE CERTIFICATE

U.S. Bank National Association
One Federal Street, Third Floor
Boston, MA 02110
Attn: Corporate Trust Services
Ref: Hercules Funding Trust I

Re: Hercules Funding Trust I

1. The undersigned is the _____ of _____ (the "Investor"), a [corporation duly organized] and existing under the laws of _____ on behalf of which he makes this affidavit.

2. The Investor either (i) is not, and is not acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement subject to Title I of ERISA or Section 4975 of the Code, or (b) is, or is acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement subject to Title I of ERISA of Section 4975 of the Code and the conditions for exemptive relief under at least one of the following prohibited transaction class exemptions have been satisfied: Prohibited Transaction Class Exemption ("PTCE") 96-23 (relating to transactions effected by an "in-house asset manager"), PTCE 95-60 (relating to transactions involving insurance company general accounts), PTCE 91-38 (relating to transactions involving bank collective investment funds), PTCE 90-1 (relating to transactions involving insurance company pooled separate accounts), and PTCE 84-14 (relating to transactions effected by a "qualified professional asset manager").

3. The Investor understands that the Notes have not been, and will not be, registered under the Securities Act of 1933, as amended (the "Securities Act") or any state securities laws, and may not be sold except as permitted in the following sentence. The Investor agrees, on its own behalf and on behalf of any accounts for which it is acting as hereinafter stated, that if it should sell any Notes it will do so only (A) pursuant to a registration statement which has been declared effective under the Securities Act, (B) for so long as the Notes are eligible for resale pursuant to Rule 144A under the Securities Act, to a Person it reasonably believes is a "qualified institutional buyer" as defined in Rule 144A that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the transfer is being made in reliance on Rule 144A, (C) to an institutional "accredited investor" within the meaning of subparagraph (a)(1), (2), (3) or (7) of Rule 501 under the Securities Act (an "Institutional Accredited Investor") that is acquiring the Notes for its own account, or for the account of such an Institutional Accredited Investor, for investment purposes and not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act, in each case in compliance with the requirements of the Indenture dated as of August 1, 2005 between Hercules Funding Trust I and U.S. Bank National Association, as Indenture Trustee, and applicable state securities laws; and the Investor further agrees, in the capacities stated above, to provide to any person purchasing any of the Notes from it a notice advising such purchaser that resales of the Notes are restricted as stated herein.

[FOR TRANSFERS IN RELIANCE UPON RULE 144A]

4. The Investor is a "qualified institutional buyer" (as such term is defined under Rule 144A under the Securities Act of 1933, as amended (the "Securities Act")), and is acquiring the Notes for its own account or as a fiduciary or agent for others (which others also are "qualified institutional buyers"). The Investor is familiar with Rule 144A under the Securities Act, and is aware that the transferor of the Notes and other parties intend to rely on the statements made herein and the exemption from the registration requirements of the Securities Act provided by Rule 144A.

[Name of Transferor]

By: _____
Name:
Title:

Dated: _____ __, 200_

Exhibit 99.6

NOTE PURCHASE AGREEMENT

among

HERCULES FUNDING TRUST I,
as Issuer

HERCULES FUNDING I LLC,
as Depositor

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.,
as Originator

and

CITIGROUP GLOBAL MARKETS REALTY CORP.,
as Purchaser

Dated as of August 1, 2005

ASSET BACKED NOTES

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

NOTE PURCHASE AGREEMENT

NOTE PURCHASE AGREEMENT dated as of August 1 (as amended, supplemented and otherwise modified from time to time, the "Note Purchase Agreement"), among Hercules Funding Trust I (the "Issuer"), Hercules Funding I LLC (the "Depositor"), Hercules Technology Growth Capital, Inc. ("Hercules") and Citigroup Global Markets Realty Corp. ("Citigroup," and, together with its permitted successors and assigns in its capacity as Purchaser hereunder, the "Purchaser").

The parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Certain Defined Terms. Capitalized terms used herein without definition shall have the meanings set forth in the Indenture and the Sale and Servicing Agreement (as defined below). Additionally, the following terms shall have the following meanings:

"Closing" shall have the meaning set forth in Section 2.01.

"Closing Date" shall have the meaning set forth in Section 2.01.

"Commitment Fee" shall have the meaning provided in the Fee Letter.

"Confidential Information" means all marketing information, financial information, terms sheets and other information concerning the transactions contemplated thereby, prepared by the Purchaser and its Affiliates.

"Governmental Actions" means any and all consents, approvals, permits, orders, authorizations, waivers, exceptions, variances, exemptions or licenses of, or registrations, declarations or filings with, any Governmental Authority required under any Governmental Rules.

"Governmental Rules" means any and all laws, statutes, codes, rules, regulations, ordinances, orders, writs, decrees and injunctions, of any Governmental Authority and any and all legally binding conditions, standards, prohibitions, requirements and judgments of any Governmental Authority.

"Indemnified Party" means the Purchaser and any of its officers, directors, employees, agents, representatives, assignees and Affiliates and any Person who controls the Purchaser or its Affiliates within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act.

"Sale and Servicing Agreement" means the Sale and Servicing Agreement dated as of August 1, among the Issuer, the Depositor, the Originator, the Servicer, U.S. Bank National Association, as Indenture Trustee and Collateral Custodian and Lyon Financial services doing business as U.S. Bank Portfolio Services, as Backup Servicer, as the same may be amended, modified or supplemented from time to time.

SECTION 1.02. Other Definitional Provisions.

