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**MORTGAGE ADMINISTRATION AGREEMENT**

**Made as of the**

**Between**

**MM ADMINISTRATION INC.**

**- and -**

**MORTGAGEMARKIT CORPORATION**

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## MORTGAGE ADMINISTRATION AGREEMENT

THIS MORTGAGE ADMINISTRATION AGREEMENT is made as of the

BETWEEN:

**MORTGAGEMARKIT CORPORATION**, a company incorporated under the laws of the Province of Ontario (hereinafter called the "**Company**"),

-and-

**MM ADMINISTRATION INC.**, a company incorporated under the laws of the Province of Ontario (hereinafter called the "**Administrator**").

### RECITALS

- A. The Company desires, through its electronic platform, to arrange for Mortgages on properties to secure funds advanced to various borrowers by holders of Syndication Interests where such holders have appointed the Trustee, as bare trustee, to be registered on title of the Properties and to manage the Mortgage in the manner and subject to the terms and conditions of a Trust Agreement dated \_\_\_\_\_ (the "**Trust Agreement**").
- B. The Company desires to avail itself of the experience, sources of information, assistance and certain facilities of the Administrator and to have the Administrator undertake the Services as hereinafter defined and set forth, on behalf of the Company, all as provided herein.

**NOW THEREFORE** in consideration of the premises and the mutual covenants herein contained, the Parties (as defined below) covenant and agree to the Mortgage Administration Agreement on the terms set out herein.

## ARTICLE 1 - INTERPRETATION

### 1.1 Definitions

The terms defined in this Section 1.1 whenever used in this Agreement shall, unless the context otherwise requires, have the respective meanings as hereinafter provided:

- (a) "Affiliate" means an affiliate as defined under National Instrument 45-106 – *Prospectus Exemptions*.
- (b) "Agreement", "this Agreement", "the Agreement", "hereto", "hereof", "herein", "hereby", "hereunder" and the expressions "Article", "Section", "Subsection", "Paragraph" and "Subparagraph" followed by a number or letter mean and refer to the specified Article, Section, Subsection, Paragraph or Subparagraph of this Agreement.
- (c) "Articles" means the articles of incorporation of the Company, as amended from time to time.
- (d) "Borrower" means a specific borrower of funds advanced by a holder of a Syndication Interest which is secured by a Mortgage as more particularly named in the terms relating to each series
- (e) "Business Day" means a day, other than a Saturday or Sunday upon which chartered banks in the City of Toronto are open for the transaction of business.
- (f) "Claim" has the meaning ascribed thereto in Section 5.2(b) of this Agreement.

- (g) "Commitment Fee" means renewal fees, discharge fees, NSF fees, or any other fee payable by a borrower to the Company in respect of a Mortgage, stated either as a fixed dollar amount or a percentage of the principal amount of the Mortgage. The amount paid to the Company will be the net amount after compensation to the originator for sourcing the transaction.
- (h) "Company Indemnitee" has the meaning ascribed thereto in Section 5.3 of this Agreement.
- (i) "Directors" means the directors of the Company from time to time.
- (j) "Administrator Indemnitee" has the meaning ascribed thereto in Section 5.2(a) of this Agreement.
- (k) "Mortgage Broker Legislation" means the *Mortgage Brokerages, Lenders and Administrators Act, 2006* (Ontario) and other similar legislation in other provinces and territories of Canada where the Company carries on business.
- (l) "Mortgage" means an interest in a mortgage, a mortgage of a leasehold interest (or other like instrument, including an assignment of or an acknowledgement of an interest in a mortgage), a hypothecation, a deed of trust, a charge or other security interest of or in Real Property used to secure obligations to repay money by a charge upon the Real Property.
- (m) "Parties" means the Company and the Administrator.
- (n) "Property" or "Properties" means the right, title, estate and interest of the Borrower in and to the property, assets, rights and things from time to time.
- (o) "Person" means an individual, a partnership, a corporation, a government or any department or agency thereof, a trustee and any unincorporated organization, and the heirs, executors, administrators or other legal representatives of an individual, and words importing "Person" have similar meanings.
- (p) "Portfolio" means the portfolio of Mortgages held in trust by the Trustee;
- (q) "Real Property" means land, rights or interest in land in Canada (including, without limitation, leaseholds, air rights and rights in condominiums, but excluding Mortgages) and any buildings, structures, improvements and fixtures located thereon.
- (r) "Syndication Interests" means the syndication interests of a series for which the Trustee shall hold registered title to the Mortgage of a Property for the holders of Syndication Interests, being the beneficiaries of such trust.
- (s) "Services" has the meaning ascribed thereto in Section 2.2 of this Agreement.
- (t) "Termination for Cause" has the meaning ascribed thereto in Section 5.1(a)(II) of this Agreement.
- (u) "Trustee" means [TRUSTEE NAME], or its successor or successors for the time being as trustee hereunder.

