



Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State Zip: \_\_\_\_\_

## RE: CONFIDENTIALITY AGREEMENT

Ladies and Gentlemen,

This Mutual Confidentiality Agreement (“Agreement”) is effective as of the date listed above (“Effective Date”), and is entered into by and between Citadel Servicing Corporation, a California corporation, (“CSC”) and \_\_\_\_\_, a \_\_\_\_\_ (“Company”) (collectively the “Parties”).

In consideration of and as a condition to CSC and the Company furnishing certain information (the “Confidential Information” as defined below) to each other solely in connection with a potential business transaction (the “Potential Transaction”), both Parties hereby agree and acknowledge as follows:

1. Confidential Information. “Confidential Information” means all confidential and proprietary information that one party (the “Disclosing Party”) discloses to the other party (the “Receiving Party”) from time to time, and all intellectual property rights thereon, including but not limited to all materials, data, reports, interpretations, forecasts and records containing or otherwise reflecting information concerning the Disclosing Party and the Proposed Transaction: (i) financial condition and projections; (ii) business ventures and strategic plans; (iii) marketing strategies and programs; (iv) customers and prospective customers; (v) strategic insights or statistical models about its business, customers or prospective customers and their behavior; (vi) former, current and prospective employees; (vii) information transmitted in written, oral, magnetic, electronic, or any other medium; (viii) all copies and reproductions, in whole or in part, of such information; (ix) all summaries, analyses, “know-how,” compilations, studies, notes or other records which contain, reflect, or are generated from such information; (x) pricing sheets, underwriting guidelines and purchasing criteria; (xi) the fact that investigations, discussions or negotiations are taking place concerning any Proposed Transaction, including the status thereof and the identity of the Parties thereto; and (xii) any of the terms, conditions or other facts with respect to any Proposed Transaction, including the terms of this Agreement.

2. Restrictions on Use. The Receiving Party agrees that:

a. The Receiving Party is receiving Confidential Information solely to use for the Proposed Transaction, and that access to the Confidential Information shall be restricted to its directors, officers, employees, agents, advisors, or representatives, such as but not limited to, attorneys, accountants, consultants, or appraisers (the “Authorized Representatives”), who are actively and directly participating in the Proposed Transaction who have been advised of the confidential and proprietary nature of the Confidential Information, and who have agreed to be

bound by the terms of this Agreement. The Receiving Party shall be responsible for any actual breach of this Agreement by its Authorized Representatives.

b. The Receiving Party and its Authorized Representatives shall comply with all applicable local, state and federal laws, including without limitation, all privacy and data protection law, rules and regulations. The Receiving Party understands that Confidential Information may contain “nonpublic personal information” as defined by the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq. and the rules promulgated thereunder (collectively, the “Act”), and the Receiving Party agrees to maintain such nonpublic personal information that it receives hereunder in accordance with the Act and other applicable federal and state privacy laws. This provision shall survive the expiration or termination of this Agreement.

c. Receiving Party acknowledges that the Confidential Information is the proprietary, material and non-public information of the Disclosing Party, to which the Disclosing Party accords the highest degree of privacy and confidentiality. The Receiving Party shall implement such physical and other security measures as shall be necessary to (i) ensure the security and confidentiality of the nonpublic personal information, (ii) protect against any threats or hazards to the security and integrity of such nonpublic personal information, and (iii) protect against any unauthorized access to or use of such nonpublic personal information, including detection of possible identity theft that may arise in the performance of the Receiving Party’s activities, as well as the prompt reporting of any identity theft to the Disclosing Party and the undertaking of appropriate steps by the Receiving Party to prevent or mitigate any identity theft. The Receiving Party represents and warrants that it has implemented appropriate measures to meet the objectives of the Act and of the applicable standards adopted pursuant thereto, as now or hereafter in effect. Upon written request, the Receiving Party shall provide evidence reasonably satisfactory to allow the Disclosing Party to confirm that the Receiving Party has satisfied its obligations as required under this section.

### 3. Permitted Disclosure.

a. Except for the nonpublic personal information under the Act, the term “Confidential Information” does not include information which: (i) is generally available to the public through no fault of the Receiving Party; (ii) prior to disclosure pursuant to this Agreement, is within the possession of the Receiving Party; (iii) subsequent to disclosure pursuant to this Agreement, is received from a third party that is not known by the Receiving Party to be restricted from disclosing the information; or (iv) is independently developed by the Receiving Party without the use of or reference to Confidential Information.

b. If the Receiving Party is requested to disclose any Confidential Information in connection with any legal or administrative proceeding or investigation, except if prohibited by law, the Receiving Party will promptly provide written notice to the Disclosing Party of the request so that the Disclosing Party may, at its sole expense, seek a protective order or other appropriate remedy and/or take steps to object or narrow the scope of the disclosure sought by such request. If a protective order or other remedy is not obtained and, in the opinion of the Receiving Party’s counsel, disclosure is required, the Receiving Party may make such disclosure, provided that the Receiving Party furnishes only that portion of Confidential Information which is required to be disclosed. Notwithstanding the foregoing, the Receiving Party may disclose the Confidential Information without prior notification to the Disclosing Party with respect to disclosures made in connection with a routine audit, examination or request for information by any legal, judicial, governmental, administrative, or regulatory body having jurisdiction over Receiving Party so long as such review is not specifically targeted at the Disclosing Party or the

Proposed Transaction.

4. No Grant of License. Receiving Party agrees that the Confidential Information shall at all times remain the sole property of the Disclosing Party, and nothing in this Agreement shall constitute a consent or license to the Receiving Party to use Confidential Information other than as expressly set forth herein. Disclosing Party makes no any representation or warranty as to the accuracy, completeness, fitness for a particular purpose, merchantability, noninfringement or performance of its Confidential Information.

5. Return of Confidential Information. Upon earlier of the termination of this Agreement or the completion of the Proposed Transaction, the Receiving Party may, at its sole option, return or destroy all Confidential Information providing written confirmation of the same to Disclosing Party within ten (10) business days. Notwithstanding the foregoing, the Receiving Party may retain copies of Confidential Information to the extent required by its internal policies, applicable law or regulations, or as part of its routine, automated back-up procedures. The Receiving Party shall retain such Confidential Information subject to the terms and conditions of this Agreement.

6. Termination. This Agreement shall terminate upon the earlier of (a) one (1) year from the Effective Date, or (b) the date which the Parties shall enter into any definitive agreement relating to the Proposed Transaction.

7. Remedies. If the Receiving Party causes an unauthorized disclosure of the Disclosing Party's Confidential Information, the Receiving Party shall immediately report the disclosure to the Disclosing Party and shall assist the Disclosing Party in limiting the resulting infringement of its rights. The Receiving Party shall cooperate, at the Disclosing Party's expense, in prosecuting any claims against third parties for unauthorized use. The Receiving Party acknowledges that the unauthorized disclosure, use or disposition, whether actual or threatened, of any Confidential Information might cause irreparable harm and significant injury to the Disclosing Party, the scope of which would be difficult to ascertain. The Receiving Party agrees that monetary damages may not be a sufficient remedy for a breach of this Agreement. In addition to monetary damages, the Receiving Party agrees that the Disclosing Party may have the right to seek an immediate injunction, against any breach, threatened breach or attempted breach of this Agreement, in addition to any other remedies that may be available at law or in equity, including without limitation, the recovery of expenses, costs and reasonable attorney fees arising out of such breach, threatened breach or attempted breach.

8. No Waiver. No waiver by the Disclosing Party of any provision or any breach of this Agreement constitutes a waiver of any other provision or of any other breach of this Agreement, and no waiver shall be effective unless made in writing. The right of the Disclosing Party to require strict performance and observance of any obligations hereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

9. Notices. All notices provided for hereunder shall be given by certified mail, return receipt required, or first class mail, and shall be sent to the other party at its normal place of business or last known address. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two business (2) days after mailing.

10. Governing Law; Venue; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the State California, without regard to the conflict of laws principles. The Parties agree to submit to the jurisdiction of, and waive any venue objections against, the courts in Orange County, California for any dispute arising out of or related to this Agreement. Each Party hereby knowingly and intentionally waives its right to a trial by jury in any legal proceeding arising

out of or related to this Agreement.

11. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes any prior understanding or agreement, whether oral or written, relating to the subject matter. This Agreement may only be amended or modified in writing signed by both Parties.

12. Severability. If any provision of this Agreement is held invalid, illegal or unenforceable under any applicable law, then such enforceability will not affect the validity or enforceability of the remaining provisions of this Agreement.

13. Successors and Assigns. This Agreement shall inure to the benefit of the Parties and their respective successors and assigns. This Agreement may only be transferred or assigned upon prior written consent of other party, except for a merger, acquisition or corporate restructuring of either party.

14. Other Terms.

a. This Agreement shall not create a joint venture, partnership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity.

b. This Agreement does not obligate either party to proceed with, enter into or consummate the Proposed Transaction, and either party may terminate discussions or negotiations, without liability, at any time and for any reason.

c. The sections and the headings are solely for convenience of reference and are not intended to be complete or accurate descriptions of content or to be guides to interpretation of this Agreement or any portion hereof.

d. This Agreement may be executed in any number of counterparts, each of which shall be an original, but which together shall constitute one and the same instrument. A signature on a copy of this Agreement received by either party by facsimile or PDF format is binding upon the other party as an original. The Parties shall treat a photocopy of such facsimile or PDF format as a duplicate original.

IN WITNESS WHEREOF, the below authorized representatives on behalf of their respective Parties have approved and executed this Agreement as of the date first written above.

**Citadel Servicing Corporation**

**Company**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_