(a) All terms defined in this Note Purchase Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.

(b) As used herein and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in Section 1.01, and accounting terms partially defined in Section 1.01 to the extent not defined, shall have the respective meanings given to them under generally accepted accounting principles. To the extent that the definitions of accounting terms herein are inconsistent with the meanings of such terms under generally accepted accounting principles, the definitions contained herein shall control.

(c) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Note Purchase Agreement shall refer to this Note Purchase Agreement as a whole and not to any particular provision of this Note Purchase Agreement; and Section, subsection, Schedule and Exhibit references contained in this Note Purchase Agreement are references to Sections, subsections, and Exhibits in or to this Note Purchase Agreement unless otherwise specified.

ARTICLE II

CLOSING AND ADVANCES OF BORROWINGS

SECTION 2.01. Closing. The closing (the "Closing") of the execution of the Basic Documents shall take place at 10:00 a.m. at the offices of Dechert LLP, Bank of America Corporate Center, 100 North Tryon Street, Suite 4000, Charlotte, NC 28202, on August 1, or if the conditions to closing set forth in Section 4.01 of this Note Purchase Agreement shall not have been satisfied or waived by such date, as soon as practicable after such conditions shall have been satisfied or waived, or at such other time, date and place as the parties shall agree upon (the date of the Closing being referred to herein as the "Closing Date"). On the Closing Date the Purchaser shall have received the Commitment Fee in immediately available funds, in accordance with the Purchaser's wiring instructions.

SECTION 2.02. Requests for Advances of Borrowings; Reductions in Note Principal Balance (a) At any time during the Revolving Period, no later than 12:00 p.m. New York time at least two Business Days prior to a proposed Borrowing Date, and subject to the terms and conditions hereof and in accordance with the other Basic Documents, the Servicer on behalf of the Issuer may deliver a Borrowing Notice requesting that the Purchaser advance additional Borrowings, in an amount up to the Availability as of the proposed Borrowing Date. In addition, in connection with such Borrowing Notice the Servicer on behalf of the Issuer shall deliver or cause the delivery of (i) a Borrowing Base Certificate in the form attached as Exhibit F to the Sale and Servicing Agreement, (ii) if any Purchased Assets will be acquired by the Issuer under the Sale and Servicing Agreement with the proceeds of the applicable Borrowing, a copy of the executed LSA Assignment delivered pursuant to the Loan Sale Agreement and a copy of the executed S&SA Assignment delivered pursuant to the Sale and Servicing Agreement, together, in each case, with the related Loan Schedule and (iii) such additional information as may be reasonably requested by the Purchaser.

(b) On the related Borrowing Date, the Purchaser may (in the exercise of its sole and absolute discretion) advance the Borrowing requested in the Borrowing Notice, subject to the terms and conditions and in reliance upon the covenants, representations and warranties set forth herein and in the other Basic Documents. The amount of any Borrowing shall be at least equal to $1,000,000.

ARTICLE III

CLOSING DATE BORROWINGS; BORROWING DATES

SECTION 3.01. Borrowing Dates.

(a) Subject to the conditions and terms set forth herein and in Section 2.06 (in the case of a Borrowing to be made on the Closing Date) and Section 2.07 (in the case of all Borrowings) of the Sale and Servicing Agreement with respect to the Closing Date and each Borrowing Date, the Purchaser's providing advances of Borrowings shall be subject to the satisfaction, as of the Closing Date or any Borrowing Date, as applicable, of each of the following additional conditions:

(i) Each document required to be provided pursuant toSection 2.02 hereof shall have been provided to the Purchaser;

(ii) Each condition set forth in Section 2.06 and Section 2.07 of the Sale and Servicing Agreement, as applicable, (other than any condition therein requiring the conditions set forth in this Section 3.01 to be satisfied) shall have been satisfied;

(iii) Each of the representations and warranties of the Issuer, the Servicer, the Originator and the Depositor made in the Basic Documents shall be true and correct as of such date (except to the extent they expressly relate to an earlier or later time);

(iv) The Issuer, the Servicer, the Originator and the Depositor shall be in compliance with all of their respective covenants contained in the Basic Documents and the Notes; and

(v) No Event of Default shall have occurred and be continuing.

(b) The Purchaser shall determine in its reasonable discretion whether each of the above conditions have been met and its determination shall be binding on the parties hereto.

(c) The price paid by the Purchaser on such Closing Date or Borrowing Date for the Note Principal Balance advanced on such Closing Date or Borrowing Date, respectively, shall be equal to the amount of such Note Principal Balance, and shall be remitted not later than 5:00 p.m. New York City time on the Closing Date or Borrowing Date, as applicable, by wire transfer of immediately available funds to or at the direction of the Originator on behalf of the Issuer.

(d) The Purchaser shall record on the schedule attached to the Notes, the date and amount of any Note Principal Balance purchased by it;provided, that failure to make such recordation on such schedule or any error in such schedule shall not adversely affect the

Purchaser's rights with respect to its Note Principal Balance and its right to receive interest payments in respect of the Note Principal Balance actually held. Absent manifest error, the Note Principal Balance of the Notes as set forth in the Purchaser's records shall be binding upon the parties hereto, notwithstanding any notation or record made or kept by any other party hereto.