## **1.2 Interpretation Not Affected by Headings, etc.**

Grammatical variations of any terms defined herein have similar meanings; words importing the singular number shall include the plural and vice versa; and words importing the masculine gender shall include the feminine and neuter genders. The division of this Agreement into separate Articles, Sections, Subsections, Paragraphs and Subparagraphs, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### **1.3 Statutes**

Unless a contrary intent is expressly provided for in this Agreement, any reference to a statute will include and will be deemed to be a reference to the statute and the regulations made pursuant thereto, with all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute so referred to or the regulations made pursuant thereto.

### **1.4 Currency**

All payments contemplated herein shall be made in Canadian funds.

### **1.5 Calculation of Time Periods**

When calculating the period of time within which or following which any act is to be done or steps taken pursuant to this Agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next day which is a Business Day.

### **1.6 Applicable Law**

This Agreement shall be construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

### **1.7 Invalidity of Provisions**

If any covenant, obligation or agreement herein contained, or the application thereof to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement to Persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each covenant, obligation or agreement herein contained shall be separately valid and enforceable to the fullest extent permitted by law.

### **1.8 Entire Agreement**

This Agreement and any subsequent amendment hereto or restatement hereof constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as contained in this Agreement and any subsequent amendment hereto or restatement hereof. No amendment, supplement, modification, waiver or termination of this Agreement or any of its provisions shall be binding unless executed in writing by the Parties, save and except for any termination of this Agreement that arises under the express terms hereof. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver. Failure on the part of one Party to complain of any act or failure to act of another Party or to declare another Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

## ARTICLE 2 - APPOINTMENT AND SERVICES

### 2.1 Appointment

The Company, through the authority granted to it by the holders of the Syndication Interests, hereby appoints the Administrator, as the administrator of the Mortgages on the Properties of the Borrowers, as further described in Section 2.2. The Company hereby appoints the Administrator as its true and lawful attorney in fact and grants to the Administrator the full power and authority to bind the Syndication Interest holders.

The Company also hereby appoints the Administrator to provide directly or indirectly through licensed service providers, as applicable, all services required by the Company and the Administrator to provide due diligence upon, structure, advance and administer on a day-to-day basis, the Mortgage investments of the Syndication Interest holders, all as further described herein, in accordance with the terms and conditions contained in this Agreement.

### 2.2 Services

The Administrator has the authority to manage the Mortgages, in accordance with the terms hereof and, subject to the requirements of applicable law, directly or indirectly through licensed service providers as applicable. In performance of its obligations, the Administrator shall, without limiting the generality of the provisions of Section 2.1, perform, without limitation, the following services (collectively, the “**Services**”):