ARTICLE IV

CONDITIONS PRECEDENT

SECTION 4.01. Closing Subject to Conditions Precedent. The Closing of the Basic Documents is subject to the satisfaction at the time of the Closing of the following conditions (any or all of which may be waived by the Purchaser in its sole discretion):

(a) Performance by the Issuer, the Depositor, the Servicer and the Originator. All the terms, covenants, agreements and conditions of the Basic Documents to be complied with and performed by the Issuer, the Depositor, the Servicer and the Originator on or before the Closing Date shall have been complied with and performed in all material respects.

(b) Representations and Warranties. Each of the representations and warranties of the Issuer, the Depositor, the Servicer and the Originator made in the Basic Documents shall be true and correct in all material respects as of the Closing Date (except to the extent they expressly relate to an earlier or later time).

(c) Officer's Certificate. The Purchaser shall have received in form and substance reasonably satisfactory to the Purchaser an Officer's Certificate from the Originator, the Depositor and the Servicer and a certificate of a Responsible Officer of the Issuer, dated the Closing Date, certifying to the satisfaction of the conditions set forth in the preceding paragraphs (a) and (b).

(d) Opinions of Counsel to the Issuer, the Originator, the Servicer and the Depositor. Counsel to the Issuer, the Originator, the Servicer and the Depositor shall have delivered to the Purchaser opinions, dated as of the Closing Date and reasonably satisfactory in form and substance to the Purchaser and its counsel.

(e) Opinions of Counsel to the Indenture Trustee. Counsel to the Indenture Trustee shall have delivered to the Purchaser a favorable opinion, dated as of the Closing Date and reasonably satisfactory in form and substance to the Purchaser and its counsel.

(f) Opinions of Counsel to the Owner Trustee. Delaware counsel to the Owner Trustee of the Issuer shall have delivered to the Purchaser favorable opinions regarding the formation, existence and standing of the Issuer and of the Issuer's execution, authorization and delivery of each of the Basic Documents to which it is a party and such other matters as the Purchaser may reasonably request, dated as of the Closing Date and reasonably satisfactory in form and substance to the Purchaser and its counsel.

(g) Filings and Recordations. On or prior to the Closing Date and, if a Borrowing will be consummated in connection with any Transfer, on or prior to the applicable Transfer Date, the Purchaser shall have received evidence reasonably satisfactory to it of (i) the completion of all recordings, registrations, and filings as may be necessary or, in the reasonable opinion of the Purchaser, desirable to perfect or evidence the assignment by the Originator to the

Depositor of the Originator's ownership interest in the Assigned Assets including, without limitation, the Transferred Loans conveyed pursuant to the Loan Sale Agreement and the proceeds thereof, (ii) the completion of all recordings, registrations and filings as may be necessary or, in the reasonable opinion of the Purchaser, desirable to perfect or evidence the assignment by the Depositor to the Issuer of the Depositor's ownership interest in the Purchased Assets including, without limitation, the Transferred Loans conveyed pursuant to the Sale and Servicing Agreement and the proceeds thereof, and (iii) the completion of all recordings, registrations, and filings as may be necessary or, in the reasonable opinion of the Purchaser, desirable to perfect or evidence the grant of a first priority perfected security interest in the Issuer's ownership interest in the Collateral, including, without limitation, the Transferred Loans and the proceeds thereof, in favor of the Indenture Trustee, subject to no Liens prior to the Lien of the Indenture.

(h) Documents. The Purchaser shall have received a duly executed counterpart of each of the Basic Documents, in form acceptable to the Purchaser, the Notes and each and every document or certification delivered by any party in connection with any of the Basic Documents or the Notes, and each such document shall be in full force and effect.

(i) Actions or Proceedings. No action, suit, proceeding or investigation by or before any Governmental Authority shall have been instituted to restrain or prohibit the consummation of, or to invalidate, any of the transactions contemplated by the Basic Documents, the Notes and the documents related thereto in any material respect.

(j) Approvals and Consents. All Governmental Actions of all Governmental Authorities required with respect to the transactions contemplated by the Basic Documents, the Notes and the documents related thereto shall have been obtained or made.

(k) Accounts. The Purchaser shall have received evidence reasonably satisfactory to it that each Trust Account has each been established in accordance with the terms of the Sale and Servicing Agreement.

(l) Other Documents. The Issuer, the Originator, the Depositor and the Servicer shall have furnished to the Purchaser such other opinions, information, certificates and documents as the Purchaser may reasonably request.

(m) Proceedings in Contemplation of Sale of Notes. All actions and proceedings undertaken by the Issuer, the Originator, the Depositor and the Servicer in connection with the issuance and sale of the Notes as herein contemplated shall be satisfactory in all respects to the Purchaser and its counsel.

(n) Financial Covenants. The Originator shall be in compliance with the financial covenants set forth in Section 7.01 of the Sale and Servicing Agreement.

If any condition specified in this Section 4.01 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Purchaser by notice to the Originator at any time at or prior to the Closing Date, and the Purchaser shall incur no liability as a result of such termination.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF
THE ISSUER AND THE DEPOSITOR

SECTION 5.01. Representations and Warranties. The Issuer and the Depositor hereby jointly and severally make the following representations and warranties to the Purchaser, as of the Closing Date, and as of each Borrowing Date, the Purchaser shall be deemed to have relied on such representations and warranties in providing advances of Borrowings on each Borrowing Date:

(a) The Issuer has been duly organized and is validly existing and in good standing as a statutory trust under the laws of the State of Delaware, with requisite trust power and authority to own its properties and to transact the business in which it is now engaged, and is duly qualified to do business and is in good standing (or is exempt from such requirements) in each State of the United States where the nature of its business requires it to be so qualified and the failure to be so qualified and in good standing would reasonably be expected to have a material adverse effect on the Issuer or any adverse effect on the interests of the Purchaser.