- (a) manage the lending and relending of Mortgages (including the collection of monthly payments from the borrowers) and granting the requisite Syndication Interest to customers via the electronic platform in accordance with the terms of the Trust Agreement;
- (b) ensuring that any Mortgages granted by the Syndication Interest holders to a Borrower shall be in accordance with applicable laws and associated regulations;
- (c) authorize the payment of expenses incurred on behalf of the Syndication Interest holders;
- (d) maintain proper books and records in respect of the Mortgages, deliver to the Trustee or the Company, such reports with respect to the Mortgages as may be requested by the Company and, at the Company's;
- (e) provide employees having the requisite experience and skill to perform the obligations of the Administrator under this Agreement;
- (f) oversee the servicing (which includes, but is not limited to, collecting monthly payments, managing property tax and other escrow accounts, regularly remitting to the Company and/or the Trustee as applicable interest and other income collected and monitoring the status of Mortgages) of all Mortgages in the Portfolio and monitor the status of all Mortgages and respond to any potential issues as they may arise;
- (g) investigate, select and conduct relations with leasing agents, realtors and real estate agents and brokers, consultants, borrowers, lenders, finders, mortgagees, mortgage loan originators or brokers, correspondents and servicers, technical managers, property appraisers, property consultants, counsel, underwriters, brokers and dealers, escrow agents, depositories, custodians, agents for collection, bailiffs, insurers, insurance agents, banks, architects, engineers, planners, contractors, developers and persons acting in any other capacity deemed by the Company, the Trustee or the Administrator necessary or desirable and, as required, enter into agreements with

brokers licensed under Mortgage Broker Legislation to carry on activities contemplated under this Agreement;

- (h) provide those services as may be required to collect, handle, prosecute or settle any claims of the Trustee with respect to the Mortgages; and
- (i) obtain appraisals as may be required by the Trustee or this Agreement including, without limitation, title opinions or reports of counsel or others concerning zoning ordinances, by-laws, environmental and other governmental regulations, insurance coverage and other factors with respect to the Mortgages, deliver to the Company and the Administrator such other reports with respect to the Mortgages as they may request and, at the Directors' request, provide a representative to attend meetings of the Directors.

### **2.3 Records**

At all times, the Administrator shall keep or cause to be kept proper books of account and records relating to the Mortgages and Services performed hereunder, which books of account and records shall be accessible for inspection by the Company or the Trustee, and any federal or provincial government authority with entitlement thereto at reasonable times during business hours. The Administrator shall keep or cause to be kept books of account and records relating to the Mortgages in a manner that complies with the record keeping requirements prescribed by applicable tax and other legislation.

### **2.4 Standard of Care**

The Administrator will exercise its powers and discharge its duties under this Agreement diligently, honestly and in good faith. In connection therewith, the Administrator will exercise the standard of care, diligence and skill that a reasonably prudent person would exercise in similar circumstances.

### **2.5 Employees**

The Administrator represents and warrants to the Company, and the Trustee that it has and shall maintain employees having the requisite experience and skill to perform the obligations of the Administrator hereunder and shall cause such employees to devote such time and attention to the obligations of the Administrator contained in this Agreement as shall reasonably be required in order to perform the obligations of the Administrator set forth in this Agreement.

## **ARTICLE 3 - COMPENSATION**

### **3.1 Performance Fee**

As compensation for the Services, the Company shall pay to the Administrator an annual performance fee (the "**Performance Fee**") as determined by agreement between the Administrator and the Company for each Mortgage that it administers.

### **3.2 Origination Fees**

The Administrator is obligated to remit to the Company all Commitment Fees generated from the Mortgage loan origination and placement activities directly or indirectly carried on by the Administrator in respect of Mortgage investments made.



## **ARTICLE 4 - EXPENSES**

### **4.1 Expenses of the Company**

The Syndication Interest holders will pay for all expenses (other than any expenses contemplated by section 2.2 that are to remain at the sole cost of the Administrator) it incurs by way of a set-off against interest payable; or the Administrator incurs on the Company's behalf in connection with the operation and management of the Company including, without limitation:

- (a) financial reporting costs, and mailing and printing expenses;
- (b) costs and fees payable to any agent, legal counsel, investment counsel, portfolio manager, actuary, valuator, technical consultant, accountant or auditor or other third-party service provider;
- (c) ongoing regulatory filing fees, licence fees and other fees, if applicable;
- (d) any expenses incurred in connection with any legal proceedings in which the Administrator participates on behalf of the Syndication Interest holders or the Trustee or any other acts of the Administrator or any other agent of the Syndication Interest holders or the Trustee in connection with the maintenance or protection of the property of the Company, including, without limitation, costs associated with the enforcement of Mortgages;
- (e) any additional fees payable to the Administrator for performance of extraordinary services on behalf of the Syndication Interest holders or the Trustee;
- (f) consulting fees including website maintenance costs and expenses associated with the preparation of tax filings;
- (g) all costs and fees associated with maintaining and complying with the licensing requirements of the Mortgage Broker Legislation; and
- (h) other administrative expenses of the Company relating to the Mortgages.

### **4.2 Expenses of Administrator**

Without regard to the amount of compensation received under this Agreement by the Administrator, the Administrator shall bear the following expenses:

- (a) all salaries, wages and other expenses of employees of the Administrator;
- (b) rent payable for space used by the Administrator and utilities, office furniture and equipment for such space; and
- (c) telephone and other communication costs and travel expenses unrelated to the activities performed hereunder and office supplies and services, and general administrative expenses and other expenses that are customarily considered to be overhead expenses.

## **ARTICLE 5 - TERM AND TERMINATION**

### **5.1 Term**

Subject to the following provisions of this Article 5 - the term of this Agreement shall be for a period commencing upon the date of this Agreement and ending 2 years from the date thereof (the "Initial Term"), and automatically renewed for successive 2 year terms thereafter (each a "**Renewal Term**"), unless:

(a) terminated by the Company:

(I) at the conclusion of the Initial Term or a Renewal Term with not less than 3 months' prior written notice thereof by the Company to the Administrator;

(II) at any time if:

- i. there is a material breach of this Agreement by the Administrator that is not remedied within 60 days after written notice thereof by the Company to the Administrator (or such longer period as may be reasonably required to remedy such breach, provided such longer period does not exceed 120 days), and that has a material adverse effect on the business, operations or affairs of the Company;
- ii. the Administrator commits any act of bad faith, wilful malfeasance, gross negligence or reckless disregard of its duties or breach of its standard of care in Section 2.4 of this Agreement; or
- iii. any bankruptcy, insolvency or liquidation proceedings are taken against the Administrator or if the Administrator makes an assignment for the benefit of its creditors, commits any act of bankruptcy or declares itself or is declared to be insolvent,

(each, a "**Termination for Cause**");

(b) terminated by the Administrator:

(I) in the event that there is a breach of this Agreement by the Company that is not remedied within 60 days after written notice thereof by the Administrator to the Company (or such longer period as may be reasonably required to remedy such breach, provided such longer period does not exceed 120 days) and that has a material adverse effect on the business, operations or affairs of the Administrator; or any bankruptcy, insolvency or liquidation proceedings are taken against the Company or the Company makes an assignment for the benefit of its creditors, commits any act of bankruptcy or declares itself or is declared to be insolvent; or

(II) at any time after the Initial Term, provided at least 12 months' written notice thereof is given by the Administrator to the Company.

## 5.2 Indemnity by Company

(a) The Company agrees that the Administrator and its Directors, officers, employees and partners (each, a "**Administrator Indemnitee**", and collectively the "**Administrator Indemnitees**"), shall not be liable, responsible or accountable, in damages or otherwise, to the Company for any default, failure or defect in the Portfolio held by the Company or for any act performed, or failure to act, by the Administrator within the scope of the authority conferred on the Administrator by this Agreement, unless such act or omission constitutes wilful misconduct, bad faith, negligence, breach of its standard of care owed under this Agreement or material breach or default of its obligations under this Agreement.