(b) The issuance, sale, assignment and conveyance of the Notes and the advance of any Borrowings, the performance of the Issuer's obligations under each Basic Document to which it is a party and the consummation of the transactions therein contemplated will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Lien (other than any Lien created by the Basic Documents), charge or encumbrance upon any of the property or assets of the Issuer or any of its Affiliates pursuant to the terms of, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which it or any of its Affiliates is bound or to which any of its property or assets is subject, nor will such action result in any violation of the provisions of its organizational documents or any Governmental Rule applicable to the Issuer, in each case which could reasonably be expected to have a material adverse effect on the transactions contemplated therein.

(c) No Governmental Action which has not been obtained is required by or with respect to the Issuer in connection with the execution and delivery to the Purchaser of the Notes. No Governmental Action which has not been obtained is required by or with respect to the Issuer in connection with the execution and delivery of any of the Basic Documents to which the Issuer is a party or the consummation by the Issuer of the transactions contemplated thereby except for any requirements under state securities or "blue sky" laws in connection with any transfer of the Notes.

(d) The Issuer possesses all material licenses, certificates, authorities or permits issued by the appropriate state, federal or foreign regulatory agencies or bodies necessary to conduct the business now operated by it, and has not received any notice of proceedings relating to the revocation or modification of any such license, certificate, authority or permit which, singly or in the aggregate, would reasonably be expected to materially and adversely affect its condition, financial or otherwise, or its earnings, business affairs or business prospects.

(e) Each of the Basic Documents to which the Issuer is a party has been duly authorized, executed and delivered by the Issuer and is a valid and legally binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other

similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

(f) The execution, delivery and performance by the Issuer of each of its obligations under each of the Basic Documents to which it is a party will not result in a breach or violation of any of the terms and provisions of, or constitute a default under, any agreement or instrument to which the Issuer is a party or by which the Issuer is bound or to which any of its properties are subject or of any statute, order or regulation applicable to the Issuer of any court, regulatory body, administrative agency or governmental body having jurisdiction over the Issuer or any of its properties, in each case which could reasonably be expected to have a material adverse effect on any of the transactions contemplated therein.

(g) The Issuer is not in violation of its organizational documents or in default under any agreement, indenture or instrument the effect of which violation or default would be material to the Issuer or the transactions contemplated by the Basic Documents. The Issuer is not a party to, bound by or in breach or violation of any indenture or other agreement or instrument, or subject to or in violation of any statute, order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over the Issuer that would reasonably be expected to materially and adversely affect (i) the ability of the Issuer to perform its obligations under any of the Basic Documents to which it is a party or (ii) the business, operations, financial condition, properties, assets or prospects of the Issuer.

(h) There are no actions or proceedings against, or investigations of, the Issuer pending, or, to the knowledge of the Issuer threatened, before any Governmental Authority, court, arbitrator, administrative agency or other tribunal (i) asserting the invalidity of any of the Basic Documents, or (ii) seeking to prevent the issuance of the Notes or the consummation of any of the transactions contemplated by the Basic Documents or the Notes, or (iii) that could reasonably be expected to materially and adversely affect the business, operations, financial condition, properties, assets or prospects of the Issuer or the validity or enforceability of, or the performance by the Issuer of its respective obligations under, any of the Basic Documents to which it is a party or (iv) seeking to affect adversely the income tax attributes of the Notes.

(i) The Issuer is not, and neither the issuance and sale of the Notes to the Purchaser nor the activities of the Issuer pursuant to the Basic Documents, shall render the Issuer an "investment company" or under the "control" of an "investment company" as such terms are defined in the 1940 Act.

(j) It is not necessary to qualify the Indenture under the Trust Indenture Act.

(k) Both prior to and after giving effect to the transactions contemplated by the Basic Documents, the Issuer is and will be solvent and has and will have adequate capital for its business and undertakings.

(l) The chief executive offices of the Issuer are located at c/o Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware 19801, or, with the consent of the Purchaser, such other address as shall be designated by the Issuer in a written notice to the other parties hereto.

(m) There are no contracts, agreements or understandings between the Issuer and any Person granting such Person the right to require the filing at any time of a registration statement under the Securities Act with respect to the Notes.

SECTION 5.02. Securities Act. Assuming the accuracy of the representations and warranties of and compliance with the covenants of the Purchaser contained herein, the sale of the Notes and any advance of Borrowings pursuant to this Agreement are each exempt from the registration and prospectus delivery requirements of the Securities Act. In the case of the offer or sale of the Notes, no form of general solicitation or general advertising was used by the Issuer, any Affiliates of the Issuer or any person acting on its or their behalf, including, but not limited to, advertisements, articles, notices or other communications published in any newspaper, magazine or similar medium or broadcast over television or radio, or any seminar or meeting whose attendees have been invited by any general solicitation or general advertising. Neither the Issuer, any Affiliates of the Issuer nor any Person acting on its or their behalf has offered or sold, nor will the Issuer or any Person acting on its behalf offer or sell directly or indirectly, the Notes or any other security in any manner that, assuming the accuracy of the representations and warranties and the performance of the covenants given by the Purchaser and compliance with the applicable provisions of the Indenture with respect to each transfer of the Notes, would render the issuance and sale of the Notes as contemplated hereby a violation of Section 5 of the Securities Act or the registration or qualification requirements of any state securities laws, nor has any such Person authorized, nor will it authorize, any Person to act in such manner.