(b) To the extent permitted by applicable law, the Company shall indemnify and hold harmless the Administrator Indemnitees from and against any loss (other than loss of profits), expense, damage or injury suffered or sustained by any of the Administrator Indemnitee by reason of any acts,

omissions or alleged acts or omissions arising out of their activities on behalf of the Company or in furtherance of the interests of the Company, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and disbursements and other costs or expenses incurred in connection with the defence of any actual or threatened action, proceeding or claim (a "**Claim**"), and including any payments made by the Administrator to any of its officers or directors pursuant to an indemnification provision no broader than this Section 5.2, if the acts, omissions or alleged acts or omissions upon which such Claim is based were within the scope of the authority of the Administrator in accordance with this Agreement and were not the result of such Administrator Indemnitee's wilful misconduct, bad faith, negligence, breach by the Administrator Indemnitee of its standard of care owed under this Agreement or material breach or default by the Administrator Indemnitee of its obligations under this Agreement. A Administrator Indemnitee shall not consent to entry of any judgment or enter into any settlement without the prior approval of the Company, which approval shall not be unreasonably withheld. Any such indemnification shall only be from the assets of the Company. The provisions of this Section 5.2 are not designed to replace or supersede provisions relating to exculpation and/or indemnity contained in other agreements to which the Administrator is a party.

### **5.3 Indemnity by Administrator**

The Administrator agrees with the Company, the Trustee and the Syndication Interest holders and their Affiliates and its and their respective officers, directors, securityholders, employees and agents (each, a "**Company Indemnitee**", and collectively the "**Company Indemnitees**"), to the extent permitted by applicable law, that the Administrator shall indemnify and hold harmless the Company Indemnitees from and against any loss, expense, damage or injury suffered or sustained by any of the Company Indemnitees by reason of any acts or omissions or alleged acts or omissions of the Administrator which constitute wilful misconduct, bad faith, negligence, breach of its standard of care owed under this Agreement or material breach or default of its obligations under this Agreement, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and disbursements and other costs or expenses incurred in connection with the defence of any Claim. A Company Indemnitee shall not consent to entry of any judgment or enter into any settlement without the prior approval of the Administrator, which approval shall not be unreasonably withheld. Any such indemnification shall only be from the assets of the Administrator.

### **5.4 Action Upon Termination**

Prior to the effective date of termination of this Agreement pursuant to Section 5.1, the Company shall have advised the Administrator in writing as to the identity of its successor hereunder. The Administrator shall forthwith upon termination, or as soon as is practicable thereafter:

- (a) pay over to its successor, as directed by the Company, all moneys collected and held for the account of the Company pursuant to this Agreement after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled;
- (b) deliver to the Company a full accounting, including a statement of all moneys collected by it and a statement of all moneys held by it, and a statement of all moneys paid by it, covering the period following the date of the last accounting furnished to the Company; and
- (c) deliver to and where applicable transfer into the name of its successor, as directed by the Company (or as it may direct in writing) all property and documents, including all books of account and records kept pursuant to Section 2.3, of the Company held in the name or custody of the Administrator.

Upon termination of this Agreement, the Company shall:

- (d) cause the successor to the Administrator hereunder to assume all contracts and obligations (other than employment contracts or obligations) entered into or undertaken by the Administrator on behalf of the Company (other than with any Person not at arm's length with the Administrator unless otherwise directed by the Company) within the scope of its authority and indemnify the Administrator against any liability by reason of anything done or required to be done under any such contract or obligation after the date of termination of this Agreement;
- (e) reimburse or pay for and indemnify and save harmless the Administrator from the costs and expenses of all services which may have been arranged by the Administrator or as a result of this Agreement and which may not have been paid by the Company at the time of termination; and
- (f) subject to Section 5.4(d), pay to the Administrator all fees due and owing as compensation for Services rendered pursuant to this Agreement provided that any fees payable monthly or yearly by the Company to the Administrator shall be pro rated and paid on a partial year or partial month basis, as the case may be.