SECTION 5.03. No Fee. Neither the Issuer, nor the Depositor, nor any of their Affiliates has paid or agreed to pay to any Person any compensation for soliciting another to purchase the Notes.

SECTION 5.04. Information. The information provided pursuant to Section 7.01(a) hereof will, at the date thereof, be true and correct in all material respects.

SECTION 5.05. The Notes. The Notes have been duly and validly authorized, and, when executed and authenticated in accordance with the terms of the Indenture, and delivered to and paid for in accordance with this Note Purchase Agreement, will be duly and validly issued and outstanding, will constitute the legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity, and will be entitled to the benefits of the Indenture.

SECTION 5.06. Use of Proceeds. No proceeds of a purchase hereunder will be used (i) for a purpose that violates or would be inconsistent with Regulations T, U or X promulgated by the Board of Governors of the Federal Reserve System from time to time or (ii) to acquire any security in any transaction in violation of Section 13 or 14 of the Exchange Act.

SECTION 5.07. The Depositor. The Depositor hereby makes to the Purchaser each of the representations, warranties and covenants set forth in Section 3.01 of the Sale and Servicing Agreement as of the Closing Date and as of each Borrowing Date (except to the extent that any such representation, warranty or covenant is expressly made as of another date).

SECTION 5.08. Taxes, etc. Any taxes, fees and other charges of Governmental Authorities applicable to the Issuer and the Depositor, except for franchise or income taxes, in connection with the execution, delivery and performance by the Issuer and the Depositor of each Basic Document to which they are parties, the issuance of the Notes or otherwise applicable to the Issuer or the Depositor in connection with the Collateral have been paid or will be paid by the Issuer or the Depositor, as applicable, at or prior to the Closing Date or Borrowing Date, to the extent then due.

SECTION 5.09. Financial Condition. On the date hereof and on each Borrowing Date, neither the Issuer nor the Depositor is subject to a Bankruptcy Event or has reason to believe that its insolvency is imminent.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE PURCHASER

SECTION 6.01. Representations and Warranties. The Purchaser hereby makes the following representations and warranties, as to itself, to the Issuer and the Depositor on which the same are relying in entering into this Note Purchase Agreement.

(a) Organization. The Purchaser has been duly organized and is validly existing and in good standing under the laws of the jurisdiction of its organization with power and authority to own its properties and to transact the business in which it is now engaged.

(b) Authority, etc. The Purchaser has all requisite corporate power and authority to enter into and perform its obligations under this Note Purchase Agreement and to consummate the transactions herein contemplated. The execution and delivery by the Purchaser of this Note Purchase Agreement and the consummation by the Purchaser of the transactions contemplated hereby have been duly and validly authorized by all necessary organizational action on the part of the Purchaser. This Note Purchase Agreement has been duly and validly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability relating to or affecting creditors' rights and to general principles of equity. Neither the execution and delivery by the Purchaser of this Note Purchase Agreement nor the consummation by the Purchaser of any of the transactions contemplated hereby, nor the fulfillment by the Purchaser of the terms hereof, will conflict with, or violate, result in a breach of or constitute a default under any term or provision of the Purchaser's organizational documents or any Governmental Rule applicable to the Purchaser.

(c) Institutional Accredited Investor. The Purchaser is an institutional "accredited investor" within the meaning of subparagraph (a)(1), (2), (3) or (7) of Rule 501 under the 1933 Act (an "Institutional Accredited Investor") that is acquiring the Notes for its own account or for one or more accounts (each of which is an Institutional Accredited Investor) as to each of which it exercises sole investment discretion.

(d) ERISA. The Purchaser either (i) is not, and not acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement

subject to Title I of ERISA or Section 4975 of the Code, or (b) is, or is acquiring the Notes on behalf of or with the assets of, an employee benefit plan or other retirement plan or arrangement subject to Title I of ERISA of Section 4975 of the Code and the conditions for exemptive relief under at least one of the following prohibited transaction class exemptions have been satisfied: Prohibited Transaction Class Exemption ("PTCE") 96-23 (relating to transactions effected by an "in-house asset manager"), PTCE 95-60 (relating to transactions involving insurance company general accounts), PTCE 91-38 (relating to transactions involving bank collective investment funds), PTCE 90-1 (relating to transactions involving insurance company pooled separate accounts), and PTCE 84-14 (relating to transactions effected by a "qualified professional asset manager").

(e) Securities Act. The Purchaser will acquire the Notes pursuant to this Note Purchase Agreement without a view to any public distribution thereof, and will not offer to sell or otherwise dispose of the Notes (or any interest therein) in violation of any of the registration requirements of the Securities Act or any applicable state or other securities laws, or by means of any form of general solicitation or general advertising (within the meaning of Regulation D under the Securities Act) and will comply with the requirements of the Indenture. The Purchaser acknowledges that it has no right to require the Issuer or any other Person to register the Notes under the Securities Act or any other securities law.

(f) Conflicts With Law. The execution, delivery and performance by the Purchaser of its obligations under this Note Purchase Agreement will not result in a breach or violation of any of the terms or provisions of, or constitute a default under, any agreement or instrument to which the Purchaser is a party or by which the Purchaser is bound or of any statute, order or regulation applicable to the Purchaser of any court, regulatory body, administrative agency or governmental body having jurisdiction over the Purchaser, in each case which could be expected to have a material adverse effect on the transactions contemplated therein.

(g) Conflicts With Agreements, etc. The Purchaser is not in violation of its organizational documents or in default under any agreement, indenture or instrument the effect of which violation or default would be materially adverse to the Purchaser in the performance of its obligations or duties under any of the Basic Documents to which it is a party. The Purchaser is not a party to, bound by or in breach or violation of any indenture or other agreement or instrument, or subject to or in violation of any statute, order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over the Purchaser that materially and adversely affects, or which could be expected in the future to materially and adversely affect the ability of the Purchaser to perform its obligations under this Note Purchase Agreement.

ARTICLE VII

COVENANTS OF THE ISSUER AND THE DEPOSITOR

SECTION 7.01. Information from the Issuer. So long as the Notes remain outstanding, the Issuer and the Depositor shall each furnish to the Purchaser:

(a) such information (including financial information), documents, records or reports with respect to the Collateral, including, without limitation, the Transferred Loans and

any Related Property included in the Collateral, as the Issuer, the Originator, the Servicer or the Depositor as the Purchaser may from time to time reasonably request;

(b) as soon as possible and in any event within one (1) Business Day after the after the Issuer or the Depositor shall have knowledge of the occurrence of occurrence thereof, notice of each Event of Default under the Sale and Servicing Agreement or the Indenture, and each Default; and

(c) promptly and in any event within five (5) Business Days after the occurrence thereof, written notice of a change in address of the chief executive office or place of organization of the Issuer, the Originator or the Depositor.

SECTION 7.02. Access to Information. So long as the Notes remain outstanding, each of the Issuer and the Depositor shall, on reasonable request from time to time during regular business hours, permit the Purchaser, or their agents or representatives to:

(a) examine all books, records and documents (including computer tapes and disks) in the possession or under the control of the Issuer or the Depositor relating to the Transferred Loans or the Basic Documents as may be requested, and

(b) visit the offices and property of the Issuer and the Depositor for the purpose of examining such materials described in clause (a) above.

SECTION 7.03. Ownership and Security Interests; Further Assurances. The Depositor will take all action reasonably necessary to maintain the Issuer's ownership interest in the Transferred Loans and the other items constituting Purchased Assets sold pursuant to Article II of the Sale and Servicing Agreement. The Issuer and the Depositor will take all action necessary to maintain the Indenture Trustee's security interest in the Transferred Loans and the other items of Collateral pledged to the Indenture Trustee pursuant to the Indenture.

The Issuer and the Depositor agree to take any and all acts and to execute any and all further instruments reasonably necessary or requested by the Purchaser to more fully effect the purposes of this Note Purchase Agreement.

SECTION 7.04. Covenants. The Issuer and the Depositor shall each duly observe and perform each of their respective covenants set forth in each of the Basic Documents to which they are parties.

SECTION 7.05. Amendments. Neither the Issuer nor the Depositor shall make, or permit any Person to make, any amendment, modification or change to, or provide any waiver under any Basic Document to which the Issuer or the Depositor, as applicable, is a party without the prior written consent of the Purchaser.

SECTION 7.06. With Respect to the Exempt Status of the Notes

(a) Neither the Issuer nor the Depositor, nor any of their respective Affiliates, nor any Person acting on their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Notes under the Securities Act.

(b) Neither the Issuer nor the Depositor, nor any of their Affiliates, nor any Person acting on their behalf will engage in any form of general solicitation or general advertising (within the meaning of Regulation D promulgated under the Securities Act) in connection with any offer or sale of the Notes.

ARTICLE VIII

ADDITIONAL COVENANTS

SECTION 8.01. Legal Conditions to Closing. The parties hereto will take all reasonable action necessary to obtain (and will cooperate with one another in obtaining) any consent, authorization, permit, license, franchise, order or approval of, or any exemption by, any Governmental Authority or any other Person, required to be obtained or made by it in connection with any of the transactions contemplated by this Note Purchase Agreement.

SECTION 8.02. Mutual Obligations. On and after the Closing, each party hereto will do, execute and perform all such other acts, deeds and documents as the other party may from time to time reasonably require in order to carry out the intent of this Note Purchase Agreement.

SECTION 8.03. Restrictions on Transfer. The Purchaser agrees that it will comply with the restrictions on transfer of the Notes set forth in the Indenture and resell the Notes only in compliance with such restrictions.

ARTICLE IX

INDEMNIFICATION

SECTION 9.01. Indemnification of Purchaser. Each of the Issuer and the Depositor hereby agree to, jointly and severally, indemnify and hold harmless each Indemnified Party against any and all losses, claims, damages, liabilities, expenses or judgments (including accounting fees and reasonable legal fees and other expenses incurred in connection with this Note Purchase Agreement or any other Basic Document and any action, suit or proceeding or any claim asserted) (collectively, "Losses"), as incurred (payable promptly upon written request), for or on account of or arising from or in connection with any information prepared by and furnished or to be furnished by any of the Issuer, the Originator or the Depositor pursuant to or in connection with the transactions contemplated hereby including, without limitation, such written information as may have been and may be furnished in connection with any due diligence investigation with respect to the business, operations, financial condition of the Issuer, the Originator, the Depositor or with respect to the Collateral, including, without limitation, the Transferred Loans, to the extent such information contains any untrue statement of material fact or omits to state a material fact necessary to make the statements contained therein in light of the circumstances under which such statements were made not misleading, except with respect to any such information used by such Indemnified Party in violation of the Basic Documents which results in such Losses; provided, however, that neither the Issuer nor the Depositor will be liable for any portion of any such amount resulting from the gross negligence or willful misconduct of any Indemnified Party. The indemnities contained in this Section 9.01 will be in addition to any liability which the Issuer or the Depositor may otherwise have pursuant to this Note Purchase Agreement and any other Basic Document.

ARTICLE X

LIMITED RECOURSE

SECTION 10.01. Limited Recourse.

(a) Hercules hereby unconditionally and irrevocably undertakes and agrees with and for the benefit of the Initial Noteholder and the Indenture Trustee on behalf of the Noteholders to cause the due and punctual performance and observance by the Issuer and its successors and assigns of the full and punctual payment when due of all payments of principal on the Notes by the Issuer in an amount not to exceed 10% of the Note Principal Balance as of the Termination Date, and agrees to pay any and all expenses (including reasonable fees and expenses of counsel) incurred by the Initial Noteholder and the Indenture Trustee on behalf of the Noteholders in enforcing any rights under this Article X. The guarantee provided hereunder is a guarantee of performance and payment and not of collection.

(b) In the event that the Issuer shall fail in any manner whatsoever to perform or observe any of the terms, covenants, conditions, agreements and undertakings on the part of the Issuer to be performed or observed under the Sale and Servicing Agreement and the other Basic Documents, (other than payments of principal on the Notes) (such terms, covenants, conditions, agreements, undertakings and other obligations being the "Issuer Obligations") when the same shall be required to be performed or observed under the Sale and Servicing Agreement or any such other document, then Hercules will itself duly and punctually perform or observe, or cause to be duly and punctually performed or observed, such Issuer Obligation, provided that it shall be a condition to the accrual of the obligation of Hercules hereunder that the Initial Noteholder or the Indenture Trustee on behalf of the Noteholders shall have first made demand upon the Issuer for payment of such Issuer Obligation and have exhausted all Collateral pledged for the benefit of the Noteholders under the Indenture. Notwithstanding the foregoing, this paragraph (b) shall in no event require Hercules to perform or observe such Issuer Obligation if the effect of such performance or observation would be to provide credit recourse to Hercules for the performance of the Transferred Loans.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Amendments. No amendment or waiver of any provision of this Note Purchase Agreement shall in any event be effective unless the same shall be in writing and signed by all of the parties hereto, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 11.02. Notices. All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including telecopies) and mailed, telecopied (with a copy delivered by overnight courier) or delivered, as to each party hereto, at its address as set forth in Schedule I hereto or at such other address as shall be designated by such party in a written notice to the other parties hereto. All such notices and communications shall be deemed effective upon receipt thereof, and in the case of telecopies, when receipt is confirmed by telephone.

SECTION 11.03. No Waiver; Remedies. No failure on the part of any party hereto to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 11.04. Binding Effect; Assignability.

(a) This Note Purchase Agreement shall be binding upon and inure to the benefit of the Issuer, the Depositor and the Purchaser and their respective permitted successors and assigns (including any subsequent holders of the Notes); provided, however, except as provided in clause (d) below, neither the Issuer nor the Depositor shall have any right to assign their respective rights hereunder or interest herein (by operation of law or otherwise) without the prior written consent of the Purchaser.

(b) The Purchaser may, in the ordinary course of its business and in accordance with the Basic Documents and applicable law, including applicable securities laws, at any time sell to one or more Persons (each, a "Participant"), participating interests in all or a portion of its rights and obligations under this Note Purchase Agreement. Notwithstanding any such sale by the Purchaser of participating interests to a Participant, the Purchaser's rights and obligations under this Note Purchase Agreement shall remain unchanged, the Purchaser shall remain solely responsible for the performance thereof, and the Issuer and the Depositor shall continue to deal solely and directly with the Purchaser and shall have no obligations to deal with any Participant in connection with the Purchaser's rights and obligations under this Note Purchase Agreement.

(c) This Note Purchase Agreement shall create and constitute the continuing obligation of the parties hereto in accordance with its terms, and shall remain in full force and effect until such time as all amounts payable with respect to the Notes shall have been paid in full.

(d) The Purchaser may sell or assign the Note only with the prior consent of the Originator unless (i) such sale or assignment is to an Affiliate of the Purchaser, (ii) such sale or assignment occurs during the continuance of a Trigger Event under the Sale and Servicing Agreement or (iii) the Depositor or the Originator breaches a representation or warranty contained in the Sale and Servicing Agreement. In addition, the Purchaser shall have the right to sell or finance the Note pursuant to a repurchase, financing or similar transaction without the consent of the Originator.

SECTION 11.05. Provision of Documents and Information. Each of the Issuer and the Depositor acknowledges and agrees that the Purchaser is permitted to provide to any subsequent Purchaser, permitted assignees and Participants, opinions, certificates, documents and other information relating to the Issuer, the Depositor and the Collateral delivered to the Purchaser pursuant to this Note Purchase Agreement provided that with respect to confidential information, such subsequent Purchaser, permitted assignees and Participants agree to be bound by Section 11.13 of the Sale and Servicing Agreement.

SECTION 11.06. **GOVERNING LAW; JURISDICTION. THIS NOTE PURCHASE AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN**

ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE PARTIES TO THIS NOTE PURCHASE AGREEMENT HEREBY AGREES TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND ANY APPELLATE COURT HAVING JURISDICTION TO REVIEW THE JUDGMENTS THEREOF. EACH OF THE PARTIES HEREBY WAIVES ANY OBJECTION BASED ON *FORUM NON CONVENIENS* AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER IN ANY OF THE AFOREMENTIONED COURTS AND CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT.

SECTION 11.07. No Proceedings. Until the date that is one year and one day after the last day on which any amount is outstanding under this Note Purchase Agreement, the Depositor and the Purchaser hereby covenant and agree that they will not institute against the Issuer or the Depositor, or join in any institution against the Issuer or the Depositor of, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings under any United States federal or state bankruptcy or similar law.

SECTION 11.08. Execution in Counterparts. This Note Purchase Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

SECTION 11.09. No Recourse - Purchaser and Depositor.

(a) The obligations of the Purchaser under this Note Purchase Agreement, or any other agreement, instrument, document or certificate executed and delivered by or issued by the Purchaser or any officer thereof are solely the partnership or corporate obligations of the Purchaser, as the case may be. No recourse shall be had for payment of any fee or other obligation or claim arising out of or relating to this Note Purchase Agreement or any other agreement, instrument, document or certificate executed and delivered or issued by the Purchaser or any officer thereof in connection therewith, against any stockholder, limited partner, employee, officer, director or incorporator of the Purchaser.

(b) The obligations of the Depositor under this Note Purchase Agreement, or any other agreement, instrument, document or certificate executed and delivered by or issued by the Depositor or any officer thereof are solely the limited liability company obligations of the Depositor. No recourse shall be had for payment of any fee or other obligation or claim arising out of or relating to this Note Purchase Agreement or any other agreement, instrument, document or certificate executed and delivered or issued by the Purchaser or any officer thereof in connection therewith, against any member, managing director, employee or officer of the Depositor.

(c) The Purchaser, by accepting the Notes, acknowledges that such Notes represent an obligation of the Issuer and do not represent an interest in or an obligation of the Originator, the Servicer, the Depositor, the Administrator, the Owner Trustee, the Indenture Trustee or any Affiliate thereof and no recourse may be had against such parties or their assets, except as may be expressly set forth or contemplated in this Agreement, the Notes or the Basic Documents.

SECTION 11.10. Survival. All representations, warranties, covenants, guaranties and indemnifications contained in this Note Purchase Agreement and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the sale, transfer or repayment of the Notes.

SECTION 11.11. Tax Characterization. Each party to this Note Purchase Agreement (a) acknowledges and agrees that it is the intent of the parties to this Note Purchase Agreement that for all purposes, including federal, state and local income, single business and franchise tax purposes, the Notes will be treated as evidence of indebtedness secured by the Collateral and proceeds thereof and the trust created under the Indenture will not be characterized as an association (or publicly traded partnership) taxable as a corporation, (b) agrees to treat the Notes for federal, state and local income and franchise tax purposes as indebtedness and (c) agrees that the provisions of all Basic Documents shall be construed to further these intentions of the parties.

SECTION 11.12. Conflicts. Notwithstanding anything contained herein to the contrary, in the event of the conflict between the terms of the Sale and Servicing Agreement and this Note Purchase Agreement, the terms of the Sale and Servicing Agreement shall control.

SECTION 11.13. Limitation on Liability. It is expressly understood and agreed by the parties hereto that (a) this Note Purchase Agreement is executed and delivered by Wilmington Trust Company, not individually or personally, but solely as Owner Trustee of Hercules Funding Trust I, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Issuer is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose for binding only the Issuer, (c) nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (d) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of the Issuer or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Issuer under this Note Purchase Agreement or any other related documents.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this Note Purchase Agreement to be executed by their respective officers hereunto duly authorized, as of the date first above written.

HERCULES FUNDING TRUST I,

By: Wilmington Trust Company, not in its individual capacity but solely as Owner Trustee

By: _____
Name:
Title:

HERCULES FUNDING I LLC

By: _____
Name:
Title:

HERCULES TECHNOLOGY GROWTH CAPITAL, INC.

By: _____
Name:
Title:

CITIGROUP GLOBAL MARKETS REALTY CORP.

By: _____
Name:
Title:

Schedule I
Information for Notices

1. if to the Issuer:

Hercules Funding Trust I
c/o Wilmington Trust Company
1100 North Market Street
Wilmington, Delaware 19801
Attention: Corporate Trust Administration

with a copy to the Administrator:

Hercules Technology Growth Capital, Inc.
525 University Avenue
Suite 700
Palo Alto, California 94301
Attention: Manuel A. Henriquez
Facsimile: 650-473-9194

and

Hercules Technology Growth Capital, Inc.
3702 River Road
Franklin Park, Illinois 60131
Attention: Scott Harvey
Facsimile: 866-828-6687

2. if to the Depositor:

Hercules Funding I LLC
525 University Avenue
Suite 700
Palo Alto, California 94301
Attention: Manuel A. Henriquez
Facsimile: 650-473-9194

and

Chief Legal Officer
Hercules Funding I LLC
3702 River Road
Franklin Park, Illinois 60131
Attention: Scott Harvey
Facsimile: 866-828-6687

3. if to Hercules:

Hercules Technology Growth Capital, Inc.
525 University Avenue
Suite 700
Palo Alto, California 94301
Attention: Manuel A. Henriquez
Facsimile: 650-473-9194

and

Hercules Technology Growth Capital, Inc.
3702 River Road
Franklin Park, Illinois 60131
Attention: Scott Harvey
Facsimile: 866-828-6687

4. if to the Purchaser:

Citigroup Global Markets Realty Corp.
390 Greenwich Street
6th Floor
New York, NY 10013
Attention: Monitoring Group - James Xanthos, Martin Lifschultz and Christian Anderson
Facsimile: (212) 723-8591