## **ARTICLE 6 - MISCELLANEOUS**

### **6.1 Assets Kept Separate**

All accounts held on behalf of the Trustee or the Syndication interest holders by the Administrator shall be kept distinct from the assets owned by the Administrator or held by the Administrator on behalf of other clients of the Administrator and in separate accounts and specifically designated for the Trustee or the Syndication interest holders so as to be distinguished from all other assets reflected in the books of account kept by the Administrator, so that at no time shall any accounts, property or other assets relating to the Trustee or the Syndication interest holders form part of or be mixed with the general assets of the Administrator.

### **6.2 Other Activities of the Administrator**

The Company acknowledges that the Services being provided by the Administrator under this Agreement are not exclusive and that the Administrator may, from time to time, provide similar services to other Persons, enter into other relationships or engage in other business activities, even though such activities may be in competition with the Company and/or involve substantial time and resources of the Administrator. The Company further acknowledges that:

- (a) the Administrator has no obligation to cause the Company to fund any Mortgage lending opportunity which can be funded by the Administrator or another client of the Administrator; and
- (b) the Administrator may take action in the performance of its duties for other clients which differ from action taken while providing Services to the Company,

provided that the Administrator acts, at all times, in accordance with the standard of care that is contemplated by Section 2.4 of this Agreement and thereby allocates Mortgage lending opportunities to the Company and to its clients on a fair and equitable basis. The Administrator shall, upon request, provide the Company with a copy of the Administrator's current policy regarding the allocation of Mortgage lending opportunities among its clients.

### **6.3 Notices**

Any notice, report or other communication required or permitted to be given hereunder shall be in writing unless some other method of giving such notice, report or other communication is accepted by the party to whom it is given, and shall be deemed to have been given when delivered by personal delivery or 5 days after it was mailed by certified or registered mail, postage prepaid, return receipt requested, and addressed as follows:

(a) to the Company:

2345 Yonge Street  
Toronto, ON M5P 2R4

(b) to the Administrator:

2345 Yonge Street  
Toronto, ON M5P 2R4

A Party may at any time give notice in accordance with this section to the other Party of a change of its address for the purpose of this Section 6.3.

### **6.4 Administrator as Independent Contractor**

The Administrator shall perform its duties hereunder as an independent contractor. Neither the Administrator nor any of its employees are, for the purposes of this Agreement, employees or agents of the Company and nothing herein shall be construed so as to make them employees or agents or to impose any liability on the Company in the context of employer or employee, or principal and agent; provided that the Administrator may enter into contracts as agent for the Company in performing its Services hereunder. The Administrator agrees that it shall bear the sole and complete responsibility and liability for the employment, conduct and control of its employees, agents and contractors and for the injury of such persons or injury to others through the actions or omissions of such persons. Nothing herein shall be construed so as to make the Administrator and the Company partners or joint venturers.

### **6.5 Counterparts**

This Agreement may be executed in counterparts, all such executed counterparts shall constitute one and the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart. Counterparts may be executed either in original or facsimile form and the Parties adopt any facsimile signatures as original signatures of the Parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement.

### **6.6 Conflicts**

In the event of any inconsistency between the provisions of this Agreement and the provisions of the Articles of the Company and/or applicable law whereby compliance with the provisions of this Agreement and the Articles of the Company and/or applicable law is not possible, the provisions of the Articles of the Company and/or applicable law shall govern.

### **6.7 Time of the Essence**

Time is of the essence of this Agreement.

### **6.8 Assignment and Subcontracting**

This Agreement may not be assigned or subcontracted by either Party without the consent of the other Party, which consent may not be unreasonably withheld; provided that the Administrator may assign its rights and obligations under this Agreement to an Affiliate of the Administrator.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF** the Parties have duly executed this Agreement as of the date first written above.

**MM ADMINISTRATION INC.**

Per:

---

Name:

Title:

**MORTGAGEMARKIT CORPORATION**

Per:

---

Name:

Title: