

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

FORM 10-K

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

For the Fiscal Year Ended December 31, 2012

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

**Commission File Number 1-12434**

**M/I HOMES, INC.**

(Exact name of registrant as specified in its charter)

**Ohio**

(State or other jurisdiction of incorporation or organization)

**31-1210837**

(I.R.S. Employer Identification No.)

**3 Easton Oval, Suite 500, Columbus, Ohio 43219**

(Address of principal executive offices) (Zip Code)

**(614) 418-8000**

(Registrant's telephone number, including area code)

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Common Shares, par value \$.01	New York Stock Exchange
Depository Shares, each representing 1/1000 <sup>th</sup> of a 9.75% Series A Preferred Share	New York Stock Exchange

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes \_\_\_\_\_ No   X  

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes \_\_\_\_\_ No   X  

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes   X   No \_\_\_\_\_

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes   X   No \_\_\_\_\_

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [ ]

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer (Do not check if a smaller reporting company)	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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As of June 30, 2012, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the registrant's common shares (its only class of common equity) held by non-affiliates (18,165,489 shares) was approximately \$314.6 million. The number of common shares of the registrant outstanding as of February 21, 2013 was 21,687,253.

#### **DOCUMENT INCORPORATED BY REFERENCE**

Portions of the registrant's definitive proxy statement for the 2013 Annual Meeting of Shareholders to be filed pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended, are incorporated by reference into Part III of this Annual Report on Form 10-K.

## TABLE OF CONTENTS

	<b>PAGE NUMBER</b>
<b><u>PART I.</u></b>	
<u>Item 1. Business</u>	<u>3</u>
<u>Items 1A. Risk Factors</u>	<u>10</u>
<u>Item 1B. Unresolved Staff Comments</u>	<u>21</u>
<u>Item 2. Properties</u>	<u>21</u>
<u>Item 3. Legal Proceedings</u>	<u>21</u>
<u>Item 4. Mine Safety Disclosures</u>	<u>21</u>
<b><u>PART II.</u></b>	
<u>Item 5. Market for Registrant's Common Equity, Related Shareholder Matters and Issuer Purchases of Equity Securities</u>	<u>22</u>
<u>Item 6. Selected Financial Data</u>	<u>24</u>
<u>Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>25</u>
<u>Item 7A. Quantitative and Qualitative Disclosures About Market Risk</u>	<u>52</u>
<u>Item 8. Financial Statements and Supplementary Data</u>	<u>54</u>
<u>Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure</u>	<u>90</u>
<u>Item 9A. Controls and Procedures</u>	<u>90</u>
<u>Items 9B. Other Information</u>	<u>91</u>
<b><u>PART III.</u></b>	
<u>Item 10. Directors, Executive Officers and Corporate Governance</u>	<u>93</u>
<u>Item 11. Executive Compensation</u>	<u>93</u>
<u>Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters</u>	<u>93</u>
<u>Item 13. Certain Relationships and Related Transactions, and Director Independence</u>	<u>93</u>
<u>Item 14. Principal Accounting Fees and Services</u>	<u>93</u>
<b><u>PART IV.</u></b>	
<u>Item 15. Exhibits, Financial Statement Schedules</u>	<u>94</u>
<b><u>Signatures</u></b>	

## PART I

### Item 1. BUSINESS

#### General

M/I Homes, Inc. and subsidiaries (the “Company,” “we,” “us” or “our”) is one of the nation's leading builders of single-family homes. The Company was incorporated, through predecessor entities, in 1973 and commenced homebuilding activities in 1976. Since that time, the Company has delivered over 83,000 homes, including 2,765 in 2012.

The Company consists of two distinct operations and reporting segments: homebuilding and financial services. Our homebuilding operations, for reporting purposes, are divided into three reporting segments - the Midwest, Mid-Atlantic and Southern regions. Our financial services operations support our homebuilding operations by providing mortgage loans and title services to the customers of our homebuilding operations.

Our homebuilding operations comprise the most substantial portion of our business, representing 97% of consolidated revenue during both 2012 and 2011. We design, market, construct and sell single-family homes, attached townhomes, and condominiums to first-time, move-up, empty-nester and luxury buyers, with a particular focus on first-time and value-focused buyers. We use the term “home” to refer to a single-family residence, whether it is a single-family home or other type of residential property, and we use the term “community” to refer to a single development in which homes are constructed as part of an integrated plan. We are currently offering homes for sale in 131 communities within 11 markets located in nine states. We entered into the Austin, Texas market in October 2012 and expect to open our first community in our Austin market in 2013. Our homes generally range from approximately 1,500 to 5,500 square feet and are priced from approximately \$150,000 to \$900,000. We believe offering homes at a variety of price points allows us to attract a wide range of buyers. Our homes are offered primarily in development communities and mixed-use communities. We believe that we distinguish ourselves from competitors by offering homes in select areas with a high level of design and construction quality within a given price range, and by providing customers with the confidence they can only get from superior customer service. In addition to home sales, our homebuilding operations generate revenue from the sale of land and lots.

Our financial services operations generate revenue primarily from originating and selling mortgages and collecting fees for title insurance and closing services. We offer mortgage banking services to our homebuyers through our 100%-owned subsidiary, M/I Financial Corp. (“M/I Financial”). We offer title services through subsidiaries that are either 100% or majority owned by the Company. Our financial services operations accounted for 3% of our consolidated revenues in both 2012 and 2011.

In 2012, we generated total revenues of \$761.9 million and net income of \$13.3 million compared to total revenues of \$566.4 million and a net loss of \$33.9 million in 2011. At December 31, 2012, we had 965 homes in backlog with a sales value of \$282.5 million compared to 676 homes in backlog with a sales value of \$180.7 million at December 31, 2011. We believe our positive financial results for 2012 reflect signs that the overall housing market is stabilizing and recovering from the severe housing downturn that began in 2006.

Our principal executive offices are located at 3 Easton Oval, Suite 500, Columbus, Ohio 43219. The telephone number of our corporate headquarters is (614) 418-8000 and our website address is [www.mihomes.com](http://www.mihomes.com). Information on our website is not a part of and shall not be deemed incorporated by reference in this Form 10-K.

#### Markets

Our 12 homebuilding divisions are organized into the following three segments for reporting purposes:

<i>Region</i>	<i>Market/Division</i>	<i>Year Operations Commenced</i>
Midwest	Columbus, Ohio	1976
Midwest	Cincinnati, Ohio	1988
Midwest	Indianapolis, Indiana	1988
Midwest	Chicago, Illinois	2007
Southern	Tampa, Florida	1981
Southern	Orlando, Florida	1984
Southern	Houston, Texas	2010
Southern	San Antonio, Texas	2011
Southern	Austin, Texas	2012
Mid-Atlantic	Charlotte, North Carolina	1985
Mid-Atlantic	Raleigh, North Carolina	1986
Mid-Atlantic	Washington, D.C.	1991

We believe we have experienced management teams in each of our divisions with local market expertise. We further believe that our business requires in-depth knowledge of local markets in order to acquire land in desirable locations and on favorable terms, to engage subcontractors, to plan communities that meet local demand, to anticipate consumer tastes in specific markets, and to assess local regulatory environments. Although we centralize certain functions (such as accounting, human resources, legal, marketing, product development, purchasing administration, and risk management) to benefit from economies of scale, our local management, while generally supervised by a Region President, exercises considerable autonomy in identifying land acquisition opportunities, developing and implementing product and sales strategies, and controlling costs.

## **Industry Overview and Current Market Conditions**

During 2012, we experienced broad-based improvement across all of our regions, which we believe is a sign that the overall housing market is recovering from the severe downturn that began in mid-2006. We believe attractive housing affordability levels, improved consumer confidence, increased demand for distressed properties, and historically low interest rates for residential consumer mortgage loans motivated buyers to return to the housing market in 2012 and contributed to the decline in national housing inventory levels. New home sales have begun to stabilize in most U.S. housing markets and even improve in some markets as evidenced by the 9% increase in our average sales price in 2012 when compared to 2011.

We believe the outlook for the housing market is more positive than it has been in several years for a number of reasons, including a reduction in foreclosures, the easing deflation in home prices, a decrease in new home inventory and an increase in apartment rents. Also, new home sales increased nationally with 367,000 new homes sold in the United States in 2012 compared to 302,000 sold in 2011 and 323,000 sold in 2010, and the level of housing permits also increased by 28% from 608,800 in 2011 to an estimated 780,000 in 2012.

These improved conditions are reflected in our positive operating results in 2012 and in our improved gross margins, operating margins and operating leverage statistics in 2012 compared to our 2011 results. Our net income in 2012 of \$13.3 million was our highest since 2006. The Company strengthened its balance sheet and increased its liquidity for future business needs by issuing \$57.5 million aggregate principal amount of 3.25% Convertible Senior Subordinated Notes due 2017 (the “2017 Convertible Senior Subordinated Notes”) and 2.53 million common shares, for aggregate combined net proceeds of \$99.6 million in September 2012.

## **Business Strategy**

With these improving conditions in mind, we will continue to emphasize the following primary strategic business objectives focused on profitability:

- profitably growing our presence in our existing markets;
- strategically investing in new markets;
- maintaining a strong balance sheet; and
- emphasizing customer service, product design, and premier locations.

Our improving financial position and the recovering market conditions enabled us to achieve net income of \$13.3 million in 2012 compared to a net loss of \$33.9 million in 2011. In late 2011 and 2012, we began to focus more on the objectives of our business strategy that we believe would position us for a return to profitability, primarily by investing in new communities and markets to achieve modest overall growth. We invested \$138.8 million in new land in 2012 compared to \$72.3 million in 2011 and increased our total controlled land position in 2012 by 37% to 14,203 lots. Although completing our build-out in our older “legacy” communities (defined as communities opened before January 1, 2009) remains an element of our operating strategy, we are now focusing primarily on investing in new communities (defined as communities opened after January 1, 2009) due to our belief that increasing our new communities will help us maintain and strengthen the profitability of our homebuilding operations. Our new communities, which represent over 77% of our active communities, generate gross margins that are 460 basis points higher on average than those generated by our legacy communities. In addition to our investment in new communities in our existing markets, we also expanded our geographic footprint through our entry into the Austin, Texas market in October 2012. We also expanded our presence in Houston by purchasing the assets of a privately-held homebuilder in April 2012.

We believe that the demand for homes will continue to improve in all of our markets in 2013 as a result of job creation, consumer confidence and lower inventories of available homes, and other economic factors. We plan to continue to focus on the profitability of our homebuilding operations by concentrating on actions that will help us achieve our business objectives as stated above. We believe we have established a solid foundation and the financial flexibility for our Company to achieve long-term growth and profitability as the homebuilding industry continues to improve.

## **Sales and Marketing**

During 2012, we continued to focus our marketing efforts on first-time and move-up homebuyers, including empty-nester homebuyers and a more age-targeted segment. These latter two segments open up the luxury segment which allows us to place more emphasis on

the re-emergence of our Showcase Collection. Throughout our markets, we market and sell our homes under the M/I Homes, Showcase Homes and Triumph Homes trade names. Our marketing efforts are directed at differentiating the M/I Homes brand from other new homebuilders and from resale homes (including homes sold through foreclosures and short sales and by other homebuilders).

We provide our homebuyers with the following products, programs and services (each of which is described in more detail below) which we believe serve to differentiate our brand: (1) better built and higher quality homes located in attractive areas and desirable communities that are supported, in the majority of our markets, by our 30-year transferable structural warranty; (2) upgraded model homes and highly-trained sales consultants to build the buyer's confidence and enhance the quality of the homebuying experience; (3) our StyleSmart Design Centers and suite of home design products and StyleSmart Design Consultants that provide, and assist our homebuyers in selecting, product and design options; (4) our Whole Home product designed to create a more eco-friendly and energy efficient home that will save our customers up to 30% on their energy costs; (5) our mortgage financing programs that we offer our homebuyers through our financial services subsidiary, M/I Financial, including competitive 30-year fixed-rate loans; (6) our Express Delivery program which offers homebuyers the opportunity to close on certain new homes in 60 days or less; and (7) our Confidence Builder Program which allows our homebuyers to be actively involved in the construction of their new home.

We invest in designing and decorating model homes that we believe are truly distinctive. We seek to create an atmosphere that reflects how people live today and help our customers imagine the possibilities for a "home of their own - just the way they dreamed it." We also carefully select the interior decorating of our model homes to reflect the lifestyles of our prospective buyers. We believe these models showcase our homes at their maximum livability and potential and provide inspiration for our customers to incorporate valuable design options into their new home.

Our company-employed sales consultants are trained and prepared to meet the buyer's expectations and build the buyer's confidence by fully explaining the features and benefits of our homes, helping each buyer determine which home best suits their needs, explaining the construction process, and assisting the buyer in choosing the best financing option. Significant attention is given to the ongoing training of all sales personnel to assure a high level of professionalism and product knowledge. As of December 31, 2012, we employed 122 new home sales consultants in 131 communities.

To further enhance the selling process, we operate StyleSmart Design Centers in most of our markets. Our design centers allow our homebuyers to select from thousands of product and design options that are available for purchase as part of the original construction of their homes. Our centers are staffed with StyleSmart Design Consultants who help our homebuyers select the right combination of options to meet their budget, lifestyle and design sensibilities. In 2012, we introduced our StyleSmart suite of design-focused programs and services. Our goal is to provide buyers with a one-of-a-kind home. Additionally, in most of our markets, we offer our homebuyers the option to consider and make design planning decisions using our online design tool. We believe this tool is very useful for prospective buyers to use during the planning phase and makes their actual visit to our design centers more productive and efficient as our consultants are able to view their preliminary design selections and pull samples in advance of the visit.

By offering energy-efficient homes to our customers, we are able to save our homebuyers as much as 30% on their energy costs, the second largest monthly cost component of homeownership, compared to a home that is built to minimum code requirements. We use third party, independent RESNET Certified Raters and the HERS (Home Energy Rating System) Index, the national standard for energy efficiency, to measure the quality of our homes including insulation, ventilation, tightness, and the heating and cooling system. Our average score has been rated a 68 compared to a 75 for an Energy Star 3.0 certified home, an average of 100 for a home built to minimum standard code, and an average of 130 or higher for a resale home.

We also offer specialized mortgage financing programs through M/I Financial to assist our homebuyers. M/I Financial offers conventional financing options along with Federal Housing Administration ("FHA"), U.S. Veterans Administration ("VA"), the United States Department of Agriculture ("USDA") and state housing bond programs. M/I Financial often provides closing cost assistance and below market interest rates. Through M/I Financial, we continue to look for opportunities in the market to assist the Company's home sales effort.

Through our M/I Financial operations, we are able to offer our potential homebuyers "one-stop" shopping by providing financing and title services for the purchase of their home, which saves our customers both time and money. M/I Financial provides our homebuyers with access to several of what we believe are the best mortgage programs available through its networks which include many of the major mortgage providers in the United States. With our combined buying power, we aim to offer our homebuyers unique programs with below-market financing options. With respect to title services, M/I Financial works closely with our homebuilding divisions so that we are able to provide an efficient and well-orchestrated home closing process.

We also build inventory homes in most of our communities to support our Express Delivery program, which offers homebuyers the opportunity to close on certain new homes in 60 days or less. These homes enhance our marketing and sales efforts to prospective homebuyers who require a completed home within a short time frame. We determine our inventory homes strategy in each market based on local market factors, such as new job growth, the number of job relocations, housing demand and supply, seasonality and our past

experience in the market. We maintain a level of inventory homes in each community based on our current and planned sales pace, and we monitor and adjust inventory homes on an ongoing basis as conditions warrant.

Our Confidence Builder Program allows our homebuyers to be actively involved in the construction of their new home, giving them increased engagement throughout the design and construction process. This program, consistent with our business philosophy, is designed to “put the buyer first” and enhance the total homebuying experience. We believe prompt and courteous responses to homebuyers' needs throughout the homebuying process reduces post-closing repair costs, enhances our reputation for quality and service, and encourages repeat and referral business from homebuyers and the real estate community.

Finally, we believe our ultimate differentiator comes from one of the principles our company was founded upon - delivering superior customer service. Superior customer service is “who we are” and what we are all about. We hold our teams to a higher standard when it comes to customer care. Our customer satisfaction scores are measured 30 days and 6 months after closing to hold us accountable for building a home of the highest quality.

We market our homes using traditional media such as newspapers, magazines, direct mail, billboards, radio and television. The particular media used differs from market to market based on area demographics and other competitive factors. In recent years, we have also significantly increased our advertising on the Internet by regularly updating our website at [www.mihomes.com](http://www.mihomes.com) and through certain third party websites like [www.newhomesource.com](http://www.newhomesource.com). In the last five years, we have experienced a material increase in sales demand from buyers who identified us via our website either on the Internet or through our mobile version.

### **Product Lines, Design and Construction**

Our residential communities are generally located in suburban areas that are easily accessible through public and personal transportation. Our communities are designed as neighborhoods that fit existing land characteristics. We strive to achieve diversity among architectural styles within a community by offering a variety of house models and several exterior design options for each model, preserving existing trees and foliage whenever practicable. Normally, homes of the same type or color may not be built next to each other. We believe our communities have attractive entrances with distinctive signage and landscaping and our added attention to community detail avoids a “development” appearance and gives each community a diversified neighborhood appearance.

We offer homes ranging from approximately \$150,000 to \$900,000 in base sales price and from approximately 1,500 to 5,500 square feet. In addition to single-family detached homes, we also offer attached townhomes in most of our markets as well as condominiums in our Columbus and Washington, D.C. markets. By offering a wide range of homes, we are able to attract first-time, move-up, empty-nester and luxury homebuyers. It is always our goal to sell more than one home to our buyers, and we have been successful in this pursuit.

We devote significant resources to the research, design and development of our homes in order to meet the demands of our buyers as well as the changing market requirements. We spent \$2.4 million, \$2.5 million and \$2.4 million in 2012, 2011 and 2010, respectively, for research and development of our homes. Across all of our divisions, we currently offer approximately 550 different floor plans designed to reflect current lifestyles and design trends. Our recently reintroduced Showcase Collection is designed for our move-up, empty-nester and luxury homebuyers and offers more design options, larger floor plans, and a higher-end product line of homes in upscale communities. Our “Eco Series,” introduced in 2009, is designed to appeal to first-time homebuyers and offers a line of value-oriented homes that are attractively priced with greater plan flexibility. In addition, we are developing new plans and communities specifically for the growing empty-nester market. These plans (primarily ranch and main floor master bedroom type plans) focus on move-down buyers, are smaller in size, and feature fewer bedrooms, outdoor living potential and better community amenities. All of our product lines have been value-engineered to reduce production costs and construction cycle times while adhering to our quality standards and using materials and construction techniques that reflect our commitment to more environmentally conscious homebuilding methods.

All of our homes are constructed according to proprietary designs and to meet the applicable FHA and VA requirements and all local building codes. We attempt to maintain efficient operations by utilizing standardized materials. Our raw materials consist primarily of lumber, concrete and similar construction materials, and while these materials are generally available from a variety of sources, we have reduced construction and administrative costs by executing national purchasing contracts with select vendors. Our homes are constructed according to standardized prototypes which are designed and engineered to provide innovative product design while attempting to minimize costs of construction. We generally employ subcontractors for the installation of site improvements and the construction of homes. The construction of each home is supervised by a Personal Construction Supervisor who reports to a Production Manager, both of whom are employees of the Company. Our on-site construction supervisors manage the scheduling and construction process. Subcontractor work is performed pursuant to written agreements. The agreements are generally short-term, with terms from six to twelve months, and specify a fixed price for labor and materials. The agreements are structured to provide price protection for a majority of the higher-cost phases of construction for homes in our backlog. In recent years, we have experienced no significant construction delays due to shortage of materials or labor; however, we cannot predict the extent to which shortages in necessary materials or labor may occur in the future.

We generally begin construction of a home when we have obtained a sales contract and preliminary oral confirmation from the buyer's lender that financing should be approved. In certain markets, contracts may be accepted contingent upon the sale of an existing home, and construction may be authorized through a certain phase prior to satisfaction of that contingency. The construction of our homes typically takes approximately four to six months from the start of construction to completion of the home, depending on the size and complexity of the particular home being built, weather conditions, and the availability of labor, materials, and supplies.

In addition, inventory homes (i.e., homes started in the absence of an executed contract) are built to facilitate delivery of homes on an immediate-need basis under our Express Delivery program and to provide presentation of new products. For some prospective buyers, selling their existing home has become a less predictable process and, as a result, when they sell their home, they often need to find, buy and move into a new home in 60 days or less. Other buyers simply prefer the certainty provided by being able to fully visualize a home before purchasing it. Of the total number of homes closed in 2012 and 2011, 60% and 64%, respectively, were inventory homes which include both homes started as inventory homes and homes that started under a contract that were later cancelled and became inventory homes as a result. At December 31, 2012, we had 649 inventory homes compared to 573 inventory homes at December 31, 2011.

## **Backlog**

We sell our homes under standard purchase contracts, which generally require a homebuyer deposit at the time of signing. The amount of the deposit required varies among markets and communities. Homebuyers are also generally required to pay additional deposits when they select options or upgrades for their homes. Most of our home purchase contracts stipulate that if a homebuyer cancels a contract with us, we have the right to retain the homebuyer's deposits. However, we generally permit our homebuyers to cancel their obligations and obtain refunds of all or a portion of their deposits in the event mortgage financing cannot be obtained within a period of time, as specified in their contract.

Backlog consists of homes that are under contract but have not yet been delivered. Ending backlog represents the number of homes in backlog from the previous period plus the number of net new contracts (new contracts for homes less cancellations) generated during the current period minus the number of homes delivered during the current period. The backlog at any given time will be affected by cancellations. Due to the seasonality of the homebuilding industry, the number of homes delivered has historically increased from the first to the fourth quarter in any year.

As of December 31, 2012, we had a total of 965 homes, with \$282.5 million aggregate sales value, in backlog in various stages of completion, including homes that are under contract but for which construction had not yet begun. As of December 31, 2011, we had a total of 676 homes, with \$180.7 million aggregate sales value, in backlog. Homes included in year-end backlog are typically included in homes delivered in the subsequent year.

## **Warranty**

We provide certain warranties in connection with our homes and also have a program to perform multiple inspections on each home that we sell. Immediately prior to closing and again approximately three months after a home is delivered, we inspect each home with the buyer. The Company offers a limited warranty program ("Home Builder's Limited Warranty") in conjunction with its thirty-year transferable structural limited warranty on homes closed in or after 2007 (which is offered in the majority of our markets). The Home Builder's Limited Warranty covers construction defects for a statutory period based on geographic market and state law (currently ranging from five to ten years for the states in which the Company operates) and includes a mandatory arbitration clause. To increase the value of the thirty-year warranty, the warranty is transferable in the event of the sale of the home. We also pass along to our homebuyers all warranties provided by the manufacturers or suppliers of components installed in each home. Our warranty expense was approximately 1.0%, 1.2% and 1.0% of total housing revenue in 2012, 2011 and 2010, respectively.

## **Land Acquisition and Development**

We continuously evaluate land acquisition opportunities in the normal course of our homebuilding business. We seek to meet our needs for lots by obtaining advantageous land positions in desirable locations in a cost effective manner while responding to market conditions and maintaining our financial strength and liquidity. Before entering into a contract to acquire land, we complete extensive comparative studies and analyses which assist us in evaluating the economic feasibility of such land acquisition. We consider a number of factors, including projected rates of return, estimated gross margins, and projected pace of absorption and sales prices of the homes to be built, all of which are impacted by our evaluation of population and employment growth patterns and demographic trends in the relevant sub-market along with competing new home subdivisions and re-sales.

We attempt to acquire land with a minimum cash investment and to negotiate takedown options where they are available from land sellers. We also restrict the use of guarantees or commitments in our land contracts in order to limit our financial exposure to the amounts invested in the property and predevelopment costs during the life of a community that we are developing. We believe this approach significantly reduces our risk. In addition, we generally obtain necessary development approvals before our acquisition of the land. We acquire land



primarily through the use of contingent purchase agreements, which typically condition our obligation to purchase land upon approval of zoning, utilities, soil and subsurface conditions, environmental and wetland conditions, market analysis, development costs, title matters and other property-related criteria. Only after a thorough market and financial evaluation has been completed do we enter into a commitment to purchase land. All land purchase agreements and the funding of land purchases require the approval of our land committee.

In 2012, we increased our investments in land acquisition, land development and housing inventory to meet increasing housing demand and to expand our operations in certain markets. Our percent of communities internally developed also increased to 56% in 2012 from 51% in 2011, primarily due to a decline in the availability of developed lots in the market. Raw land that requires development generally remains more available. In order to minimize our investment and risk of large exposure in a single location, we have periodically partnered with other land developers or homebuilders to share in the land investment and development through joint ownership and development agreements, joint ventures, and other similar arrangements.

For such joint venture arrangements where a special purpose entity is established to own the property, we enter into limited liability company arrangements (“Unconsolidated LLCs”) with the other partners/entities to develop the land. At December 31, 2012, we had interests ranging from 33% to 50% in eight such Unconsolidated LLCs. We believe that the Company’s maximum exposure related to its investment in these entities as of December 31, 2012 is the amount invested of \$11.7 million and a \$2.5 million note due to the Company from one of the Unconsolidated LLCs, although we expect to invest further amounts in these Unconsolidated LLCs as development of the properties progresses. Further details relating to our Unconsolidated LLCs are included in Note 7 to our Consolidated Financial Statements.

During the development of lots, we are required by some municipalities and other governmental authorities to provide completion bonds or letters of credit for sewer, streets and other improvements. At December 31, 2012, \$32.6 million of completion bonds and \$16.2 million of letters of credit were outstanding for these purposes. The development agreements under which we are required to provide completion bonds or letters of credit are generally not subject to a required completion date and only require that the improvements are in place in phases as homes are built and sold. In locations where development has progressed, the amount of development work remaining to be completed is typically less than the remaining amount of bonds or letters of credit due to timing delays in obtaining release of the bonds or letters of credit.

In the normal course of our homebuilding business, we balance the economic risk of owning lots and land with the necessity of having lots available for construction of our homes. At December 31, 2012, we had 2,725 developed lots and 629 lots under development in inventory. We also owned raw land expected to be developed into approximately 4,064 lots, which includes our interest in raw land held by Unconsolidated LLCs expected to be developed into 819 lots.

Our ability to continue development activities over the long-term will depend upon, among other things, a suitable economic environment and our continued ability to locate suitable parcels of land, enter into options or agreements to purchase land, obtain governmental approvals for suitable parcels of land, and consummate the acquisition and complete the development of such land.

At December 31, 2012, we had purchase agreements to acquire 2,621 developed lots and raw land to be developed into approximately 4,164 lots for a total of 6,785 lots, with an aggregate current purchase price of approximately \$240.5 million. Purchase of these properties is generally contingent upon satisfaction of certain requirements by us and the sellers, such as zoning approval and availability of building permits. Further details relating to our land option agreements are included in Note 1 to our Consolidated Financial Statements.

The following table sets forth our land position in lots (including lots held in Unconsolidated LLCs) at December 31, 2012:

Region	Lots Owned				Lots Under Contract	Total
	Finished Lots	Lots Under Development	Undeveloped Lots	Total Lots Owned		
Midwest	1,098	125	2,161	3,384	1,629	5,013
Southern	810	294	1,056	2,160	2,827	4,987
Mid-Atlantic	817	210	847	1,874	2,329	4,203
Total	2,725	629	4,064	7,418	6,785	14,203

## Financial Services

We sell our homes to customers who generally finance their purchases through mortgages. M/I Financial provides our customers with competitive financing and coordinates and expedites the loan origination transaction through the steps of loan application, loan approval, and closing and title services. M/I Financial provides financing services in all of our housing markets. We believe that our ability to offer financing to customers on competitive terms as a part of the sales process is an important factor in completing sales. In addition to financing the purchase of new homes, M/I Financial also provides refinance options for both previous M/I Homes purchasers and the general public.

During 2012, we captured 83% of the available mortgage origination business from purchasers of our homes, originating approximately \$520.7 million of mortgage loans. The mortgage loans originated by M/I Financial are, in most cases, sold either individually or against forward commitments to institutional investors, including banks, mortgage banking firms, and savings and loan associations.

M/I Financial has been approved by the U.S. Department of Housing and Urban Development, the VA and the USDA to originate mortgages that are insured and/or guaranteed by these entities. In addition, M/I Financial has been approved by the Federal Home Loan Mortgage Corporation (“Freddie Mac”) and by the Federal National Mortgage Association (“Fannie Mae”) as a seller and servicer of mortgages and as a Government National Mortgage Association (“Ginnie Mae”) issuer. Our agency approvals, along with a sub-servicing relationship, allow us to sell loans on either a servicing released or servicing retained basis. This option provides flexibility and additional financing options to our customers.

We also provide title services to purchasers of our homes through our 100%-owned subsidiaries, TransOhio Residential Title Agency Ltd. and M/I Title Agency Ltd., and our majority-owned subsidiary, Washington Metro Residential Title Agency, LLC. Through these entities, we serve as a title insurance agent by providing title insurance policies, examination and closing services to purchasers of our homes in all of our housing markets except Raleigh, Charlotte, Chicago, Austin, Houston and San Antonio. We assume no underwriting risk associated with the title policies.

### **Corporate Operations**

Our corporate operations and home office are located in Columbus, Ohio, where we perform the following functions at a centralized level:

- establish strategy, goals and operating policies;
- ensure brand integrity and consistency across all local and regional communications;
- monitor and manage the performance of our operations;
- allocate capital resources;
- provide financing and perform all cash management functions for the Company, as well as maintain our relationship with lenders;
- maintain centralized information and communication systems; and
- maintain centralized financial reporting, internal audit functions, and risk management.

### **Competition**

In each of our markets, we compete with numerous national, regional, and local homebuilders, some of which have greater financial, marketing, land acquisition, and sales resources than us; however, we generally operate as a top ten builder in the majority of our markets which allows us to compete favorably due to economies of scale. Builders of new homes compete not only for homebuyers, but also for desirable properties, financing, raw materials, and skilled subcontractors. In addition, we face competition from foreclosures and the existing home resale market, which experienced an increase in available homes during the downturn due to challenging market conditions and higher foreclosure rates. We compete primarily on the basis of price, location, design, quality, service, and reputation; however, we believe our financial stability has become an increasingly favorable competitive factor. As our industry continues to recover, stabilize, and improve, we are seeing reduced competition from the small and mid-sized private builders in the new home market. Their access to capital appears to be significantly constrained, and there are fewer and more selective lenders serving our industry. We believe that those lenders have gravitated to the home building companies that offer them the greatest security, the strongest balance sheets, and the broadest array of potential business opportunities.

Our financial services operations compete with other mortgage lenders, including national, regional, and local mortgage bankers and brokers, banks, savings and loan associations, and other financial institutions, in the origination and sale of mortgage loans. Principal competitive factors include interest rates and other features of mortgage loan products available to the consumer.

### **Regulation and Environmental Matters**

The homebuilding industry is subject to various local, state and federal (including FHA and VA) statutes, ordinances, rules and regulations concerning environmental, zoning, building, design, construction, sales, and similar matters. These regulations affect construction activities, including the types of construction materials that may be used, certain aspects of building design, sales activities, and dealings with consumers. We are required to obtain licenses, permits and approvals from various governmental authorities for development activities. In many areas, we are subject to local regulations which impose restrictive zoning and density requirements in order to limit the number of homes within the boundaries of a particular locality. We strive to reduce the risks of restrictive zoning and density requirements by using contingent land purchase agreements, which state that land must meet various requirements, including zoning, prior to our purchase.

Development of land may be subject to periodic delays or precluded entirely due to building moratoriums. Generally, these moratoriums relate to insufficient water or sewage facilities or inadequate road capacity within specific market areas or communities. The moratoriums we have experienced have not been of long duration and have not had a material effect on our business.

Each of the states in which we operate has a wide variety of environmental protection laws. These laws generally regulate developments which are of substantial size and which are in or near certain specified geographic areas. Furthermore, these laws impose requirements for development approvals which are more stringent than those that land developers would have to meet outside of these geographic areas.

Our mortgage company and title insurance agencies must comply with various federal and state laws and regulations. These include eligibility and other requirements for participation in the programs offered by the FHA, VA, Ginnie Mae, Fannie Mae and Freddie Mac. These also include required compliance with consumer lending and other laws and regulations such as disclosure requirements, prohibitions against discrimination and real estate settlement procedures. These laws and regulations subject our operations to examination by the applicable agencies.

We will be subject to new regulations issued by the Consumer Financial Protection Bureau (the “CFPB”) in January 2013 that become effective on January 10, 2014 that will require mortgage lenders to consider the ability of consumers to repay home loans before extending them credit and impose minimum qualifications for mortgage borrowers.

### **Seasonality**

Our homebuilding operations experience significant seasonality and quarter-to-quarter variability in homebuilding activity levels. In general, homes delivered increase substantially in the second half of the year. We believe that this seasonality reflects the tendency of homebuyers to shop for a new home in the spring with the goal of closing in the fall or winter, as well as the scheduling of construction to accommodate seasonal weather conditions. Our financial services operations also experience seasonality because their loan originations correspond with the delivery of homes in our homebuilding operations.

### **Employees**

At December 31, 2012, we employed 651 people (including part-time employees), of which 503 were employed in homebuilding operations, 81 were employed in financial services and 67 were employed in management and administrative services. No employees are represented by a collective bargaining agreement.

### **Available Information**

We are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (“Exchange Act”) and file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (“SEC”). These filings are available to the public over the internet on the SEC's website at [www.sec.gov](http://www.sec.gov). Our periodic reports and any other information we file with the SEC may be inspected without charge and copied at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the Public Reference Room.

Our website address is [www.mihomes.com](http://www.mihomes.com). We make available, free of charge, on or through our website, our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. Our website also includes printable versions of our Corporate Governance guidelines, our Code of Business Conduct and Ethics, and Charters for each of our Audit, Compensation, and Nominating and Corporate Governance Committees. The contents of our website are not incorporated by reference in, or otherwise made a part of this Annual Report on Form 10-K.

### **Item 1A. RISK FACTORS**

Our future results of operations, financial condition and liquidity and the market price for our securities are subject to numerous risks, many of which are driven by factors that cannot be controlled or predicted. The following cautionary discussion of risks, uncertainties and assumptions relevant to our business includes factors we believe could cause our actual results to differ materially from expected and historical results. Other factors beyond those listed below, including factors unknown to us and factors known to us which we have not currently determined to be material, could also adversely affect our business, results of operations, financial condition, prospects and cash flows. Also see “Forward-looking Statements” within Item 7 in Part II of this Annual Report on Form 10-K.

## Homebuilding Market and Economic Risks

***The homebuilding industry is cyclical and affected by changes in general economic, real estate and other business conditions that could adversely affect our results of operations, financial position and cash flows.***

Certain economic, real estate and other business conditions that have significant effects on the homebuilding industry include:

- employment levels and job and personal income growth;
- availability and pricing of financing for homebuyers;
- short and long-term interest rates;
- overall consumer confidence and the confidence of potential homebuyers in particular;
- demographic trends;
- housing demand from population growth, household formation and other demographic changes, among other factors;
- U.S. and global financial system and credit market stability;
- private party and governmental residential consumer mortgage loan programs, and federal and state regulation of lending and appraisal practices;
- federal and state personal income tax rates and provisions, including provisions for the deduction of residential consumer mortgage loan interest payments and other expenses;
- the supply of and prices for available new or existing homes (including lender-owned homes acquired through foreclosures and short sales) and other housing alternatives, such as apartments and other residential rental property;
- homebuyer interest in our current or new product designs and community locations, and general consumer interest in purchasing a home compared to choosing other housing alternatives; and
- real estate taxes.

These conditions may have an impact nationally, like the recent downturn, and may affect some of the regions or markets in which we operate more than others. When adverse conditions affect any of our larger markets, those conditions could have a proportionately greater impact on us than on some other homebuilding companies.

An oversupply of alternatives to new homes, including foreclosed homes, homes held for sale by investors and speculators, other existing homes and rental properties, can also reduce our ability to sell new homes, depress new home prices and reduce our margins on the sale of new homes. High levels of foreclosures and short-sales not only contribute to additional inventory available for sale, but also can reduce appraisal valuations for new homes, potentially resulting in lower sales prices.

Potential customers may be less willing or able to buy our homes if any of these conditions have a negative impact on the homebuilding industry. In the future, our pricing strategies may continue to be limited by market conditions. We may be unable to change the mix of our home offerings, reduce the costs of the homes we build or offer more affordable homes to maintain our gross margins or satisfactorily address changing market conditions in other ways. In addition, cancellations of home sales contracts in backlog may increase as homebuyers choose to not honor their contracts.

Our financial services business is closely related to our homebuilding business, as it originates mortgage loans principally on behalf of purchasers of the homes we build. A decrease in the demand for our homes because of the foregoing conditions may also adversely affect the financial results of this segment of our business. An increase in the default rate on the mortgages we originate may adversely affect our ability to sell the mortgages or the pricing we receive upon the sale of mortgages and may increase our potential exposure regarding those mortgage loan sales.

***Although the homebuilding industry generally experienced improved conditions in 2012 compared to those in effect during the recent downturn, a renewed deterioration in industry conditions or in broader economic conditions could have adverse effects on our business and results of operations.***

From 2006 through 2011, the homebuilding industry experienced one of its most severe downturns in U.S. history.

Our recovery from the sustained downturn in the housing market was negatively impacted by its continuing effects, including more challenging mortgage loan qualification standards, significant reductions in home prices and land values and increased numbers of foreclosures and short-sales, all of which severely constrained demand for new homes, and resulted in significant inventory impairments and operating losses.

In the event of another downturn in the homebuilding and mortgage lending industries, or if the national economy weakens, we could experience declines in the market value of our inventory and demand for our homes, which could have a significantly negative impact on our gross margins from home sales and financial condition and results of operations.

Additionally, as a result of recent economic circumstances, we may be subject to increased counterparty risks, including banks under our letter of credit facilities and purchasers of mortgages originated by M/I Financial being unwilling or unable to perform the obligations they owe to us. To the extent a third-party is unwilling or unable to perform the obligations it owes to us, our financial condition, results of operations and/or cash flows could be negatively impacted.

These conditions are complex and interrelated. We cannot predict their occurrence or severity, nor can we provide assurance that our responses to their impacts would be successful.

***Increased competition levels in the homebuilding and mortgage lending industries could result in a reduction in our new contracts and homes delivered, along with decreases in the average sales prices of sold and delivered homes and/or decreased mortgage originations, which would have a negative impact on our results of operations.***

The homebuilding industry is fragmented and highly competitive. We compete with numerous public and private homebuilders, including a number that are substantially larger than us and may have greater financial resources than we do. We also compete with subdivision developers and land development companies, some of which are themselves homebuilders or affiliates of homebuilders. Homebuilders compete for customers, land, building materials, subcontractor labor and desirable financing. Competition for home orders primarily is based upon home sales price, location of property, home style, financing available to prospective homebuyers, quality of homes built, customer service and general reputation in the community, and may vary by market, submarket and even by community. Additionally, competition within the homebuilding industry can be impacted through an excess supply of new and existing homes available for sale resulting from a number of factors including, among other things, increases in unsold started homes available for sale and increases in home foreclosures. Increased competition can cause us to decrease our home sales prices and/or increase home sales incentives in an effort to generate new home sales and maintain homes in backlog until they close. These competitive pressures may negatively impact our future financial and operating results.

Through our financial services operations, we also compete with numerous banks and other mortgage bankers and brokers, many of which are larger than us and may have greater financial resources than we do. Competitive factors that affect our consumer services operations include pricing, mortgage loan terms, underwriting criteria and customer service. To the extent that we are unable to adequately compete with other companies that originate mortgage loans, the results of operations from our mortgage operations may be negatively impacted.

***A reduction in the availability of mortgage financing or an increase in mortgage interest rates or down payment requirements could adversely affect our business.***

The mortgage lending industry continues to experience significant instability. Lenders, regulators and others have questioned the adequacy of lending standards and other credit requirements for several loan products and programs offered in prior years. Credit requirements tightened in the immediate aftermath of the financial crisis of 2007 and 2008, and investor demand for mortgage loans and mortgage-backed securities declined. The deterioration in credit quality has caused almost all lenders to eliminate subprime mortgages and most other loan products that are not eligible for sale to Fannie Mae or Freddie Mac or that do not meet FHA and VA requirements. Fewer loan products and tighter loan qualification standards and down payment requirements have made it more difficult for many homebuyers to finance the purchase of our homes. These factors have reduced the pool of qualified homebuyers and made it more difficult to sell homes. These reductions in demand have adversely affected our business and financial results, and the duration and severity of the effects of the instability in the mortgage lending industry remain uncertain.

We believe that the liquidity provided by Fannie Mae and Freddie Mac to the mortgage industry has been very important to the housing market. The future of these entities is in question. Any reduction in the availability of the financing provided by these institutions could adversely affect interest rates, mortgage availability and our sales of new homes and origination of mortgage loans.

Because of the decline in the availability of other mortgage products, FHA and VA mortgage financing support has become a more important factor in marketing our homes. Increased demands on the FHA have resulted in a reduction of its cash reserves and additional regulations and requirements. This factor or any increases in down payment requirements or limitations or restrictions on the availability of FHA and VA financing support could adversely affect interest rates, mortgage availability and our sales of new homes and origination of mortgage loans.

Even if potential customers do not need financing, changes in the availability of mortgage products may make it harder for them to sell their current homes to potential buyers who need financing, which has in some cases led to lower demand for new homes.

If interest rates increase, the costs of owning a home will be affected and could reduce the demand for our homes. Similarly, potential changes to the tax code with respect to deduction of home mortgage interest payments or other changes may decrease affordability of and demand for homeownership.

Many of our homebuyers obtain financing for their home purchases from our M/I Financial subsidiary. If, due to the factors discussed above, M/I Financial is limited from making or unable to make loan products available to our homebuyers, our home sales and our homebuilding and financial services results of operations may be adversely affected.

***If land is not available at reasonable prices or terms, our homes sales revenue and results of operations could be negatively impacted and/or we could be required to scale back our operations in a given market.***

Our operations depend on our ability to obtain land for the development of our communities at reasonable prices and with terms that meet our underwriting criteria. Our ability to obtain land for new communities may be adversely affected by changes in the general availability of land, the willingness of land sellers to sell land at reasonable prices, competition for available land, availability of financing to acquire land, zoning, regulations that limit housing density and other market conditions. If the supply of land, and especially finished lots, appropriate for development of communities is limited because of these factors, or for any other reason, the number of homes that we build and sell may decline. To the extent that we are unable to timely purchase land or enter into new contracts for the purchase of land at reasonable prices, due to the lag time between the time we acquire land and the time we begin selling homes, our revenue and results of operations could be negatively impacted and/or we could be required to scale back our operations in a given market.

***Our strategies in responding to the adverse conditions in the homebuilding industry over the past several years and the implementation of additional strategies may not be successful, despite signs of modest recovery in the housing industry in 2012.***

In an effort to generate higher revenues and restore and maintain our homebuilding operations' profitability, beginning in late 2008 and continuing through 2012, we have (1) invested in new communities in our markets with higher margins, (2) rolled out new, more flexible product designs, including our "Eco Series" product line, (3) continued to take steps to reduce our selling, general and administrative expenses and (4) redeployed our capital into housing markets with perceived higher future growth prospects, such as our entry into the Austin, Houston and San Antonio, Texas markets. We believe these steps helped us increase our homes delivered and new contracts and margins in 2012 compared to 2011, as well as increase the number of homes in backlog, the average sales price of the homes in backlog and the overall sales value of our backlog. However, there can be no assurance that these trends will continue, that we will successfully increase our average active community count and inventory base with desirable land assets at a reasonable cost, or that we will maintain profitability in the future.

***Our land investment exposes us to significant risks, including potential impairment charges, that could negatively impact our profits if the market value of our inventory declines.***

We must anticipate demand for new homes several years prior to homes being sold to homeowners. There are significant risks inherent in controlling or purchasing land, especially as the demand for new homes fluctuates. There is often a significant lag time between when we acquire land for development and when we sell homes in neighborhoods we have planned, developed and constructed. The value of undeveloped land, building lots and housing inventories can fluctuate significantly as a result of changing market conditions. In addition, inventory carrying costs can be significant, and fluctuations in value can result in reduced profits. Economic conditions could result in the necessity to sell homes or land at a loss, or hold land in inventory longer than planned, which could significantly impact our financial condition, results of operations, cash flows and stock performance. Additionally, if conditions in the homebuilding industry worsen in the future, we may be required to evaluate our inventory for potential impairment, which may result in additional valuation adjustments, which could be significant and could negatively impact our financial results and condition. We cannot make any assurances that the measures we employ to manage inventory risks and costs will be successful.

***Supply shortages and other risks related to the demand for skilled labor and building materials could increase costs and delay deliveries.***

The residential construction industry experiences labor and material shortages from time to time, including: work stoppages; labor disputes; shortages in qualified trades people; lack of availability of adequate utility infrastructure and services; our need to rely on local subcontractors who may not be adequately capitalized or insured; and delays in availability, or fluctuations in prices, of building materials. These labor and material shortages and disruptions can be more severe during periods of strong demand for housing or during periods in which the markets where we operate experience natural disasters that have a significant impact on existing residential and commercial structures. Additionally, we could experience labor shortages as a result of subcontractors going out of business or leaving the residential construction market due to low levels of housing production and volumes. Any of these circumstances could give rise to delays in the start or completion of our communities, increase the cost of developing one or more of our communities and increase the construction cost of our homes. To the extent that market conditions prevent the recovery of increased costs, including, among other things, subcontracted labor, finished lots, building materials, and other resources, through higher sales prices, our gross margins from home sales and results of operations could be adversely affected.

Increased costs of lumber, framing, concrete, steel and other building materials could cause increases in construction costs. We generally are unable to pass on increases in construction costs to customers who have already entered into sales contracts, as those sales contracts generally fix the price of the homes at the time the contracts are signed, which may be in advance of the construction of the home. Sustained increases in construction costs may, over time, erode our gross margins from home sales, particularly if pricing competition restricts our ability to pass on any additional costs of materials or labor, thereby decreasing our gross margins from home sales.

***Tax law changes could make home ownership more expensive or less attractive.***

Under current U.S. tax law and policy, significant expenses of owning a home, including residential consumer mortgage loan interest costs and real estate taxes, generally are deductible expenses for the purpose of calculating an individual's federal, and in some cases state, taxable income, subject to various limitations. If the federal government or a state government changes income tax laws, as some policy makers and a presidential commission have proposed, by eliminating or substantially reducing these income tax benefits, the after-tax cost of owning a home could increase substantially. This could adversely impact demand for and/or sales prices of new homes.

***Increases in our cancellations could have a negative impact on our gross margins from home sales and home sales revenue.***

Home order cancellations can result from a number of factors, including declines in the market value of homes, increases in the supply of homes available to be purchased, increased competition, higher mortgage interest rates, homebuyers' inability to sell their existing homes, homebuyers' inability to obtain suitable financing, including providing sufficient down payments, and adverse changes in economic conditions.

Increased levels of home order cancellations would have a negative impact on our home sales revenue and financial and operating results in future reporting periods.

***Inflation can adversely affect us, particularly in a period of declining home sale prices.***

Inflation can have a long-term impact on us because if the costs of land, materials and labor increase, we would need to attempt to increase the sale prices of homes in order to maintain satisfactory margins. Although an excess of supply over demand for new homes, such as the environment in which we are currently operating, generally requires that we reduce prices, rather than increase them, it does not necessarily result in reductions, or prevent increases, in the costs of materials, labor and land development costs. Under those circumstances, the effect of cost increases is to reduce the margins on the homes we sell. Reduced margins in such cases make it more difficult for us to recover the full cost of previously purchased land.

***Our limited geographic diversification could adversely affect us if the homebuilding industry in our markets declines.***

We have operations in Ohio, Indiana, Illinois, Maryland, Virginia, North Carolina, Florida and Texas. Our limited geographic diversification could adversely impact us if the homebuilding business in our current markets declines, since there may not be a balancing opportunity in a stronger market in other geographic regions.

Operational Risks

***We may not be successful in integrating acquisitions or implementing our growth strategies.***

We may in the future consider growth or expansion of our operations in our current markets or in other areas of the country, whether through strategic acquisitions of homebuilding companies or otherwise. The magnitude, timing and nature of any future expansion will depend on a number of factors, including our ability to identify suitable additional markets and/or acquisition candidates, the negotiation of acceptable terms, our financial capabilities and general economic and business conditions. Our expansion into new or existing markets, whether through acquisition or otherwise, could have a material adverse effect on our liquidity and/or profitability, and any future acquisitions could result in the dilution of existing shareholders if we issue our common shares as consideration. Acquisitions also involve numerous risks, including difficulties in the assimilation of the acquired company's operations, the incurrence of unanticipated liabilities or expenses, the risk of impairing inventory and other assets related to the acquisition, the diversion of management's attention and resources from other business concerns, risks associated with entering markets in which we have limited or no direct experience and the potential loss of key employees of the acquired company.

***We have financial needs that we meet through the capital markets, including the debt and secondary mortgage markets, and disruptions in these markets could have an adverse impact on our results of operations, financial position and/or cash flows.***

We have financial needs that we meet through the capital markets, including the debt and secondary mortgage markets. Our requirements for additional capital, whether to finance operations or to service or refinance our existing indebtedness, fluctuate as market conditions and our financial performance and operations change. We cannot provide assurances that we will maintain cash reserves and generate sufficient cash flow from operations in an amount to enable us to service our debt or to fund other liquidity needs.

The availability of additional capital, whether from private capital sources or the public capital markets, fluctuates as our financial condition and general market conditions change. There may be times when the private capital markets and the public debt or equity markets lack sufficient liquidity or when our securities cannot be sold at attractive prices, in which case we would not be able to access capital from these sources. In addition, a weakening of our financial condition or deterioration in our credit ratings could adversely affect our ability to obtain necessary funds. Even if financing is available, it could be costly or have other adverse consequences.

There are a limited number of third-party purchasers of mortgage loans originated by our financial services operations. The exit of third-party purchasers of mortgage loans from the business, reduced investor demand for mortgage loans and mortgage-backed securities in the secondary mortgage markets and increased investor yield requirements for those loans and securities may have an adverse impact on our results of operations, financial position and/or cash flows. In addition, the sources and terms and conditions of warehouse financing and mortgage repurchase arrangements and other lending arrangements for the mortgage lending industry are changing. These changes may impact, among other things, availability of capital, terms and structures for debt and line of credit agreements, collateral requirements and collateral advance rates.

***The mortgage warehousing agreement of our financial services segment will expire in March 2013.***

M/I Financial is party to a \$70 million secured mortgage warehousing agreement dated April 18, 2011, among M/I Financial, the lenders party thereto and the administrative agent (the "MIF Mortgage Warehousing Agreement"). M/I Financial uses the MIF Mortgage Warehousing Agreement to finance its lending activities until the loans are delivered to third party buyers. The MIF Mortgage Warehousing Agreement will expire on March 30, 2013. If we are unable to renew or replace the MIF Mortgage Warehousing Agreement when it matures, the activities of our financial services segment could be seriously impeded and our home sales and our homebuilding and financial services results of operations may be adversely affected.

***Reduced numbers of home sales may force us to absorb additional carrying costs.***

We incur many costs even before we begin to build homes in a community. These include costs of preparing land and installing roads, sewage and other utilities, as well as taxes and other costs related to ownership of the land on which we plan to build homes. Reducing the rate at which we build homes extends the length of time it takes us to recover these additional costs. Also, we frequently enter into contracts to purchase land and make deposits that may be forfeited if we do not fulfill our purchase obligation within specified periods.

***If our ability to resell mortgages to investors is impaired, we may be required to broker loans.***

We sell substantially all of the loans we originate within a short period of time in the secondary mortgage market on a servicing released, nonrecourse basis, although we remain liable for certain limited representations and warranties related to loan sales and for repurchase obligations in certain limited circumstances. If we are unable to sell to viable purchasers in the marketplace, our ability to originate and sell mortgage loans at competitive prices could be limited which would negatively affect our operations and our profitability. Additionally, if there is a significant decline in the secondary mortgage market, our ability to sell mortgages could be adversely impacted and we would be required to make arrangements with banks or other financial institutions to fund our buyers' closings. If we became unable to sell loans into the secondary mortgage market or directly to Fannie Mae and Freddie Mac, we would have to modify our origination model, which, among other things, could significantly reduce our ability to sell homes.

***Mortgage investors could seek to have us buy back loans or compensate them for losses incurred on mortgages we have sold based on claims that we breached our limited representations or warranties.***

M/I Financial originates mortgages, primarily for our homebuilding customers. Substantially all of the mortgage loans originated are sold within a short period of time in the secondary mortgage market on a servicing released, nonrecourse basis, although we remain liable for certain limited representations, such as fraud, and warranties related to loan sales. Accordingly, mortgage investors have in the past and could in the future seek to have us buy back loans or compensate them for losses incurred on mortgages we have sold based on claims that we breached our limited representations or warranties. We believe there continues to be an industry-wide issue with the number of purchaser claims in which purchasers purport to have found inaccuracies related to sellers' representations and warranties in particular loan sale agreements. While we have, from time to time, settled claims relating to loans, which have been



fully reserved, we did not repurchase any loans in 2011 or 2012. However, there can be no assurance that we will not have significant liabilities in respect of such claims in the future, which could exceed our reserves, or that the impact of such claims on our results of operations will not be material.

***We may not be able to benefit from net operating loss carryforwards.***

We suffered losses in each fiscal year from 2007 through 2011 for tax (as well as for financial statement) purposes. We were able to carryback 100% of our tax loss in the 2007 fiscal year to recover tax we had paid with regard to a prior year. However, we would not have been able to carryback 100% of our 2008 fiscal year tax loss without legislation enacted in November 2009 that extended the net operating loss (“NOL”) carryback period to five years. We were unable to carryback our tax losses for the fiscal years from 2009 through 2011. We will not receive any tax benefits with regard to tax losses we could not carryback unless we have taxable income in the 20-year NOL carryforward period. In our financial statements, we have fully reserved against all our deferred tax assets due to the possibility that we may not have taxable income that will enable us to benefit from our tax losses for the fiscal years from 2009 through 2011. However, those reserves will be reversed when it becomes more likely than not that we will have sufficient future taxable income to take advantage of the deferred tax assets.

***Our net operating loss carryforwards could be substantially limited if we experience an “ownership change” as defined in Section 382 of the Internal Revenue Code.***

Based on impairments and our financial performance during the recent downturn, we generated NOL carryforwards for the years ending December 31, 2009, 2010 and 2011, and it is possible that we will generate net NOL carryforwards in future years. Under the Internal Revenue Code of 1986, as amended (the “Code”), we may use these NOL carryforwards to offset future earnings and reduce our federal income tax liability. As a result, we believe these NOL carryforwards could be a substantial asset for us.

Section 382 of the Code contains rules that limit the ability of a company that undergoes an “ownership change,” which is generally defined as any change in ownership of more than 50% of its common stock over a three-year period, to utilize its NOL carryforwards and certain built-in losses recognized in years after the ownership change. These rules generally operate by focusing on ownership changes among shareholders owning, directly or indirectly, 5% or more of the company's common stock (including changes involving a shareholder becoming a 5% shareholder) or any change in ownership arising from a new issuance of stock by the company.

In March 2009, we amended our code of regulations to impose certain restrictions on the transfer of our common shares to preserve the tax treatment of our NOLs and built-in losses (the “NOL Protective Amendment”). The transfer restrictions imposed by the NOL Protective Amendment generally restrict (unless otherwise approved by our board of directors) any direct or indirect transfer if the effect would be to: (1) increase the direct or indirect ownership of our shares by any person or group of persons from less than 5% to 5% or more of our common shares; or (2) increase the percentage of our common shares owned directly or indirectly by a person or group of persons owning or deemed to own 5% or more of our common shares. Although the NOL Protective Amendment is intended to reduce the likelihood of an “ownership change” that could adversely affect us, we cannot provide assurance that the restrictions on transferability in the NOL Protective Amendment will prevent all transfers that could result in such an “ownership change.” There also can be no assurance that the transfer restrictions in the NOL Protective Amendment will be enforceable against all of our shareholders absent a court determination confirming such enforceability. The transfer restrictions may be subject to challenge on legal or equitable grounds.

If we undergo an “ownership change” for purposes of Section 382 of the Code as a result of future transactions involving the 2017 Convertible Senior Subordinated Notes or our common shares, including transactions initiated by the Company, and including transactions involving a shareholder becoming an owner of 5% or more of our common shares and purchases and sales of our common shares by existing 5% shareholders, our ability to use our NOL carryforwards and recognize certain built-in losses could be limited by Section 382 of the Code. Depending on the resulting limitation, a significant portion of our NOL carryforwards could expire before we would be able to use them. Our inability to utilize our NOL carryforwards could have a material adverse effect on our financial condition and results of operations.

***Our results of operations, financial condition and cash flows could be adversely affected if pending or future legal claims against us are not resolved in our favor.***

On March 5, 2009, a resident of Florida and an owner of one of our homes filed a complaint in the United States District Court for the Southern District of Ohio, on behalf of himself and other similarly situated owners and residents of homes in the United States or alternatively in Florida, against the Company and certain other identified and unidentified parties (the “Initial Action”). The plaintiff alleged that the Company built his home with defective drywall, manufactured and supplied by certain of the defendants, that contains sulfur or other organic compounds capable of harming the health of individuals and damaging property. The plaintiff alleged physical and economic damages and sought legal and equitable relief, medical monitoring and attorney's fees. The Company filed a responsive pleading on or about April 30, 2009. The Initial Action was consolidated with other similar actions not involving the Company and

transferred to the Eastern District of Louisiana pursuant to an order from the United States Judicial Panel on Multidistrict Litigation for coordinated pre-trial proceedings (collectively, the “In Re: Chinese Manufactured Drywall Product Liability Litigation”). In connection with the administration of the In Re: Chinese Manufactured Drywall Product Liability Litigation, the same homeowner and nine other homeowners were named as plaintiffs in omnibus class action complaints filed in and after December 2009 against certain identified manufacturers of drywall and others (including the Company), including one homeowner named as a plaintiff in an omnibus class action complaint filed in March 2010 against various unidentified manufacturers of drywall and others (including the Company) (collectively, the “MDL Omnibus Actions”). As they relate to the Company, the Initial Action and the MDL Omnibus Actions address substantially the same claims and seek substantially the same relief. The Company has entered into agreements with several of the homeowners named as plaintiffs pursuant to which the Company agreed to make repairs to their homes consistent with repairs made to the homes of other homeowners. As a result of these agreements, the Initial Action has been resolved and dismissed, and seven of the nine other homeowners named as plaintiffs in omnibus class action complaints have dismissed their claims against the Company. One of the two remaining plaintiffs has also filed a complaint in Florida state court asserting essentially the same claims and seeking substantially the same relief as asserted in the MDL Omnibus Actions. The court in the MDL Omnibus Actions recently entered an order and judgment certifying various settlement classes and granting final approval of various class settlements, including a global class action settlement, which is intended to resolve all Chinese drywall-related claims of and against those who participate in the settlement. The Company will participate in the global settlement. The Company intends to vigorously defend against the claims of any plaintiffs who are not bound by or elect to opt out of the class action settlement. Given the inherent uncertainties in this litigation, there can be no assurance that the ultimate resolution of the MDL Omnibus Actions, or any other actions or claims relating to defective drywall that may be asserted in the future, will not have a material adverse effect on our results of operations, financial condition, and cash flows. See Note 10 to our Consolidated Financial Statements and the risk factor below captioned “Product liability litigation and warranty claims that arise in the ordinary course of business may be costly” for more information.

The Company and certain of its subsidiaries have also been named as defendants in other claims, complaints and legal actions which are routine and incidental to our business. While management currently believes that the ultimate resolution of these other matters, individually and in the aggregate, will not have a material adverse effect on our results of operations, financial condition or cash flows, such matters are subject to inherent uncertainties. We have recorded a liability to provide for the anticipated costs, including legal defense costs, associated with the resolution of these other matters. However, it is possible that the costs to resolve these other matters could differ from the recorded estimates and, therefore, have a material adverse effect on our results of operations, financial condition and cash flows for the periods in which the matters are resolved. Similarly, if additional claims are filed against us in the future, the negative outcome of one or more of such matters could have a material adverse effect on our results of operations, financial condition and cash flows.

***The terms of our indebtedness may restrict our ability to operate and, if our financial performance declines, we may be unable to maintain compliance with the covenants in the documents governing our indebtedness.***

The Company's \$140 million secured revolving credit facility (the “Credit Facility”) and the indenture governing our outstanding 8.625% Senior Notes due 2018 (the “2018 Senior Notes”) impose restrictions on our operations and activities. These restrictions, and/or our failure to comply with the terms of our indebtedness, could have a material adverse effect on our results of operations, financial condition and ability to operate our business.

The Credit Facility requires compliance with certain financial covenants, including a minimum consolidated tangible net worth requirement and a maximum permitted leverage ratio. Currently, we believe the most restrictive covenant of the Credit Facility is to maintain a minimum consolidated tangible net worth. Failure to comply with this covenant or any of the other restrictions or covenants of the Credit Facility, whether because of a decline in our operating performance or otherwise, could result in a default under the Credit Facility. If a default occurs, the affected lenders could elect to declare the indebtedness, together with accrued interest and other fees, to be immediately due and payable, which in turn could cause a default under the documents governing any of our other indebtedness that is then outstanding if we are not able to repay such indebtedness from other sources. If this happens and we are unable to obtain waivers from the required lenders, the lenders could exercise their rights under such documents, including forcing us into bankruptcy or liquidation. Also, while the aggregate commitment of the Credit Facility is \$140 million (with the ability to increase the amount of the Credit Facility up to \$175 million in aggregate, contingent on obtaining additional commitments from lenders), we can only borrow up to the amount we have secured by real estate and/or cash in accordance with the provisions of the Credit Facility. This secured borrowing base limitation could preclude us from incurring additional borrowings, which could impair our ability to maintain sufficient working capital. In such a situation, there can be no assurance that we would be able to obtain alternative financing.

The indenture governing the 2018 Senior Notes also contains covenants that may restrict our ability to operate our business and may prohibit or limit our ability to enhance our operations or take advantage of potential business opportunities as they arise. Failure to comply with these covenants or any of the other restrictions or covenants contained in the indenture governing the 2018 Senior Notes could result in a default under such document, in which case holders of the 2018 Senior Notes may be entitled to cause the sums

evidenced by such notes to become due immediately. This acceleration of our obligations under the 2018 Senior Notes could force us into bankruptcy or liquidation and we may be unable to repay those amounts without selling substantial assets, which might be at prices well below the long-term fair values and carrying values of the assets. Our ability to comply with the foregoing restrictions and covenants may be affected by events beyond our control, including prevailing economic, financial and industry conditions.

In addition, while the indenture governing the 2017 Convertible Senior Subordinated Notes does not contain any financial or operating covenants relating to or restrictions on the payment of dividends, the incurrence of indebtedness or the repurchase or issuance of securities by us or any of our subsidiaries, such indenture does impose certain other requirements on us, such as the requirement to offer to repurchase the 2017 Convertible Senior Subordinated Notes upon a fundamental change, as defined in the indenture. Our failure to comply with the requirements contained in the indenture governing the 2017 Convertible Senior Subordinated Notes could result in a default under such indenture, in which case holders of the 2017 Convertible Senior Subordinated Notes may be entitled to cause the sums evidenced by such notes to become due immediately. The acceleration of our obligations under the 2017 Convertible Senior Subordinated Notes could have the same effect as an acceleration of the 2018 Senior Notes described above.

***Our indebtedness could adversely affect our financial condition, and we and our subsidiaries may incur additional indebtedness, which could increase the risks created by our indebtedness.***

As of December 31, 2012, we had approximately \$296.3 million of indebtedness outstanding (excluding issuances of letters of credit, the MIF Mortgage Warehousing Agreement and the \$15 million secured mortgage repurchase facility, dated November 13, 2012, entered into by M/I Financial (the “MIF Mortgage Repurchase Facility”), \$238.8 million of which was senior indebtedness, including \$6.7 million of senior secured indebtedness, and we had \$47.3 million of available borrowings with respect to secured indebtedness under the Credit Facility. In addition, under the terms of the Credit Facility, the indentures governing the 2018 Senior Notes and the 2017 Convertible Senior Subordinated Notes and the documents governing our other indebtedness, we have the ability, subject to applicable debt covenants, to incur additional indebtedness. The incurrence of additional indebtedness could magnify other risks related to us and our business. Our indebtedness and any future indebtedness we may incur could have a significant adverse effect on our future financial condition.

For example:

- a significant portion of our cash flow may be required to pay principal and interest on our indebtedness, which could reduce the funds available for working capital, capital expenditures, acquisitions or other purposes;
- borrowings under the Credit Facility bear, and borrowings under any new facility could bear, interest at floating rates, which could result in higher interest expense in the event of an increase in interest rates;
- the terms of our indebtedness could limit our ability to borrow additional funds or sell assets to raise funds, if needed, for working capital, capital expenditures, acquisitions or other purposes;
- our debt level and the various covenants contained in the Credit Facility, the indentures governing our 2018 Senior Notes and the 2017 Convertible Senior Subordinated Notes and the documents governing our other indebtedness could place us at a relative competitive disadvantage as compared to some of our competitors; and
- the terms of our indebtedness could prevent us from raising the funds necessary to repurchase all of the 2018 Senior Notes or the 2017 Convertible Senior Subordinated Notes tendered to us upon the occurrence of a change of control or a fundamental change, respectively, which, in each case, would constitute a default under the applicable indenture, which in turn could trigger a default under the Credit Facility and the documents governing our other indebtedness.

***In the ordinary course of business, we are required to obtain performance bonds, the unavailability of which could adversely affect our results of operations and/or cash flows.***

As is customary in the homebuilding industry, we are often required to provide surety bonds to secure our performance under construction contracts, development agreements and other arrangements. Our ability to obtain surety bonds primarily depends upon our credit rating, capitalization, working capital, past performance, management expertise and certain external factors, including the overall capacity of the surety market and the underwriting practices of surety bond issuers. The ability to obtain surety bonds also can be impacted by the willingness of insurance companies to issue performance bonds. If we were unable to obtain surety bonds when required, our results of operations and/or cash flows could be adversely impacted.

***We can be injured by failures of persons who act on our behalf to comply with applicable regulations and guidelines.***

There are instances in which subcontractors or others through whom we do business engage in practices that do not comply with applicable regulations or guidelines. When we learn of practices relating to homes we build or financing we provide that do not comply with applicable laws, rules or regulations, we actively move to stop the non-complying practices as soon as possible. However, regardless of the steps we take after we learn of practices that do not comply with applicable laws, rules or regulations, we can in some instances be subject to fines or other governmental penalties, and our reputation can be injured, due to the practices having taken place.

***Because of the seasonal nature of our business, our quarterly operating results can fluctuate.***

We experience noticeable seasonality and quarter-to-quarter variability in homebuilding activity levels. In general, the number of homes delivered and associated home sales revenue have increased during the third and fourth quarters, compared with the first and second quarters. We believe that this type of seasonality reflects the historical tendency of homebuyers to purchase new homes in the spring and summer with deliveries scheduled in the fall or winter, as well as the scheduling of construction to accommodate seasonal weather conditions in certain markets. There can be no assurance that this seasonality pattern will continue to exist in future reporting periods. In addition, as a result of such variability, our historical performance may not be a meaningful indicator of future results.

***Product liability litigation and warranty claims that arise in the ordinary course of business may be costly.***

As a homebuilder, we are subject to construction defect and home warranty claims, as well as claims associated with the sale and financing of our homes arising in the ordinary course of business. These types of claims can be costly. The costs of insuring against construction defect and product liability claims can be high and the amount of coverage offered by insurance companies may be limited. If we are not able to obtain adequate insurance against these claims, we may incur additional expenses that would have a negative impact on our results of operations in future reporting periods.

There has been significant publicity about homes constructed with defective drywall. Since the discovery of defective drywall, we implemented procedures in every division to investigate homes for signs of the presence of defective drywall. As of December 31, 2012, the Company has identified 93 homes that have been confirmed as having defective drywall installed by our subcontractors. All of these homes are located in Florida. As of December 31, 2012, we have completed the repair of 90 homes. In consideration for performing these repairs, we received from the homeowners a full release of claims (excluding, in nearly all cases, personal injury claims) arising from the defective drywall. All homes have been repaired that have granted us authority to do so. The remaining three homeowners have not granted us authority to repair their homes. Since 2009, the Company has accrued approximately \$13.0 million for the repair of these 93 homes. Based on our investigation to date and our evaluation of the defective drywall issue, we believe our accrual is sufficient to cover costs and claims associated with the repair of these homes. However, if and to the extent the scope of the defective drywall issue proves to be significantly greater than we currently anticipate, or in the event defective drywall is, through credible evidence, linked to significant adverse health effects of the occupants of the homes containing such defective drywall, or if it is determined that our accrual for costs of repair attributable to defective drywall together with recoveries from our insurance carrier and from other responsible parties and their insurance carriers are not sufficient to cover claims, losses or other issues related to defective drywall, then it is possible that we could incur additional costs or liabilities related to this issue that may have a material adverse effect on our results of operations, financial position and cash flows. Please see Note 10 to our Consolidated Financial Statements and the risk factor above captioned “Our results of operations, financial condition and cash flows could be adversely affected if pending or future legal claims against us are not resolved in our favor” for more information.

***Our subcontractors can expose us to warranty costs and other risks.***

We rely on subcontractors to construct our homes, and in many cases, to select and obtain building materials. Despite our detailed specifications and quality control procedures, subcontractors have in some cases used improper construction processes or defective materials in the construction of our homes, such as the defective Chinese drywall that was installed in certain homes built for the Company and many other homebuilders in Florida and elsewhere. When we find these issues, we repair them in accordance with our warranty obligations. Defective products widely used in the homebuilding industry can result in the need to perform extensive repairs to large numbers of homes. The cost of complying with our warranty obligations in these cases may be significant if we are unable to recover the cost of repair from subcontractors, materials suppliers and insurers.

***Natural disasters and severe weather conditions could delay deliveries, increase costs and decrease demand for homes in affected areas.***

Several of our markets, specifically our operations in Florida, North Carolina, Washington, D.C. and Texas, are situated in geographical areas that are regularly impacted by severe storms, including hurricanes, flooding and tornadoes. In addition, our operations in the Midwest can be impacted by severe storms, including tornados. The occurrence of these or other natural disasters can cause delays in the completion of, or increase the cost of, developing one or more of our communities, and as a result could materially and adversely impact our results of operations.

***We are subject to extensive government regulations, which could restrict our homebuilding or financial services business and cause us to incur significant expense.***

The homebuilding industry is subject to numerous and increasing local, state and federal statutes, ordinances, rules and regulations concerning zoning, resource protection, building design and construction, and similar matters. This includes local regulations that impose restrictive zoning and density requirements in order to limit the number of homes that can eventually be built within the

boundaries of a particular location. Such regulation also affects construction activities, including construction materials that must be used in certain aspects of building design, as well as sales activities and other dealings with homebuyers. We must also obtain licenses, permits and approvals from various governmental agencies for our development activities, the granting of which are beyond our control. Furthermore, increasingly stringent requirements may be imposed on homebuilders and developers in the future. Although we cannot predict the impact on us to comply with any such requirements, such requirements could result in time-consuming and expensive compliance programs. In addition, we have been, and in the future may be, subject to periodic delays or may be precluded from developing certain projects due to building moratoriums. These moratoriums generally relate to insufficient water supplies or sewage facilities, delays in utility hookups or inadequate road capacity within the specific market area or subdivision. These moratoriums can occur prior or subsequent to commencement of our operations, without notice or recourse.

We are also subject to a variety of local, state and federal statutes, ordinances, rules and regulations concerning consumer protection matters and the protection of health and the environment. These statutes, ordinances, rules and regulations, and any failure to comply therewith, could give rise to additional liabilities or expenditures and have an adverse effect on our results of operations, financial condition or business. The particular consumer protection matters regulate the marketing, sales, construction, closing and financing of our homes. The particular environmental laws that apply to any given project vary greatly according to the project site and the present and former uses of the property. These environmental laws may result in delays, cause us to incur substantial compliance costs (including substantial expenditures for pollution and water quality control), and prohibit or severely restrict development in certain environmentally sensitive regions.

In addition to the laws and regulations that relate to our homebuilding operations, M/I Financial is subject to a variety of laws and regulations concerning the underwriting, servicing and sale of mortgage loans, as well as anti-money laundering compliance obligations applicable to non-bank residential mortgage lenders.

***New government regulations may make it more difficult for potential purchasers to finance home purchases and may reduce the number of mortgage loans our Financial Services segment makes.***

In January 2013, the CFPB issued a final rule, effective January 10, 2014, to implement laws requiring mortgage lenders to consider the ability of consumers to repay home loans before extending them credit and imposing minimum qualifications for mortgage borrowers. Also in January 2013, the CFPB sought comments on related proposed rules that could modify the rules for certain narrowly-defined categories of lending programs. These regulations could make it more difficult for some potential buyers to finance home purchases and could result in our financial services segment originating fewer mortgages, which, in turn, could have an adverse effect on our future revenues and earnings.

***Information technology failures and data security breaches could harm our business.***

We use information technology, digital communications and other computer resources to carry out important operational and marketing activities and to maintain our business records. Many of these resources are provided to us and/or maintained on our behalf by third-party service providers pursuant to agreements that specify to varying degrees certain security and service level standards. Although we and our service providers employ what we believe are adequate security and other preventative and corrective measures, our ability to conduct our business may be impaired if these resources, including our website, are compromised, degraded, damaged or fail, whether due to a virus or other harmful circumstance, intentional penetration or disruption of our information technology resources by a third party, natural disaster, hardware or software corruption or failure or error (including a failure of security controls incorporated into or applied to such hardware or software), telecommunications system failure, service provider error or failure or intentional or unintentional personnel actions (including the failure to follow our security protocols). A significant and extended disruption in the functioning of these resources, including our website, could damage our reputation and cause us to lose customers, sales and revenue, result in the unintended and/or unauthorized public disclosure or the misappropriation of proprietary, personal identifying and confidential information (including information about our homebuyers and business partners), and require us to incur significant expense to address and remediate or otherwise resolve these kinds of issues. The release of confidential information may also lead to litigation or other proceedings against us by affected individuals and/or business partners and/or by regulators, and the outcome of such proceedings, which could include penalties or fines, could have a material and adverse effect on our consolidated financial statements. In addition, the costs of maintaining adequate protection against such threats, depending on their evolution, pervasiveness and frequency and/or government-mandated standards or obligations regarding protective efforts, could be material to our consolidated financial statements in a particular period or over various periods.

***We are dependent on the services of certain key employees, and the loss of their services could hurt our business.***

Our future success depends, in part, on our ability to attract, train and retain skilled personnel. If we are unable to retain our key employees or attract, train and retain other skilled personnel in the future, this could materially and adversely impact our operations and result in additional expenses for identifying and training new personnel.

## **Item 1B. UNRESOLVED STAFF COMMENTS**

None.

## **Item 2. PROPERTIES**

We own and operate an approximately 85,000 square foot office building for our home office in Columbus, Ohio and lease all of our other offices.

Due to the nature of our business, a substantial amount of property is held as inventory in the ordinary course of business. See “Item 1. BUSINESS – Land Acquisition and Development” and “Item 1. BUSINESS – Backlog.”

## **Item 3. LEGAL PROCEEDINGS**

On March 5, 2009, a resident of Florida and an owner of one of our homes filed a complaint in the United States District Court for the Southern District of Ohio, on behalf of himself and other similarly situated owners and residents of homes in the United States or alternatively in Florida, against the Company and certain other identified and unidentified parties (the “Initial Action”). The plaintiff alleged that the Company built his home with defective drywall, manufactured and supplied by certain of the defendants, that contains sulfur or other organic compounds capable of harming the health of individuals and damaging property. The plaintiff alleged physical and economic damages and sought legal and equitable relief, medical monitoring and attorney's fees. The Company filed a responsive pleading on or about April 30, 2009. The Initial Action was consolidated with other similar actions not involving the Company and transferred to the Eastern District of Louisiana pursuant to an order from the United States Judicial Panel on Multidistrict Litigation for coordinated pre-trial proceedings (collectively, the “In Re: Chinese Manufactured Drywall Product Liability Litigation”). In connection with the administration of the In Re: Chinese Manufactured Drywall Product Liability Litigation, the same homeowner and nine other homeowners were named as plaintiffs in omnibus class action complaints filed in and after December 2009 against certain identified manufacturers of drywall and others (including the Company), including one homeowner named as a plaintiff in an omnibus class action complaint filed in March 2010 against various unidentified manufacturers of drywall and others (including the Company) (collectively, the “MDL Omnibus Actions”). As they relate to the Company, the Initial Action and the MDL Omnibus Actions address substantially the same claims and seek substantially the same relief. The Company has entered into agreements with several of the homeowners named as plaintiffs pursuant to which the Company agreed to make repairs to their homes consistent with repairs made to the homes of other homeowners. As a result of these agreements, the Initial Action has been resolved and dismissed, and seven of the nine other homeowners named as plaintiffs in omnibus class action complaints have dismissed their claims against the Company. One of the two remaining plaintiffs has also filed a complaint in Florida state court asserting essentially the same claims and seeking substantially the same relief as asserted in the MDL Omnibus Action. The court in the MDL Omnibus Action recently entered an order and judgment certifying various settlement classes and granting final approval of various class settlements, including a global class action settlement, which is intended to resolve all Chinese drywall-related claims of and against those who participate in the settlement. The Company will participate in the global settlement. The Company intends to vigorously defend against the claims of any plaintiffs who are not bound by or elect to opt out of the global class action settlement. Given the inherent uncertainties in this litigation, there can be no assurance that the ultimate resolution of the MDL Omnibus Actions, or any other actions or claims relating to defective drywall that may be asserted in the future, will not have a material adverse effect on our results of operations, financial condition, and cash flows.

The Company and certain of its subsidiaries have been named as defendants in other claims, complaints and legal actions which are routine and incidental to our business. Certain of the liabilities resulting from these other matters are covered by insurance. While management currently believes that the ultimate resolution of these other matters, individually and in the aggregate, will not have a material effect on the Company's financial position, results of operations and cash flows, such matters are subject to inherent uncertainties. The Company has recorded a liability to provide for the anticipated costs, including legal defense costs, associated with the resolution of these other matters. However, there exists the possibility that the costs to resolve these other matters could differ from the recorded estimates and, therefore, have a material effect on the Company's net income for the periods in which the matters are resolved.

## **Item 4. MINE SAFETY DISCLOSURES.**

None.

## PART II

### Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED SHAREHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

#### Market for Common Shares and Dividends

The Company's common shares are traded on the New York Stock Exchange under the symbol "MHO." As of February 21, 2013, there were approximately 405 record holders of the Company's common shares. At that date, there were 24,631,723 common shares issued and 21,687,253 common shares outstanding.

The table below presents the high and low sales prices of the Company's common shares during each of the quarters presented:

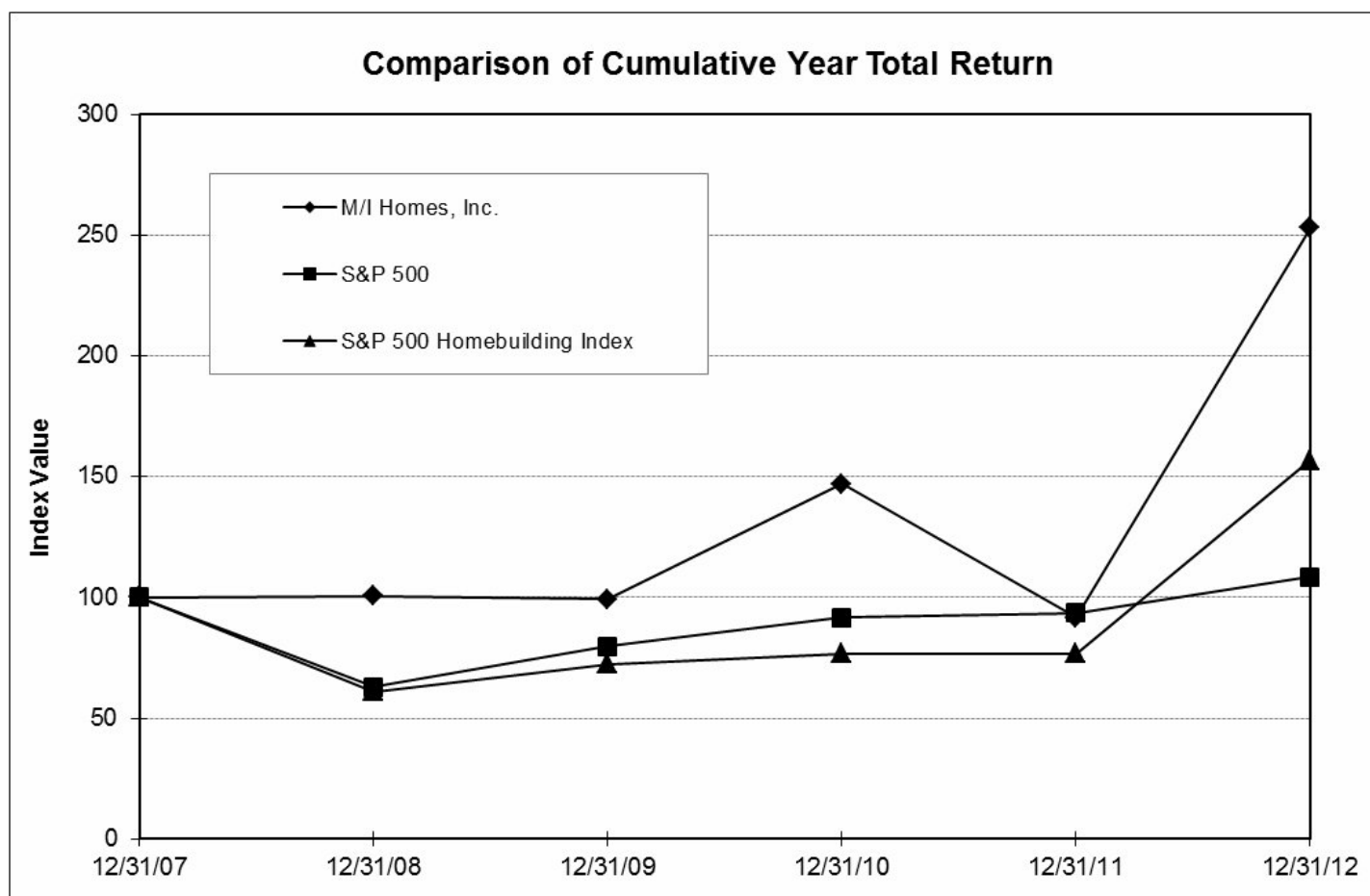
<b>2012</b>	<b>HIGH</b>	<b>LOW</b>
First quarter	\$ 13.99	\$ 9.20
Second quarter	17.54	11.26
Third quarter	21.98	15.81
Fourth quarter	26.76	19.21
<hr/>		
<b>2011</b>		
First quarter	\$ 17.50	\$ 12.58
Second quarter	15.12	11.03
Third quarter	13.06	5.88
Fourth quarter	10.45	5.08

The indenture governing our 2018 Senior Notes limits our ability to pay dividends on, and repurchase, our common shares and our 9.75% Series A Preferred Shares (the "Series A Preferred Shares") to the amount of the positive balance in our "restricted payments basket," as defined in the indenture. Prior to the repayment of the remaining outstanding balance of our 6.875% Senior Notes due 2012 (the "2012 Senior Notes") during the second quarter of 2012, the indenture for the 2012 Senior Notes contained a similar restriction. Additionally, the terms of our outstanding Series A Preferred Shares prevent us from paying cash dividends on our common shares unless we have paid cash dividends on our Series A Preferred Shares for the then-current quarterly dividend period. We were prohibited from paying dividends on, and repurchasing, our common shares and Series A Preferred Shares from the third quarter of 2008 until the completion of our offering of common shares in September 2012 as a result of deficits in our restricted payments baskets under the 2012 Senior Notes, the 2018 Senior Notes, or both. The restricted payments basket became positive with the completion of our offering of common shares in September 2012 and, as a result of that offering and our net income in 2012, was \$39.4 million at December 31, 2012. As a result, we are permitted to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the extent of such positive balance in our restricted payments basket. Any future payment of cash dividends on, or repurchases of, our common shares and Series A Preferred Shares will depend upon our results of operations, financial condition, capital requirements and compliance with debt covenants and the terms of our Series A Preferred Shares, as well as other factors considered relevant by our board of directors.

There were no cash dividends declared or paid to common or preferred shareholders in 2012 or 2011. Our board of directors has determined that we will pay the quarterly dividend on our Series A Preferred Shares for the second quarter of 2013. Such dividend will be payable on June 15, 2013 to holders of record of such shares on June 1, 2013.

## Performance Graph

The following graph illustrates the Company's performance in the form of cumulative total return to holders of our common shares for the last five calendar years through December 31, 2012, assuming a hypothetical investment of \$100 and reinvestment of all dividends paid on such investment, compared to the cumulative total return of the same hypothetical investment in both the Standard and Poor's 500 Stock Index and the Standard & Poor's 500 Homebuilding Index.



<i>Index</i>	<i>Period Ending</i>					
	12/31/2007	12/31/2008	12/31/2009	12/31/2010	12/31/2011	12/31/2012
M/I Homes, Inc.	\$ 100.00	\$ 100.69	\$ 99.25	\$ 146.92	\$ 91.71	\$ 253.15
S&P 500	100.00	63.00	79.68	91.68	93.61	108.59
S&P 500 Homebuilding Index	100.00	61.09	72.28	76.67	76.70	156.76

## Share Repurchases

During the quarter ended December 31, 2012, the Company did not repurchase any shares. As discussed above, after the completion of our offering of common shares in 2012 as well as our profitable operations during 2012, the restricted payments basket under the indenture governing our 2018 Senior Notes had a positive balance of \$39.4 million at December 31, 2012. See "Market for Common Shares and Dividends" above for more information regarding our ability to repurchase our shares.



## ITEM 6. SELECTED FINANCIAL DATA (a)

The following table sets forth our selected consolidated financial data as of the dates and for the periods indicated. This table should be read together with “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our Consolidated Financial Statements, including the Notes thereto, appearing elsewhere in this Annual Report on Form 10-K.

(In thousands, except per share amounts)	2012	2011	2010	2009	2008
<b>Income Statement (Year Ended December 31):</b>					
Revenue	\$ 761,905	\$ 566,424	\$ 616,377	\$ 569,949	\$ 607,659
Gross margin (b) (c)	\$ 147,863	\$ 77,301	\$ 92,431	\$ 19,539	\$ (77,805)
Net income (loss) (a) (b) (c) (d)	\$ 13,347	\$ (33,877)	\$ (26,269)	\$ (62,109)	\$ (245,448)
Preferred dividends	\$ —	\$ —	\$ —	\$ —	\$ 4,875
Net income (loss) to common shareholders (b) (c) (d)	\$ 13,347	\$ (33,877)	\$ (26,269)	\$ (62,109)	\$ (250,323)
Earnings (loss) per share to common shareholders:					
Basic: (a) (b) (c) (d)	\$ 0.68	\$ (1.81)	\$ (1.42)	\$ (3.71)	\$ (17.86)
Diluted: (a) (b) (c) (d)	\$ 0.67	\$ (1.81)	\$ (1.42)	\$ (3.71)	\$ (17.86)
Weighted average shares outstanding:					
Basic	19,651	18,698	18,523	16,730	14,016
Diluted	19,891	18,698	18,523	16,730	14,016
Dividends per common share	\$ —	\$ —	\$ —	\$ —	\$ 0.05
<b>Balance Sheet (December 31):</b>					
Inventory	\$ 556,817	\$ 466,772	\$ 450,936	\$ 420,289	\$ 516,029
Total assets (d)	\$ 831,300	\$ 664,485	\$ 661,894	\$ 663,828	\$ 693,288
Note payable bank – financial services operations	\$ 67,957	\$ 52,606	\$ 32,197	\$ 24,142	\$ 35,078
Note payable - other	\$ 11,105	\$ 5,801	\$ 5,853	\$ 6,160	\$ 16,300
Convertible senior subordinated notes	\$ 57,500	\$ —	\$ —	\$ —	\$ —
Senior Notes – net of discount	\$ 227,670	\$ 239,016	\$ 238,610	\$ 199,424	\$ 199,168
Shareholders’ equity (b) (c) (d)	\$ 335,428	\$ 273,350	\$ 303,491	\$ 326,763	\$ 333,061

- (a) In December 2007, we sold substantially all of our assets in our West Palm Beach, Florida market and announced our exit from this market. 2008 results include a net loss of \$33,000 from our discontinued operations.
- (b) 2012, 2011, 2010, 2009, and 2008 include the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs, reducing gross margin by \$3.5 million, \$22.0 million, \$12.5 million, \$55.4 million, and \$153.3 million, respectively. Those charges, along with the write-off of land deposits, intangibles and pre-acquisition costs, decreased net income from continuing operations in 2012 by \$2.3 million and increased net loss from continuing operations in 2011, 2010, 2009 and 2008 by \$14.2 million, \$8.2 million, \$35.4 million, and \$98.3 million, respectively. Income per diluted share for 2012 decreased by \$0.12 and loss per diluted share for 2011, 2010, 2009, and 2008 increased by \$0.76, \$0.44, \$1.31, and \$7.00, respectively.
- (c) 2012, 2010 and 2009 include the impact of settlements and charges related to the repair of certain homes in Florida where certain of our subcontractors had purchased defective drywall that may be responsible for accelerated corrosion of certain metals in the home, which decreased net income from continuing operations by \$1.9 million, or \$0.09 per share, in 2012, decreased net loss from continuing operations by \$1.1 million, or \$0.06 per share, in 2010, and increased net loss from continuing operations by \$7.5 million, or \$0.46 per share, in 2009.
- (d) 2012 net income and 2011, 2010, 2009 and 2008 net loss also reflects a \$(5.1) million, \$12.9 million, \$10.8 million, \$8.2 million and \$108.9 million valuation allowance for deferred tax assets, respectively, or \$(0.25), \$0.35, \$0.58, \$0.73 and \$7.75 per share, respectively.

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

### OVERVIEW

M/I Homes, Inc. (the "Company" or "we") is one of the nation's leading builders of single-family homes, having delivered over 83,000 homes since we commenced homebuilding activities in 1976. The Company's homes are marketed and sold under the M/I Homes, Showcase Homes and Triumph Homes trade names. The Company has homebuilding operations in Columbus and Cincinnati, Ohio; Indianapolis, Indiana; Chicago, Illinois; Tampa and Orlando, Florida; Austin, Houston and San Antonio, Texas; Charlotte and Raleigh, North Carolina; and the Virginia and Maryland suburbs of Washington, D.C.

Included in this Management's Discussion and Analysis of Financial Condition and Results of Operations are the following topics relevant to the Company's performance and financial condition:

- Information Relating to Forward-Looking Statements;
- Our Application of Critical Accounting Estimates and Policies;
- Our Results of Operations;
- Discussion of Our Liquidity and Capital Resources;
- Summary of Our Contractual Obligations;
- Discussion of Our Utilization of Off-Balance Sheet Arrangements; and
- Impact of Interest Rates and Inflation.

### FORWARD-LOOKING STATEMENTS

Certain information included in this report or in other materials we have filed or will file with the Securities and Exchange Commission (the "SEC") (as well as information included in oral statements or other written statements made or to be made by us) contains or may contain forward-looking statements, including, but not limited to, statements regarding our future financial performance and financial condition. Words such as "expects," "anticipates," "targets," "goals," "projects," "intends," "plans," "believes," "seeks," "estimates," variations of such words and similar expressions are intended to identify such forward-looking statements. These statements involve a number of risks and uncertainties. Any forward-looking statements that we make herein and in future reports and statements are not guarantees of future performance, and actual results may differ materially from those in such forward-looking statements as a result of various risk factors. Please see "Item 1A. Risk Factors" in Part I of this Annual Report on Form 10-K for more information regarding those risk factors.

Any forward-looking statement speaks only as of the date made. Except as required by applicable law, we undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise. However, any further disclosures made on related subjects in our subsequent reports on Forms 10-K, 10-Q and 8-K should be consulted. This discussion is provided as permitted by the Private Securities Litigation Reform Act of 1995, and all of our forward-looking statements are expressly qualified in their entirety by the cautionary statements contained or referenced in this section.

### APPLICATION OF CRITICAL ACCOUNTING ESTIMATES AND POLICIES

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Management bases its estimates and judgments on historical experience and on various other factors that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. On an ongoing basis, management evaluates such estimates and judgments and makes adjustments as deemed necessary. Actual results could differ from these estimates using different estimates and assumptions, or if conditions are significantly different in the future.

**Revenue Recognition.** Revenue from the sale of a home is recognized when the closing has occurred, title has passed, the risks and rewards of ownership are transferred to the buyer, and an adequate initial and continuing investment by the homebuyer is received, or when the loan has been sold to a third-party investor. Revenue for homes that close to the buyer having a deposit of 5% or greater, home closings financed by third parties, and all home closings insured under Federal Housing Administration ("FHA"), U.S. Veterans Administration ("VA") and other government-insured programs are recorded in the financial statements on the date of closing.

Revenue related to all other home closings initially funded by our 100%-owned subsidiary, M/I Financial Corp. ("M/I Financial"), is recorded on the date that M/I Financial sells the loan to a third-party investor, because the receivable from the third-party investor is not

subject to future subordination, and the Company has transferred to this investor the usual risks and rewards of ownership that is in substance a sale and does not have a substantial continuing involvement with the home.

All associated homebuilding costs are charged to cost of sales in the period when the revenues from home closings are recognized. Homebuilding costs include: land and land development costs; home construction costs (including an estimate of the costs to complete construction); previously capitalized interest; real estate taxes; indirect costs; and estimated warranty costs. All other costs are expensed as incurred. Sales incentives, including pricing discounts and financing costs paid by the Company, are recorded as a reduction of revenue in the Company's Consolidated Statements of Operations. Sales incentives in the form of options or upgrades are recorded in homebuilding costs.

We recognize the majority of the revenue associated with our mortgage loan operations when the mortgage loans and/or related servicing rights are sold to third party investors. The revenue recognized is reduced by the fair value of the related guarantee provided to the investor. The fair value of the guarantee is recognized in revenue when the Company is released from its obligation under the guarantee. We recognize financial services revenue associated with our title operations as homes are closed, closing services are rendered, and title policies are issued, all of which generally occur simultaneously as each home is closed. All of the underwriting risk associated with title insurance policies is transferred to third-party insurers.

**Inventory.** Inventory is recorded at cost, unless events and circumstances indicate that the carrying value of the land is impaired, at which point the inventory is written down to fair value as required by Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 360-10, Property, Plant and Equipment. Inventory includes the costs of land acquisition, land development and home construction, capitalized interest, real estate taxes, direct overhead costs incurred during development and home construction, and common costs that benefit the entire community, less impairments, if any. Land acquisition, land development and common costs (both incurred and estimated to be incurred) are typically allocated to individual lots based on the total number of lots expected to be closed in each community or phase or the relative sales value of each lot. Any changes to the estimated total development costs of a community or phase are allocated proportionately to the homes remaining in the community or phase and homes previously closed. The cost of individual lots is transferred to homes under construction when home construction begins. Home construction costs are accumulated on a specific identification basis. Costs of home closings include the specific construction cost of the home and the allocated lot costs. Such costs are charged to cost of sales simultaneously with revenue recognition, as discussed above. When a home is closed, we typically have not yet paid all incurred costs necessary to complete the home. As homes close, we compare the home construction budget to actual recorded costs to date to estimate the additional costs to be incurred from our subcontractors related to the home. We record a liability and a corresponding charge to cost of sales for the amount we estimate will ultimately be paid related to that home. We monitor the accuracy of such estimates by comparing actual costs incurred in subsequent months to the estimate. Although actual costs to complete a home in the future could differ from our estimates, our method has historically produced consistently accurate estimates of actual costs to complete closed homes.

The Company assesses inventory for recoverability on a quarterly basis if events or changes in local or national economic conditions indicate that the carrying amount of an asset may not be recoverable. In conducting our quarterly review for indicators of impairment on a community level, we evaluate, among other things, margins on sales contracts in backlog, the margins on homes that have been delivered, expected changes in margins with regard to future home sales over the life of the community, expected changes in margins with regard to future land sales, the value of the land itself as well as any results from third-party appraisals. From the review of all of these factors, we identify communities whose carrying values may exceed their estimated undiscounted future cash flows and run a test for recoverability. For those communities whose carrying values exceed the estimated undiscounted future cash flows and which are deemed to be impaired, the impairment recognized is measured by the amount by which the carrying amount of the communities exceeds the estimated fair value. Due to the fact that the Company's cash flow models and estimates of fair values are based upon management estimates and assumptions, unexpected changes in market conditions and/or changes in management's intentions with respect to the inventory may lead the Company to incur additional impairment charges in the future.

For all of the categories listed below, the key assumptions relating to the valuations are dependent on project-specific local market and/or community conditions and are inherently uncertain. Because each inventory asset is unique, there are numerous inputs and assumptions used in our valuation techniques. Market factors that may impact these assumptions include:

- historical project results such as average sales price and sales pace, if closings have occurred in the project;
- competitors' market and/or community presence and their competitive actions;
- project specific attributes such as location desirability and uniqueness of product offering;
- potential for alternative product offerings to respond to local market conditions; and
- current economic and demographic conditions and related trends and forecasts.

These and other market factors that may impact project assumptions are considered by personnel in our homebuilding divisions as they prepare or update the forecasts for each community. Quantitative and qualitative factors other than home sales prices could significantly impact the potential for future impairments. The sales objectives can differ between communities, even within a given sub-market. For

example, facts and circumstances in a given community may lead us to price our homes with the objective of yielding a higher sales absorption pace, while facts and circumstances in another community may lead us to price our homes to minimize deterioration in our gross margins, although it may result in a slower sales absorption pace. Furthermore, the key assumptions included in our estimated future undiscounted cash flows may be interrelated. For example, a decrease in estimated base sales price or an increase in home sales incentives may result in a corresponding increase in sales absorption pace or a reduction in base house costs. Changes in our key assumptions, including estimated average selling price, construction and development costs, absorption pace, selling strategies, or discount rates, could materially impact future cash flow and fair value estimates.

As of December 31, 2012, our projections generally assume a gradual improvement in market conditions. If communities are not recoverable based on estimated future undiscounted cash flows, the impairment to be recognized is measured as the amount by which the carrying amount of the assets exceeds the estimated fair value of the assets. The fair value of a community is estimated by discounting management's cash flow projections using an appropriate risk-adjusted interest rate. As of December 31, 2012, we utilized discount rates ranging from 13% to 16% in our valuations. The discount rate used in determining each asset's estimated fair value reflects the inherent risks associated with the related estimated cash flow stream, as well as current risk-free rates available in the market and estimated market risk premiums. For example, construction in progress inventory, which is closer to completion, will generally require a lower discount rate than land under development in communities consisting of multiple phases spanning several years of development.

*Operating Communities.* If an indicator for impairment exists for existing operating communities, the recoverability of assets is evaluated by comparing the carrying amount of the assets to estimated future undiscounted net cash flows expected to be generated by the assets based on home sales. These estimated cash flows are developed based primarily on management's assumptions relating to the specific community. The significant assumptions used to evaluate the recoverability of assets include: the timing of development and/or marketing phases; projected sales price and sales pace of each existing or planned community; the estimated land development, home construction, and selling costs of the community; overall market supply and demand; the local market; and competitive conditions. Management reviews these assumptions on a quarterly basis. While we consider available information to determine what we believe to be our best estimates as of the end of a reporting period, these estimates are subject to change in future reporting periods as facts and circumstances change. We believe the most critical assumptions in the Company's cash flow models are projected absorption pace for home sales, sales prices, and costs to build and deliver homes on a community by community basis.

In order to estimate the assumed absorption pace for home sales included in the Company's cash flow models, the Company analyzes the historical absorption pace in the community as well as other communities in the geographic area. In addition, the Company considers internal and external market studies and trends, which may include, but are not limited to, statistics on population demographics, unemployment rates, foreclosure sales, and availability of competing products in the geographic area where a community is located. When analyzing the Company's historical absorption pace for home sales and corresponding internal and external market studies, the Company places greater emphasis on more current metrics and trends such as the absorption pace realized in its most recent quarters and management's most current assessment of sales pace.

In order to estimate the sales prices included in its cash flow models, the Company considers the historical sales prices realized on homes it delivered in the community and other communities in the geographic area, as well as the sales prices included in its current backlog for such communities. In addition, the Company considers internal and external market studies and trends, which may include, but are not limited to, statistics on sales prices in neighboring communities, which include the impact of short sales, if any, and sales prices on similar products in non-neighboring communities in the geographic area where the community is located. When analyzing its historical sales prices and corresponding market studies, the Company places greater emphasis on more current metrics and trends such as the sales prices realized in its most recent quarters and the sales prices in current backlog. Based upon this analysis, the Company sets a sales price for each house type in the community which it believes will achieve an acceptable gross margin and sales pace in the community. This price becomes the price published to the sales force for use in its sales efforts. The Company then considers the average of these published sales prices when estimating the future sales prices in its cash flow models.

In order to arrive at the Company's assumed costs to build and deliver homes, the Company generally assumes a cost structure reflecting contracts currently in place with its vendors and subcontractors, adjusted for any anticipated cost reduction initiatives or increases in cost structure. With respect to overhead included in the cash flow models, the Company uses forecasted rates included in the Company's annual budget adjusted for actual experience.

*Future communities.* If an indicator of impairment exists for raw land, land under development, or lots that management anticipates will be utilized for future homebuilding activities, the recoverability of assets is evaluated by comparing the carrying amount of the assets to the estimated future undiscounted cash flows expected to be generated by the assets based on home sales, consistent with the evaluations performed for operating communities discussed above.

For raw land, land under development, or lots that management intends to market for sale to a third party, but that do not meet all of the criteria to be classified as land held for sale as discussed below, the estimated fair value of the assets is determined based on either the

estimated net sales proceeds expected to be realized on the sale of the assets or the estimated fair value determined using cash flow valuation techniques.

If the Company has not yet determined whether raw land, land under development, or lots will be utilized for future homebuilding activities or marketed for sale to a third party, the Company assesses the recoverability of the inventory using a probability-weighted approach.

**Land held for sale.** Land held for sale includes land that meets all of the following six criteria: (1) management, having the authority to approve the action, commits to a plan to sell the asset; (2) the asset is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of such assets; (3) an active program to locate a buyer and other actions required to complete the plan to sell the asset have been initiated; (4) the sale of the asset is probable, and transfer of the asset is expected to qualify for recognition as a completed sale, within one year; (5) the asset is being actively marketed for sale at a price that is reasonable in relation to its current fair value; and (6) actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The Company records land held for sale at the lower of its carrying value or estimated fair value less costs to sell. In performing the impairment evaluation for land held for sale, management considers, among other things, prices for land in recent comparable sales transactions, market analysis and recent bona fide offers received from outside third parties, as well as actual contracts. If the estimated fair value less the costs to sell an asset is less than the asset's current carrying value, the asset is written down to its estimated fair value less costs to sell.

Our quarterly assessments reflect management's best estimates. Due to the inherent uncertainties in management's estimates and uncertainties related to our operations and our industry as a whole as further discussed in "Item 1A. Risk Factors" in Part I of this Annual Report on Form 10-K, we are unable to determine at this time if and to what extent continuing future impairments will occur. Additionally, due to the volume of possible outcomes that can be generated from changes in the various model inputs for each community, we do not believe it is possible to create a sensitivity analysis that can provide meaningful information for the users of our financial statements.

**Variable Interest Entities.** In order to minimize our investment and risk of land exposure in a single location, we have periodically partnered with other land developers or homebuilders to share in the land investment and development of a property through joint ownership and development agreements, joint ventures, and other similar arrangements. For such joint venture arrangements where a special purpose entity is established to own the property, we enter into limited liability company arrangements ("LLCs") with the other partners to develop the land. The Company's ownership interest in these entities as of December 31, 2012 ranged from 33% to 50%. These entities typically engage in land development activities for the purpose of distributing or selling developed lots to the Company and its partners in the entity. With respect to our investments in these entities, we are required, under ASC 810-10, *Consolidation* ("ASC 810-10") to evaluate whether or not such entities should be consolidated into our financial statements. We initially perform these evaluations when each new entity is created and upon any events that require reconsideration of the entity. In order to determine if we should consolidate an LLC, we determine if the LLC is a Variable Interest Entity ("VIE") and if we are the primary beneficiary of the entity. Factors considered are whether we have the ability to control the activities of the VIE that most significantly impact its economic performance. Such activities include, but are not limited to: the ability to determine the budget and scope of land development work, if any; the ability to control financing decisions for the VIE; the ability to acquire additional land into the VIE or dispose of land in the VIE not under contract with M/I Homes; and the ability to change or amend the existing option contract with the VIE. If it is determined we are not able to control such activities, we are not considered the primary beneficiary of the VIE. If we have the ability to control such activities, we will continue our analysis by determining if we are also expected to benefit from or absorb a potentially significant amount of the VIE's expected gains or losses, respectively.

As of December 31, 2012, we have determined that one of the Unconsolidated LLCs in which we have an interest meets the requirements of a VIE due to a lack of equity at risk in the entity. All of our other entities had sufficient equity at risk to permit the entity to finance its activities without additional subordinated support from the equity investors. However, we have determined that we do not have substantive control over any of these entities, including our VIE. As a result, none of these entities are required to be consolidated into our financial statements and the entities are instead recorded in Investment in Unconsolidated Limited Liability Companies on our Consolidated Balance Sheets.

We enter into option or purchase agreements to acquire land or lots, for which we generally pay non-refundable deposits. We also analyze these agreements under ASC 810-10 to determine whether we are the primary beneficiary of the VIE, if applicable, using an analysis similar to that described above. If we are deemed to be the primary beneficiary of the VIE, we will consolidate the VIE in our consolidated financial statements. Please see the "Off-Balance Sheet Arrangements" section below and Note 1 of our Consolidated Financial Statements for additional information related to our off-balance-sheet arrangements. In cases where we are the primary beneficiary, even though we do not have title to such land, we are required to consolidate these purchase/option agreements and reflect such assets and liabilities as "Consolidated Inventory not Owned" in our Consolidated Balance Sheets.

**Guarantees and Indemnities.** Guarantee and indemnity liabilities are established by charging the applicable line item in our Consolidated Statements of Operations or our Consolidated Balance Sheets, depending on the nature of the guarantee or indemnity, and crediting a liability. M/I Financial provides a limited-life guarantee on loans sold to certain third parties and estimates its actual liability related to

the guarantee and any indemnities subsequently provided to the purchaser of the loans in lieu of loan repurchase based on historical loss experience. Actual future costs associated with loans guaranteed or indemnified could differ materially from our current estimated amounts. The Company has also provided certain other guarantees and indemnifications in connection with the purchase and development of land, including guarantees of the completion of land development. The Company estimates these liabilities based on the estimated cost of insurance coverage or estimated cost of acquiring a bond in the amount of the exposure. Actual future costs associated with these guarantees and indemnities could differ materially from our current estimated amounts. Refer to Note 8 of our Consolidated Financial Statements for additional details relating to our guarantees and indemnities.

**Warranty Reserves.** We use subcontractors for nearly all aspects of home construction. Although our subcontractors are generally required to repair and replace any product or labor defects, we are, during applicable warranty periods, ultimately responsible to the homeowner for making such repairs. As such, we record warranty reserves to cover our exposure to the costs for materials and labor not expected to be covered by our subcontractors to the extent they relate to warranty-type claims. Warranty reserves are established by charging cost of sales and crediting a warranty reserve for each home closed. The amounts charged are estimated by management to be adequate to cover expected warranty-related costs described above under the Company's warranty programs. Reserves are recorded for warranties under the following warranty programs:

- Home Builder's Limited Warranty ("HBLW"); and
- 30-year transferable structural warranty

The warranty reserves for HBLW are established as a percentage of average sales price and adjusted based on historical payment patterns determined, generally, by geographic area and recent trends. Factors that are given consideration in determining the HBLW reserves include: (1) the historical range of amounts paid per average sales price on a home; (2) type and mix of amenity packages added to the home; (3) any warranty expenditures not considered to be normal and recurring; (4) timing of payments; (5) improvements in quality of construction expected to impact future warranty expenditures; and (6) conditions that may affect certain projects and require a different percentage of average sales price for those specific projects. Changes in estimates for warranties occur due to changes in the historical payment experience and differences between the actual payment pattern experienced during the period and the historical payment pattern used in our evaluation of the warranty reserve balance at the end of each quarter. Actual future warranty costs could differ from our current estimated amount.

Our warranty reserves for our transferable structural warranty programs are established on a per-unit basis. While the structural warranty reserve is recorded as each house closes, the sufficiency of the structural warranty per unit charge and total reserve is re-evaluated on an annual basis, with the assistance of an actuary, using our own historical data and trends, as well as industry-wide historical data and trends, and other project specific factors. The reserves are also evaluated quarterly and adjusted if we encounter activity that is not consistent with the historical experience used in the annual analysis. These reserves are subject to variability due to uncertainties regarding structural defect claims for products we build, the markets in which we build, claim settlement history, insurance and legal interpretations, among other factors.

While we believe that our warranty reserves are sufficient to cover our projected costs, there can be no assurances that historical data and trends will accurately predict our actual warranty costs.

**Self-insurance reserves.** Self-insurance reserves are made for estimated liabilities associated with employee health care, workers' compensation, and general liability insurance. For 2012, our self-insurance limit for employee health care was \$250,000 per claim per year, with stop loss insurance covering amounts in excess of \$250,000. Our workers' compensation claims are insured by a third party and carry a deductible of \$250,000 per claim, except for claims made in the state of Ohio where the Company is self-insured. Our self-insurance limit for Ohio workers' compensation is \$500,000 per claim, with stop loss insurance covering all amounts in excess of this limit. The reserves related to employee health care and workers' compensation are based on historical experience and open case reserves. Our general liability claims are insured by a third party; the Company generally has a \$7.5 million completed operations/construction defect deductible per occurrence by division and a \$15.0 million deductible in the aggregate, with a \$250,000 deductible for all other types of claims. The Company records a general liability reserve for claims falling below the Company's deductible. The general liability reserve estimate is based on an actuarial evaluation of our past history of claims, other industry specific factors and specific event analysis. The Company recorded expenses totaling \$4.0 million, \$3.1 million and \$2.0 million, respectively, for all self-insured and general liability claims during 2012, 2011 and 2010. For the year ended December 31, 2010, this included \$0.6 million of charges related to defective drywall, as well as the \$2.4 million settlement received in the third quarter of 2010 related to defective drywall. Because of the high degree of judgment required in determining these estimated accrual amounts, actual future costs could differ from our current estimated amounts.

**Stock-Based Compensation.** We record stock-based compensation by recognizing compensation expense at an amount equal to the fair value of share-based awards granted under compensation arrangements. We calculate the fair value of stock options using the Black-Scholes option pricing model. Determining the fair value of share-based awards at the grant date requires judgment in developing assumptions, which involve a number of variables. These variables include, but are not limited to, the expected stock price volatility

over the term of the awards and the expected term of the awards. In addition, we also use judgment in estimating the number of share-based awards that are expected to be forfeited.

***Derivative Financial Instruments.*** To meet financing needs of our home-buying customers, M/I Financial is party to interest rate lock commitments (“IRLCs”), which are extended to customers who have applied for a mortgage loan and meet certain defined credit and underwriting criteria. These IRLCs are considered derivative financial instruments. M/I Financial manages interest rate risk related to its IRLCs and mortgage loans held for sale through the use of forward sales of mortgage-backed securities (“FMBSs”), the use of best-efforts whole loan delivery commitments, and the occasional purchase of options on FMBSs in accordance with Company policy. These FMBSs, options on FMBSs, and IRLCs covered by FMBSs are considered non-designated derivatives. In determining the fair value of IRLCs, M/I Financial considers the value of the resulting loan if sold in the secondary market. The fair value includes the price that the loan is expected to be sold for along with the value of servicing release premiums. Subsequent to inception, M/I Financial estimates an updated fair value, which is compared to the initial fair value. In addition, M/I Financial uses fallout estimates, which fluctuate based on the rate of the IRLC in relation to current rates. Gains or losses are recorded in financial services revenue. Certain IRLCs and mortgage loans held for sale are committed to third party investors through the use of best-efforts whole loan delivery commitments. The IRLCs and related best-efforts whole loan delivery commitments, which generally are highly effective from an economic standpoint, are considered non-designated derivatives and are accounted for at fair value, with gains or losses recorded in financial services revenue. Under the terms of these best-efforts whole loan delivery commitments covering mortgage loans held for sale, the specific committed mortgage loans held for sale are identified and matched to specific delivery commitments on a loan-by-loan basis. The delivery commitments and loans held for sale are recorded at fair value, with changes in fair value recorded in financial services revenue.

***Valuation of Deferred Tax Assets.*** We account for income taxes using the asset and liability method, which requires that deferred tax assets and liabilities be recognized based on future tax consequences of both temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply in the years in which the temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in earnings in the period when the changes are enacted.

In accordance with ASC 740-10, *Income Taxes*, we evaluate our deferred tax assets, including the benefit from NOLs, to determine if a valuation allowance is required. Companies must assess, using significant judgments, whether a valuation allowance should be established based on the consideration of all available evidence using a “more likely than not” standard with significant weight being given to evidence that can be objectively verified. This assessment considers, among other matters, the nature, frequency and severity of current and cumulative losses, forecasts of future profitability, the length of statutory carryforward periods, our experience with operating losses and our experience of utilizing tax credit carryforwards and tax planning alternatives. Based upon a review of all available evidence, we recorded a full valuation allowance against our deferred tax assets during 2008. We continue to maintain a full non-cash valuation allowance against the entire amount of our remaining net deferred tax assets at December 31, 2012 as we have determined that the weight of the negative evidence exceeds that of the positive evidence and it continues to be more likely than not that we will not be able to utilize all of our deferred tax assets and NOL carryovers.

At December 31, 2012 and 2011, we had a valuation allowance of \$135.7 million and \$140.8 million, respectively, against deferred tax assets which include the tax benefit from NOL carryovers. At December 31, 2012, the Company had federal net operating loss carryforwards of approximately \$82.3 million and federal credit carryforwards of \$4.2 million and \$16.0 million of state net operating loss carryforwards. Our future deferred tax asset realization depends on sufficient taxable income in the carryforward periods under existing tax laws. Our federal carryforward benefits will begin to expire in 2028. Our state net operating loss benefits began to expire in 2012, with \$9.0 million expiring between 2012 and 2027 and \$7.0 million expiring between 2028 and 2032.

We will continue to review on an ongoing basis all available evidence to determine if and when we expect to realize our deferred tax assets and NOL carryovers. Additionally, due to the considerable estimates utilized in establishing a valuation allowance and the potential for changes in facts and circumstances in future reporting periods, it is reasonably possible that we will be required to either increase or decrease our valuation allowance in future reporting periods.

## **RESULTS OF OPERATIONS**

The Company's segment information is presented on the basis that the chief operating decision makers use in evaluating segment performance. The Company's chief operating decision makers evaluate the Company's performance in various ways, including: (1) the results of our 12 individual homebuilding operating segments and the results of our financial services operations; (2) the results of our three homebuilding regions; and (3) our consolidated financial results. We have determined our reportable segments as follows: Midwest homebuilding, Southern homebuilding, Mid-Atlantic homebuilding and financial services operations. The homebuilding operating segments that are included within each reportable segment have similar operations and exhibit similar long-term economic characteristics. Our homebuilding operations include the acquisition and development of land, the sale and construction of single-family attached and detached homes, and the occasional sale of lots to third parties. The homebuilding operating segments that comprise each of our reportable segments are as follows:

<u>Midwest</u>	<u>Southern</u>	<u>Mid-Atlantic</u>
Columbus, Ohio	Tampa, Florida	Washington, D.C.
Cincinnati, Ohio	Orlando, Florida	Charlotte, North Carolina
Indianapolis, Indiana	Houston, Texas	Raleigh, North Carolina
Chicago, Illinois	San Antonio, Texas	
	Austin, Texas	

In April 2012, we expanded our Houston, Texas operations by acquiring the assets of a privately-held homebuilder.

In October 2012, we announced our entry into the Austin, Texas market. We expect to open our first community in our Austin market in 2013.

Our financial services operations include the origination and sale of mortgage loans and title services primarily for purchasers of the Company's homes.

### **Overview**

Throughout 2012, we and others in the homebuilding industry saw signs that the overall housing market is stabilizing and beginning to recover from the severe housing downturn that began in mid-2006. We are experiencing broad-based improvement across all of our regions, which we believe is being driven by the decline in national housing inventory levels and stabilization in our markets resulting from attractive housing affordability levels, moderate changes in buyer perceptions, increased demand for distressed properties, and historically low interest rates for residential consumer mortgage loans. This improvement is evident in our operating results for 2012 and our improved gross margins, operating margins and operating leverage statistics in 2012 compared to 2011 as more fully described below in our Summary of Company Results in 2012 and our Year Over Year Comparisons.

### **Summary of Company Results in 2012**

#### ***Summary of Financial Results***

We had net income of \$13.3 million, or \$0.67 per diluted share, for 2012, our highest net income since 2006, compared to a net loss of \$33.9 million in 2011, or a loss of \$1.81 per diluted share. Our income in 2012 included a \$3.0 million settlement the Company received in 2012 related to defective imported drywall, a \$2.2 million increase in land sale profit and a \$18.5 million decrease in impairment charges taken during 2012 compared to 2011. Other contributing factors are described below.

In 2012, total revenue was \$761.9 million, an increase of 35% from 2011. We earned \$728.8 million in revenue from homes delivered, \$9.9 million in revenue from land sales and \$23.3 million in revenue from our financial services operation. Revenue from homes delivered increased 32% driven primarily by the 487 additional homes delivered in 2012 compared to 2011 (a 21% increase) and by a 9% increase in the average sales price of homes delivered (\$22,000 per home delivered). Revenue from land sales increased \$8.8 million from 2011 due primarily to one large land sale in 2012. Revenue in our financial services segment increased 62% from \$14.4 million in 2011 primarily due to an increase in the number of loan originations and an increase in the average loan amount from \$213,000 in 2011 to \$228,000 in 2012. Also contributing to the increase in our financial services revenue was \$0.8 million in revenue in 2012 from retaining mortgage servicing rights and an increase in revenue from our refinance business when compared to 2011.

Total gross margin increased \$70.6 million in 2012 when compared to 2011. The increase was largely the result of a \$61.8 million improvement in our homebuilding operations with the remainder due to our financial services operations. With respect to our homebuilding operations, the improvement was primarily due to a decline in asset impairment charges described above and an \$43.3 million increase in housing gross margin when compared to 2011. The increase in housing gross margin resulted from the 9% increase



in the average sales price of homes delivered (\$22,000 per home delivered) and the 487 unit increase in homes delivered. The increased sales prices were driven primarily by continued performance in our new communities, the strategic shift in our geographic footprint, which resulted in more homes delivered in our better performing markets, a shift in the mix of homes delivered to higher priced and larger homes and improving market conditions, allowing for more pricing leverage in select locations and submarkets. The pricing and unit improvements were partially offset by higher construction costs related to both the mix of homes delivered as well as cost increases associated with improving housing industry market conditions and normal supply and demand dynamics. In 2012, we were able to pass a portion of the higher construction costs to our homebuyers in the form of higher sales prices and lower incentives and believe we will be able to continue to do so in 2013, if any.

Selling, general and administrative expense increases of \$22.8 million in 2012 offset, in part, our increase in gross margin discussed above. Selling expenses increased \$12.9 million to \$56.4 million from \$43.5 million in 2011 but declined as a percent of revenue to 7.4% in 2012 from 7.7% in 2011. Variable selling expense for sales commissions contributed \$8.5 million to the increase due to the increase in the number of homes delivered and the higher average sales price. The increase in selling expense was also attributable to the \$4.4 million increase in our sales office and model costs resulting from the increase in our number of communities, and a \$1.4 million non-recurring expense primarily related to our early exit from rental space in the Midwest. General and administrative costs increased \$9.9 million, from \$52.7 million in 2011 to \$62.6 million in 2012 but declined as a percent of revenue from 9.3% in 2011 to 8.2% in 2012. This increase was primarily due to an increase in share-based and variable compensation expense related to the improvement in our operating performance in 2012 versus 2011, an increase in our expense for mortgage loans indemnifications as a result of a settlement and expenses incurred in connection with our investments in our new Houston and Austin markets that were under-leveraged from a revenue perspective in 2012, which is typical of a new market. Overall, our selling, general and administrative expenses were 15.6% of revenue in 2012 compared to 17.0% in 2011. We expect to be able to continue to reduce our selling, general and administrative expenses as a percentage of revenue in 2013 as we open new communities and the housing market continues to improve.

Interest expense for the Company increased \$1.1 million, from \$15.0 million in 2011 to \$16.1 million in 2012. This increase was primarily the result of an increase in our weighted average borrowings from \$263.7 million in 2011 to \$291.8 million in 2012 partially offset, by a decline in our weighted average borrowing rate from 9.43% in 2011 to 8.83% in 2012 and higher capitalization of interest in 2012. The increase in weighted average borrowings was primarily the result of the increase in borrowings under the MIF Mortgage Warehousing Agreement as a result of an increase in the number of loan originations during 2012 along with the issuance of the additional \$30 million aggregate principal amount of 2018 Senior Notes in the second quarter of 2012 and the issuance of the \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes in the third quarter of 2012.

We reported an effective tax rate of (4.61)% in 2012 compared to 0.07% for 2011. The change in our effective tax rate for 2012 is related to a \$1.2 million benefit recorded during the first quarter of 2012 reflecting the favorable outcome of certain prior year tax positions. The effective rates are not reflective of our historical tax rate or our effective tax rate in future periods due to our full deferred tax asset valuation allowance.

### ***Summary of Operational Results***

In addition to the improving financial results noted above, our operational metrics also generally improved. We achieved a 27% increase in our new contracts, a 43% increase in the number of homes in our backlog, and a 56% increase in the overall sales value of our backlog in 2012 compared to 2011. Furthermore, we continue to invest in new communities (defined as communities opened after January 1, 2009) and markets that we believe are helping us in attaining improved profitability as housing markets improve and in enhancing our ability to establish market share and create a platform for future growth in our current markets. During 2012, we opened 46 new communities and closed 37 legacy communities. We are experiencing higher gross margins, over 460 basis points on average, in our new communities compared to our legacy communities. Of our homes delivered during 2012, 70% were in new communities, compared to 58% during 2011. We believe our homebuilding operations are continuing to improve and be our primary driver of profitability, fueled by our land acquisitions and increasing operating leverage due to higher absorption rates per community and overall deliveries.

## **Outlook**

Looking ahead, we believe that the homebuilding industry will continue to gradually improve. Given this expectation, and consistent with our focus on improving long-term returns, we will continue to emphasize the following strategic business objectives in 2013:

- profitably growing our presence in our existing markets;
- strategically investing in new markets;
- maintaining a strong balance sheet; and
- emphasizing customer service, product design, and premier locations.

With these objectives and improving market conditions in mind, we took a number of steps in 2012 to position the Company for continued improvement in 2013 and beyond, including expanding our presence in Texas by acquiring the assets of a privately held homebuilder in Houston and entering into, and purchasing our first community in, the Austin market. We also invested \$138.8 million in land acquisition and \$56.4 million in land development in 2012 to help grow our presence in our existing markets. We plan to spend approximately \$195 million on land purchases and approximately \$112 million on land development in 2013. We ended 2012 with over 14,200 lots under control, a 37% increase from our approximately 10,300 lots under control at the end of 2011. We also opened 46 new communities and closed 37 legacy communities in 2012, ending the year with a total of 131 communities. By the end of 2013, we expect to increase our community count by over 25% from our community count at the end of 2012. We also improved our liquidity in 2012 by raising \$99.6 million from our concurrent issuances in September 2012 of \$57.5 million aggregate principal amount of our 2017 Convertible Senior Subordinated Notes and 2.53 million of our common shares along with \$29.7 million from our issuance in May 2012 of an additional \$30 million of our 2018 Senior Notes. Additionally, we placed significant attention in 2012 on investing in our product designs by reintroducing our Showcase Collection, a product line that appeals to luxury homebuyers in upscale communities; focusing on training our sales personnel in connection with the launch of our "Get More" marketing program; and enhancing our models and design centers, including launching our StyleSmart design concepts, which we believe will aid in the marketing of our products and differentiate us from our competition.

In 2013, we plan to build upon the steps taken in 2012. We believe the actions taken in 2012 have helped, and the actions we plan to take in 2013 will help, position us, both operationally and financially, to build on the momentum generated from our return to profitability in 2012. Given the value in our year-end backlog and improving market conditions, we believe that our leverage and profitability will improve in 2013 when compared to 2012.

Despite our positive expectations, it is unclear whether our gross margin percentages will continue to improve as they have the past two years or whether our financial services operations will experience the same favorable operating results as in 2012. Going forward, we believe our ability to leverage our fixed costs, obtain land at projected rates of return, and our planned new communities provide our best opportunities to continue improving our gross margin percentages. Given the continued uncertainty in the macroeconomic environment, we can provide no assurance that the positive annual trends and/or sequential trends experienced in our financial and operating metrics in 2012 will continue into 2013.

The following table shows, by segment, revenue, operating income (loss) and interest expense for the years ended December 31, 2012, 2011 and 2010, as well as the Company's income (loss) before income taxes for such periods. The following table also shows, by segment, depreciation and amortization for December 31, 2012, 2011 and 2010:

(In thousands)	Years Ended		
	2012	2011	2010
<b>Revenue:</b>			
Midwest homebuilding	\$ 281,959	\$ 228,191	\$ 295,096
Southern homebuilding	189,714	123,061	89,896
Mid-Atlantic homebuilding	266,976	200,706	217,148
Financial services	23,256	14,466	14,237
<b>Total revenue</b>	<b>\$ 761,905</b>	<b>\$ 566,424</b>	<b>\$ 616,377</b>
<b>Operating income (loss):</b>			
Midwest homebuilding (a)	\$ 11,443	\$ (6,396)	\$ 3,294
Southern homebuilding (a)	14,530	(5,314)	(3,593)
Mid-Atlantic homebuilding (a)	15,130	7,039	7,004
Financial services	12,436	6,641	6,508
Less: Corporate selling, general and administrative expenses	(24,709)	(20,867)	(22,824)
<b>Total operating income (loss)</b>	<b>\$ 28,830</b>	<b>\$ (18,897)</b>	<b>\$ (9,611)</b>
<b>Interest expense:</b>			
Midwest homebuilding	\$ 5,502	\$ 6,154	\$ 3,689
Southern homebuilding	3,742	2,798	1,520
Mid-Atlantic homebuilding	5,406	5,099	3,262
Financial services	1,421	954	944
<b>Total interest expense</b>	<b>\$ 16,071</b>	<b>\$ 15,005</b>	<b>\$ 9,415</b>
Other loss (b)	—	—	(8,378)
<b>Income (loss) before income taxes</b>	<b>\$ 12,759</b>	<b>\$ (33,902)</b>	<b>\$ (27,404)</b>
<b>Depreciation and amortization:</b>			
Midwest homebuilding	\$ 2,834	\$ 1,179	\$ 1,036
Southern homebuilding	968	601	498
Mid-Atlantic homebuilding	975	844	763
Financial services	140	282	390
Corporate	4,825	4,668	2,507
<b>Total depreciation and amortization</b>	<b>\$ 9,742</b>	<b>\$ 7,574</b>	<b>\$ 5,194</b>

(a) In 2012, 2011 and 2010, the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs and the write-off of abandoned land transaction costs was \$3.8 million, \$23.0 million and \$13.2 million, respectively. These charges reduced operating income by \$3.5 million, \$13.9 million and \$3.9 million in the Midwest region, \$0.1 million, \$6.8 million and \$4.5 million in the Southern region, and \$0.1 million, \$2.3 million and \$4.8 million in the Mid-Atlantic region in 2012, 2011 and 2010, respectively.

(b) Other loss is comprised of the loss on the early extinguishment of debt in the fourth quarter of 2010.

The following tables show total assets by segment at December 31, 2012 and 2011:

At December 31, 2012					
(In thousands)	Midwest	Southern	Mid-Atlantic	Corporate, Financial Services and Unallocated	Total
Deposits on real estate under option or contract	\$ 1,462	\$ 4,612	\$ 2,653	\$ —	\$ 8,727
Inventory (a)	196,554	157,302	194,234	—	548,090
Investments in Unconsolidated LLCs	5,121	6,611	—	—	11,732
Other assets	4,421	8,436	7,759	242,135	262,751
<b>Total assets</b>	<b>\$ 207,558</b>	<b>\$ 176,961</b>	<b>\$ 204,646</b>	<b>\$ 242,135</b>	<b>\$ 831,300</b>

At December 31, 2011					
(In thousands)	Midwest	Southern	Mid-Atlantic	Corporate, Financial Services and Unallocated	Total
Deposits on real estate under option or contract	\$ 252	\$ 1,516	\$ 907	\$ —	\$ 2,675
Inventory (a)	200,760	89,586	173,751	—	464,097
Investments in Unconsolidated LLCs	5,157	5,200	—	—	10,357
Other assets	3,865	2,858	9,861	170,772	187,356
<b>Total assets</b>	<b>\$ 210,034</b>	<b>\$ 99,160</b>	<b>\$ 184,519</b>	<b>\$ 170,772</b>	<b>\$ 664,485</b>

- (a) Inventory includes single-family lots, land and land development costs; land held for sale; homes under construction; model homes and furnishings; community development district infrastructure; and consolidated inventory not owned.

## Reportable Segments

The following table presents, by reportable segment, selected financial information as of and for the years ended December 31, 2012, 2011 and 2010:

(Dollars in thousands)	Year Ended December 31,		
	2012	2011	2010
<b>Midwest Region</b>			
Homes delivered	1,113	991	1,296
New contracts, net	1,144	1,042	1,215
Backlog at end of period	418	387	336
Average sales price per home delivered	\$ 253	\$ 230	\$ 228
Average sales price of homes in backlog	\$ 270	\$ 259	\$ 247
Aggregate sales value of homes in backlog	\$ 112,890	\$ 100,096	\$ 83,061
Revenue homes delivered	\$ 281,334	\$ 228,191	\$ 295,096
Revenue third party land sales	\$ 625	\$ —	\$ —
Operating income (loss) homes (a)	\$ 11,508	\$ (6,396)	\$ 3,294
Operating (loss) third party land sales (a)	\$ (65)	\$ —	\$ —
Number of active communities	61	59	61
<b>Southern Region</b>			
Homes delivered	823	571	429
New contracts, net	966	607	461
Backlog at end of period	341	164	87
Average sales price per home delivered	\$ 230	\$ 214	\$ 209
Average sales price of homes in backlog	\$ 280	\$ 241	\$ 218
Aggregate sales value of homes in backlog	\$ 95,529	\$ 39,540	\$ 19,006
Revenue homes delivered	\$ 189,044	\$ 121,951	\$ 89,053
Revenue third party land sales	\$ 670	\$ 1,110	\$ 843
Operating income (loss) homes (a)	\$ 14,530	\$ (4,823)	\$ (3,014)
Operating income (loss) third party land sales (a)	\$ —	\$ (492)	\$ (579)
Number of active communities	37	28	19
<b>Mid-Atlantic Region</b>			
Homes delivered	829	716	709
New contracts, net	910	732	640
Backlog at end of period	206	125	109
Average sales price per home delivered	\$ 312	\$ 280	\$ 306
Average sales price of homes in backlog	\$ 360	\$ 328	\$ 304
Aggregate sales value of homes in backlog	\$ 74,121	\$ 41,019	\$ 33,179
Revenue homes delivered	\$ 258,393	\$ 200,706	\$ 216,583
Revenue third party land sales	\$ 8,582	\$ —	\$ 565
Operating income homes (a)	\$ 13,360	\$ 7,039	\$ 7,068
Operating income third party land sales (a)	\$ 1,770	\$ —	\$ (64)
Number of active communities	33	35	30
<b>Total Homebuilding Regions</b>			
Homes delivered	2,765	2,278	2,434
New contracts, net	3,020	2,381	2,316
Backlog at end of period	965	676	532
Average sales price per home delivered	\$ 264	\$ 242	\$ 247
Average sales price of homes in backlog	\$ 293	\$ 267	\$ 254
Aggregate sales value of homes in backlog	\$ 282,540	\$ 180,655	\$ 135,246
Revenue homes delivered	\$ 728,771	\$ 550,848	\$ 600,732
Revenue third party land sales	\$ 9,877	\$ 1,110	\$ 1,408
Operating income (loss) homes (a)	\$ 39,398	\$ (4,180)	\$ 7,348
Operating income (loss) third party land sales (a)	\$ 1,705	\$ (492)	\$ (643)
Number of active communities	131	122	110
<b>Financial Services</b>			
Number of loans originated	2,280	1,764	1,928
Value of loans originated	\$ 520,708	\$ 376,132	\$ 416,498
Revenue	\$ 23,256	\$ 14,466	\$ 14,237
Selling, general and administrative expenses	10,820	7,825	7,729
Interest expense	1,421	954	944
Income before income taxes	\$ 11,015	\$ 5,687	\$ 5,564

- (a) Amount shown includes impairment of inventory and investment in Unconsolidated LLCs and abandoned land transaction costs for the years ended December 31, 2012, 2011 and 2010 as follows:

(Dollars in thousands)	December 31,		
	2012	2011	2010
Midwest:			
Homes	\$ 3,443	\$ 13,898	\$ 3,863
Land	95	—	—
	<b>3,538</b>	13,898	3,863
Southern:			
Homes	110	6,202	3,947
Land	—	590	587
	<b>110</b>	6,792	4,534
Mid-Atlantic:			
Homes	110	2,277	4,673
Land	—	—	88
	<b>110</b>	2,277	4,761
Total			
Homes	3,663	22,377	12,483
Land	95	590	675
	<b>\$ 3,758</b>	\$ 22,967	\$ 13,158

A home is included in “new contracts” when our standard sales contract is executed. “Homes delivered” represents homes for which the closing of the sale has occurred. “Backlog” represents homes for which the standard sales contract has been executed, but which are not included in homes delivered because closings for these homes have not yet occurred as of the end of the period specified.

#### Cancellation Rates

The following table sets forth the cancellation rates for each of our homebuilding segments for the years ended December 31, 2012, 2011 and 2010:

	Year Ended December 31,		
	2012	2011	2010
Midwest	17.4%	22.1 %	24.2 %
Southern	20.0%	19.5 %	13.3 %
Mid-Atlantic	13.3%	15.2 %	15.0 %
Total cancellation rate	17.1%	19.4 %	19.8 %

The following table reconciles our adjusted operating gross margin and adjusted pre-tax income (loss) from operations (each of which constitutes a non-GAAP financial measure) for years ended December 31, 2012, 2011 and 2010 to the GAAP financial measures of gross margin and income (loss) from operations before income taxes, respectively:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Gross margin	\$ 147,863	\$ 77,301	\$ 92,431
Add:			
Impairment of inventory and investment in Unconsolidated LLCs	3,502	21,993	12,538
Imported drywall settlement	\$ (3,000)	\$ —	\$ (1,810)
Adjusted operating gross margin	\$ 148,365	\$ 99,294	\$ 103,159
Income (loss) from operations before income taxes	\$ 12,759	\$ (33,902)	\$ (27,404)
Add:			
Impairment of inventory and investment in Unconsolidated LLCs and abandoned land transaction costs	3,758	22,967	13,158
Imported drywall settlement	(3,000)	—	(1,810)
Other loss/expense (a)	—	—	8,378
Adjusted pre-tax income (loss) from operations	\$ 13,517	\$ (10,935)	\$ (7,678)

(a) Other loss is comprised of the loss on the early extinguishment of debt in the fourth quarter of 2010.

Adjusted operating gross margin and adjusted pre-tax income (loss) from operations are non-GAAP financial measures. Management found these measures to be useful in evaluating the Company's performance in 2011 and 2010 because they disclosed the financial results generated from homes the Company actually delivered during the period, as the asset impairments and certain other write-offs relate, in part, to inventory that was not delivered during the period and the impact on such GAAP measures in those years was material. We have presented non-GAAP financial measures for 2012 for comparative purposes; however, the impact on GAAP measures was less significant. In 2011 and 2010, they also assisted the Company's management in making strategic decisions regarding the Company's future operations. The Company believed investors found this information to be important and useful because they disclosed profitability measures that can be compared to a prior period without regard to the variability of asset impairments and certain other write-offs, that were material in amount. In addition, to the extent that the Company's competitors provided similar information, disclosure of these measures helped readers of the Company's financial statements compare the Company's profits in those years to the profits of its competitors with regard to the homes they deliver in the same period. Because these measures are not calculated in accordance with GAAP, they may not be completely comparable to similarly titled measures of the Company's competitors due to potential differences in methods of calculation and charges being excluded. Due to the significance of the GAAP components excluded, such measures should not be considered in isolation or as an alternative to operating performance measures prescribed by GAAP.

## Year Over Year Comparisons

### Year Ended December 31, 2012 Compared to Year Ended December 31, 2011

**Midwest Region.** Our Midwest region had operating income of \$11.4 million for 2012, a \$17.8 million increase from our operating loss of \$6.4 million for 2011. The increase in operating income was primarily the result of improvement in our homebuilding revenue and related gross margin percentage, offset in part, by a \$5.9 million increase in our selling, general and administrative expenses.

In 2012, homebuilding revenue in our Midwest region increased \$53.8 million, from \$228.2 million in 2011 to \$282.0 million in 2012, and our homebuilding gross margin improved by \$23.8 million, yielding a gross margin percentage of 15.4% in 2012 compared to 8.7% in 2011, inclusive of impairment charges. The 24% increase in homebuilding revenue was the result of a 12% increase in the number of homes delivered and a 10% increase in the average sales price of homes delivered. The improvement in our gross margin in 2012 compared to 2011 was primarily due to the improvements in the average sales price of homes delivered (\$23,000 per home delivered), the increase in the number of homes delivered (122 units) and the \$10.0 million reduction in asset impairment charges taken in 2012 compared to 2011. Partially offsetting these improvements were higher construction costs related to both the mix of homes delivered as well as cost increases in labor and materials associated with improving housing market conditions and normal supply and demand dynamics.

Selling, general and administrative expense increased \$5.9 million from \$26.1 million in 2011 to \$32.0 million in 2012 and was relatively flat as a percentage of revenue compared to prior year, ending at 11.4% for 2012. Selling expense increased \$4.8 million while general and administrative expense increased \$1.1 million. The selling expense increase was primarily due to a \$1.9 million increase in variable selling expenses, which was the result of the increase in sales commissions due to the higher average sales price of homes delivered and number of homes delivered, and a \$1.6 million expense incurred in 2012 related to our early exit from rental space in Ohio. The increase in general and administrative expense was primarily due to variable compensation expense increases associated the improved operating performance in this region.

During 2012, we opened 16 new communities in our Midwest region compared to 14 in 2011. We also had a 10% increase in new contracts in our Midwest region in 2012, from 1,042 in 2011 to 1,144 in 2012. Backlog increased 8% from 387 homes at December 31,

2011 to 418 homes at December 31, 2012, with an average sales price in backlog of \$270,000 at December 31, 2012 compared to \$259,000 at December 31, 2011. Our monthly absorption rate in our Midwest region increased to 1.7 per community in 2012 compared to 1.5 per community in 2011.

**Southern Region.** Our Southern region had operating income of \$14.5 million for 2012, a \$19.8 million increase from our operating loss of \$5.3 million for 2011. The increase in operating income was primarily the result of improvement in our homebuilding revenue and related gross margin percentage, and a \$3.0 million settlement received related to defective imported drywall, offset, in part, by a \$5.6 million increase in selling, general, and administrative expenses.

In 2012, homebuilding revenue in our Southern region increased \$66.6 million, from \$123.1 million in 2011 to \$189.7 million in 2012, and our homebuilding gross margin improved \$25.4 million, yielding a gross margin percentage of 20.2% in 2012 compared to 10.5% in 2011, inclusive of \$6.7 million of impairment charges in 2011. This 54% increase in homebuilding revenue was the result of a 44% increase in the number of homes delivered (252 units), along with a 7% increase in the average sales price of homes delivered (\$16,000 per home delivered) in 2012 compared to 2011. The improvement in our gross margin from 2011 resulted primarily from the improvements in the average sales price of homes delivered and the number of homes delivered in 2012 compared to 2011, the \$3.0 million drywall recovery received in the third quarter of 2012 and a reduction in asset impairment charges as we had no impairment charges taken in 2012 compared to \$6.7 million taken in 2011. Partially offsetting these improvements were higher construction costs related to both the mix of homes delivered as well as cost increases in labor and materials associated with improving housing market conditions and normal supply and demand dynamics.

Selling, general and administrative expense increased \$5.6 million from \$18.2 million in 2011 to \$23.8 million in 2012 and decreased as a percentage of revenue to 12.5% in 2012 from 14.9% in 2011. Selling expense increased \$4.3 million while general and administrative expense increased \$1.3 million. The selling expense increase was primarily due to a \$3.4 million increase in variable selling expenses, which resulted from the increase in sales commissions due to the higher average sales price of homes delivered and number of homes delivered, along with increased expenses related to community count increases. The increase in general and administrative expense was primarily due to variable compensation expense increases associated the improved operating performance in this region and increased expenses related to our expansion in the Houston, Texas market and our entry into the Austin, Texas market.

During 2012, we opened 19 new communities in our Southern region (five of which we acquired in our Houston market through our April 2012 acquisition), the same number of new communities opened during 2011. We experienced a 59% increase in new contracts in our Southern region during 2012, from 607 in 2011 to 966 in 2012. Backlog increased 108% from 164 homes at December 31, 2011 to 341 homes at December 31, 2012, with an average sales price in backlog of \$280,000 at December 31, 2012 compared to \$241,000 at December 31, 2011. Our monthly absorption rate in our Southern region increased to 2.5 per community in 2012 compared to 2.2 per community in 2011.

**Mid-Atlantic Region.** Our Mid-Atlantic region had operating income of \$15.1 million for 2012, an \$8.1 million increase from our operating income of \$7.0 million in 2011. This increase was primarily due to the increase in our homebuilding revenue and related gross margin percentage as well as \$1.8 million of profit relating to the sale of land to third parties, offset in part, by a \$4.5 million increase in selling, general and administrative expenses.

In 2012 homebuilding revenue in our Mid-Atlantic region increased \$66.3 million from \$200.7 million for 2011 to \$267.0 million for 2012 and our homebuilding gross margin improved \$12.6 million compared to 2011, yielding a gross margin percentage of 16.0% in 2012 compared to 15.1% in 2011, inclusive of impairment charges. This 33% increase in revenue was the result of an 11% increase in the average sales price of homes delivered (\$32,000 per home delivered) and a 16% increase in the number of homes delivered (113 units), as well as an increase of \$8.6 million in land sale revenue. The improvement in our gross margin compared to 2011 was primarily due to the improvements in average sales price of homes delivered and number of homes delivered, a \$1.8 million profit from the sale of land and a \$1.8 million reduction in impairment charges taken. Partially offsetting these improvements were higher construction costs related to both the mix of homes delivered as well as cost increases in labor and materials associated with improving housing market conditions and normal supply/demand dynamics.

Selling, general and administrative expense increased \$4.5 million from \$23.2 million in 2011 to \$27.7 million in 2012 and decreased as a percentage of revenue to 10.4% in 2012 from 11.6% in 2011. Selling expense increased \$3.6 million while general and administrative expense increased \$0.9 million. The selling expense increase was primarily due to a \$3.1 million increase in variable selling expenses, which resulted from the increase in sales commissions due to the higher average sales price of homes delivered and number of homes delivered. The increase in general and administrative expense was primarily due to variable compensation expense increases associated the improved operating performance in this region.

During 2012, we opened 11 new communities in our Mid-Atlantic region compared to 13 new communities opened during 2011. We experienced a 24% increase in new contracts, from 732 in 2011 to 910 in 2012. Backlog increased 65% from 125 homes at December 31, 2011 to 206 homes at December 31, 2012, with an average sales price in backlog of \$360,000 at December 31, 2012 compared to \$328,000



at December 31, 2011. Our monthly absorption rate in our Mid-Atlantic region was 2.1 per community in 2012, compared to 1.9 per community in 2011.

**Financial Services.** Revenue from our mortgage and title operations increased \$8.9 million (62%) from \$14.4 million in 2011 to \$23.3 million in 2012, primarily due to a 29% increase in the number of loan originations, from 1,764 in 2011 to 2,280 in 2012 as well as a 7.0% increase in the average loan amount from \$213,000 in 2011 to \$228,000 in 2012. Also contributing to the increase in revenue were higher margins on our loans sold than we experienced in 2011 in addition to an increase in our refinance business. We ended the year with a \$5.8 million increase in operating income compared to 2011, which was primarily due to the increase in revenue discussed above. Offsetting these improvements was a \$3.0 million increase in selling, general, and administrative expenses for 2012 compared to 2011, primarily due to a \$1.6 million increase in payroll related expenses and a \$1.0 million increase in expenses related to mortgage loans sold.

At December 31, 2012, M/I Financial provided financing services in all of our markets. Approximately 83% of our homes delivered during 2012 were financed through M/I Financial compared to 84% in 2011. Capture rate is influenced by financing availability and can fluctuate up or down from quarter to quarter.

**Corporate Selling, General and Administrative Expenses.** Corporate selling, general and administrative expenses increased \$3.8 million, from \$20.9 million in 2011 to \$24.7 million in 2012. The increase was primarily due to a \$3.8 million increase in share based and variable incentive compensation associated with our improved financial performance, a \$0.5 million increase in charitable contributions, and a \$0.2 million increase in professional fees associated with our growth, which were partially offset by a \$0.8 million net gain on purchase accounting related to our April 2012 acquisition.

### **Year Ended December 31, 2011 Compared to Year Ended December 31, 2010**

**Midwest Region.** For the year ended December 31, 2011, we had \$228.2 million of homebuilding revenue in our Midwest region, a decrease of \$66.9 million, from the \$295.1 million of homebuilding revenue we had in 2010. This decrease was primarily the result of a 24% decrease in homes delivered from 1,296 in 2010 to 991 in 2011, which was partially offset by a slight increase in the average sales price of homes delivered, from \$228,000 for the year ended December 31, 2010 to \$230,000 for the year ended December 31, 2011. Our decline in homes delivered largely reflects our relatively low backlog level at the beginning of 2011, reflecting the decline in new contracts we experienced in the latter eight months of 2010 following the April 30, 2010 expiration of the federal homebuyer tax credit. Our Midwest region had an operating loss of \$6.4 million for the year ended December 31, 2011, compared to operating income of \$3.3 million for the year ended December 31, 2010, primarily due to an increase in impairment charges as well as the decrease in revenue described above, partially offset by a decrease in selling, general and administrative expenses and higher adjusted operating gross margins. For the year ended December 31, 2011, there were \$13.5 million of charges related to the impairment of inventory in our Midwest region, compared to \$3.7 million of impairment charges for the year ended December 31, 2010. As a result of the tough market conditions and corresponding decrease in new contracts during the first half of 2011, we lowered sales prices and/or offered increased sales incentives in some of our communities during the second half of 2011. These actions, which helped improve sales pace, resulted in lower gross margins, ultimately yielding higher impairment charges in 2011 when compared to 2010. In addition, a portion of the increase in impairment charges was due to management's changes in the ultimate development plans for some of our legacy raw land. Excluding these impairment charges, our adjusted operating gross margin percentage was 14.6% for 2011 and 13.0% for 2010. The increase in adjusted operating gross margin percentage was primarily the result of an increase in the percentage of homes delivered in our new communities, where we are experiencing gross margins that are 500 basis points higher, on average, than in our legacy communities. For the year ended December 31, 2011, 42% of the homes delivered in our Midwest region were in new communities, compared to 27% of our homes delivered during 2010. During 2011, we opened 14 new communities in our Midwest region compared to 19 new communities opened in 2010. Selling, general and administrative expenses decreased \$5.4 million, from \$31.5 million in 2010 to \$26.1 million in 2011, due to a decrease in variable selling expenses, payroll related expenses, land related expenses, professional fees, advertising expenses, and expenses related to our model homes. New contracts in our Midwest region decreased 14% for the year ended December 31, 2011, from 1,215 in 2010 to 1,042 in 2011. Backlog at December 31, 2011 increased 15% from 336 homes at December 31, 2010 to 387 homes at December 31, 2011, with an average sales price in backlog of \$259,000 at December 31, 2011 compared to \$247,000 at December 31, 2010. Our monthly absorption rate for 2011 in the Midwest was 1.5 per community compared to 1.6 per community in 2010. Our absorption rate decline, along with our other year over year comparisons, was negatively impacted in 2011 by the April 30, 2010 expiration of the federal homebuyer tax credit.

**Southern Region.** For the year ended December 31, 2011, homebuilding revenue in our Southern region increased \$33.2 million (37%), from \$89.9 million in 2010 to \$123.1 million in 2011. This increase was primarily the result of a 33% increase in the number of homes delivered, from 429 for the year ended December 31, 2010 to 571 for the year ended December 31, 2011. The average sales price of homes delivered increased slightly from \$209,000 in 2010 to \$214,000 in 2011. The increase in homes delivered was largely the result of our entry into the San Antonio market during the second quarter of 2011 as well as our operations in our Houston market that commenced during the fourth quarter of 2010. Despite the increase in revenue, our operating loss in our Southern region increased \$1.7 million, from \$3.6 million for the year ended December 31, 2010 to \$5.3 million for the year ended December 31, 2011, primarily due to an increase

in impairment charges, as well as an increase in selling, general and administrative expenses, and the \$2.4 million settlement we received during 2010 related to defective drywall. We had \$6.7 million of impairment charges in 2011 in our Southern region, compared to \$4.4 million in 2010. As a result of the tough market conditions, we lowered sales prices and/or offered increased sales incentives in some of our legacy and close-out communities in various markets within our Southern region. These actions resulted in lower gross margins, ultimately yielding the \$2.3 million increase in impairment charges. In addition, a portion of the increase in impairment charges was due to changes in our ultimate development plans for some of our legacy raw land. Excluding these impairment charges, as well the \$1.8 million settlement received related to defective drywall (net of \$0.6 million of charges related to defective drywall) for the year ended December 31, 2010, our adjusted operating gross margin percentages were 15.9% and 15.6% for the years ended December 31, 2011 and 2010, respectively. During 2011, we opened 19 new communities (five of which were acquired in our acquisition of the assets of a privately-held San Antonio homebuilder) in our Southern region compared to five new communities opened during 2010. For the year ended December 31, 2011, 62% of the homes delivered in our Southern region were in new communities, compared to 25% of our homes delivered during the year ended December 31, 2010. Selling, general and administrative expenses increased \$3.1 million, from \$15.1 million for the year ended December 31, 2010 to \$18.2 million for the year ended December 31, 2011. The increase is primarily due to \$4.1 million of additional expenses during 2011 related to our entry into our two Texas markets when compared to 2010. Homes in backlog increased from 87 homes at December 31, 2010 to 164 homes at December 31, 2011, primarily due to the backlog acquired through our investment in the San Antonio market, as well as a 32% increase in new contracts from 461 in 2010 to 607 in 2011. The average sales price of homes in backlog also increased in our Southern region from \$218,000 at December 31, 2010 to \$241,000 at December 31, 2011, and the overall sales value of our homes in backlog in our Southern region increased to \$39.5 million at December 31, 2011 compared to \$19.0 million at December 31, 2010. These increases were primarily due to a change in product mix being sold in our Southern region, as well as the inclusion of the backlog acquired through our acquisition of the assets mentioned above. In our Southern region, during the year ended December 31, 2011, our monthly absorption rate was 2.2 per community, compared to 1.8 per community during the year ended December 31, 2010.

**Mid-Atlantic Region.** Homebuilding revenue in our Mid-Atlantic region decreased \$16.4 million (8%), from \$217.1 million for the year ended December 31, 2010 to \$200.7 million for the year ended December 31, 2011. This decrease was primarily due to an 8% decrease in the average sales price of homes delivered, from \$306,000 in 2010 to \$280,000 in 2011, which was partially offset by a slight increase in the number of homes delivered, from 709 homes in 2010 to 716 homes in 2011. The decrease in the average sales price of homes delivered was primarily due to a decline in homes delivered in our Washington D.C. market in 2011 when compared to 2010 which has a higher average selling price than our North Carolina markets. Despite the decrease in revenue from 2010, our operating income in our Mid-Atlantic region for the year ended December 31, 2011 was \$7.0 million - the same as 2010. This was due to \$2.7 million of lower impairment charges in 2011 than 2010 as well as \$1.7 million lower selling, general and administrative expenses. The lower expense level was due primarily to lower variable selling expenses, community opening costs and lower architectural expenses for new product in 2011, offset in part by higher payroll related expenses, when compared to 2010. For the year ended December 31, 2011, there were \$1.8 million of impairment charges in our Mid-Atlantic region, compared to \$4.5 million of impairment charges for the year ended December 31, 2010. Excluding these impairment charges, our adjusted operating gross margin percentage for the year ended December 31, 2011 was 16.0%, compared to 16.8% for the year ended December 31, 2010. The decline in adjusted operating gross margin percentage was due to a change in product mix in 2011 from the homes delivered in 2010, which was partially offset by a greater percentage of our homes delivered coming from new communities where, on average, we experience higher gross margins. During the year ended December 31, 2011, we opened 13 new communities in our Mid-Atlantic region compared to 17 new communities opened in the region during the year ended December 31, 2010. Homes in backlog increased 15%, from 109 homes at December 31, 2010 to 125 homes at December 31, 2011, primarily due to a 14% increase in new contracts from 640 in 2010 to 732 in 2011. The average sales price of homes in backlog also increased, from \$304,000 at December 31, 2010 to \$328,000 at December 31, 2011, and the overall sales value of our homes in backlog in our Mid-Atlantic region increased from \$33.2 million at December 31, 2010 to \$41.0 million at December 31, 2011. In our Mid-Atlantic region, during the year ended December 31, 2011, our monthly absorption rate was 1.9 per community, compared to 2.3 per community in the year ended December 31, 2010. Our absorption rate, along with many of our other year-over-year comparisons, was negatively impacted in 2011 by the April 30, 2010 expiration of the federal homebuyer tax credit.

**Financial Services.** For the year ended December 31, 2011, revenue from our mortgage and title operations increased \$0.2 million (1%), from \$14.2 million during the year ended December 31, 2010 to \$14.4 million for 2011, despite a 9% decrease in the number of loan originations. The primary reason for this was the increase in refinance business our financial services segment experienced in 2011 compared to 2010. Selling, general and administrative expenses increased \$0.1 million for the year ended December 31, 2011 compared to the year ended December 31, 2010. We had an increase of \$0.1 million in operating income for the year ended December 31, 2011 compared to the year ended December 31, 2010, which was attributable to higher margins on the loans sold in 2011 compared to 2010.

At December 31, 2011, M/I Financial provided financing services in all of our markets. Approximately 84% of our homes delivered during 2011 that were financed were financed through M/I Financial, which was the same rate as in 2010. Capture rate is influenced by financing availability and can fluctuate up or down from quarter to quarter.

**Corporate Selling, General and Administrative Expenses.** Corporate selling, general and administrative expenses decreased \$1.9 million (8%), from \$22.8 million for the year ended December 31, 2010 to \$20.9 million for the year ended December 31, 2011. The decrease was primarily due to a decrease of \$1.3 million in payroll related expenses and a \$0.4 million decrease in selling expenses.

**Interest Expense - Net.** Interest expense for the Company increased \$5.6 million, from \$9.4 million for the year ended December 31, 2010 to \$15.0 million for the year ended December 31, 2011. This increase was primarily due to the increase in our weighted average borrowing rate from 8.75% for the year ended December 31, 2010 to 9.43% for the year ended December 31, 2011, along with the increase in our weighted average borrowings from \$221.9 million in 2010 to \$263.7 million in 2011, due primarily to the issuance of the 2018 Senior Notes in the fourth quarter of 2010.

## **LIQUIDITY AND CAPITAL RESOURCES**

### **Overview of Capital Resources and Liquidity**

At December 31, 2012, we had \$154.2 million of cash, cash equivalents and restricted cash, with \$145.5 million of this amount comprised of unrestricted cash and cash equivalents. We believe that our balance of unrestricted cash and available borrowing options, including availability under the Company's \$140 million secured revolving credit facility (the "Credit Facility"), and proceeds from home deliveries and other sources of liquidity, will be sufficient to fund currently anticipated working capital needs, investment in land and land development, construction of homes, planned capital spending, and debt service requirements for at least the next twelve months. However, we routinely monitor current operational requirements, financial market conditions, and credit relationships and we may choose to issue new debt and/or equity securities as management deems necessary.

During the second quarter of 2012, we repaid the remaining \$41.4 million aggregate principal balance of our 2012 Senior Notes at maturity on April 2, 2012 and also issued an additional \$30 million of our 2018 Senior Notes. In September 2012, we issued \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes and 2.53 million common shares, for aggregate combined net proceeds of \$99.6 million.

During 2012 and 2011, we made acquisitions of land assets to replenish our land inventories and to facilitate future growth in the markets in which we operate, including the acquisition of the assets of a privately-held homebuilder based in Houston, Texas in April 2012. As a result of these land purchases and land development expenditures, combined with expenditures on home construction, interest, selling expenses, and general and administrative expenses, which in aggregate have exceeded our combined revenues from home deliveries and our financial services operations, we have used cash in operations in aggregate during this two-year period.

Our net income (loss) historically does not approximate cash flow from operating activities. The difference between net income (loss) and cash flow from operating activities is primarily caused by changes in inventory levels together with changes in receivables, prepaid and other assets, interest and other accrued liabilities, deferred income taxes, accounts payable, mortgage loans and liabilities, and non-cash charges relating to depreciation, stock compensation awards and impairment losses for inventory, among other things.

At December 31, 2012 and 2011, our ratio of net debt to net capital was 39% and 42%, respectively. Our ratio of net debt to net capital is calculated as total debt minus total cash, cash equivalents and restricted cash, divided by the sum of total debt minus total cash, cash equivalents and restricted cash plus shareholders' equity. We believe that the ratio of net debt to net capital is useful in understanding the leverage employed in our operations and comparing us with other homebuilders.

### **Operating Cash Flow Activities**

During 2012, we used \$47.0 million of cash in our operating activities, compared to cash used in operating activities of \$34.0 million in 2011. As is typical in the homebuilding industry, our primary uses of cash in operating our business during 2012 were for land purchases, land development expenditures, home construction, interest expense, selling expenses, and general and administrative expenses. The primary source of cash was revenues from home deliveries, along with revenues from our financial services operations.

The net increase of \$13.0 million in cash used in operating activities during 2012 compared to 2011 was primarily due to the following: (1) a \$40.9 million increase in the net change in total inventory, an \$18.6 million decrease in impairment charges taken in 2012 compared to 2011, a \$6.1 million decrease in the change in accounts payable and a \$9.3 million decrease in the change in other assets, offset, in part, by (2) a \$47.2 million shift from a net loss of \$33.9 million in 2011 to net income of \$13.3 million in 2012 and (3) favorable net changes in other liabilities (\$6.8 million), accrued compensation (\$6.5 million) and customer deposits (\$4.7 million).

Due to our debt and equity offerings in 2012 and our net earnings in 2012, we had the flexibility to invest capital to grow our operations in 2012. During 2012, we spent \$138.8 million on land purchases and \$56.4 million on land development, for a total land spend of \$195.2 million compared to \$117.2 million in total land spend during 2011. In the normal course of our business, in addition to our land purchases,

we have continued to enter into land option agreements, taking into consideration current and projected market conditions, in order to secure land for the construction of homes in the future. Pursuant to these land option agreements, we have deposits and prepaid acquisition costs totaling \$14.9 million as of December 31, 2012 as consideration for the right to purchase land and lots in the future, including the right to purchase \$240.5 million of land and lots during the years 2013 through 2019.

Based upon our business activity levels, liquidity, leverage, market conditions, and opportunities for land in our markets, we currently estimate that in 2013, we will spend approximately \$250 million to \$300 million on land purchases and land development. However, land transactions are subject to a number of factors, including our financial condition and market conditions. We will continue to monitor market conditions and our ongoing pace of home deliveries and adjust our land spending accordingly. The planned increase in our land spending in 2013 is driven primarily by our growth objectives and the ability of our divisions to contract for land in our markets on terms that meet our risk and return targets. In addition, we expect a larger portion of our land investment will continue to shift from finished lot purchases to land acquisition and development, which will result in increased inventory levels. Over the past several years, the majority of our land investments have been purchases of finished lots in most of our markets. In 2012, we began increasing the amount of our investments in undeveloped land and our land development spending as the availability of finished lots in attractive locations declined in many of our markets.

### Investing Cash Flow Activities

During 2012, we generated \$25.3 million of cash from investing activities, compared to using \$9.3 million of cash for investing activities in 2011. This increase was primarily due to the \$32.8 million reduction in restricted cash in 2012 compared to the \$2.6 million increase in restricted cash in 2011. The \$32.8 million reduction in restricted cash was primarily the result of the January 31, 2012 amendment to our Credit Facility (the "2012 Amendment"), which is more fully described below in "Notes Payable - Homebuilding." As a result of the 2012 Amendment, \$25 million of cash previously pledged to the lenders under the Credit Facility and included as restricted cash at December 31, 2011 was released. At December 31, 2012, restricted cash consisted of homebuilding cash the Company had pledged as collateral at December 31, 2012 in accordance with our secured Letter of Credit Facilities. See "Homebuilding Letter of Credit Facilities" below for more information regarding the Letter of Credit Facilities.

### Financing Cash Flow Activities

During 2012, we generated \$107.4 million of cash from our financing activities, compared to \$21.9 million during 2011. The increase in cash generated was primarily the result of the net proceeds of \$99.6 million received from our concurrent issuances of \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes and 2.53 million common shares in September 2012, as well as our net proceeds received from our issuance of an additional \$30.0 million of our 2018 Senior Notes in May 2012 and a \$15.4 million increase in borrowings in our financial services operations. These proceeds were partially offset by our repayment of the \$41.4 million aggregate outstanding principal balance of our 2012 Senior Notes during the second quarter of 2012.

The financing needs of our homebuilding and financial services operations depend on anticipated sales volume in the current year as well as future years, inventory levels and related turnover, forecasted land and lot purchases, debt maturity dates, and other Company plans. We fund these operations with cash flows from operating activities, borrowings under our credit facilities, and, from time to time, issuances of new debt and/or equity securities, as management deems necessary.

Included in the table below is a summary of our available sources of cash from financing sources as of December 31, 2012:

(In thousands)	Expiration Date	Outstanding Balance	Available Amount
Notes payable – homebuilding (a)	12/31/2014	\$ —	\$ 47,263
Notes payable – financial services (b)	3/30/2013	\$ 67,957	\$ 362

(a) The available amount is computed in accordance with the borrowing base calculation under the Credit Facility and can be increased if we secure additional assets or invest additional amounts in the currently pledged assets. The Company may increase the amount of the Credit Facility from \$140 million to up to \$175 million in the aggregate, contingent on obtaining additional commitments from lenders. The Credit Facility has an expiration date of December 31, 2014.

(b) The available amount is computed in accordance with the borrowing base calculation under M/I Financial's \$70 million MIF Mortgage Warehousing Agreement and M/I Financial's \$15 million MIF Mortgage Repurchase Facility, each of which may be increased by pledging additional mortgage collateral. The maximum aggregate commitment amount of M/I Financial's warehousing agreements is \$85 million. The MIF Mortgage Warehousing Agreement has an expiration date of March 30, 2013 and the MIF Mortgage Repurchase Facility has an expiration date of November 12, 2013.

## Notes Payable - Homebuilding.

**Homebuilding Credit Facility.** The Credit Facility matures on December 31, 2014, and provides revolving credit financing for the Company in the aggregate commitment amount of up to \$140 million (with availability as determined by a borrowing base), including a \$40 million sub-facility for letters of credit. The Company may increase the amount of the Credit Facility from \$140 million to up to \$175 million in the aggregate, contingent on obtaining additional commitments from lenders.

Borrowings under the Credit Facility are at the Alternate Base Rate plus a margin of 350 basis points or at the Eurodollar Rate plus a margin of 450 basis points. As of December 31, 2012, the Company had no outstanding borrowings and \$17.3 million of issued and outstanding letters of credit under the Credit Facility.

The Company's obligations under the Credit Facility are secured by certain personal property of the Company and the subsidiary guarantors, including the equity interests in the subsidiary guarantors, and by certain real property in Ohio, Indiana, Illinois and North Carolina.

Availability under the Credit Facility is based on a borrowing base equal to 100% of cash, if any, pledged as security, plus 45% of the aggregate appraised value of mortgaged real property, plus up to \$25 million of availability based on 35% of the aggregate book value of mortgaged real property for which appraisals and other requirements have not been completed, for a period of up to 120 days. The borrowing base also includes certain limits on the percentage of real property in a single geographic market and on the percentage of real property consisting of lots under development and unimproved land. As of December 31, 2012, there was \$64.6 million of availability under the Credit Facility in accordance with the borrowing base calculation, and \$17.3 million of letters of credit outstanding under the Credit Facility, leaving \$47.3 million of remaining availability, and the Company had pledged \$163.2 million in aggregate book value of inventory to secure any borrowings and letters of credit outstanding under the Credit Facility. The Company can create additional borrowing availability under the Credit Facility to the extent it pledges additional assets. The borrowing availability can also be increased by increasing investments in assets currently pledged, offset by decreases equal to the collateral value of homes delivered that are within the pledged asset pool.

The Company's obligations under the Credit Facility are guaranteed by all of the Company's subsidiaries, with the exception of subsidiaries that are primarily engaged in the business of mortgage financing, title insurance or similar financial businesses relating to the homebuilding and home sales business, certain subsidiaries that are not 100%-owned by the Company or another subsidiary, and other subsidiaries designated by the Company as Non-Guarantor Subsidiaries, subject to limitations on the aggregate amount invested in such Non-Guarantor Subsidiaries.

The Credit Facility is governed by a Credit Agreement dated June 9, 2010, as amended (the "Credit Agreement"), which was most recently amended on January 31, 2012. The Credit Facility contains various representations, warranties and affirmative, negative and financial covenants. The covenants, as more fully described and defined in the Credit Agreement, require, among other things, that the Company:

- Maintain a minimum level of Consolidated Tangible Net Worth equal to or exceeding (1) \$200 million plus (2) 50% of Consolidated Earnings (without deduction for losses and excluding the effect of any decreases in any Deferred Tax Valuation Allowance) earned for each completed fiscal quarter ending after March 31, 2010 to the date of determination, excluding any quarter in which the Consolidated Earnings are less than zero, plus (3) the amount of any reduction or reversal in Deferred Tax Valuation Allowance for each completed fiscal quarter ending after March 31, 2010 minus (4) the costs of the Company's repurchase of the 2012 Senior Notes up to \$10 million.
- Maintain a leverage ratio (Consolidated Indebtedness to Consolidated Tangible Net Worth) not in excess of 1.50 to 1.00.
- Maintain one or more of the following: (1) a minimum Interest Coverage Ratio of 1.50 to 1.00; (2) a minimum Adjusted Cash Flow Ratio of 1.50 to 1.00; or (3) a combination of unrestricted cash pledged as security to the lenders or unused availability under the Secured Borrowing Base of not less than \$25 million in total. Among other things, the 2012 Amendment provided us with the ability to maintain \$25 million of excess availability under the Secured Borrowing Base under this clause (3). Each of the Company's ratios were less than the required minimum Interest Coverage Ratio and the minimum Adjusted Cash Flow Ratio for the quarters ended June 30, 2011, September 30, 2011, December 31, 2011, March 31, 2012, and June 30, 2012, and therefore, we were required to maintain either unrestricted cash pledged as security to the lenders or unused availability under the Secured Borrowing Base (or a combination thereof) of not less than \$25 million in accordance with the terms of the Credit Agreement. The Company's Interest Coverage Ratio was greater than the required minimum ratio for the quarters ended September 30, 2012 and December 31, 2012.
- Not incur any secured indebtedness outside of the Credit Facility exceeding \$25 million at any one time outstanding other than an aggregate amount not in excess of \$50 million of issued and outstanding secured letters of credit.

- Not incur any liens except for liens permitted by the Credit Agreement, which permitted liens include liens on the permitted amount of secured indebtedness and liens incurred in the normal operation of the Company's homebuilding and related business.
- Not allow the number of unsold housing units and model homes to exceed, as of the end of any fiscal quarter, the greater of (a) the number of housing unit closings occurring during the period of twelve months ending on the last day of such fiscal quarter, multiplied by 35%, or (b) the number of housing unit closings occurring during the period of six months ending on the last day of such fiscal quarter, multiplied by 70%.
- Not allow adjusted land value to exceed 110% of Consolidated Tangible Net Worth.
- Not make or commit to make any Investments except Investments in Non-Guarantor Subsidiaries, Financial Subsidiaries and Joint Ventures up to a maximum of 30% of Consolidated Tangible Net Worth, and other Investments permitted by the Credit Agreement.

As of December 31, 2012, the Company was in compliance with all financial covenants of the Credit Facility. The following table summarizes the restrictive covenant thresholds under the Credit Facility and our compliance with such covenants as of December 31, 2012:

Financial Covenant	Covenant Requirement	Actual
(Dollars in millions)		
Consolidated Tangible Net Worth	≥ \$ 202.4	\$ 326.3
Leverage Ratio	≤ 1.5 to 1.0	1.17 to 1.0
Interest Coverage Ratio (a)	≥ 1.5 to 1.0	2.39 to 1.0
Adjusted Cash Flow Ratio (a)	≥ 1.5 to 1.0	(1.00) to 1.0
Secured Indebtedness (Excluding Secured Letters of Credit)	< \$ 25.0	\$ 6.7
Adjusted Land Value	≤ \$ 359.0	\$ 171.2
Investments in Non-Guarantor Subsidiaries, Financial Subsidiaries and Joint Ventures	≤ \$ 97.9	\$ 20.6
Unsold Housing Units and Model Homes	≤ 1,143	626

(a) The Company is required to meet one of these two interest coverage requirements or maintain either (or a combination of) \$25 million of cash pledged to the lenders or \$25 million of excess availability under the Secured Borrowing Base (as defined in the Credit Agreement).

**Homebuilding Letter of Credit Facilities.** The Company is party to three secured credit agreements for the issuance of letters of credit outside of the Credit Facility (collectively, the “Letter of Credit Facilities”). The maturity dates for the Letter of Credit Facilities range from June 1, 2013 to September 30, 2013. Under the terms of the Letter of Credit Facilities, letters of credit can be issued for maximum terms ranging from one year up to three years. The Letter of Credit Facilities contain cash collateral requirements ranging from 101% to 105%. Upon maturity or the earlier termination of the Letter of Credit Facilities, letters of credit that have been issued under the Letters of Credit Facilities remain outstanding with cash collateral in place through the respective expiration dates.

The agreements governing the Letter of Credit Facilities contain limits for the issuance of letters of credit ranging from \$5.0 million to \$8.0 million, for a combined letter of credit capacity of \$18.0 million, of which \$2.8 million was uncommitted at December 31, 2012 and could be withdrawn at any time. As of December 31, 2012, there was a total of \$8.4 million of letters of credit issued under the Letter of Credit Facilities, which was collateralized with \$8.5 million of restricted cash.

#### Notes Payable - Financial Services.

**MIF Mortgage Warehousing Agreement.** The MIF Mortgage Warehousing Agreement is used to finance eligible residential mortgage loans originated by M/I Financial, with a maximum borrowing availability of \$70.0 million and an expiration date of March 30, 2013. M/I Financial pays interest on each advance under the MIF Mortgage Warehousing Agreement at a per annum rate of the greater of (1) the floating LIBOR rate plus 225 basis points and (2) 3.50%.

M/I Financial entered into the Second Amendment (the “Second Amendment”) to the MIF Mortgage Warehousing Agreement on March 23, 2012. The Second Amendment, among other things, increased the maximum borrowing availability from \$60.0 million to \$70.0 million and extended the expiration date to March 30, 2013. In September 2012, we entered into the Third Amendment to the MIF Mortgage Warehousing Agreement which increased our maximum principal amount permitted to be outstanding at any one time in aggregate under all warehouse credit lines from \$75.0 million to \$100.0 million.

The MIF Mortgage Warehousing Agreement is secured by certain mortgage loans that have been originated by M/I Financial and are being “warehoused” prior to their sale to investors. The MIF Mortgage Warehousing Agreement provides for limits with respect to certain

loan types that can secure outstanding borrowings. There are currently no guarantors of the MIF Mortgage Warehousing Agreement, although M/I Financial may, at its election, designate from time to time any one or more of its subsidiaries as guarantors.

As of December 31, 2012, there was \$61.3 million outstanding under the MIF Mortgage Warehousing Agreement and the Company was in compliance with all financial covenants. The covenants, as more fully described and defined in the MIF Mortgage Warehousing Agreement, are summarized in the following table, which also sets forth M/I Financial's compliance with such covenants as of December 31, 2012:

Financial Covenant		Covenant Requirement	Actual
(Dollars in millions)			
Leverage Ratio	≤	10.0 to 1.0	5.2 to 1.00
Liquidity	≥	\$ 5.0	\$ 17.6
Adjusted Net Income	>	\$ 0.0	\$ 5.2
Tangible Net Worth	≥	\$ 10.0	\$ 14.6

**MIF Mortgage Repurchase Facility.** In November 2012, M/I Financial entered into the Mortgage Repurchase Facility, an additional mortgage financing agreement structured as a mortgage repurchase facility with a maximum borrowing availability of \$15.0 million, to provide the Company with additional financing capacity.

The MIF Mortgage Repurchase Facility has an expiration date of November 12, 2013 and is used to finance eligible residential mortgage loans originated by M/I Financial. M/I Financial pays interest on each advance under the MIF Mortgage Repurchase Facility at a per annum rate of the floating LIBOR rate plus 350 or 412.5 basis points depending on the loan type. The covenants in the MIF Mortgage Repurchase Facility are substantially similar to the covenants in the MIF Mortgage Warehousing Agreement. The MIF Mortgage Repurchase Facility provides for limits with respect to certain loan types that can secure outstanding borrowings, which are similar to the restrictions in the MIF Mortgage Warehousing Agreement. There are currently no guarantors of the MIF Mortgage Repurchase Facility. As of December 31, 2012, there was \$6.7 million outstanding under the MIF Mortgage Repurchase Facility. The Company was in compliance with all financial covenants as of December 31, 2012.

**Convertible Senior Subordinated Notes.** In September 2012, the Company issued \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes. The 2017 Convertible Senior Subordinated Notes bear interest at a rate of 3.25% per year, payable semiannually in arrears on March 15 and September 15 of each year beginning on March 15, 2013. The 2017 Convertible Senior Subordinated Notes mature on September 15, 2017. At any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their 2017 Convertible Senior Subordinated Notes into the Company's common shares. The conversion rate initially equals 42.0159 shares per \$1,000 of principal amount. This corresponds to an initial conversion price of approximately \$23.80 per common share which equates to approximately 2.4 million common shares. The conversion rate is subject to adjustment upon the occurrence of certain events (none of which has occurred as of December 31, 2012). The 2017 Convertible Senior Subordinated Notes are fully and unconditionally guaranteed on a senior subordinated unsecured basis by those subsidiaries of the Company that are guarantors under the Company's 2018 Senior Notes. The 2017 Convertible Senior Subordinated Notes are senior subordinated unsecured obligations of the Company and the subsidiary guarantors and will be subordinated in right of payment to our existing and future senior indebtedness. The 2017 Convertible Senior Subordinated Notes will also be effectively subordinated to our existing and future secured indebtedness. The indenture governing the 2017 Convertible Senior Subordinated Notes provides that the Company may not redeem the notes prior to their stated maturity date, but also contains provisions requiring the Company to repurchase the notes (subject to certain exceptions), at a holder's option, upon the occurrence of a fundamental change (as defined in the indenture).

**Senior Notes.** In November 2010, the Company issued \$200 million aggregate principal amount of 2018 Senior Notes. In May 2012, we issued an additional \$30 million of 2018 Senior Notes under our 2018 Senior Notes indenture for a total outstanding balance of \$230 million.

The 2018 Senior Notes are fully and unconditionally guaranteed jointly and severally by all of our subsidiaries, with the exception of subsidiaries that are primarily engaged in the business of mortgage financing, the origination of mortgages for resale, title insurance or similar financial businesses relating to the homebuilding and home sales business and certain subsidiaries that are not 100%-owned by the Company or another subsidiary, and certain subsidiaries that are otherwise designated by the Company as Unrestricted Subsidiaries in accordance with the terms of the indenture governing the 2018 Senior Notes. The 2018 Senior Notes and the related guarantees are general, unsecured senior obligations of the Company and the subsidiary guarantors and rank equally in right of payment with all our existing and future unsecured senior indebtedness.

Certain covenants are set forth in the indenture governing the 2018 Senior Notes. The covenants, as more fully described and defined in the indenture, limit the ability of the Company and the restricted subsidiaries to, among other things:

- Incur additional indebtedness unless, after giving effect of such additional indebtedness, either (1) the Consolidated Fixed Charge Coverage Ratio would be at least 2.00 to 1.00 or (2) the ratio of Consolidated Indebtedness to Consolidated Tangible Net Worth would be less than 3.00 to 1.00, provided, however, this limitation does not generally apply to certain types of indebtedness, including indebtedness under Credit Facilities (as defined in the indenture) not to exceed \$350 million, purchase money indebtedness, non-recourse indebtedness, and up to \$40 million of other indebtedness.
- Make certain payments, including dividends, or repurchase any shares, in an aggregate amount exceeding our “restricted payments basket,” as defined in the indenture.
- Make Investments in other entities, in the form of capital contributions or loans or purchases of securities, in an aggregate amount exceeding our “restricted payments basket,” except for certain Permitted Investments, which include, among other things, (1) Investments in Subsidiaries or Joint Ventures that are not Guarantors under the indenture, in an aggregate amount subsequent to the Issue Date not to exceed 15% of Consolidated Tangible Assets at any one time outstanding and (2) other Investments in an aggregate amount not to exceed \$40 million at any one time outstanding.
- Create or incur liens (other than Permitted Liens which include liens securing certain indebtedness in an amount not to exceed 20% of Consolidated Tangible Assets), consolidate or merge with or into other companies, or liquidate or sell or transfer all or substantially all of our assets.

These covenants are subject to a number of exceptions and qualifications as described in the indenture governing the 2018 Senior Notes. As of December 31, 2012, the Company was in compliance with all terms, conditions, and financial covenants under the indentures.

The “restricted payments basket,” as defined in the indenture, is equal to \$40 million (1) plus 50% of our aggregate consolidated net income (or minus 100% of our aggregate consolidated net loss) since October 1, 2010 and excluding the income or loss from Unrestricted Subsidiaries, plus (2) 100% of the net cash proceeds from the sale of qualified equity interests, plus other items and subject to other exceptions. At December 31, 2012, our restricted payments basket had a positive balance of \$39.4 million. As a result, we are permitted to make Investments (in addition to Permitted Investments) and/or to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the extent of such positive balance. See “- Preferred Shares” below for more information.

**Weighted Average Borrowings.** In 2012 and 2011, our weighted average borrowings outstanding were \$291.8 million and \$263.7 million, respectively, with a weighted average interest rate of 8.83% and 9.43%, respectively. The increase in borrowings was primarily the result of the increase in borrowings under the MIF Mortgage Warehousing Agreement as a result of an increase in the number of loan originations during 2012 along with the issuance of the additional \$30 million aggregate principal amount of 2018 Senior Notes in the second quarter of 2012 and the issuance of the \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes in the third quarter of 2012.

At December 31, 2012, we had no outstanding borrowings under the Credit Facility. During 2012, the average daily amount outstanding under the Credit Facility was \$1.4 million and the maximum amount outstanding under the Credit Facility was \$15.0 million. We do not expect that we will incur additional borrowings under the Credit Facility during the first quarter of 2013. The actual amount borrowed will vary depending on various factors, including the timing and amount of land and house construction expenditures, payroll and other general and administrative expenses, and cash receipts from home closings, as well as other cash receipts and payments. The company experiences significant variation in cash and Credit Facility balances from week to week due to the timing of such receipts and payments. The amount borrowed would also be impacted by any capital markets transactions or additional financing executed by the Company during the quarter, if any.

There were \$17.3 million of letters of credit issued and outstanding under the Credit Facility at December 31, 2012. During 2012, the average daily amount of letters of credit outstanding under the Credit Facility was \$17.5 million and the maximum amount of letters of credit outstanding under the Credit Facility was \$19.8 million.

At December 31, 2012, M/I Financial had \$61.3 million outstanding under the MIF Mortgage Warehousing Agreement. During 2012, the average daily amount outstanding under the MIF Mortgage Warehousing Agreement was \$34.1 million and the maximum amount outstanding under the MIF Mortgage Warehousing Agreement was \$61.3 million.

At December 31, 2012, M/I Financial had \$6.7 million outstanding under the MIF Mortgage Repurchase Facility. During 2012, the average daily amount outstanding under the MIF Mortgage Repurchase Facility was \$0.2 million and the maximum amount outstanding was \$6.7 million.



**Preferred Shares.** On March 15, 2007, we issued 4,000,000 depositary shares, each representing 1/1000<sup>th</sup> of a Series A Preferred Share, or 4,000 Series A Preferred Shares in the aggregate, for net proceeds of \$96.3 million. The Series A Preferred Shares have a liquidation preference equal to \$25 per depositary share (plus an amount equal to all accrued and unpaid dividends (whether or not earned or declared) for the then current quarterly dividend period accrued to but excluding the date of final distribution). Dividends on the Series A Preferred Shares are non-cumulative and, if declared by us, are paid at an annual rate of 9.75%. Dividends are payable quarterly in arrears, if declared by us, on March 15, June 15, September 15 and December 15. If there is a change of control of the Company and if the Company's corporate credit rating is withdrawn or downgraded to a certain level (together constituting a "change of control event"), the dividends on the Series A Preferred Shares will increase to 10.75% per year. We may redeem the Series A Preferred Shares in whole or in part (provided, that any redemption that would reduce the aggregate liquidation preference of the Series A Preferred Shares below \$25 million in the aggregate would be restricted to a redemption in whole only) at any time or from time to time at a cash redemption price equal to \$25 per depositary share (plus an amount equal to all accrued and unpaid dividends (whether or not earned or declared) for the then current quarterly dividend period accrued to but excluding the redemption date). Holders of the Series A Preferred Shares have no right to require redemption of the Series A Preferred Shares. The Series A Preferred Shares have no stated maturity, are not subject to any sinking fund provisions, are not convertible into any other securities, and will remain outstanding indefinitely unless redeemed by us. Holders of the Series A Preferred Shares have no voting rights, except with respect to those specified matters set forth in the Company's Amended and Restated Articles of Incorporation or as otherwise required by applicable Ohio law, and no preemptive rights. The outstanding depositary shares are listed on the New York Stock Exchange under the trading symbol "MHO-PrA." There is no separate public trading market for the Series A Preferred Shares except as represented by the depositary shares.

The indenture governing our 2018 Senior Notes limits our ability to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the amount of the positive balance in our "restricted payments basket," as defined in the indenture. Prior to the repayment of the remaining outstanding principal balance of our 2012 Senior Notes during the second quarter of 2012, the indenture for the 2012 Senior Notes contained a similar restriction. Additionally, the terms of our outstanding Series A Preferred Shares prevent us from paying cash dividends on our common shares unless we have paid cash dividends on our Series A Preferred Shares for the then-current quarterly dividend period. We were prohibited from paying dividends on, and repurchasing, our common shares and Series A Preferred Shares from the third quarter of 2008 until the completion of our offering of common shares in September 2012 as a result of deficits in our restricted payments baskets under the 2012 Senior Notes, the 2018 Senior Notes, or both. The restricted payments basket became positive with the completion of our offering of common shares in September 2012, and as a result of that offering and our net income in 2012, was \$39.4 million at December 31, 2012. We are permitted by the indenture to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the extent of such positive balance in our restricted payments basket.

Our board of directors has determined that we will pay the quarterly dividend on our Series A Preferred Shares for the second quarter of 2013 (with such dividend being payable on June 15, 2013 to holders of record on June 1, 2013). The determination to pay dividends on our common shares or subsequent dividends on our Series A Preferred Shares and make repurchases will be at the discretion of our board of directors and will depend upon our results of operations, financial condition, capital requirements and compliance with debt covenants and the terms of our Series A Preferred Shares, and other factors deemed relevant by our board of directors.

**Universal Shelf Registration.** In August 2011, the Company filed a \$250 million universal shelf registration statement with the SEC, which registration statement became effective on September 30, 2011. Pursuant to the registration statement, the Company may, from time to time, offer debt securities, common shares, preferred shares, depositary shares, warrants to purchase debt securities, common shares, preferred shares, depositary shares or units of two or more of those securities, rights to purchase debt securities, common shares, preferred shares or depositary shares, stock purchase contracts, stock purchase units and units. The timing and amount of offerings, if any, will depend on market and general business conditions.

In September 2012, we issued \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes and \$44.6 million of common shares pursuant to the universal shelf registration statement. See "Overview of Capital Resources and Liquidity" for more information regarding these issuances. As of December 31, 2012, approximately \$147.9 million remained available for future offerings under the universal shelf registration statement.

## CONTRACTUAL OBLIGATIONS

Included in the table below is a summary, as of December 31, 2012, of future amounts payable under the Company's contractual obligations:

	Payments due by period				
	Total	Less Than 1 year	1 - 3 Years	3 - 5 Years	More than 5 years
Notes payable bank – financial services (a)	\$ 68,092	\$ 68,092	\$ —	\$ —	\$ —
Note payable - other (including interest)	12,626	6,783	1,590	4,253	—
Senior notes (including interest)	333,500	17,250	34,500	34,500	247,250
Convertible senior subordinated notes (including interest)	66,866	1,890	3,738	61,238	—
Obligation for consolidated inventory not owned (b)	19,104	18,249	702	153	—
Operating leases	8,957	2,607	3,195	2,687	468
Purchase obligations (c)	135,841	135,841	—	—	—
Land option agreements (d)	—	—	—	—	—
Unrecognized tax benefits (e)	—	—	—	—	—
<b>Total</b>	<b>\$ 644,986</b>	<b>\$ 250,712</b>	<b>\$ 43,725</b>	<b>\$ 102,831</b>	<b>\$ 247,718</b>

- (a) Borrowings under the MIF Mortgage Warehousing Agreement and the MIF Mortgage Repurchase Agreement are at the greater of the floating LIBOR rate plus 225 basis points or 3.5%. Borrowings outstanding at December 31, 2012 had a weighted average interest rate of 3.5%. Interest payments by period will be based upon the outstanding borrowings and the applicable interest rate(s) in effect. The above amounts do not reflect interest.
- (b) The Company is party to three land purchase agreements in which the Company has specific performance requirements. The future amounts payable related to these three land purchase agreements is the number of lots the Company is obligated to purchase at the lot price set forth in the agreement. The time period in which these payments will be made is the Company's best estimate at when these lots will be purchased.
- (c) As of December 31, 2012, the Company had obligations with certain subcontractors and suppliers of raw materials in the ordinary course of business to meet the commitment to deliver 965 homes with an aggregate sales price of \$282.5 million. Based on our current housing gross margin, excluding the charge for impairment of inventory, less variable selling costs, less payments to date on homes in backlog, we estimate payments totaling approximately \$135.8 million to be made in 2013 relating to those homes.
- (d) As of December 31, 2012, the Company had options and contingent purchase agreements to acquire land and developed lots with an aggregate purchase price of approximately \$240.5 million. Purchase of properties is generally contingent upon satisfaction of certain requirements by the Company and the sellers and therefore the timing of payments under these agreements is not determinable. The Company has no specific performance obligations with respect to these agreements.
- (e) We are subject to U.S. federal income tax as well as income tax of multiple state and local jurisdictions. As of December 31, 2012, we had no unrecognized tax benefits due to the lapse of the statute of limitations and completion of audits in prior years. We believe that our current income tax filing positions and deductions will be sustained on audit and do not anticipate any adjustments that will result in a material change.

## OFF-BALANCE SHEET ARRANGEMENTS

Reference is made to Notes 1, 7, 8, and 9 in the accompanying Notes to Consolidated Financial Statements included in this Annual Report on Form 10-K. These Notes discuss our off-balance sheet arrangements with respect to land acquisition contracts and option agreements, and land development joint ventures, including the nature and amounts of financial obligations relating to these items. In addition, these Notes discuss the nature and amounts of certain types of commitments that arise in connection with the ordinary course of our land development and homebuilding operations, including commitments of land development joint ventures for which we might be obligated.

Our off-balance sheet arrangements relating to our homebuilding operations include Unconsolidated LLCs, land option agreements, guarantees and indemnifications associated with acquiring and developing land, and the issuance of letters of credit and completion bonds. Our use of these arrangements is for the purpose of securing the most desirable lots on which to build homes for our homebuyers in a manner that we believe reduces the overall risk to the Company. Additionally, in the ordinary course of its business, our financial services operations issue guarantees and indemnities relating to the sale of loans to third parties.

**Unconsolidated Limited Liability Companies.** In order to minimize our investment and risk of land exposure in a single location, we periodically partner with other land developers or homebuilders to share in the land investment and development of a property through joint ownership and development agreements, joint ventures, and other similar arrangements. For such joint venture partnerships where a special purpose entity is established to own the property, we enter into limited liability company arrangements (“Unconsolidated LLCs”) with the other partners to develop the land. The Company's interest in these entities as of December 31, 2012 ranged from 33% to 50%. These entities typically engage in land development activities for the purpose of distributing or selling developed lots to the Company and its partners in the entity. The Company is required to evaluate these Unconsolidated LLCs to determine whether they meet the criteria of a variable interest entity (“VIE”). These evaluations are initially performed when each new entity is created and upon any events that require reconsideration of the entity. If it is determined that we are the primary beneficiary, we must first determine if we have the ability to control the activities of the VIE that most significantly impact its economic performance. Such activities include, but are not limited to, the ability to determine the budget and scope of land development work, if any; the ability to control financing decisions for the VIE; the ability to acquire additional land into the VIE or dispose of land in the VIE not under contract with M/I Homes; and the ability to

change or amend the existing option contract with the VIE. If it is determined we are not able to control such activities, we are not considered the primary beneficiary of the VIE. If we do have the ability to control such activities, we will continue our analysis by determining if we are also expected to benefit from or absorb a potentially significant amount of the VIE's expected gains or losses, respectively.

As of December 31, 2012, we have determined that one of the Unconsolidated LLCs in which we have an interest meets the requirements of a VIE due to a lack of equity at risk in the entity. All of our other entities had sufficient equity at risk to permit the entity to finance its activities without additional subordinated support from the equity investors. However, we have determined that we do not have substantive control over any of these entities, including our VIE; therefore, they are recorded using the equity method of accounting and do not require consolidation into our financial statements. We believe that the Company's maximum exposure related to its investment in these entities as of December 31, 2012 is the amount invested of \$14.2 million (which includes a \$2.5 million note due to the Company from one of the Unconsolidated LLCs), though we expect to invest further amounts in these LLCs as development of the properties progresses. Further details relating to our Unconsolidated LLCs are included in Note 7 to our Consolidated Financial Statements.

**Land Option Agreements.** In the ordinary course of business, the Company enters into land option agreements in order to secure land for the construction of homes in the future. Pursuant to these land option agreements, the Company typically provides a deposit to the seller as consideration for the right to purchase land at different times in the future, usually at predetermined prices. Because the entities holding the land under the option agreement may meet the criteria for VIEs, the Company evaluates all land option agreements to determine if it is necessary to consolidate any of these entities.

At December 31, 2012 and 2011, "Consolidated Inventory Not Owned" included \$19.1 million and \$6.6 million, respectively, under options contracts that were deemed to be VIEs and where we were considered the primary beneficiary of the VIE. Of this balance, \$2.6 million and \$2.0 million, respectively, related to specific performance obligations. At December 31, 2012 and 2011, the corresponding liability of \$19.1 million and \$2.9 million, respectively, has been classified as Obligation for Consolidated Inventory Not Owned on the Consolidated Balance Sheets.

Other than the Consolidated Inventory Not Owned balance, the Company currently believes that its maximum exposure as of December 31, 2012 related to our land option agreements is equal to the amount of the Company's outstanding deposits and prepaid acquisition costs, which totaled \$14.9 million, including cash deposits of \$8.7 million, prepaid acquisition costs of \$2.1 million and letters of credit of \$4.1 million.

**Letters of Credit and Completion Bonds.** The Company provides standby letters of credit and completion bonds for development work in progress, deposits on land and lot purchase agreements and miscellaneous deposits. As of December 31, 2012, the Company had outstanding \$61.8 million of completion bonds and standby letters of credit, some of which were issued to various local governmental entities, that expire at various times through February 2018. Included in this total are: (1) \$32.6 million of performance bonds and \$16.2 million of performance letters of credit that serve as completion bonds for land development work in progress; (2) \$9.5 million of financial letters of credit; and (3) \$3.5 million of financial bonds. The development agreements under which we are required to provide completion bonds or letters of credit are generally not subject to a required completion date and only require that the improvements are in place in phases as houses are built and sold. In locations where development has progressed, the amount of development work remaining to be completed is typically less than the remaining amount of bonds or letters of credit due to timing delays in obtaining release of the bonds or letters of credit.

**Guarantees and Indemnities.** In the ordinary course of business, M/I Financial enters into agreements that guarantee purchasers of its mortgage loans that M/I Financial will repurchase a loan if certain conditions occur. The risks associated with these guarantees are offset by the value of the underlying assets, and the Company accrues its best estimate of the probable loss on these loans. Additionally, the Company has provided certain other guarantees and indemnities in connection with the acquisition and development of land by our homebuilding operations. Refer to Note 8 of our Consolidated Financial Statements for additional details relating to our guarantees and indemnities.

## **INTEREST RATES AND INFLATION**

Our business is significantly affected by general economic conditions within the United States and, particularly, by the impact of interest rates and inflation. Inflation can have a long-term impact on us because increasing costs of land, materials and labor can result in a need to increase the sales prices of homes. In addition, inflation is often accompanied by higher interest rates, which can have a negative impact on housing demand and the costs of financing land development activities and housing construction. Higher interest rates also may decrease our potential market by making it more difficult for homebuyers to qualify for mortgages or to obtain mortgages at interest rates that are acceptable to them. The impact of increased rates can be offset, in part, by offering variable rate loans with lower interest rates. In conjunction with our mortgage financing services, hedging methods are used to reduce our exposure to interest rate fluctuations between the commitment date of the loan and the time the loan closes. Rising interest rates, as well as increased materials and labor costs, may reduce gross margins. An increase in material and labor costs is particularly a problem during a period of declining home prices. Conversely,

deflation can impact the value of real estate and make it difficult for us to recover our land costs. Therefore, either inflation or deflation could adversely impact our future results of operations.

### Seasonality and Variability in Quarterly Results

Typically, our homebuilding operations experience significant seasonality and quarter-to-quarter variability in homebuilding activity levels. In general, homes delivered increase substantially in the second half of the year compared to the first half of the year. We believe that this seasonality reflects the tendency of homebuyers to shop for a new home in the spring with the goal of closing in the fall or winter, as well as the scheduling of construction to accommodate seasonal weather conditions. Our financial services operations also experience seasonality because loan originations correspond with the delivery of homes in our homebuilding operations.

(Dollars in thousands)	Three Months Ended			
	December 31, 2012	September 30, 2012	June 30, 2012	March 31, 2012
Revenue	\$ 250,911	\$ 208,875	\$ 170,994	\$ 131,125
Unit data:				
New contracts	673	757	826	764
Homes delivered	887	746	625	507
Backlog at end of period	965	1,179	1,168	933

(Dollars in thousands)	Three Months Ended			
	December 31, 2011	September 30, 2011	June 30, 2011	March 31, 2011
Revenue	\$ 176,786	\$ 141,624	\$ 137,444	\$ 110,570
Unit data:				
New contracts	505	587	635	654
Homes delivered	667	582	590	439
Backlog at end of period	676	838	833	747

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our primary market risk results from fluctuations in interest rates. We are exposed to interest rate risk through borrowings under our revolving credit facilities, consisting of the Credit Facility, the MIF Mortgage Warehousing Agreement, and the MIF Mortgage Repurchase Facility which permit borrowings of up to \$225 million, subject to availability constraints. Additionally, M/I Financial is exposed to interest rate risk associated with its mortgage loan origination services.

**Interest Rate Lock Commitments:** Interest rate lock commitments (“IRLCs”) are extended to certain home-buying customers who have applied for a mortgage loan and meet certain defined credit and underwriting criteria. Typically, the IRLCs will have a duration of less than six months; however, in certain markets, the duration could extend to twelve months.

Some IRLCs are committed to a specific third party investor through the use of best-efforts whole loan delivery commitments matching the exact terms of the IRLC loan. Uncommitted IRLCs are considered derivative instruments and are fair value adjusted, with the resulting gain or loss recorded in current earnings.

**Forward Sales of Mortgage-Backed Securities:** Forward sales of mortgage-backed securities (“FMBSs”) are used to protect uncommitted IRLC loans against the risk of changes in interest rates between the lock date and the funding date. FMBSs related to uncommitted IRLCs are classified and accounted for as non-designated derivative instruments and are recorded at fair value, with gains and losses recorded in current earnings.

**Mortgage Loans Held for Sale:** Mortgage loans held for sale consist primarily of single-family residential loans collateralized by the underlying property. During the intervening period between when a loan is closed and when it is sold to an investor, the interest rate risk is covered through the use of a best-efforts contract or by FMBSs. The FMBSs are classified and accounted for as non-designated derivative instruments, with gains and losses recorded in current earnings.

The table below shows the notional amounts of our financial instruments at December 31, 2012 and 2011:

Description of financial instrument (in thousands)	December 31,	
	2012	2011
Best-effort contracts and related committed IRLCs	\$ 1,184	\$ 1,088
Uncommitted IRLCs	25,854	25,912
FMBSs related to uncommitted IRLCs	26,000	26,000
Best-effort contracts and related mortgage loans held for sale	25,441	14,058
FMBSs related to mortgage loans held for sale	44,000	42,000
Mortgage loans held for sale covered by FMBSs	44,524	42,227

The table below shows the measurement of assets and liabilities at December 31, 2012 and 2011:

Description of Financial Instrument (in thousands)	December 31,	
	2012	2011
Mortgage loans held for sale	\$ 71,121	\$ 57,275
Forward sales of mortgage-backed securities	253	(470)
Interest rate lock commitments	1	356
Best-efforts contracts	(3)	(129)
Total	\$ 71,372	\$ 57,032

The following table sets forth the amount of (loss) gain recognized on assets and liabilities for the years ended December 31, 2012, 2011 and 2010:

Description (in thousands)	Year Ended December 31,		
	2012	2011	2010
Mortgage loans held for sale	\$ (1,494)	\$ 3,065	\$ (1,220)
Forward sales of mortgage-backed securities	723	(591)	(712)
Interest rate lock commitments	(357)	366	102
Best-efforts contracts	128	(436)	32
Total (loss) gain recognized	\$ (1,000)	\$ 2,404	\$ (1,798)

The following table provides the expected future cash flows and current fair values of borrowings under our credit facilities and mortgage loan origination services that are subject to market risk as interest rates fluctuate, as of December 31, 2012:

(Dollars in thousands)	Expected Cash Flows by Period						Total	Fair Value 12/31/2012
	2013	2014	2015	2016	2017	Thereafter		
<b>ASSETS:</b>								
Mortgage loans held for sale:								
Fixed rate	\$74,360	—	—	—	—	—	\$74,360	\$70,937
Weighted average interest rate	3.33%	—	—	—	—	—	3.33%	
Variable rate	\$192	—	—	—	—	—	\$192	\$184
Weighted average interest rate	2.56%	—	—	—	—	—	2.56%	
<b>LIABILITIES:</b>								
Long-term debt — fixed rate	—	—	—	—	\$57,500	\$230,000	\$287,500	\$324,875
Weighted average interest rate	—	—	—	—	3.25%	8.63%	7.40%	
Short-term debt — variable rate	\$67,957	—	—	—	—	—	\$67,957	\$67,957
Weighted average interest rate	3.50%	—	—	—	—	—	3.50%	

**Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of M/I Homes, Inc.  
Columbus, Ohio

We have audited the accompanying consolidated balance sheets of M/I Homes, Inc. and subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2012. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of M/I Homes, Inc. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 25, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

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Deloitte & Touche LLP

Columbus, Ohio  
February 25, 2013

**M/I HOMES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

(In thousands, except per share amounts)	Year Ended		
	2012	2011	2010
Revenue	\$ 761,905	\$ 566,424	\$ 616,377
Costs, expenses and other loss:			
Land and housing	610,540	467,130	511,408
Impairment of inventory and investment in Unconsolidated LLCs	3,502	21,993	12,538
General and administrative	62,627	52,664	53,958
Selling	56,406	43,534	48,084
Interest	16,071	15,005	9,415
Other loss	—	—	8,378
Total costs and expenses	749,146	600,326	643,781
Income (loss) before income taxes	12,759	(33,902)	(27,404)
Benefit for income taxes	(588)	(25)	(1,135)
Net income (loss)	\$ 13,347	\$ (33,877)	\$ (26,269)
Earnings (loss) per common share:			
Basic	\$ 0.68	\$ (1.81)	\$ (1.42)
Diluted	\$ 0.67	\$ (1.81)	\$ (1.42)
Weighted average shares outstanding:			
Basic	19,651	18,698	18,523
Diluted	19,891	18,698	18,523

See Notes to Consolidated Financial Statements.



**M/I HOMES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**

(Dollars in thousands, except par values)	<b>December 31,</b>	
	<b>2012</b>	2011
<b>ASSETS:</b>		
Cash and cash equivalents	\$ 145,498	\$ 59,793
Restricted cash	8,680	41,334
Mortgage loans held for sale	71,121	57,275
Inventory	556,817	466,772
Property and equipment - net	10,439	14,358
Investment in Unconsolidated LLCs	11,732	10,357
Other assets	27,013	14,596
<b>TOTAL ASSETS</b>	<b>\$ 831,300</b>	<b>\$ 664,485</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
Accounts payable	\$ 47,690	\$ 41,256
Customer deposits	10,239	4,181
Other liabilities	49,972	39,348
Community development district ("CDD") obligations	4,634	5,983
Obligation for consolidated inventory not owned	19,105	2,944
Notes payable bank - financial services operations	67,957	52,606
Notes payable - other	11,105	5,801
Convertible senior subordinated notes	57,500	—
Senior notes	227,670	239,016
<b>TOTAL LIABILITIES</b>	<b>495,872</b>	<b>391,135</b>
Commitments and contingencies	—	—
<b>SHAREHOLDERS' EQUITY:</b>		
Preferred shares - \$.01 par value; authorized 2,000,000 shares; issued 4,000 shares	96,325	96,325
Common shares - \$.01 par value; authorized 38,000,000 shares; issued 24,631,723 and 22,101,723 shares at December 31, 2012 and 2011, respectively	246	221
Additional paid-in capital	180,289	139,943
Retained earnings	117,048	103,701
Treasury shares - at cost - 2,944,470 and 3,365,366 shares at December 31, 2012 and 2011, respectively	(58,480)	(66,840)
<b>TOTAL SHAREHOLDERS' EQUITY</b>	<b>335,428</b>	<b>273,350</b>
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 831,300</b>	<b>\$ 664,485</b>

See Notes to Consolidated Financial Statements.

**M/I HOMES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY**

(Dollars in thousands)	Preferred Shares		Common Shares		Additional Paid-in Capital	Retained Earnings	Treasury Shares	Total Shareholders' Equity
	Shares Outstanding	Amount	Shares Outstanding	Amount				
Balance at December 31, 2009	4,000	\$ 96,325	18,520,736	\$ 221	\$ 137,492	\$ 163,847	\$ (71,122)	\$ 326,763
Net loss	—	—	—	—	—	(26,269)	—	(26,269)
Excess tax benefit from stock-based payment arrangements	—	—	—	—	(13)	—	—	(13)
Stock options exercised	—	—	1,600	—	(19)	—	31	12
Stock-based compensation expense	—	—	—	—	2,811	—	—	2,811
Deferral of executive and director compensation	—	—	—	—	187	—	—	187
Executive and director deferred compensation distributions	—	—	1,999	—	(40)	—	40	—
Balance at December 31, 2010	4,000	\$ 96,325	18,524,335	\$ 221	\$ 140,418	\$ 137,578	\$ (71,051)	\$ 303,491
Net loss	—	—	—	—	—	(33,877)	—	(33,877)
Excess tax deficiency from stock-based payment arrangements	—	—	—	—	233	—	—	233
Stock options exercised	—	—	190,090	—	(2,275)	—	3,775	1,500
Stock-based compensation expense	—	—	—	—	1,866	—	—	1,866
Deferral of executive and director compensation	—	—	—	—	137	—	—	137
Executive and director deferred compensation distributions	—	—	21,932	—	(436)	—	436	—
Balance at December 31, 2011	<b>4,000</b>	<b>\$ 96,325</b>	<b>18,736,357</b>	<b>\$ 221</b>	<b>\$ 139,943</b>	<b>\$ 103,701</b>	<b>\$ (66,840)</b>	<b>\$ 273,350</b>
Net income	—	—	—	—	—	13,347	—	13,347
Common share issuance	—	—	2,530,000	25	42,060	—	—	42,085
Stock options exercised	—	—	378,674	—	(2,759)	—	7,521	4,762
Stock-based compensation expense	—	—	—	—	1,734	—	—	1,734
Deferral of executive and director compensation	—	—	—	—	150	—	—	150
Executive and director deferred compensation distributions	—	—	42,222	—	(839)	—	839	—
<b>Balance at December 31, 2012</b>	<b>4,000</b>	<b>\$ 96,325</b>	<b>21,687,253</b>	<b>\$ 246</b>	<b>\$ 180,289</b>	<b>\$ 117,048</b>	<b>\$ (58,480)</b>	<b>\$ 335,428</b>

See Notes to Consolidated Financial Statements.

**M/I HOMES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Dollars in thousands)	Year Ended December 31,		
	2012	2011	2010
<b>OPERATING ACTIVITIES:</b>			
Net income (loss)	\$ 13,347	\$ (33,877)	\$ (26,269)
Adjustments to reconcile net income (loss) to net cash used in operating activities:			
Inventory valuation adjustments and abandoned land transaction write-offs	3,368	21,938	13,158
Impairment of investment in Unconsolidated LLCs	390	1,029	—
Bargain purchase gain	(1,219)	—	—
Mortgage loan originations	(520,708)	(376,132)	(416,498)
Proceeds from the sale of mortgage loans	505,368	365,234	406,944
Fair value adjustment of mortgage loans held for sale	1,494	(3,065)	1,220
Fair value adjustment of mortgage servicing rights	(795)	—	—
Depreciation	7,158	5,114	5,194
Amortization of intangibles, debt discount and debt issue costs	2,584	2,460	2,562
Loss on early extinguishment of debt, including transaction costs	—	—	8,378
Stock-based compensation expense	1,734	1,866	2,811
Deferred income tax benefit (expense)	5,076	(12,950)	(10,797)
Deferred tax asset valuation (benefit) expense	(5,076)	12,950	10,797
Other	79	(233)	61
Change in assets and liabilities:			
Cash held in escrow	(125)	3,155	(36)
Inventory	(73,874)	(33,014)	(44,996)
Other assets	(7,744)	1,524	34,351
Accounts payable	5,358	11,503	(9,232)
Customer deposits	5,867	1,118	(814)
Accrued compensation	6,421	(123)	(471)
Other liabilities	4,302	(2,458)	(13,665)
<b>Net cash used in operating activities</b>	<b>(46,995)</b>	<b>(33,961)</b>	<b>(37,302)</b>
<b>INVESTING ACTIVITIES:</b>			
Change in restricted cash	32,779	(2,566)	(19,585)
Purchase of property and equipment	(933)	(1,352)	(1,560)
Acquisition, net of cash acquired	(4,707)	(4,654)	—
Investment in Unconsolidated LLCs	(1,817)	(752)	(1,229)
Return of investment from Unconsolidated LLCs	—	—	13
<b>Net cash provided by (used in) investing activities</b>	<b>25,322</b>	<b>(9,324)</b>	<b>(22,361)</b>
<b>FINANCING ACTIVITIES:</b>			
Repayment of senior notes, including transaction costs	(41,443)	—	(166,088)
Net proceeds from issuance of senior notes	29,700	—	197,174
Proceeds from issuance of convertible senior subordinated notes	57,500	—	—
Proceeds (repayments) from bank borrowings - net	15,351	20,409	8,055
Proceeds from note payable-other and CDD bond obligations	5,304	(52)	(325)
Net proceeds from issuance of common shares	42,085	—	—
Debt issue costs	(5,881)	(220)	(7,874)
Proceeds from exercise of stock options	4,762	1,500	12
Excess tax deficiency from stock-based payment arrangements	—	233	(13)
<b>Net cash provided by financing activities</b>	<b>107,378</b>	<b>21,870</b>	<b>30,941</b>
Net increase (decrease) in cash and cash equivalents	85,705	(21,415)	(28,722)
Cash and cash equivalents balance at beginning of period	59,793	81,208	109,930
<b>Cash and cash equivalents balance at end of period</b>	<b>\$ 145,498</b>	<b>\$ 59,793</b>	<b>\$ 81,208</b>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:</b>			
Cash paid during the year for:			
Interest — net of amount capitalized	\$ 13,083	\$ 12,756	\$ 6,774
Income taxes	\$ 281	\$ (372)	\$ 302
<b>NON-CASH TRANSACTIONS DURING THE PERIOD:</b>			
Community development district infrastructure	\$ (1,349)	\$ (1,129)	\$ (1,074)
Consolidated inventory not owned	\$ 16,161	\$ 2,476	\$ (148)
Contingent consideration related to acquisition	\$ —	\$ 329	\$ —

See Notes to Consolidated Financial Statements.

**M/I HOMES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**NOTE 1. Summary of Significant Accounting Policies**

**Business.** M/I Homes, Inc. and its subsidiaries (the “Company” or “we”) is engaged primarily in the construction and sale of single-family residential property in Columbus and Cincinnati, Ohio; Indianapolis, Indiana; Chicago, Illinois; Tampa and Orlando, Florida; Austin, Houston and San Antonio, Texas; Charlotte and Raleigh, North Carolina; and the Virginia and Maryland suburbs of Washington, D.C. The Company designs, sells and builds single-family homes on finished lots, which it develops or purchases ready for home construction. The Company also purchases undeveloped land to develop into finished lots for future construction of single-family homes and, on a limited basis, for sale to others. Our homebuilding operations operate across three geographic regions in the United States. Within these regions, our operations have similar economic characteristics; therefore, they have been aggregated into three reportable homebuilding segments: Midwest homebuilding, Southern homebuilding and Mid-Atlantic homebuilding.

The Company conducts mortgage financing activities through its 100%-owned subsidiary, M/I Financial Corp. (“M/I Financial”), which originates mortgage loans primarily for purchasers of the Company’s homes. The loans and the servicing rights are generally sold to outside mortgage lenders. The Company and M/I Financial also operate 100%- and majority-owned subsidiaries that provide title services to purchasers of the Company’s homes. Our mortgage banking and title service activities have similar economic characteristics; therefore, they have been aggregated into one reportable segment, the financial services segment.

**Basis of Presentation.** The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) and include the accounts of M/I Homes, Inc. and those of our consolidated subsidiaries, partnerships and other entities in which we have a controlling financial interest, and of variable interest entities in which we are deemed the primary beneficiary (collectively, “us”, “we”, “our” and the “Company”). Intercompany balances and transactions have been eliminated in consolidation. The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Cash and Cash Equivalents.** Liquid investments with an initial maturity of three months or less are classified as cash and cash equivalents. Amounts in transit from title companies for homes delivered of approximately \$6.7 million and \$8.8 million are included in cash and cash equivalents at December 31, 2012 and 2011, respectively. M/I Financial held \$19.1 million and \$16.3 million of the Company's cash and cash equivalents at December 31, 2012 and 2011.

**Restricted Cash.** At December 31, 2012 and 2011, restricted cash consists primarily of amounts held in restricted accounts as collateral for our letter of credit arrangements of \$8.7 million and \$41.3 million respectively. The aggregate capacity of these secured letters of credit is approximately \$18.0 million. In addition, at December 31, 2011, restricted cash included \$25.0 million held in restricted accounts pledged to our lenders under our \$140 million secured revolving credit facility (the “Credit Facility”). The Company was released from this collateral requirement in the first quarter of 2012. Our restricted cash accounts are invested in money market accounts.

**Mortgage Loans Held for Sale.** Mortgage loans held for sale consists primarily of single-family residential loans collateralized by the underlying property. Generally, all of the mortgage loans and related servicing rights are sold to third-party investors shortly after origination. Refer to the Revenue Recognition policy described below for additional discussion.

**Inventory.** Inventory is recorded at cost, unless events and circumstances indicate that the carrying value of the land is impaired, at which point the inventory is written down to fair value as required by Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 360-10, *Property, Plant and Equipment*. Inventory includes the costs of land acquisition, land development and home construction, capitalized interest, real estate taxes, direct overhead costs incurred during development and home construction, and common costs that benefit the entire community, less impairments, if any. Land acquisition, land development and common costs (both incurred and estimated to be incurred) are typically allocated to individual lots based on total number of lots expected to be closed in each community or phase or based on relative sales value of each lot. Any changes to the estimated total development costs of a community or phase are allocated proportionately to homes remaining in the community or phase and homes previously closed. The cost of individual lots is transferred to homes under construction when home construction begins. Home construction costs are accumulated on a specific identification basis. Costs of home closings include the specific construction cost of the home and the allocated lot costs. Such costs are charged to cost of sales simultaneously with revenue recognition, as discussed above. When a home is closed, we typically have not yet paid all incurred costs necessary to complete the home. As homes close, we compare the home construction budget to actual recorded costs to date to estimate the additional costs to be incurred from our subcontractors related to the home. We record a liability and a corresponding charge to cost of sales for the amount we estimate will ultimately be paid related to that home. We monitor the accuracy of such estimates by comparing actual costs incurred in subsequent months to the estimate, although actual costs to complete a home in the future could differ from our estimates.

The Company assesses inventory for recoverability on a quarterly basis if events or changes in local or national economic conditions indicate that the carrying amount of an asset may not be recoverable. In conducting our quarterly review for indicators of impairment on a community level, we evaluate, among other things, margins on sales contracts in backlog, the margins on homes that have been delivered, expected changes in margins with regard to future home sales over the life of the community, expected changes in margins with regard to future land sales, the value of the land itself as well as any results from third party appraisals. We pay particular attention to communities in which inventory is moving at a slower than anticipated absorption pace, and communities whose average sales price and/or margins are trending downward and are anticipated to continue to trend downward. We also evaluate communities where management intends to lower the sales price or offer incentives in order to improve absorptions even if the community's historical results do not indicate a potential for impairment. From the review of all of these factors, we identify communities whose carrying values may exceed their estimated undiscounted future cash flows and run a test for recoverability. For those communities whose carrying values exceed the estimated undiscounted future cash flows and which are deemed to be impaired, the impairment recognized is measured by the amount by which the carrying amount of the communities exceeds the estimated fair value. Due to the fact that the Company's cash flow models and estimates of fair values are based upon management estimates and assumptions, unexpected changes in market conditions and/or changes in management's intentions with respect to the inventory may lead the Company to incur additional impairment charges in the future.

Our determination of fair value is based on projections and estimates, which are Level 3 measurement inputs. Our analysis is completed at a phase level within each community; therefore, changes in local conditions may affect one or several of our communities. For all of the categories listed below, the key assumptions relating to the valuations are dependent on project-specific local market and/or community conditions and are inherently uncertain. Because each inventory asset is unique, there are numerous inputs and assumptions used in our valuation techniques. Market factors that may impact these assumptions include:

- historical project results such as average sales price and sales pace, if closings have occurred in the project;
- competitors' market and/or community presence and their competitive actions;
- project specific attributes such as location desirability and uniqueness of product offering;
- potential for alternative product offerings to respond to local market conditions; and
- current economic and demographic conditions and related trends and forecasts.

These and other market factors that may impact project assumptions are considered by personnel in our homebuilding divisions as they prepare or update the forecasts for each community. Quantitative and qualitative factors other than home sales prices could significantly impact the potential for future impairments. The sales objectives can differ between communities, even within a given sub-market. For example, facts and circumstances in a given community may lead us to price our homes with the objective of yielding a higher sales absorption pace, while facts and circumstances in another community may lead us to price our homes to minimize deterioration in our gross margins, although it may result in a slower sales absorption pace. Furthermore, the key assumptions included in our estimated future undiscounted cash flows may be interrelated. For example, a decrease in estimated base sales price or an increase in home sales incentives may result in a corresponding increase in sales absorption pace or a reduction in base house costs. Changes in our key assumptions, including estimated average selling price, construction and development costs, absorption pace, selling strategies, or discount rates, could materially impact future cash flow and fair value estimates.

As of December 31, 2012, our projections generally assume a gradual improvement in market conditions over time. If communities are not recoverable based on estimated future undiscounted cash flows, the impairment to be recognized is measured as the amount by which the carrying amount of the assets exceeds the estimated fair value of the assets. The fair value of a community is estimated by discounting management's cash flow projections using an appropriate risk-adjusted interest rate. As of December 31, 2012, we utilized discount rates ranging from 13% to 16% in our valuations. The discount rate used in determining each asset's estimated fair value reflects the inherent risks associated with the related estimated cash flow stream, as well as current risk-free rates available in the market and estimated market risk premiums. For example, construction in progress inventory, which is closer to completion, will generally require a lower discount rate than land under development in communities consisting of multiple phases spanning several years of development.

*Operating Communities.* If an indicator for impairment exists for existing operating communities, the recoverability of assets is evaluated by comparing the carrying amount of the assets to estimated future undiscounted net cash flows expected to be generated by the assets based on home sales. These estimated cash flows are developed based primarily on management's assumptions relating to the specific community. The significant assumptions used to evaluate the recoverability of assets include: the timing of development and/or marketing phases; projected sales price and sales pace of each existing or planned community; the estimated land development, home construction, and selling costs of the community; overall market supply and demand; the local market; and competitive conditions. Management reviews these assumptions on a quarterly basis. While we consider available information to determine what we believe to be our best estimates as of the end of a reporting period, these estimates are subject to change in future reporting periods as facts and circumstances change. We believe the most critical assumptions in the Company's cash flow models are projected absorption pace for home sales, sales prices, and costs to build and deliver homes on a community by community basis.

In order to estimate the assumed absorption pace for home sales included in the Company's cash flow models, the Company analyzes the historical absorption pace in the community as well as other communities in the geographic area. In addition, the Company considers internal and external market studies and trends, which may include, but are not limited to, statistics on population demographics, unemployment rates, foreclosure sales, and availability of competing products in the geographic area where a community is located. When analyzing the Company's historical absorption pace for home sales and corresponding internal and external market studies, the Company places greater emphasis on more current metrics and trends such as the absorption pace realized in its most recent quarters and management's most current assessment of sales pace.

In order to estimate the sales prices included in its cash flow models, the Company considers the historical sales prices realized on homes it delivered in the community and other communities in the geographic area, as well as the sales prices included in its current backlog for such communities. In addition, the Company considers internal and external market studies and trends, which may include, but are not limited to, statistics on sales prices in neighboring communities, which include the impact of short sales, if any, and sales prices on similar products in non-neighboring communities in the geographic area where the community is located. When analyzing its historical sales prices and corresponding market studies, the Company places greater emphasis on more current metrics and trends such as the sales prices realized in its most recent quarters and the sales prices in current backlog. Based upon this analysis, the Company sets a sales price for each house type in the community which it believes will achieve an acceptable gross margin and sales pace in the community. This price becomes the price published to the sales force for use in its sales efforts. The Company then considers the average of these published sales prices when estimating the future sales prices in its cash flow models, assuming no increase in weighted average sales price in 2013 and a 2% increase in 2014 and beyond.

In order to arrive at the Company's assumed costs to build and deliver homes, the Company generally assumes a cost structure reflecting contracts currently in place with its vendors and subcontractors, adjusted for any anticipated cost reduction initiatives or increases in cost structure. With respect to overhead included in the cash flow models, the Company uses forecasted rates included in the Company's annual budget adjusted for actual experience that is materially different than budgeted rates. The Company anticipates no increase in assumed weighted average costs in 2013 and a 2% increase in 2014 and beyond.

*Future communities.* If an indicator of impairment exists for raw land, land under development, or lots that management anticipates will be utilized for future homebuilding activities, the recoverability of assets is evaluated by comparing the carrying amount of the assets to the estimated future undiscounted cash flows expected to be generated by the assets based on home sales, consistent with the evaluations performed for operating communities discussed above.

For raw land, land under development, or lots that management intends to market for sale to a third party, but that do not meet all of the criteria to be classified as land held for sale as discussed below, the estimated fair value of the assets is determined based on either the estimated net sales proceeds expected to be realized on the sale of the assets or the estimated fair value determined using cash flow valuation techniques.

If the Company has not yet determined whether raw land, land under development, or lots will be utilized for future homebuilding activities or marketed for sale to a third party, the Company assesses the recoverability of the inventory using a probability-weighted approach.

*Land held for sale.* Land held for sale includes land that meets all of the following six criteria: (1) management, having the authority to approve the action, commits to a plan to sell the asset; (2) the asset is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of such assets; (3) an active program to locate a buyer and other actions required to complete the plan to sell the asset have been initiated; (4) the sale of the asset is probable, and transfer of the asset is expected to qualify for recognition as a completed sale, within one year; (5) the asset is being actively marketed for sale at a price that is reasonable in relation to its current fair value; and (6) actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The Company records land held for sale at the lower of its carrying value or estimated fair value less costs to sell. In performing the impairment evaluation for land held for sale, management considers, among other things, prices for land in recent comparable sales transactions, market analysis and recent bona fide offers received from outside third parties, as well as actual contracts. If the estimated fair value less the costs to sell an asset is less than the asset's current carrying value, the asset is written down to its estimated fair value less costs to sell.

Our quarterly assessments reflect management's best estimates. Due to the inherent uncertainties in management's estimates and uncertainties related to our operations and our industry as a whole, we are unable to determine at this time if and to what extent continuing future impairments will occur. Additionally, due to the volume of possible outcomes that can be generated from changes in the various model inputs for each community, we do not believe it is possible to create a sensitivity analysis that can provide meaningful information for the users of our financial statements. Further details relating to our assessment of inventory for recoverability are included in Note 3 to our Consolidated Financial Statements.

**Capitalized Interest.** The Company capitalizes interest during land development and home construction. Capitalized interest is charged to cost of sales as the related inventory is delivered to a third party. The summary of capitalized interest for the years ended December 31, 2012, 2011 and 2010 is as follows:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Capitalized interest, beginning of period	\$ 18,869	\$ 20,075	\$ 23,670
Interest capitalized to inventory	9,975	9,743	9,744
Capitalized interest charged to cost of sales	(13,468)	(10,949)	(13,339)
Capitalized interest, end of year	\$ 15,376	\$ 18,869	\$ 20,075
Interest incurred	\$ 26,046	\$ 24,748	\$ 19,159

**Variable Interest Entities.** In order to minimize our investment and risk of land exposure in a single location, we have periodically partnered with other land developers or homebuilders to share in the land investment and development of a property through joint ownership and development agreements, joint ventures, and other similar arrangements. For such joint venture arrangements where a special purpose entity is established to own the property, we enter into limited liability company arrangements (“LLCs”) with the other partners to develop the land. The Company’s ownership in these entities as of December 31, 2012 ranged from 33% to 50%. These entities typically engage in land development activities for the purpose of distributing or selling developed lots to the Company and its partners in the entity. With respect to our investments in these entities, we are required, under ASC 810-10, *Consolidation* (“ASC 810-10”) to evaluate whether or not such entities should be consolidated into our financial statements. We initially perform these evaluations when each new entity is created and upon any events that require reconsideration of the entity. In order to determine if we should consolidate an LLC, we determine if the LLC is a Variable Interest Entity (“VIE”) and if we are the primary beneficiary of the entity. Factors considered are whether we have the ability to control the activities of the VIE that most significantly impact its economic performance. Such activities include, but are not limited to, the ability to determine the budget and scope of land development work, if any; the ability to control financing decisions for the VIE; the ability to acquire additional land into the VIE or dispose of land in the VIE not under contract with M/I Homes; and the ability to change or amend the existing option contract with the VIE. If it is determined we are not able to control such activities, we are not considered the primary beneficiary of the VIE.

As of December 31, 2012, we have determined that one of the LLCs in which we have an interest meets the requirements of a VIE due to a lack of equity at risk in the entity. All of our other entities had sufficient equity at risk to permit the entity to finance its activities without additional subordinated support from the equity investors. However, we have determined that we do not have substantive control over any of these entities, including our VIE. As a result, none of these entities are required to be consolidated into our financial statements and the entities are instead recorded in Investment in Unconsolidated Limited Liability Companies on our Consolidated Balance Sheets.

We enter into option or purchase agreements to acquire land or lots, for which we generally pay non-refundable deposits. We also analyze these agreements under ASC 810-10 to determine whether we are the primary beneficiary of the VIE, if applicable, using an analysis similar to that described above. If we are deemed to be the primary beneficiary of the VIE, we will consolidate the VIE in our consolidated financial statements. In cases where we are the primary beneficiary, even though we do not have title to such land, we are required to consolidate these purchase/option agreements and reflect such assets and liabilities as “Consolidated Inventory not Owned” in our Consolidated Balance Sheets.

**Investment in Unconsolidated Limited Liability Companies.** We use the equity method of accounting for investments in unconsolidated entities over which we exercise significant influence but do not have a controlling interest. Under the equity method, our share of the unconsolidated entities’ earnings or loss, if any, is included in our statement of operations. We evaluate our investments in unconsolidated entities for impairment at least quarterly as described below.

If the fair value of the investment is less than the investment’s carrying value and the Company has determined that the decline in value is other than temporary, the Company would write down the value of the investment to fair value. The determination of whether an investment’s fair value is less than the carrying value requires management to make certain assumptions regarding the amount and timing of future contributions to the Unconsolidated LLC, the timing of distribution of lots to the Company from the Unconsolidated LLC, the projected fair value of the lots at the time of distribution to the Company, and the estimated proceeds from, and timing of, the sale of land or lots to third parties. In determining the fair value of investments in Unconsolidated LLCs, the Company evaluates the projected cash flows associated with each Unconsolidated LLC. As of December 31, 2012, the Company used a discount rate of 16% in determining the fair value of investments in Unconsolidated LLCs. In addition to the assumptions management must make to determine if the investment’s fair value is less than the carrying value, management must also use judgment in determining whether the impairment is other than temporary. The factors management considers are: (1) the length of time and the extent to which the market value has been less than cost; (2) the financial condition and near-term prospects of the company; and (3) the intent and ability of the Company to retain its investment in the Unconsolidated LLC for a period of time sufficient to allow for any anticipated recovery in market value. We believe that the Company’s maximum exposure related to its investment in these entities as of December 31, 2012 is the amount invested of \$11.7 million (in addition to a \$2.5 million note due to the Company from one of the Unconsolidated LLCs), though we expect to invest further

amounts in these LLCs as development of the properties progresses. Further details relating to our Unconsolidated LLCs are included in Note 7 to our Consolidated Financial Statements.

Because of the high degree of judgment involved in developing these assumptions, it is possible that the Company may determine the investment is not impaired in the current period; however, due to the passage of time, change in market conditions, and/or changes in management's intentions with respect to the inventory, a change in assumptions could result and impairment could occur.

**Consolidated Inventory Not Owned and Related Obligation.** At December 31, 2012 and 2011, "Consolidated Inventory Not Owned" included \$19.1 million and \$6.6 million, respectively, under options contracts that were deemed to be VIEs and where we were considered the primary beneficiary of the VIE. Of this balance, \$2.6 million and \$2.0 million, respectively, related to specific performance obligations. At December 31, 2012 and 2011, the corresponding liability of \$19.1 million and \$2.9 million, respectively, has been classified as Obligation for Consolidated Inventory Not Owned on the Consolidated Balance Sheets.

**Property and Equipment-net.** The Company records property and equipment at cost and subsequently depreciates the assets using both straight-line and accelerated methods. Following are the major classes of depreciable assets and their estimated useful lives:

	<b>Year Ended December 31,</b>	
	<b>2012</b>	<b>2011</b>
Land, building and improvements	\$ 11,823	\$ 11,823
Office furnishings, leasehold improvements, computer equipment and computer software	22,419	26,637
Transportation and construction equipment	169	268
Property and equipment	34,411	38,728
Accumulated depreciation	(23,972)	(24,370)
Property and equipment, net	\$ 10,439	\$ 14,358

	Estimated Useful Lives
Building and improvements	35 years
Office furnishings, leasehold improvements, computer equipment and computer software	3-7 years
Transportation and construction equipment	5-7 years

Depreciation expense was \$4.8 million, \$3.5 million and \$4.0 million in 2012, 2011 and 2010, respectively.

**Notes Receivable.** In certain instances, we may accept consideration for land sales or other transactions in the form of a note receivable. The counterparties for these transactions are generally land developers, other real estate investors or, in some cases, affiliated unconsolidated LLCs. We consider the creditworthiness of the counterparty when evaluating the relative risk and return involved in pursuing the applicable transaction. Due to the unique facts and circumstances surrounding each receivable, we assess the need for an allowance on an individual basis. Factors considered as part of this assessment include the counterparty's payment history, the value of any underlying collateral, communications with the counterparty, knowledge of the counterparty's financial condition and plans, and the current and expected economic environment. Such receivables are reported net of allowance for credit losses within other assets. Such receivables are generally reported in Other Assets in our Consolidated Balance Sheets. At December 31, 2012 and 2011, Other Assets included notes receivable totaling \$8.8 million and \$0.9 million, respectively, with interest rates ranging from 0% to 12% and maturities from 2013 to 2030. With respect to the balance at December 31, 2012, \$2.5 million was from an affiliated Unconsolidated LLCs.

**Deferred Costs.** At December 31, 2012 and 2011, unamortized debt issue costs of \$9.1 million and \$5.4 million, respectively, are included in Other Assets on the Consolidated Balance Sheets. The costs are primarily amortized to interest expense using the straight line method which approximates the effective interest method.

**Other Assets.** In addition to notes receivable and deferred costs described above, other assets include assets related to mortgage servicing rights, deposits, pre-acquisition costs for land and prepaid expenses for our insurance programs and other business related items.

**Warranty Reserves.** We use subcontractors for nearly all aspects of home construction. Although our subcontractors are generally required to repair and replace any product or labor defects, we are, during applicable warranty periods, ultimately responsible to the homeowner for making such repairs. As such, we record warranty reserves to cover our exposure to the costs for materials and labor not expected to be covered by our subcontractors to the extent they relate to warranty-type claims. Warranty reserves are established by charging cost of sales and crediting a warranty reserve for each home closed. The amounts charged are estimated by management to be adequate to cover expected warranty-related costs described above under the Company's warranty programs. Reserves are recorded for warranties under the following warranty programs:

- Home Builder's Limited Warranty ("HBLW"); and
- 30-year transferable structural warranty



The warranty reserves for the HBLW are established as a percentage of average sales price and adjusted based on historical payment patterns determined, generally, by geographic area and recent trends. Factors that are given consideration in determining the HBLW reserves include: (1) the historical range of amounts paid per average sales price on a home; (2) type and mix of amenity packages added to the home; (3) any warranty expenditures not considered to be normal and recurring; (4) timing of payments; (5) improvements in quality of construction expected to impact future warranty expenditures; and (6) conditions that may affect certain projects and require a different percentage of average sales price for those specific projects. Changes in estimates for warranties occur due to changes in the historical payment experience and differences between the actual payment pattern experienced during the period and the historical payment pattern used in our evaluation of the warranty reserve balance at the end of each quarter. Actual future warranty costs could differ from our current estimated amount.

Our warranty reserves for our transferable structural warranty programs are established on a per-unit basis. While the structural warranty reserve is recorded as each house closes, the sufficiency of the structural warranty per unit charge and total reserve is re-evaluated on an annual basis, with the assistance of an actuary, using our own historical data and trends, industry-wide historical data and trends, and other project specific factors. The reserves are also evaluated quarterly and adjusted if we encounter activity that is inconsistent with the historical experience used in the annual analysis. These reserves are subject to variability due to uncertainties regarding structural defect claims for products we build, the markets in which we build, claim settlement history, insurance and legal interpretations, among other factors.

While we believe that our warranty reserves are sufficient to cover our projected costs, there can be no assurances that historical data and trends will accurately predict our actual warranty costs. At December 31, 2012 and 2011, warranty reserves of \$10.4 million and \$9.0 million, respectively, are included in Other Liabilities on the Consolidated Balance Sheets.

**Self-insurance reserves.** Self-insurance reserves are made for estimated liabilities associated with employee health care, workers' compensation, and general liability insurance. For 2012, our self-insurance limit for employee health care was \$250,000 per claim per year, with stop loss insurance covering amounts in excess of \$250,000. Our workers' compensation claims are insured by a third party and carry a deductible of \$250,000 per claim, except for claims made in the state of Ohio where the Company is self-insured. Our self-insurance limit for Ohio workers' compensation is \$500,000 per claim, with stop loss insurance covering all amounts in excess of this limit. The reserves related to employee health care and workers' compensation are based on historical experience and open case reserves. Our general liability claims are insured by a third party; the Company generally has a \$7.5 million completed operations/construction defect deductible per occurrence by division and a \$15.0 million deductible in the aggregate, with a \$250,000 deductible for all other types of claims. The Company records a general liability reserve for claims falling below the Company's deductible. The general liability reserve estimate is based on an actuarial evaluation of our past history of claims, other industry specific factors and specific event analysis. At December 31, 2012 and 2011, self-insurance reserves of \$1.2 million and \$1.0 million, respectively, are included in Other Liabilities on the Consolidated Balance Sheets. The Company recorded expenses totaling \$4.0 million, \$3.1 million and \$2.0 million, respectively, for all self-insured and general liability claims during the years ended December 31, 2012, 2011 and 2010. For the year ended December 31, 2010, this included \$0.6 million of charges related to defective imported drywall, as well as the \$2.4 million settlement received in the third quarter of 2010 related to defective imported drywall.

**Guarantees and Indemnities.** Guarantee and indemnity liabilities are established by charging the applicable income statement or balance sheet line, depending on the nature of the guarantee or indemnity, and crediting a liability. M/I Financial provides a limited-life guarantee on loans sold to certain third parties and estimates its actual liability related to the guarantee and any indemnities subsequently provided to the purchaser of the loans in lieu of loan repurchase based on historical loss experience. Actual future costs associated with loans guaranteed or indemnified could differ materially from our current estimated amounts. The Company has also provided certain other guarantees and indemnifications in connection with the purchase and development of land, including environmental indemnifications, and guarantees of the completion of land development. The Company estimates these liabilities based on the estimated cost of insurance coverage or estimated cost of acquiring a bond in the amount of the exposure. Actual future costs associated with these guarantees and indemnifications could differ materially from our current estimated amounts. At both December 31, 2012 and 2011, guarantees and indemnifications of \$3.4 million are included in Other Liabilities on the Consolidated Balance Sheets.

**Other Liabilities.** In addition to warranty, self-insurance reserves, and reserves for guarantees and indemnities, other liabilities includes taxes payable, accrued compensation, and various other land related and miscellaneous accrued expenses.

**Derivative Financial Instruments.** To meet financing needs of our home-buying customers, M/I Financial is party to interest rate lock commitments ("IRLCs"), which are extended to customers who have applied for a mortgage loan and meet certain defined credit and underwriting criteria. These IRLCs are considered derivative financial instruments. M/I Financial manages interest rate risk related to its IRLCs and mortgage loans held for sale through the use of forward sales of mortgage-backed securities ("FMBSs"), the use of best-efforts whole loan delivery commitments, and the occasional purchase of options on FMBSs in accordance with Company policy. These FMBSs, options on FMBSs, and IRLCs covered by FMBSs are considered non-designated derivatives. These amounts are either recorded in Other Assets or Other Liabilities on the Consolidated Balance Sheets (depending on the respective balance for that year ended December 31). Please see Note 3 to our Consolidated Financial Statements for more information. In determining the fair value of IRLCs, M/I

Financial considers the value of the resulting loan if sold in the secondary market. The fair value includes the price that the loan is expected to be sold for along with the value of servicing release premiums. Subsequent to inception, M/I Financial estimates an updated fair value, which is compared to the initial fair value. In addition, M/I Financial uses fallout estimates, which fluctuate based on the rate of the IRLC in relation to current rates. Gains or losses are recorded in financial services revenue. Certain IRLCs and mortgage loans held for sale are committed to third party investors through the use of best-efforts whole loan delivery commitments. The IRLCs and related best-efforts whole loan delivery commitments, which generally are highly effective from an economic standpoint, are considered non-designated derivatives and are accounted for at fair value, with gains or losses recorded in financial services revenue. Under the terms of these best-efforts whole loan delivery commitments covering mortgage loans held for sale, the specific committed mortgage loans held for sale are identified and matched to specific delivery commitments on a loan-by-loan basis. The delivery commitments and loans held for sale are recorded at fair value, with changes in fair value recorded in financial services revenue.

**Segment Information.** Our reportable business segments consist of Midwest homebuilding, Southern homebuilding, Mid-Atlantic homebuilding, and financial services. Our homebuilding operations derive a majority of their revenue from constructing single-family homes in eleven markets in the United States. Our operations in the eleven markets each individually represent an operating segment. Due to similar economic characteristics within the homebuilding operations, the Company has aggregated the operating segments into three regions that represent the reportable homebuilding segments. The financial services segment generates revenue by originating and selling mortgages, and by collecting fees for title and insurance services.

**Revenue Recognition.** Revenue from the sale of a home is recognized when the closing has occurred, title has passed, the risks and rewards of ownership are transferred to the buyer, and an adequate initial and continuing investment by the homebuyer is received, or when the loan has been sold to a third-party investor. Revenue for homes that close to the buyer having a deposit of 5% or greater, home closings financed by third parties, and all home closings insured under Federal Housing Administration (“FHA”), U.S. Veterans Administration (“VA”) and other government-insured programs are recorded in the financial statements on the date of closing.

Revenue related to all other home closings initially funded by our 100%-owned subsidiary, M/I Financial Corp. (“M/I Financial”), is recorded on the date that M/I Financial sells the loan to a third-party investor, because the receivable from the third-party investor is not subject to future subordination, and the Company has transferred to this investor the usual risks and rewards of ownership that is in substance a sale and does not have a substantial continuing involvement with the home.

All associated homebuilding costs are charged to cost of sales in the period when the revenues from home closings are recognized. Homebuilding costs include: land and land development costs; home construction costs (including an estimate of the costs to complete construction); previously capitalized interest; real estate taxes; indirect costs; and estimated warranty costs. All other costs are expensed as incurred. Sales incentives, including pricing discounts and financing costs paid by the Company, are recorded as a reduction of revenue in the Company's Consolidated Statements of Operations. Sales incentives in the form of options or upgrades are recorded in homebuilding costs.

We recognize the majority of the revenue associated with our mortgage loan operations when the mortgage loans and/or related servicing rights are sold to third party investors. The revenue recognized is reduced by the fair value of the related guarantee provided to the investor. The fair value of the guarantee is recognized in revenue when the Company is released from its obligation under the guarantee. Generally, all of the financial services mortgage loans and related servicing rights are sold to third party investors within two to three weeks of origination. M/I Financial began retaining a small portion of mortgage loan servicing rights during 2012. As of December 31, 2012, we retained mortgage servicing rights of 369 loans for a total value of \$0.8 million. We recognize financial services revenue associated with our title operations as homes are closed, closing services are rendered, and title policies are issued, all of which generally occur simultaneously as each home is closed. All of the underwriting risk associated with title insurance policies is transferred to third-party insurers.

**Advertising and Research and Development.** The Company expenses advertising, and research and development costs as incurred. The Company expensed \$5.4 million, \$4.9 million and \$6.1 million in 2012, 2011 and 2010, respectively, for advertising expenses. The Company expensed \$2.4 million, \$2.5 million and \$2.4 million in 2012, 2011 and 2010, respectively, for research and development expenses.

**Income Taxes.** We account for income taxes using the asset and liability method, which requires that deferred tax assets and liabilities be recognized based on future tax consequences of both temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply in the years in which the temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in earnings in the period when the changes are enacted.

We record net deferred tax assets to the extent we believe these assets will more likely than not be realized. In making such determination, we consider all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, whether we are in a cumulative loss position, projected future taxable income, tax planning strategies and recent financial operations. We evaluate our cumulative loss position over a four-year period, based on the current and prior three years. If we determine that we will not be able to

realize our deferred income tax assets in the future, we make an adjustment to the valuation allowance, which increases the provision for income taxes.

We recognize interest and penalties related to unrecognized tax benefits within the income tax expense line in the accompanying consolidated statement of operations. Accrued interest and penalties are included within the related tax liability line in the consolidated balance sheets for 2011 and 2010. We did not incur interest any penalties in 2012 as our provision for unrecognized tax benefits was reversed in the first quarter of 2012 as either the statute of limitations lapsed or audits were completed and the reserve was no longer necessary.

**Earnings Per Share.** Basic earnings per share is calculated by dividing income attributable to common shareholders by the weighted average number of common shares outstanding during each year. For purposes of determining diluted earnings per share, basic earnings per share is further adjusted to include the effect of potential dilutive common shares outstanding, including deferred compensation awards and outstanding options to purchase common shares using the treasury stock method as well as our 3.25% Convertible Senior Subordinated Notes due 2017 (the “2017 Convertible Senior Subordinated Notes”) using the if-converted method. Please see Note 15 to our Consolidated Financial Statements for more information regarding our earnings per share calculation.

**Profit Sharing.** The Company has a deferred profit-sharing plan that covers substantially all Company employees and permits participants to make contributions to the plan on a pre-tax basis in accordance with the provisions of Section 401(k) of the Internal Revenue Code of 1986, as amended. Company contributions to the plan are made at the discretion of the Company’s board of directors and resulted in a \$0.6 million expense for the year ended December 31, 2012 and \$0.4 million for the years ended December 31, 2011 and 2010.

**Deferred Compensation Plans.** Effective November 1, 1998, the Company adopted the Executives’ Deferred Compensation Plan (the “Executive Plan”), a non-qualified deferred compensation plan. The purpose of the Executive Plan is to provide an opportunity for certain eligible employees of the Company to defer a portion of their compensation and to invest in the Company’s common shares. In 1997, the Company adopted the Director Deferred Compensation Plan (the “Director Plan”) to provide its directors with an opportunity to defer their director compensation and to invest in the Company’s common shares.

**Stock-Based Compensation.** We record stock-based compensation by recognizing compensation expense at an amount equal to the fair value of share-based awards granted under compensation arrangements. We calculate the fair value of stock options using the Black-Scholes option pricing model. Determining the fair value of share-based awards at the grant date requires judgment in developing assumptions, which involve a number of variables. These variables include, but are not limited to, the expected stock price volatility over the term of the awards and the expected term of the awards. In addition, we also use judgment in estimating the number of share-based awards that are expected to be forfeited.

**Reclassifications.** Certain amounts in the 2010 Consolidated Statements of Cash Flows have been reclassified to conform to the 2011 and 2012 presentation. Certain amounts in our 2011 Summarized Unaudited Condensed Combined Balance Sheet for our Unconsolidated LLCs in Note 7 of our Consolidated Financial Statements were adjusted to conform to our 2012 presentation. The Company believes these reclassifications are immaterial to the Consolidated Financial Statements.

**Land Option Agreements.** In the ordinary course of business, the Company enters into land option agreements in order to secure land for the construction of homes in the future. Pursuant to these land option agreements, the Company will provide a deposit to the seller as consideration for the right to purchase land at different times in the future, usually at predetermined prices. Because the entities holding the land under the option agreement may meet the criteria for VIEs, the Company evaluates all land option agreements to determine if it is necessary to consolidate any of these entities. Other than as described above in “Consolidated Inventory Not Owned,” the Company currently believes that its maximum exposure as of December 31, 2012 related to our land option agreements is equal to the amount of the Company’s outstanding deposits and prepaid acquisition costs, which totaled \$14.9 million, including cash deposits of \$8.7 million, prepaid acquisition costs of \$2.1 million and letters of credit of \$4.1 million.

**Letters of Credit and Completion Bonds.** The Company provides standby letters of credit and completion bonds for development work in progress, deposits on land and lot purchase agreements and miscellaneous deposits. As of December 31, 2012, the Company had outstanding \$61.8 million of completion bonds and standby letters of credit, some of which were issued to various local governmental entities, that expire at various times through February 2018. Included in this total are: (1) \$32.6 million of performance and maintenance bonds and \$16.2 million of performance letters of credit that serve as completion bonds for land development work in progress; (2) \$9.5 million of financial letters of credit; and (3) \$3.5 million of financial bonds. The development agreements under which we are required to provide completion bonds or letters of credit are generally not subject to a required completion date and only require that the improvements are in place in phases as houses are built and sold. In locations where development has progressed, the amount of development work remaining to be completed is typically less than the remaining amount of bonds or letters of credit due to timing delays in obtaining release of the bonds or letters of credit.

## Impact of New Accounting Standards.

In May 2011, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2011-04: *Fair Value Measurement (Topic 820) - Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS (“ASU 2011-04”)*. ASU 2011-04 provides clarity to the fair value definition in order to achieve greater consistency in fair value measurements and disclosures between United States Generally Accepted Accounting Principles (“U.S. GAAP”) and International Financial Reporting Standards (“IFRS”). ASU 2011-04 requires additional disclosures regarding transfers of assets between Level 1 and 2 of the fair value hierarchy and expands the fair value disclosure requirements particularly for Level 3 measurements. The Company adopted this standard on January 1, 2012 and the adoption did not have a material impact on the Company’s financial condition, results of operations or liquidity.

In December 2011, the FASB issued ASU No. 2011-11: *Balance Sheet (Topic 210) - Disclosures about Offsetting Assets and Liabilities (“ASU 2011-11”)*. The amendments in ASU 2011-11 will enhance disclosures required by U.S. GAAP by requiring additional information about financial and derivative instruments that are either (1) offset in accordance with Section 210-20-45 or Section 815-10-45 or (2) subject to an enforceable master netting arrangement or similar agreement, irrespective of whether they are offset in accordance with Section 210-20-45 or Section 815-10-45. We are required to apply the amendments for annual reporting periods beginning on or after January 1, 2013, and for interim periods within those annual periods. We are required to provide the required disclosures retrospectively for all comparative periods presented. The Company adopted this standard on January 1, 2013, and the adoption did not have a material impact on the Company’s Consolidated Financial Statements.

## Note 2. Stock-Based Compensation

### Stock Incentive Plan

Under the M/I Homes, Inc. 2009 Long-Term Incentive Plan (the “2009 LTIP”), the Company is permitted to grant (1) nonqualified stock options to purchase common shares, (2) incentive stock options to purchase common shares, (3) stock appreciation rights, (4) restricted common shares, (5) other stock-based awards – awards that are valued in whole or in part by reference to, or otherwise based on, the fair market value of the common shares, and (6) cash-based awards to its officers, employees, non-employee directors and other eligible participants.

The 2009 LTIP replaced the M/I Homes, Inc. 1993 Stock Incentive Plan as Amended (the “1993 Plan”), which expired by its terms April 22, 2009. Awards outstanding under the 1993 Plan remain in effect in accordance with their respective terms.

Stock options are granted at the market price of the Company’s common shares at the close of business on the date of grant. Options awarded generally vest 20% annually over five years and expire after ten years. Under the 1993 Plan, in the case of termination due to death or disability, or in the case of a change in control of the Company, all options will become immediately exercisable. Under the 2009 LTIP, in the case of termination due to death, disability or retirement, all options will become immediately exercisable. Shares issued upon option exercise may consist of treasury shares, authorized but unissued common shares or common shares purchased by or on behalf of the Company in the open market.

Following is a summary of stock option activity for the year ended December 31, 2012, relating to the stock options awarded under the 2009 LTIP and the 1993 Plan:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (a) (In thousands)
Options outstanding at December 31, 2011	1,976,224	\$ 23.76	5.99	\$ 493
Granted	310,500	12.23		
Exercised	(378,674)	12.58		
Forfeited	(123,841)	23.24		
<b>Options outstanding at December 31, 2012</b>	<b>1,784,209</b>	<b>\$ 24.17</b>	<b>5.59</b>	<b>\$ 14,495</b>
<b>Options vested or expected to vest at December 31, 2012</b>	<b>1,761,563</b>	<b>\$ 24.33</b>	<b>5.56</b>	<b>\$ 14,169</b>
<b>Options exercisable at December 31, 2012</b>	<b>1,236,789</b>	<b>\$ 29.27</b>	<b>4.43</b>	<b>\$ 5,450</b>

(a) Intrinsic value is defined as the amount by which the fair value of the underlying common shares exceeds the exercise price of the option.

The aggregate intrinsic value of options exercised during the years ended December 31, 2012, 2011 and 2010 was \$2.6 million, \$1.1 million and less than \$0.1 million, respectively.

The fair value of our five-year service stock options granted during the years ended December 31, 2012, 2011 and 2010 was established at the date of grant using the Black-Scholes pricing model, with the weighted average assumptions as follows:

	Year Ended December 31,		
	2012	2011	2010
Risk-free interest rate	0.82%	2.39%	2.29%
Expected volatility	53.08%	48.00%	45.70%
Expected term (in years)	5.5	5.5	5.5
Weighted average grant date fair value of options granted during the period	\$ 5.85	\$ 6.58	\$ 5.84

The fair value of our two-year bonus stock options granted during the year ended December 31, 2010 was established at the date of grant using the Black-Scholes pricing model, with the weighted average assumptions as follows:

	Year Ended December 31,	
	2010	
Risk-free interest rate	2.29%	
Expected volatility	45.70%	
Expected term (in years)	4.5	
Weighted average grant date fair value of options granted during the period	\$ 5.31	

The risk-free interest rate was based upon the U.S. Treasury constant maturity rate at the date of the grant. Expected volatility is based on an average of (1) historical volatility of the Company's stock and (2) implied volatility from traded options on the Company's stock. The risk-free rate for periods within the contractual life of the stock option award is based on the yield curve of a zero-coupon U.S. Treasury bond on the date the stock option award is granted, with a maturity equal to the expected term of the stock option award granted. The Company uses historical data to estimate stock option exercises and forfeitures within its valuation model. The expected life of stock option awards granted is derived from historical exercise experience under the Company's share-based payment plans, and represents the period of time that stock option awards granted are expected to be outstanding.

Total compensation expense that has been charged against income relating to the 2009 LTIP and the 1993 Plan was \$1.7 million, \$1.9 million, and \$2.8 million for the years ended December 31, 2012, 2011 and 2010, respectively. As of December 31, 2012, there was a total of \$3.4 million of unrecognized compensation expense related to unvested stock option awards that will be recognized as compensation expense as the awards vest over a weighted average period of 2.1 years for the service awards. There were no excess tax benefits from stock-based payment arrangements for the year ended December 31, 2012, and \$0.2 million and less than \$0.1 million of excess tax deficiency from stock-based payment arrangements for the years ended December 31, 2011 and 2010, respectively.

On May 5, 2009, the Company's board of directors terminated the M/I Homes, Inc. 2006 Director Equity Incentive Plan (the "Director Equity Plan"). Awards outstanding under the Director Equity Plan remain in effect in accordance with their respective terms. At December 31, 2012, there were 16,110 units outstanding under the Director Equity Plan with a value of \$0.5 million.

In May 2012 the Company awarded 7,000 stock units under the 2009 LTIP. One stock unit is the equivalent of one common share. Stock units and the related dividends will be converted to common shares upon termination of service as a director. These stock units vest immediately; therefore, compensation expense relating to the stock units issued in May 2012 was recognized entirely on the grant date. The amount of expense per stock unit was equal to the \$13.69 closing price of the Company's common shares on the date of grant, resulting in expense totaling less than \$0.1 million for the year ended December 31, 2012. In 2011, the Company awarded 6,000 stock units under the 2009 LTIP, resulting in expense totaling less than \$0.1 million for the year ended December 31, 2011. In 2010, the Company awarded 6,000 stock units under the 2009 LTIP, resulting in expense totaling less than \$0.1 million for the year ended December 31, 2010.

### ***Deferred Compensation Plans***

As of December 31, 2012, the Company also has the Executives' Plan and the Director Plan (together the "Plans"), which provide an opportunity for the Company's directors and certain eligible employees of the Company to defer a portion of their cash compensation to invest in the Company's common shares. Compensation expense deferred into the Plans totaled \$0.1 million for the years ended December 31, 2012 and 2011 and \$0.2 million for the year ended December 31, 2010. The portion of cash compensation deferred by employees and directors under the Plans is invested in fully-vested equity units in the Plans. One equity unit is the equivalent of one common share. Equity units and the related dividends will be converted and distributed to the employee or director in the form of common shares at the earlier of his or her elected distribution date or termination of service as an employee or director of the Company. Distributions from the Plans totaled \$0.6 million, \$0.3 million and \$0.1 million, respectively, during the years ended December 31, 2012, 2011 and 2010. As of December 31, 2012, there were a total of 86,313 equity units with a value of \$1.7 million outstanding under the Plans. The aggregate fair market value of these units at December 31, 2012, based on the closing price of the underlying common shares, was

approximately \$2.3 million, and the associated deferred tax benefit the Company would recognize if the outstanding units were distributed was \$0.9 million as of December 31, 2012. Common shares are issued from treasury shares upon distribution of deferred compensation from the Plans.

### **NOTE 3. Fair Value Measurements**

There are three measurement input levels for determining fair value: Level 1, Level 2, and Level 3. Fair values determined by Level 1 inputs utilize quoted prices in active markets for identical assets or liabilities that the Company has the ability to access. Fair values determined by Level 2 inputs utilize inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs include quoted prices for similar assets and liabilities in active markets, and inputs other than quoted prices that are observable for the asset or liability, such as interest rates and yield curves that are observable at commonly quoted intervals. Level 3 inputs are unobservable inputs for the asset or liability, and include situations where there is little, if any, market activity for the asset or liability.

#### **Assets Measured on a Recurring Basis**

The Company measures both mortgage loans held for sale and interest rate lock commitments (“IRLCs”) at fair value. Fair value measurement results in a better presentation of the changes in fair values of the loans and the derivative instruments used to economically hedge them.

In the normal course of business, our financial services segment enters into contractual commitments to extend credit to buyers of single-family homes with fixed expiration dates. The commitments become effective when the borrowers “lock-in” a specified interest rate within established time frames. Market risk arises if interest rates move adversely between the time of the “lock-in” of rates by the borrower and the sale date of the loan to an investor. To mitigate the effect of the interest rate risk inherent in providing rate lock commitments to borrowers, the Company enters into optional or mandatory delivery forward sale contracts to sell whole loans and mortgage-backed securities to broker/dealers. The forward sale contracts lock in an interest rate and price for the sale of loans similar to the specific rate lock commitments. The Company does not engage in speculative or trading derivative activities. Both the rate lock commitments to borrowers and the forward sale contracts to broker/dealers or investors are undesignated derivatives, and accordingly, are marked to fair value through earnings. Changes in fair value measurements are included in earnings in the accompanying statements of operations.

The fair value of mortgage loans held for sale is estimated based primarily on published prices for mortgage-backed securities with similar characteristics. To calculate the effects of interest rate movements, the Company utilizes applicable published mortgage-backed security prices, and multiplies the price movement between the rate lock date and the balance sheet date by the notional loan commitment amount. The Company sells the majority of its loans on a servicing released basis, and receives a servicing release premium upon sale. Thus, the value of the servicing rights included in the fair value measurement is based upon contractual terms with investors and depends on the loan type. The Company applies a fallout rate to IRLCs when measuring the fair value of rate lock commitments. Fallout is defined as locked loan commitments for which the Company does not close a mortgage loan and is based on management’s judgment and company experience.

The fair value of the Company’s forward sales contracts to broker/dealers solely considers the market price movement of the same type of security between the trade date and the balance sheet date. The market price changes are multiplied by the notional amount of the forward sales contracts to measure the fair value.

***Interest Rate Lock Commitments.*** IRLCs are extended to certain home-buying customers who have applied for a mortgage loan and meet certain defined credit and underwriting criteria. Typically, the IRLCs will have a duration of less than six months; however, in certain markets, the duration could extend to twelve months.

Some IRLCs are committed to a specific third party investor through the use of best-efforts whole loan delivery commitments matching the exact terms of the IRLC loan. Uncommitted IRLCs are considered derivative instruments and are fair value adjusted, with the resulting gain or loss recorded in current earnings.

***Forward Sales of Mortgage-Backed Securities.*** Forward sales of mortgage-backed securities (“FMBSs”) are used to protect uncommitted IRLC loans against the risk of changes in interest rates between the lock date and the funding date. FMBSs related to uncommitted IRLCs are classified and accounted for as non-designated derivative instruments and are recorded at fair value, with gains and losses recorded in current earnings.

***Mortgage Loans Held for Sale.*** Mortgage loans held for sale consist primarily of single-family residential loans collateralized by the underlying property. During the intervening period between when a loan is closed and when it is sold to an investor, the interest rate risk

is covered through the use of a best-efforts contract or by FMBSs. The FMBSs are classified and accounted for as non-designated derivative instruments, with gains and losses recorded in current earnings.

The table below shows the notional amounts of our financial instruments at December 31, 2012 and 2011:

Description of financial instrument (in thousands)	December 31,	
	2012	2011
Best efforts contracts and related committed IRLCs	\$ 1,184	\$ 1,088
Uncommitted IRLCs	25,854	25,912
FMBSs related to uncommitted IRLCs	26,000	26,000
Best efforts contracts and related mortgage loans held for sale	25,441	14,058
FMBSs related to mortgage loans held for sale	44,000	42,000
Mortgage loans held for sale covered by FMBSs	44,524	42,227

The table below shows the level and measurement of assets and liabilities measured on a recurring basis at December 31, 2012 and 2011:

Description of Financial Instrument (in thousands)	Fair Value Measurements December 31, 2012	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Mortgage loans held for sale	\$ 71,121	\$ —	\$ 71,121	\$ —
Forward sales of mortgage-backed securities	253	—	253	—
Interest rate lock commitments	1	—	1	—
Best-efforts contracts	(3)	—	(3)	—
Total	\$ 71,372	\$ —	\$ 71,372	\$ —

Description of Financial Instrument (in thousands)	Fair Value Measurements December 31, 2011	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Mortgage loans held for sale	\$ 57,275	\$ —	\$ 57,275	\$ —
Forward sales of mortgage-backed securities	(470)	—	(470)	—
Interest rate lock commitments	356	—	356	—
Best-efforts contracts	(129)	—	(129)	—
Total	\$ 57,032	\$ —	\$ 57,032	\$ —

The following table sets forth the amount of (loss) gain recognized, within our revenue in the Condensed Consolidated Statements of Operations, on assets and liabilities measured on a recurring basis:

Description (in thousands)	Year Ended December 31,		
	2012	2011	2010
Mortgage loans held for sale	\$ (1,494)	\$ 3,065	\$ (1,220)
Forward sales of mortgage-backed securities	723	(591)	(712)
Interest rate lock commitments	(357)	366	102
Best-efforts contracts	128	(436)	32
Total (loss) gain recognized	\$ (1,000)	\$ 2,404	\$ (1,798)

The following tables set forth the fair value of the Company's derivative instruments and their location within the Condensed Consolidated Balance Sheets for the periods indicated (except for mortgage loans held for sale which is disclosed as a separate line item):

Description of Derivatives	Asset Derivatives		Liability Derivatives	
	December 31, 2012		December 31, 2012	
	Balance Sheet Location	Fair Value (in thousands)	Balance Sheet Location	Fair Value (in thousands)
Forward sales of mortgage-backed securities	Other assets	\$ 253	Other liabilities	\$ —
Interest rate lock commitments	Other assets	1	Other liabilities	—
Best-efforts contracts	Other assets	—	Other liabilities	3
Total fair value measurements		\$ 254		\$ 3

Description of Derivatives	Asset Derivatives		Liability Derivatives	
	December 31, 2011		December 31, 2011	
	Balance Sheet Location	Fair Value (in thousands)	Balance Sheet Location	Fair Value (in thousands)
Forward sales of mortgage-backed securities	Other assets	\$ —	Other liabilities	\$ 470
Interest rate lock commitments	Other assets	356	Other liabilities	—
Best-efforts contracts	Other assets	—	Other liabilities	129
Total fair value measurements		\$ 356		\$ 599

### **Assets Measured on a Non-Recurring Basis**

The Company assesses inventory for recoverability on a quarterly basis if events or changes in local or national economic conditions indicate that the carrying amount of an asset may not be recoverable. Our determination of fair value is based on projections and estimates, which are Level 3 measurement inputs. For further explanation on the Company's policy regarding our assessment of recoverability for assets measured on a non-recurring basis, please see Note 1 to our Consolidated Financial Statements. The tables below show the level and measurement of assets measured on a non-recurring basis for the years ended December 31, 2012 and 2011:

Description of asset (In thousands)	Fair Value Measurements December 31, 2012	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Losses
Inventory	\$ 5,608	\$ —	\$ —	\$ 5,608	\$ 3,112
Investments in Unconsolidated LLCs	1,050	—	—	1,050	390
Total fair value measurements	\$ 6,658	\$ —	\$ —	\$ 6,658	\$ 3,502

Description of asset (In thousands)	Fair Value Measurements December 31, 2011	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total Losses
Inventory	\$ 43,659	\$ —	\$ —	\$ 43,659	\$ 20,964
Investments in Unconsolidated LLCs	970	—	—	970	1,029
Total fair value measurements	\$ 44,629	\$ —	\$ —	\$ 44,629	\$ 21,993

### **Financial Instruments**

**Counterparty Credit Risk.** To reduce the risk associated with accounting losses that would be recognized if counterparties failed to perform as contracted, the Company limits the entities with whom management can enter into commitments. This risk of accounting loss is the difference between the market rate at the time of non-performance by the counterparty and the rate to which the Company committed.



The following table presents the carrying amounts and fair values of the Company's financial instruments at December 31, 2012 and 2011. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (an exit price).

(In thousands)	December 31, 2012		December 31, 2011	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Assets:				
Cash, cash equivalents and restricted cash	\$ 154,178	\$ 154,178	\$ 101,127	\$ 101,127
Mortgage loans held for sale	71,121	71,121	57,275	57,275
Split dollar life insurance policies	710	678	719	655
Notes receivable	8,787	7,460	851	753
Commitments to extend real estate loans	1	1	356	356
Forward sales of mortgage-backed securities	253	253	—	—
Liabilities:				
Notes payable - banks	67,957	67,957	52,606	52,606
Notes payable - other	11,105	11,148	5,521	6,076
Convertible senior subordinated notes	57,500	74,175	—	—
Senior notes	227,670	250,700	239,016	218,925
Best-efforts contracts for committed IRLCs and mortgage loans held for sale	3	3	470	470
Forward sales of mortgage-backed securities	—	—	129	129
Off-Balance Sheet Financial Instruments:				
Letters of credit	—	493	—	792

The following methods and assumptions were used by the Company in estimating its fair value disclosures of financial instruments at December 31, 2012 and 2011:

**Cash, Restricted Cash and Other Liabilities.** The carrying amounts of these items approximate fair value because they are short-term by nature.

**Mortgage Loans Held for Sale, Forward Sales of Mortgage-Backed Securities, Commitments to Extend Real Estate Loans, Best-Efforts Contracts for Committed IRLCs and Mortgage Loans Held for Sale, 2017 Convertible Senior Subordinated Notes, and 2018 Senior Notes.** The fair value of these financial instruments was determined based upon market quotes at December 31, 2012 and 2011. The market quotes used were quoted prices for similar assets or liabilities along with inputs taken from observable market data by correlation. The inputs were adjusted to account for the condition of the asset or liability.

**Split Dollar Life Insurance Policies and Notes Receivable.** The estimated fair value was determined by calculating the present value of the amounts based on the estimated timing of receipts using discount rates that incorporate management's estimate of risk associated with the corresponding note receivable.

**Note Payable - Banks.** The interest rate available to the Company fluctuates with the Alternate Base Rate or the Eurodollar Rate (for our Credit Facility) or LIBOR (for M/I Financial Corp.'s \$70 million secured mortgage warehousing agreement dated April 18, 2011, as amended on November 29, 2011, March 23, 2012 and September 26, 2012 (the "MIF Mortgage Warehousing Agreement") and for M/I Financial's mortgage repurchase agreement dated November 13, 2012 (the "MIF Mortgage Repurchase Facility")), and thus their carrying value is a reasonable estimate of fair value.

**Mortgage Notes Payable.** The estimated fair value was determined by calculating the present value of the future cash flows using the Company's current incremental borrowing rate.

**Letters of Credit.** Letters of credit of \$25.7 million and \$35.8 million represent potential commitments at December 31, 2012 and 2011, respectively. The letters of credit generally expire within one or two years. The estimated fair value of letters of credit was determined using fees currently charged for similar agreements.

#### NOTE 4. Inventory

A summary of the Company's inventory as of December 31, 2012 and 2011 is as follows:

(In thousands)	December 31,	
	2012	2011
Single-family lots, land and land development costs	\$ 257,397	\$ 242,372
Land held for sale	8,442	—
Homes under construction	221,432	181,483
Model homes and furnishings - at cost (less accumulated depreciation: December 31, 2012 - \$4,883; December 31, 2011 - \$4,340)	37,080	27,662
Community development district infrastructure	4,634	5,983
Land purchase deposits	8,727	2,676
Consolidated inventory not owned	19,105	6,596
Total inventory	\$ 556,817	\$ 466,772

Single-family lots, land and land development costs include raw land that the Company has purchased to develop into lots, costs incurred to develop the raw land into lots, and lots for which development has been completed, but which have not yet been used to start construction of a home.

Homes under construction include homes that are in various stages of construction. As of December 31, 2012 and 2011, we had 649 homes (with a carrying value of \$89.8 million) and 573 homes (with a carrying value of \$85.5 million), respectively, included in homes under construction that were not subject to a sales contract.

Model homes and furnishings include homes that are under construction or have been completed and are being used as sales models. The amount also includes the net book value of furnishings included in our model homes. Depreciation on model home furnishings is recorded using an accelerated method over the estimated useful life of the assets, typically three years.

The Company assesses inventory for recoverability on a quarterly basis. Refer to Notes 1 and 3 of our Consolidated Financial Statements for additional details relating to our procedures for evaluating our inventories for impairment.

Land purchase deposits include both refundable and non-refundable amounts paid to third party sellers relating to the purchase of land. On an ongoing basis, the Company evaluates the land option agreements relating to the land purchase deposits. In the period during which the Company makes the decision not to proceed with the purchase of land under an agreement, the Company writes off any deposits and accumulated pre-acquisition costs relating to such agreement.

## NOTE 5. Valuation Adjustments and Write-offs

The Company assesses inventory for recoverability on a quarterly basis, by reviewing for impairment whenever events or changes in local or national economic conditions indicate that the carrying amount of an asset may not be recoverable.

A summary of the Company's valuation adjustments and write-offs for the years ended December 31, 2012, 2011 and 2010 is as follows:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
<b>Impairment of operating communities:</b>			
Midwest	\$ 285	\$ 5,493	\$ 828
Southern	—	2,608	621
Mid-Atlantic	—	1,833	3,121
Total impairment of operating communities (a)	\$ 285	\$ 9,934	\$ 4,570
<b>Impairment of future communities:</b>			
Midwest	\$ 2,732	\$ 6,985	\$ 2,837
Southern	—	3,455	3,134
Mid-Atlantic	—	—	1,290
Total impairment of future communities (a)	\$ 2,732	\$ 10,440	\$ 7,261
<b>Impairment of land held for sale:</b>			
Midwest	\$ 95	\$ —	\$ —
Southern	—	590	587
Mid-Atlantic	—	—	88
Total impairment of land held for sale (a)	\$ 95	\$ 590	\$ 675
<b>Option deposits and pre-acquisition costs write-offs:</b>			
Midwest	\$ 36	\$ 441	\$ 198
Southern	110	89	160
Mid-Atlantic	110	444	262
Total option deposits and pre-acquisition costs write-offs (b)	\$ 256	\$ 974	\$ 620
<b>Impairment of investments in Unconsolidated LLCs:</b>			
Midwest	\$ 390	\$ 979	—
Southern	—	50	32
Mid-Atlantic	—	—	—
Total impairment of investments in Unconsolidated LLCs (a)	\$ 390	\$ 1,029	\$ 32
<b>Total impairments and write-offs of option deposits and pre-acquisition costs</b>	<b>\$ 3,758</b>	<b>\$ 22,967</b>	<b>\$ 13,158</b>

(a) Amounts are recorded within Impairment of inventory and investment in Unconsolidated LLCs in the Company's Consolidated Statements of Operations.

(b) Amounts are recorded within General and administrative expenses in the Company's Consolidated Statements of Operations.

## Note 6. Transactions with Related Parties

The Company had receivables totaling \$0.7 million at December 31, 2012 and 2011 due from executive officers, relating to amounts owed to the Company for split-dollar life insurance policy premiums. The Company will collect the receivable either directly from the executive officer, if employment terminates other than by death, or from the executive officer's beneficiary, if employment terminates due to death of the executive officer. We also have an outstanding loan to one of our Unconsolidated LLCs for \$2.5 million in which we are one of the partners in the joint venture. The receivables are recorded in Other Assets on the Consolidated Balance Sheets.

## NOTE 7. Investment in Unconsolidated Limited Liability Companies

We have determined that we do not have substantive control over any of these entities; therefore, they are recorded using the equity method of accounting. The Company's maximum exposure related to its investment in these entities as of December 31, 2012 was the amount invested of \$11.7 million. Included in the Company's investment in Unconsolidated LLCs at both December 31, 2012 and December 31, 2011 were \$0.8 million of capitalized interest and other costs.

The Company evaluates its investment in Unconsolidated LLCs for potential impairment on a quarterly basis. If the fair value of the investment (see Notes 1 and 3 of our Consolidated Financial Statements) is less than the investment's carrying value, and the Company determines the decline in value was other than temporary, the Company would write down the investment to fair value.

Summarized condensed combined financial information for the Unconsolidated LLCs that are included in the homebuilding segments as of December 31, 2012 and 2011 and for the years ended December 31, 2012, 2011 and 2010 is as follows:

Summarized Unaudited Condensed Combined Balance Sheets:

(In thousands)	December 31,	
	2012	2011
<b>Assets:</b>		
Single-family lots, land and land development costs (a)	\$ 60,086	\$ 48,779
Other assets	(232)	199
<b>Total assets</b>	<b>\$ 59,853</b>	<b>\$ 48,978</b>
<b>Liabilities and partners' equity:</b>		
<b>Liabilities:</b>		
Notes payable	\$ 10,436	\$ 3,250
Other liabilities	324	159
<b>Total liabilities</b>	<b>10,760</b>	<b>3,409</b>
<b>Partners' equity:</b>		
Company's equity (a)	24,265	22,505
Other equity	24,829	23,064
<b>Total partners' equity</b>	<b>49,093</b>	<b>45,569</b>
<b>Total liabilities and partners' equity</b>	<b>\$ 59,853</b>	<b>\$ 48,978</b>

(a) For the years ended December 31, 2012 and 2011, impairment expenses and other miscellaneous adjustments totaling \$12.5 million and \$12.1 million, respectively, were excluded from the table above.

Summarized Unaudited Condensed Combined Statements of Operations:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Revenue	\$ —	\$ —	\$ 634
Costs and expenses	15	18	13
<b>(Loss) income</b>	<b>\$ (15)</b>	<b>\$ (18)</b>	<b>\$ 621</b>

The Company's total equity in the (loss) income relating to the above homebuilding Unconsolidated LLCs was less than (\$0.1 million) for 2012 and 2011 and \$0.3 million for 2010.

**NOTE 8. Guarantees and Indemnifications**

**Warranty**

Our warranty reserve amounts are based upon historical experience and geographic location. Our warranty reserves are included in Other Liabilities in the Company's Consolidated Balance Sheets. A summary of warranty activity for the years ended December 31, 2012, 2011 and 2010 is as follows:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Warranty reserves, beginning of period	\$ 9,025	\$ 8,335	\$ 8,657
Warranty expense on homes delivered during the period	5,853	4,526	5,096
Changes in estimates for pre-existing warranties	1,690	1,891	1,118
Settlements made during the period	(6,130)	(5,727)	(6,536)
<b>Warranty reserves, end of period</b>	<b>\$ 10,438</b>	<b>\$ 9,025</b>	<b>\$ 8,335</b>

**Guarantees**

In the ordinary course of business, M/I Financial Corp. ("M/I Financial"), a 100%-owned subsidiary of M/I Homes, Inc., enters into agreements that guarantee certain purchasers of its mortgage loans that M/I Financial will repurchase a loan if certain conditions occur, primarily if the mortgagor does not meet those conditions of the loan within the first six months after the sale of the loan. Loans totaling approximately \$3.1 million and \$53.0 million were covered under the above guarantees as of December 31, 2012 and 2011, respectively. A portion of the revenue paid to M/I Financial for providing the guarantees on the above loans was deferred at December 31, 2012, and will be recognized in income as M/I Financial is released from its obligation under the guarantees. M/I Financial has not repurchased any loans under the above agreements during 2012. The risk associated with the guarantees above is offset by the value of the underlying assets.

M/I Financial has received inquiries concerning underwriting matters from purchasers of its loans regarding certain loans totaling approximately \$7.9 million and \$4.6 million at December 31, 2012 and 2011, respectively. The risk associated with the guarantees above is offset by the value of the underlying assets.

M/I Financial has also guaranteed the collectability of certain loans to third party insurers (U.S. Department of Housing and Urban Development and U.S. Veterans Administration) of those loans for periods ranging from five to thirty years. As of December 31, 2012 and 2011, the total of all loans indemnified to third party insurers relating to the above agreements was \$1.0 million and \$1.4 million, respectively. The maximum potential amount of future payments is equal to the outstanding loan value less the value of the underlying asset plus administrative costs incurred related to foreclosure on the loans, should this event occur.

The Company has recorded a liability relating to the guarantees described above totaling \$2.6 million and \$2.8 million at December 31, 2012 and 2011, respectively, which is management's best estimate of the Company's liability.

At December 31, 2012, the Company had outstanding \$230.0 million aggregate principal amount of 8.625% Senior Notes due 2018 (the "2018 Senior Notes") and \$57.5 million aggregate principal amount of 3.25% 2017 Convertible Senior Subordinated Notes. The Company's obligations under the 2018 Senior Notes, the 2017 Convertible Senior Subordinated Notes and the Credit Facility are guaranteed jointly and severally by all of the Company's subsidiaries, with the exception of subsidiaries that are primarily engaged in the business of mortgage financing, title insurance or similar financial businesses relating to the homebuilding and home sales business, certain subsidiaries that are not 100%-owned by the Company or another subsidiary, and other subsidiaries designated by the Company as Non-Guarantor Subsidiaries, subject to limitations on the aggregate amount invested in such Non-Guarantor Subsidiaries.

#### **NOTE 9. Commitments and Contingencies**

At December 31, 2012, the Company had outstanding approximately \$61.8 million of completion bonds and standby letters of credit, some of which were issued to various local governmental entities that expire at various times through February 2018. Included in this total are: (1) \$32.6 million of performance and maintenance bonds and \$16.2 million of performance letters of credit that serve as completion bonds for land development work in progress; (2) \$9.5 million of financial letters of credit, of which \$4.1 million represent deposits on land and lot purchase agreements; and (3) \$3.5 million of financial bonds.

At December 31, 2012, the Company also had options and contingent purchase agreements to acquire land and developed lots with an aggregate purchase price of approximately \$240.5 million. Purchase of properties under these agreements is contingent upon satisfaction of certain requirements by the Company and the sellers.

#### **NOTE 10. Legal Liabilities**

On March 5, 2009, a resident of Florida and an owner of one of our homes filed a complaint in the United States District Court for the Southern District of Ohio, on behalf of himself and other similarly situated owners and residents of homes in the United States or alternatively in Florida, against the Company and certain other identified and unidentified parties (the "Initial Action"). The plaintiff alleged that the Company built his home with defective drywall, manufactured and supplied by certain of the defendants, that contains sulfur or other organic compounds capable of harming the health of individuals and damaging property. The plaintiff alleged physical and economic damages and sought legal and equitable relief, medical monitoring and attorney's fees. The Company filed a responsive pleading on or about April 30, 2009. The Initial Action was consolidated with other similar actions not involving the Company and transferred to the Eastern District of Louisiana pursuant to an order from the United States Judicial Panel on Multidistrict Litigation for coordinated pre-trial proceedings (collectively, the "In Re: Chinese Manufactured Drywall Product Liability Litigation"). In connection with the administration of the In Re: Chinese Manufactured Drywall Product Liability Litigation, the same homeowner and nine other homeowners were named as plaintiffs in omnibus class action complaints filed in and after December 2009 against certain identified manufacturers of drywall and others (including the Company), including one homeowner named as a plaintiff in an omnibus class action complaint filed in March 2010 against various unidentified manufacturers of drywall and others (including the Company) (collectively, the "MDL Omnibus Actions"). As they relate to the Company, the Initial Action and the MDL Omnibus Actions address substantially the same claims and seek substantially the same relief. The Company has entered into agreements with several of the homeowners named as plaintiffs pursuant to which the Company agreed to make repairs to their homes consistent with repairs made to the homes of other homeowners. As a result of these agreements, the Initial Action has been resolved and dismissed, and seven of the nine other homeowners named as plaintiffs in omnibus class action complaints have dismissed their claims against the Company. One of the two remaining plaintiffs has also filed a complaint in Florida state court asserting essentially the same claims and seeking substantially the same relief as asserted in the MDL Omnibus Action. The court in the MDL Omnibus Action recently entered an order and judgment certifying various settlement classes and granting final approval of various class settlement, including a global class action settlement, which is intended to resolve all Chinese drywall-related claims of and against those who participate in the settlement. The Company will participate in the global settlement. The Company intends to vigorously defend against the claims of any plaintiffs who are not bound by or elect to opt out of the global class action settlement. Given the inherent uncertainties in this litigation, as of December 31, 2012, no accrual has been recorded because we cannot make a determination as to the probability of a loss resulting from this matter or estimate the range

of possible loss, if any. There can be no assurance that the ultimate resolution of the MDL Omnibus Actions, or any other actions or claims relating to defective drywall that may be asserted in the future, will not have a material adverse effect on our results of operations, financial condition, and cash flows.

The Company and certain of its subsidiaries have been named as defendants in other claims, complaints and legal actions which are routine and incidental to our business. Certain of the liabilities resulting from these other matters are covered by insurance. While management currently believes that the ultimate resolution of these other matters, individually and in the aggregate, will not have a material effect on the Company's financial position, results of operations and cash flows, such matters are subject to inherent uncertainties. The Company has recorded a liability to provide for the anticipated costs, including legal defense costs, associated with the resolution of these other matters. However, there exists the possibility that the costs to resolve these other matters could differ from the recorded estimates and, therefore, have a material effect on the Company's net income for the periods in which the matters are resolved. At December 31, 2012 and 2011, we had \$0.3 million and \$0.5 million reserved for legal expenses, respectively.

#### **Note 11. Lease Commitments**

**Operating Leases.** The Company leases various office facilities, automobiles, model furnishings, and model homes under operating leases with remaining terms of one to nine years. The Company sells model homes to investors with the express purpose of leasing the homes back as sales models for a specified period of time. The Company records the sale of the home at the time of the home closing, and defers profit on the sale, which is subsequently recognized over the lease term.

At December 31, 2012, the future minimum rental commitments totaled \$9.0 million under non-cancelable operating leases with initial terms in excess of one year as follows: 2013 - \$2.6 million; 2014 - \$1.7 million; 2015 - \$1.5 million; 2016 - \$1.4 million; 2017 - \$1.3 million; and \$0.5 million thereafter. The Company's total rental expense was \$4.1 million, \$3.8 million, and \$5.6 million for 2012, 2011 and 2010, respectively.

#### **Note 12. Community Development District Infrastructure and Related Obligations**

A Community Development District and/or Community Development Authority ("CDD") is a unit of local government created under various state and/or local statutes to encourage planned community development and to allow for the construction and maintenance of long-term infrastructure through alternative financing sources, including the tax-exempt markets. A CDD is generally created through the approval of the local city or county in which the CDD is located and is controlled by a Board of Supervisors representing the landowners within the CDD. CDDs may utilize bond financing to fund construction or acquisition of certain on-site and off-site infrastructure improvements near or within these communities. CDDs are also granted the power to levy special assessments to impose ad valorem taxes, rates, fees and other charges for the use of the CDD project. An allocated share of the principal and interest on the bonds issued by the CDD is assigned to and constitutes a lien on each parcel within the community evidenced by an assessment ("Assessment"). The owner of each such parcel is responsible for the payment of the Assessment on that parcel. If the owner of the parcel fails to pay the Assessment, the CDD may foreclose on the lien pursuant to powers conferred to the CDD under applicable state laws and/or foreclosure procedures. In connection with the development of certain of the Company's communities, CDDs have been established and bonds have been issued to finance a portion of the related infrastructure. Following are details relating to the CDD bond obligations issued and outstanding as of December 31, 2012:

<b>Issue Date</b>	<b>Maturity Date</b>	<b>Interest Rate</b>	<b>Principal Amount (in thousands)</b>
7/15/2004	12/1/2022	6.00%	\$ 3,463
7/15/2004	12/1/2036	6.25%	10,060
3/15/2007	5/1/2037	5.20%	6,515
Total CDD bond obligations issued and outstanding as of December 31, 2012			\$ 20,038

The Company records a liability for the estimated developer obligations that are probable and estimable and user fees that are required to be paid or transferred at the time the parcel or unit is sold to an end user. The Company reduces this liability by the corresponding Assessment assumed by property purchasers and the amounts paid by the Company at the time of closing and the transfer of the property. The Company has recorded a \$4.6 million liability related to these CDD bond obligations as of December 31, 2012, along with the related inventory infrastructure.

#### **NOTE 13. Debt**

##### **Notes Payable - Homebuilding**

At December 31, 2012, borrowing availability under the Credit Facility was \$64.6 million in accordance with the borrowing base calculation, and there were no borrowings outstanding and \$17.3 million of letters of credit outstanding under the Credit Facility, leaving

net remaining borrowing availability of \$47.3 million. At December 31, 2012, the Company had pledged \$163.2 million in aggregate book value of inventory to secure any borrowings and letters of credit outstanding under the Credit Facility. At December 31, 2012, the Company was in compliance with all financial covenants of the Credit Facility.

The Company is party to three secured credit agreements for the issuance of letters of credit outside of the Credit Facility (collectively, the "Letter of Credit Facilities"). During the third quarter of 2012, the Company extended the maturity dates on two of the Letter of Credit Facilities for an additional year to August 31, 2013 and September 30, 2013, respectively, while reducing the maximum available amounts thereunder to \$5.0 million and \$8.0 million, respectively, and also elected not to extend the maturity of one Letter of Credit Facility that expired and terminated an uncommitted \$5.0 million Letter of Credit Facility for the issuance of letters of credit under which there were no letters of credit remaining outstanding at the time of termination.

At December 31, 2012, there was \$8.4 million of outstanding letters of credit under the Company's three remaining secured Letter of Credit Facilities, which were collateralized with \$8.5 million of the Company's cash.

### ***Notes Payable — Financial Services***

In March 2012, M/I Financial entered into the Second Amendment to the MIF Mortgage Warehousing Agreement, which increased the maximum borrowing availability from \$60.0 million to \$70.0 million and extended the expiration date to March 30, 2013. In September 2012, M/I Financial entered into the Third Amendment to the MIF Mortgage Warehousing Agreement which maintained the maximum borrowing availability at \$70.0 million, but increased our maximum principal amount permitted to be outstanding at any one time in aggregate under all warehouse credit lines from \$75.0 million to \$100.0 million. On November 13, 2012, we entered into the MIF Mortgage Repurchase Facility with a maximum borrowing availability of \$15.0 million. Our total combined maximum borrowing availability under the two credit facilities is \$85.0 million.

At December 31, 2012, M/I Financial had \$68.0 million outstanding on a combined basis under its credit facilities and management believes was in compliance with all financial covenants of those agreements.

### ***Convertible Senior Subordinated Notes***

In September 2012, the Company issued \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes. The 2017 Convertible Senior Subordinated Notes bear interest at a rate of 3.25% per year, payable semiannually in arrears on March 15 and September 15 of each year beginning on March 15, 2013. The 2017 Convertible Senior Subordinated Notes mature on September 15, 2017. At any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their 2017 Convertible Senior Subordinated Notes into the Company's common shares. The conversion rate initially equals 42.0159 shares per \$1,000 of their principal amount. This corresponds to an initial conversion price of approximately \$23.80 per common share, which equates to approximately 2.4 million common shares. The conversion rate is subject to adjustment upon the occurrence of certain events. The 2017 Convertible Senior Subordinated Notes are fully and unconditionally guaranteed on a senior subordinated unsecured basis by those subsidiaries of the Company that are guarantors under the Company's 2018 Senior Notes. The 2017 Convertible Senior Subordinated Notes are senior subordinated unsecured obligations of the Company and the subsidiary guarantors and are subordinated in right of payment to our existing and future senior indebtedness and are also effectively subordinated to our existing and future secured indebtedness. The indenture governing the 2017 Convertible Senior Subordinated Notes provides that we may not redeem the notes prior to their stated maturity date, but also contains provisions requiring the Company to repurchase the notes (subject to certain exceptions), at a holder's option, upon the occurrence of a fundamental change (as defined in the indenture).

### ***Senior Notes***

At maturity, on April 2, 2012, the Company repaid the \$41.4 million aggregate principal amount outstanding of its 6.875% Senior Notes due 2012 (the "2012 Senior Notes").

In May 2012, the Company issued an additional \$30.0 million of 2018 Senior Notes. As of December 31, 2012, we had \$230.0 million of our 2018 Senior Notes outstanding. The 2018 Senior Notes are general, unsecured senior obligations of the Company and the subsidiary guarantors and rank equally in right of payment with all our existing and future unsecured senior indebtedness. The 2018 Senior Notes are fully and unconditionally guaranteed on a senior unsecured basis by all of our subsidiaries, with the exception of subsidiaries that are primarily engaged in the business of mortgage financing, the origination of mortgages for resale, title insurance or similar financial businesses relating to the homebuilding and home sales business and certain subsidiaries that are not 100%-owned by the Company or another subsidiary, and certain subsidiaries that are otherwise designated by the Company as Unrestricted Subsidiaries in accordance with the terms of the indenture.

The indenture governing our 2018 Senior Notes limits our ability to pay dividends on, and repurchase, our common shares and our 9.75% Series A Preferred Shares (the "Series A Preferred Shares") to the amount of the positive balance in our "restricted payments basket," as

defined in the indenture. Prior to the repayment of the remaining outstanding principal balance of our 2012 Senior Notes during the second quarter of 2012, the indenture for the 2012 Senior Notes contained a similar restriction. We were prohibited from paying dividends on, and repurchasing, our common shares and Series A Preferred Shares from the third quarter of 2008 until the completion of our offering of common shares in September 2012 as a result of deficits in our restricted payments baskets under the 2012 Senior Notes, 2018 Senior Notes, or both. The restricted payments basket became positive with the completion of our offering of common shares in September 2012, and as a result of that offering and our net income in 2012, was \$39.4 million at December 31, 2012. We are permitted to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the extent of the positive balance in our restricted payments basket.

The determination to pay dividends and make such repurchases will be at the discretion of our board of directors and will depend upon our results of operations, financial condition, capital requirements and compliance with debt covenants and the terms of our Series A Preferred Shares, and other factors deemed relevant by our board of directors.

Maturities over the next five years with respect to the Company's debt as of December 31, 2012 are as follows:

<b>Year Ending December 31,</b>	<b>Debt Maturities (In thousands)</b>
2013	\$ 74,291
2014	424
2015	459
2016	498
2017	60,890
Thereafter	230,000
<b>Total</b>	<b>\$ 366,562</b>

#### **Note 14. Preferred Shares**

The Company's Articles of Incorporation authorize the issuance of up to 2,000,000 preferred shares, par value \$.01 per share. On March 15, 2007, the Company issued 4,000,000 depositary shares, each representing 1/1000<sup>th</sup> of a Series A Preferred Share, or 4,000 Series A Preferred Shares in the aggregate. The aggregate liquidation value of the Preferred Shares is \$100 million. There were no dividends paid in 2012 or 2011.

The indenture governing our 2018 Senior Notes limits our ability to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the amount of the positive balance in our "restricted payments basket," as defined in the indenture. Prior to the repayment of the remaining outstanding principal balance of our 2012 Senior Notes during the second quarter of 2012, the indenture for the 2012 Senior Notes contained a similar restriction. Additionally, the terms of our outstanding Series A Preferred Shares prevent us from paying cash dividends on our common shares unless we have paid cash dividends on our Series A Preferred Shares for the then-current quarterly dividend period. We were prohibited from paying dividends on, and repurchasing, our common shares and Series A Preferred Shares from the third quarter of 2008 until the completion of our offering of common shares in September 2012 as a result of deficits in our restricted payments baskets under the 2012 Senior Notes, the 2018 Senior Notes, or both. The restricted payments basket became positive with the completion of our offering of common shares in September 2012, and as a result of that offering and our net income in 2012, was \$39.4 million at December 31, 2012. We are permitted to pay dividends on, and repurchase, our common shares and Series A Preferred Shares to the extent of the positive balance in our restricted payments basket.

The determination to pay dividends and make such repurchases will be at the discretion of our board of directors and will depend upon our results of operations, financial condition, capital requirements and compliance with debt covenants and the terms of our Series A Preferred Shares, and other factors deemed relevant by our board of directors.



## NOTE 15. Earnings (Loss) Per Share

The table below presents a reconciliation between basic and diluted weighted average shares outstanding, net income (loss) available to common shareholders and basic and diluted income (loss) per share for the year ended December 31, 2012, 2011 and 2010:

(In thousands, except per share amounts)	Year Ended December 31,		
	2012	2011	2010
<b>NUMERATOR</b>			
Net income (loss)	\$ 13,347	\$ (33,877)	\$ (26,269)
Interest on 3.25% convertible senior subordinated notes due 2017	—	—	—
Net income (loss) available to common shareholders	13,347	(33,877)	(26,269)
<b>DENOMINATOR</b>			
Basic weighted average shares outstanding	19,651	18,698	18,523
Effect of dilutive securities:			
Stock option awards	92	—	—
Deferred compensation awards	148	—	—
3.25% convertible senior subordinated notes due 2017	—	—	—
Diluted weighted average shares outstanding - adjusted for assumed conversions	19,891	18,698	18,523
Earnings (loss) per common share			
Basic	\$ 0.68	\$ (1.81)	\$ (1.42)
Diluted	\$ 0.67	\$ (1.81)	\$ (1.42)
Anti-dilutive equity awards not included in the calculation of diluted earnings per common share	1,538	2,170	2,070

During the third quarter of 2012, the Company issued \$57.5 million aggregate principal amount of 2017 Convertible Senior Subordinated Notes that are initially convertible into the Company's common shares at a conversion rate of 42.0159 shares per \$1,000 of their principal amount (subject to adjustment upon the occurrence of certain events). This corresponds to an initial conversion price of approximately \$23.80 per common share and results in a maximum number of additional common shares in our diluted earnings per share calculation above of approximately 2.4 million common shares. During the third quarter of 2012, the Company also issued 2.53 million common shares in a public offering at a price of \$17.63 per share (for net proceeds of \$42.1 million), which shares are included above in our total basic weighted average shares outstanding.

For the year ended December 31, 2012, the effect of 739,296 convertible shares related to our Convertible Senior Subordinated Notes was not included in the diluted earnings per share calculation as it would have been anti-dilutive. For the year ended December 31, 2011 and 2010, the effects of outstanding shares underlying deferred compensation awards and outstanding options to purchase common shares were not included in the diluted earnings per share calculations as they would have been anti-dilutive due to the Company's net loss for the respective periods.

## NOTE 16. Income Taxes

The benefit from income taxes consists of the following:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Federal	\$ 208	\$ 3	\$ (211)
State and local	(796)	(28)	(924)
Total	\$ (588)	\$ (25)	\$ (1,135)

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Current	\$ (588)	\$ (25)	\$ (1,135)
Deferred	—	—	—
Total	\$ (588)	\$ (25)	\$ (1,135)

For 2012, 2011 and 2010, the Company's effective tax rate was (4.61)%, 0.07%, and 4.10%, respectively. Reconciliation of the differences between income taxes computed at the federal statutory tax rate and consolidated benefit from income taxes are as follows:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Federal taxes at statutory rate	\$ 4,466	\$ (11,866)	\$ (9,591)
State and local taxes – net of federal tax benefit	829	(19)	(601)
Change in unrecognized tax benefit	(1,346)	(254)	(1,782)
Change in valuation allowance	(5,076)	12,950	10,797
Change in state NOL deferred asset – net of federal tax benefit	(312)	(1,280)	—
Other	851	444	42
Total	\$ (588)	\$ (25)	\$ (1,135)

The Company files income tax returns in the U.S. federal jurisdiction, and various states. The Company is no longer subject to U.S. federal, state or local examinations by tax authorities for years before 2008. The Company is audited from time to time, and if any adjustments are made, they would be either immaterial or reserved. A reconciliation of the beginning and ending amounts of unrecognized tax benefits is as follows:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
Balance at January 1,	\$ 1,346	\$ 1,601	\$ 3,383
Additions for tax positions of prior years	—	39	99
Reductions for tax positions of prior years	(1,346)	(294)	(1,881)
Balance at December 31,	\$ —	\$ 1,346	\$ 1,601

The Company recognizes interest and penalties accrued related to unrecognized tax benefits in tax expense. At December 31, 2012, we have no unrecognized tax benefits due to the lapse of the statute of limitations and completion of audits in prior years. We believe that our current income tax filing positions and deductions will be sustained on audit and do not anticipate any adjustments that will result in a material change. In 2011 and 2010, we recognized \$0.1 million in interest and penalties, respectively, and recorded an accrual of \$0.7 million and \$0.8 million for the payment of interest and penalties, respectively.

The tax effects of the significant temporary differences that comprise the deferred tax assets and liabilities are as follows:

(In thousands)	December 31,	
	2012	2011
Deferred tax assets:		
Warranty, insurance and other accruals	11,378	12,418
Inventory	22,612	29,795
State taxes	(64)	73
Net operating loss carryforward	102,475	99,979
Deferred charges	336	389
Total deferred tax assets	136,737	142,654
Deferred tax liabilities:		
Depreciation	804	1,470
Prepaid expenses	184	359
Total deferred tax liabilities	988	1,829
Less valuation allowance	135,749	140,825
Net deferred tax asset	—	—

Deferred federal and state income tax assets primarily represent the deferred tax benefits arising from temporary differences between book and tax income which will be recognized in future years as an offset against future taxable income. These assets were largely generated as a result of inventory impairments that the Company incurred in 2006 through 2011. If, for some reason, the combination of future years' income (or loss), combined with the reversal of the timing differences, results in a loss, such losses can be carried back to prior years or carried forward to future years to recover the deferred tax assets.

In accordance with ASC 740-10, *Income Taxes*, we evaluate our deferred tax assets, including the benefit from net operating losses ("NOLs"), to determine if a valuation allowance is required. Companies must assess, using significant judgments, whether a valuation allowance should be established based on the consideration of all available evidence using a "more likely than not" standard with significant weight being given to evidence that can be objectively verified. This assessment considers, among other matters, the nature, frequency and severity of current and cumulative losses, forecasts of future profitability, the length of statutory carryforward periods, our experience

with operating losses and our experience of utilizing tax credit carryforwards and tax planning alternatives. Based upon a review of all available evidence, we recorded a full valuation allowance against our deferred tax assets during 2008. We continue to maintain a full non-cash valuation allowance against the entire amount of our remaining net deferred tax assets at December 31, 2012 as we have determined that the weight of the negative evidence exceeds that of the positive evidence and it continues to be more likely than not that we will not be able to utilize all of our deferred tax assets and NOL carryovers.

At December 31, 2012 and 2011, we had a valuation allowance of \$135.7 million and \$140.8 million, respectively, against deferred tax assets which include the tax benefit from NOL and credit carryovers. At December 31, 2012, the Company had federal net operating loss carryforwards of approximately \$82.3 million and federal credit carryforwards of \$4.2 million and \$16.0 million of state net operating loss carryforwards. Our future deferred tax asset realization depends on sufficient taxable income in the carryforward periods under existing tax laws. Our federal carryforward benefits will begin to expire in 2028. Our state net operating loss benefits began to expire in 2012, with \$9.0 million expiring between 2012 and 2027 and \$7.0 million expiring between 2028 and 2032.

We will continue to review on an ongoing basis all available evidence to determine if and when we expect to realize our deferred tax assets and NOL carryovers. Additionally, due to the considerable estimates utilized in establishing a valuation allowance and the potential for changes in facts and circumstances in future reporting periods, it is reasonably possible that we will be required to either increase or decrease our valuation allowance in future reporting periods.

During 2012, the Company reduced its valuation allowance by \$5.1 million, for a total valuation allowance recorded of \$135.7 million, against its deferred tax assets. The accounting for deferred taxes is based upon an estimate of future results. Differences between the anticipated and actual outcomes of these future tax consequences could have a material impact on the Company's consolidated results of operations or financial position.

#### **NOTE 17. Business Segments**

The Company's segment information is presented on the basis that the chief operating decision makers use in evaluating segment performance. The Company's chief operating decision makers evaluate the Company's performance in various ways, including: (1) the results of our 12 individual homebuilding operating segments and the results of our financial services operations; (2) the results of our three homebuilding regions; and (3) our consolidated financial results. We have determined our reportable segments as follows: Midwest homebuilding, Southern homebuilding, Mid-Atlantic homebuilding and financial services operations. The homebuilding operating segments that are included within each reportable segment have similar operations and exhibit similar long-term economic characteristics. Our homebuilding operations include the acquisition and development of land, the sale and construction of single-family attached and detached homes, and the occasional sale of lots to third parties. The homebuilding operating segments that comprise each of our reportable segments are as follows:

<u>Midwest</u>	<u>Southern</u>	<u>Mid-Atlantic</u>
Columbus, Ohio	Tampa, Florida	Washington, D.C.
Cincinnati, Ohio	Orlando, Florida	Charlotte, North Carolina
Indianapolis, Indiana	Houston, Texas	Raleigh, North Carolina
Chicago, Illinois	San Antonio, Texas	
	Austin, Texas	

In April 2012, we expanded our Houston, Texas operations by acquiring the assets of a privately-held homebuilder based in Houston, Texas.

In October 2012, we announced our entry into the Austin, Texas market. We expect to open our first community in our Austin market in 2013.

Our financial services operations include the origination and sale of mortgage loans and title services primarily for purchasers of the Company's homes.

The following table shows, by segment, revenue, operating income (loss) and interest expense for 2012, 2011 and 2010, as well as the Company's loss before income taxes for such periods:

(In thousands)	Year Ended December 31,		
	2012	2011	2010
<b>Revenue:</b>			
Midwest homebuilding	\$ 281,959	\$ 228,191	\$ 295,096
Southern homebuilding	189,714	123,061	89,896
Mid-Atlantic homebuilding	266,976	200,706	217,148
Financial services	23,256	14,466	14,237
<b>Total revenue</b>	<b>\$ 761,905</b>	<b>\$ 566,424</b>	<b>\$ 616,377</b>
<b>Operating income (loss):</b>			
Midwest homebuilding (a)	\$ 11,443	\$ (6,396)	\$ 3,294
Southern homebuilding (a)	14,530	(5,314)	(3,593)
Mid-Atlantic homebuilding (a)	15,130	7,039	7,004
Financial services	12,436	6,641	6,508
Less: Corporate selling, general and administrative expenses	(24,709)	(20,867)	(22,824)
<b>Total operating income (loss)</b>	<b>\$ 28,830</b>	<b>\$ (18,897)</b>	<b>\$ (9,611)</b>
<b>Interest expense:</b>			
Midwest homebuilding	\$ 5,502	\$ 6,154	\$ 3,689
Southern homebuilding	3,742	2,798	1,520
Mid-Atlantic homebuilding	5,406	5,099	3,262
Financial services	1,421	954	944
<b>Total interest expense</b>	<b>\$ 16,071</b>	<b>\$ 15,005</b>	<b>\$ 9,415</b>
Other loss (b)	\$ —	\$ —	\$ (8,378)
<b>Income (loss) before income taxes</b>	<b>\$ 12,759</b>	<b>\$ (33,902)</b>	<b>\$ (27,404)</b>
<b>Depreciation and amortization:</b>			
Midwest homebuilding	\$ 2,834	\$ 1,179	\$ 1,036
Southern homebuilding	968	601	498
Mid-Atlantic homebuilding	975	844	763
Financial services	140	282	390
Corporate	4,825	4,668	2,507
<b>Total depreciation and amortization</b>	<b>\$ 9,742</b>	<b>\$ 7,574</b>	<b>\$ 5,194</b>

(a) For 2012, 2011 and 2010, the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs and the write-off of abandoned land transaction costs was \$3.8 million, \$23.0 million and \$13.2 million, respectively. These charges reduced operating income by \$3.5 million, \$13.9 million and \$3.9 million in the Midwest region, \$0.1 million, \$6.8 million and \$4.5 million in the Southern region, and \$0.1 million, \$2.3 million and \$4.8 million in the Mid-Atlantic region for 2012, 2011 and 2010, respectively.

(b) Other loss is comprised of the loss on the early extinguishment of debt in the fourth quarter of 2010.

The following tables show total assets by segment at December 31, 2012 and 2011:

(In thousands)	December 31, 2012				
	Midwest	Southern	Mid-Atlantic	Corporate, Financial Services and Unallocated	Total
Deposits on real estate under option or contract	\$ 1,462	\$ 4,612	\$ 2,653	\$ —	\$ 8,727
Inventory (a)	196,554	157,302	194,234	—	548,090
Investments in Unconsolidated LLCs	5,121	6,611	—	—	11,732
Other assets	4,421	8,436	7,759	242,135	262,751
<b>Total assets</b>	<b>\$ 207,558</b>	<b>\$ 176,961</b>	<b>\$ 204,646</b>	<b>\$ 242,135</b>	<b>\$ 831,300</b>

December 31, 2011

(In thousands)	Midwest	Southern	Mid-Atlantic	Corporate, Financial Services and Unallocated	Total
Deposits on real estate under option or contract	\$ 252	\$ 1,516	\$ 907	\$ —	\$ 2,675
Inventory (a)	200,760	89,586	173,751	—	464,097
Investments in Unconsolidated LLCs	5,157	5,200	—	—	10,357
Other assets	3,865	2,858	9,861	170,772	187,356
<b>Total assets</b>	<b>\$ 210,034</b>	<b>\$ 99,160</b>	<b>\$ 184,519</b>	<b>\$ 170,772</b>	<b>\$ 664,485</b>

(a) Inventory includes single-family lots, land and land development costs; land held for sale; homes under construction; model homes and furnishings; community development district infrastructure; and consolidated inventory not owned.

## NOTE 18. Supplemental Guarantor Information

The Company's obligations under the 2018 Senior Notes and 2017 Convertible Senior Subordinated Notes are not guaranteed by all of the Company's subsidiaries and therefore, the Company has disclosed condensed consolidating financial information in accordance with SEC Regulation S-X Rule 3-10, *Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered*. The subsidiary guarantors of the 2018 Senior Notes and the 2017 Convertible Senior Subordinated Notes are the same.

The following condensed consolidating financial information includes balance sheets, statements of operations and cash flow information for the parent company, the guarantors for the 2018 Senior Notes and the 2017 Convertible Senior Subordinated Notes (the "Guarantor Subsidiaries"), collectively, and for all other subsidiaries and joint ventures of the Company (the "Non-Guarantor Subsidiaries"), collectively. Each Guarantor Subsidiary is a direct or indirect 100%-owned subsidiary of M/I Homes, Inc. and has fully and unconditionally guaranteed the (a) 2018 Senior Notes, on a joint and several senior unsecured basis and (b) the 2017 Convertible Senior Subordinated Notes on a joint and several senior subordinated unsecured basis.

There are no significant restrictions on the parent company's ability to obtain funds from its Guarantor Subsidiaries in the form of a dividend, loan, or other means.

As of December 31, 2012, each of the Company's subsidiaries is a Guarantor Subsidiary, with the exception of subsidiaries that are primarily engaged in the business of mortgage financing, title insurance or similar financial businesses relating to the homebuilding and home sales business, certain subsidiaries that are not 100%-owned by the Company or another subsidiary, and other subsidiaries designated by the Company as Non-Guarantor Subsidiaries, subject to limitations on the aggregate amount invested in such Non-Guarantor Subsidiaries.

In the condensed financial tables presented below, the parent company presents all of its 100%-owned subsidiaries as if they were accounted for under the equity method. All applicable corporate expenses have been allocated appropriately among the Guarantor Subsidiaries and Non-Guarantor Subsidiaries.

## CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

(In thousands)	Year Ended December 31, 2012				
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ —	\$ 738,649	\$ 23,256	\$ —	\$ 761,905
Costs and expenses:					
Land and housing	—	610,540	—	—	610,540
Impairment of inventory and investment in Unconsolidated LLCs	—	3,502	—	—	3,502
General and administrative	—	51,307	11,320	—	62,627
Selling	—	56,396	10	—	56,406
Interest	—	14,650	1,421	—	16,071
<b>Total costs and expenses</b>	<b>—</b>	<b>736,395</b>	<b>12,751</b>	<b>—</b>	<b>749,146</b>
Income before income taxes	—	2,254	10,505	—	12,759
(Benefit) provision for income taxes	—	(4,157)	3,569	—	(588)
Equity in subsidiaries	13,347	—	—	(13,347)	—
<b>Net income</b>	<b>\$ 13,347</b>	<b>\$ 6,411</b>	<b>\$ 6,936</b>	<b>\$ (13,347)</b>	<b>\$ 13,347</b>

## CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

(In thousands)	Year Ended December 31, 2011				
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ —	\$ 551,958	\$ 14,466	\$ —	\$ 566,424
Costs and expenses:				\$ —	
Land and housing	—	467,130	—	—	467,130
Impairment of inventory and investment in Unconsolidated LLCs	—	21,993	—	—	21,993
General and administrative	—	44,438	8,226	—	52,664
Selling	—	43,534	—	—	43,534
Interest	—	14,050	955	—	15,005
Total costs and expenses	—	591,145	9,181	—	600,326
(Loss) income before income taxes	—	(39,187)	5,285	—	(33,902)
(Benefit) provision for income taxes	—	(1,784)	1,759	—	(25)
Equity in subsidiaries	(33,877)	—	—	33,877	—
Net (loss) income	\$ (33,877)	\$ (37,403)	\$ 3,526	\$ 33,877	\$ (33,877)

(In thousands)	Year Ended December 31, 2010				
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ —	\$ 602,140	\$ 14,237	\$ —	\$ 616,377
Costs and expenses:					
Land and housing	—	511,408	—	—	511,408
Impairment of inventory and investment in Unconsolidated LLCs	—	12,538	—	—	12,538
General and administrative	—	45,929	8,029	—	53,958
Selling	—	48,084	—	—	48,084
Interest	—	8,471	944	—	9,415
Other loss	8,378	—	—	—	8,378
Total costs and expenses	8,378	626,430	8,973	—	643,781
(Loss) income before income taxes	(8,378)	(24,290)	5,264	—	(27,404)
(Benefit) provision for income taxes	—	(3,291)	2,156	—	(1,135)
Equity in subsidiaries	(17,891)	—	—	17,891	—
Net (loss) income	\$ (26,269)	\$ (20,999)	\$ 3,108	\$ 17,891	\$ (26,269)

## CONDENSED CONSOLIDATING BALANCE SHEET

December 31, 2012

(In thousands)	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS:</b>					
Cash and cash equivalents	\$ —	\$ 126,334	\$ 19,164	\$ —	\$ 145,498
Restricted cash	—	8,680	—	—	8,680
Mortgage loans held for sale	—	—	71,121	—	71,121
Inventory	—	540,761	16,056	—	556,817
Property and equipment - net	—	10,314	125	—	10,439
Investment in Unconsolidated LLCs	—	—	11,732	—	11,732
Investment in subsidiaries	391,555	—	—	(391,555)	—
Intercompany	219,962	(205,389)	(14,573)	—	—
Other assets	9,081	12,375	5,557	—	27,013
<b>TOTAL ASSETS</b>	<b>\$ 620,598</b>	<b>\$ 493,075</b>	<b>\$ 109,182</b>	<b>\$ (391,555)</b>	<b>\$ 831,300</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>					
<b>LIABILITIES:</b>					
Accounts payable	\$ —	\$ 46,882	\$ 808	\$ —	\$ 47,690
Customer deposits	—	10,239	—	—	10,239
Other liabilities	—	44,230	5,742	—	49,972
Community development district obligations	—	4,634	—	—	4,634
Obligation for consolidated inventory not owned	—	3,549	15,556	—	19,105
Note payable bank - financial services operations	—	—	67,957	—	67,957
Note payable - other	—	11,105	—	—	11,105
Convertible senior subordinated notes	57,500	—	—	—	57,500
Senior notes	227,670	—	—	—	227,670
<b>TOTAL LIABILITIES</b>	<b>285,170</b>	<b>120,639</b>	<b>90,063</b>	<b>—</b>	<b>495,872</b>
Shareholders' equity	335,428	372,436	19,119	(391,555)	335,428
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 620,598</b>	<b>\$ 493,075</b>	<b>\$ 109,182</b>	<b>\$ (391,555)</b>	<b>\$ 831,300</b>

## CONDENSED CONSOLIDATING BALANCE SHEET

December 31, 2011

(In thousands)	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS:</b>					
Cash and cash equivalents	\$ —	\$ 43,539	\$ 16,254	\$ —	\$ 59,793
Restricted cash	—	41,334	—	—	41,334
Mortgage loans held for sale	—	—	57,275	—	57,275
Inventory	—	466,772	—	—	466,772
Property and equipment - net	—	14,241	117	—	14,358
Investment in Unconsolidated LLCs	—	—	10,357	—	10,357
Investment in subsidiaries	381,709	—	—	(381,709)	—
Intercompany	125,272	(115,058)	(10,214)	—	—
Other assets	5,385	8,455	756	—	14,596
<b>TOTAL ASSETS</b>	<b>\$ 512,366</b>	<b>\$ 459,283</b>	<b>\$ 74,545</b>	<b>\$ (381,709)</b>	<b>\$ 664,485</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>					
<b>LIABILITIES:</b>					
Accounts payable	\$ —	\$ 40,759	\$ 497	\$ —	\$ 41,256
Customer deposits	—	4,181	—	—	4,181
Other liabilities	—	33,589	5,759	—	39,348
Community development district obligations	—	5,983	—	—	5,983
Obligation for consolidated inventory not owned	—	2,944	—	—	2,944
Note payable bank - financial services operations	—	—	52,606	—	52,606
Note payable - other	—	5,801	—	—	5,801
Senior notes	239,016	—	—	—	239,016
<b>TOTAL LIABILITIES</b>	<b>239,016</b>	<b>93,257</b>	<b>58,862</b>	<b>—</b>	<b>391,135</b>
Shareholders' equity	273,350	366,026	15,683	(381,709)	273,350
<b>TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>\$ 512,366</b>	<b>\$ 459,283</b>	<b>\$ 74,545</b>	<b>\$ (381,709)</b>	<b>\$ 664,485</b>



## CONDENSED CONSOLIDATING STATEMENTS OF CASH FLOWS

(In thousands)	Year Ended December 31, 2012					
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated	
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>						
Net cash (used in) provided by operating activities	\$	—	\$ (35,770)	\$ (11,225)	\$ —	\$ (46,995)
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>						
Restricted cash		—	32,779	—	—	32,779
Purchase of property and equipment		—	(854)	(79)	—	(933)
Acquisition, net of cash acquired		—	(4,707)	—	—	(4,707)
Investments in and advances to Unconsolidated LLC's		—	—	(1,817)	—	(1,817)
Net cash provided by (used in) investing activities		—	27,218	(1,896)	—	25,322
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>						
Repayment of senior notes		(41,443)	—	—	—	(41,443)
Proceeds from bank borrowings - net		—	—	15,351	—	15,351
Principal proceeds from note payable - other and community development district bond obligations		—	5,304	—	—	5,304
Proceeds from issuance of senior notes		29,700	—	—	—	29,700
Proceeds from issuance of convertible senior subordinated notes		57,500	—	—	—	57,500
Proceeds from issuance of common shares		42,085	—	—	—	42,085
Intercompany financing		(92,604)	91,856	748	—	—
Debt issue costs		—	(5,813)	(68)	—	(5,881)
Proceeds from exercise of stock options		4,762	—	—	—	4,762
Net cash provided by financing activities		—	91,347	16,031	—	107,378
Net increase in cash and cash equivalents		—	82,795	2,910	—	85,705
Cash and cash equivalents balance at beginning of period		—	43,539	16,254	—	59,793
Cash and cash equivalents balance at end of period	\$	—	\$ 126,334	\$ 19,164	\$ —	\$ 145,498

(In thousands)	Year Ended December 31, 2011					
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated	
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>						
Net cash used in operating activities	\$	—	\$ (27,734)	\$ (6,227)	\$ —	\$ (33,961)
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>						
Change in restricted cash		—	(2,566)	—	—	(2,566)
Purchase of property and equipment		—	(1,314)	(38)	—	(1,352)
Acquisition, net of cash acquired		—	(4,654)	—	—	(4,654)
Proceeds from the sale of property		—	—	—	—	—
Distributions from Unconsolidated LLCs		—	—	(752)	—	(752)
Net cash used in investing activities		—	(8,534)	(790)	—	(9,324)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>						
Repayments of bank borrowings - net		—	—	20,409	—	20,409
Principal repayments of note payable-other and community development district bond obligations		—	(52)	—	—	(52)
Intercompany financing		(1,733)	8,135	(6,402)	—	—
Debt issue costs		—	(150)	(70)	—	(220)
Proceeds from exercise of stock options		1,500	—	—	—	1,500
Excess tax deficiency from stock-based payment arrangements		233	—	—	—	233
Net cash provided by financing activities		—	7,933	13,937	—	21,870
Net (decrease) increase in cash and cash equivalents		—	(28,335)	6,920	—	(21,415)
Cash and cash equivalents balance at beginning of period		—	71,874	9,334	—	81,208
Cash and cash equivalents balance at end of period	\$	—	\$ 43,539	\$ 16,254	\$ —	\$ 59,793

## CONDENSED CONSOLIDATING STATEMENT OF CASH FLOWS

(In thousands)	Year Ended December 31, 2010				
	M/I Homes, Inc.	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Eliminations	Consolidated
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>					
Net cash used in operating activities	\$ —	\$ (33,806)	\$ (3,496)	\$ —	\$ (37,302)
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>					
Change in restricted cash	—	(19,585)	—	—	(19,585)
Purchase of property and equipment	—	(1,480)	(80)	—	(1,560)
Investments in and advances to Unconsolidated LLCs	—	—	(1,229)	—	(1,229)
Distributions from Unconsolidated LLCs	—	—	13	—	13
Net cash used in investing activities	—	(21,065)	(1,296)	—	(22,361)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>					
Repayment of senior notes, including transaction costs	(166,088)	—	—	—	(166,088)
Proceeds from issuance of senior notes	197,174	—	—	—	197,174
Proceeds from bank borrowings - net	—	—	8,055	—	8,055
Principal repayments of note payable-other and community development district bond obligations	—	(325)	—	—	(325)
Intercompany financing	(23,517)	30,606	(7,089)	—	—
Debt issue costs	(7,568)	—	(306)	—	(7,874)
Proceeds from exercise of stock options	12	—	—	—	12
Excess tax benefit from stock-based payment arrangements	(13)	—	—	—	(13)
Net cash provided by financing activities	—	30,281	660	—	30,941
Net (decrease) increase in cash and cash equivalents	—	(24,590)	(4,132)	—	(28,722)
Cash and cash equivalents balance at beginning of period	—	96,464	13,466	—	109,930
Cash and cash equivalents balance at end of period	\$ —	\$ 71,874	\$ 9,334	\$ —	\$ 81,208

## Note 19. Supplementary Financial Data

The following tables set forth our selected consolidated financial and operating data for the quarterly periods indicated.

	December 31, 2012	September 30, 2012	June 30, 2012	March 31, 2012
(In thousands, except per share amounts)	(Unaudited)	(Unaudited)	(Unaudited)	(Unaudited)
Revenue	\$ 250,911	\$ 208,875	\$ 170,994	\$ 131,125
Gross margin (a)	\$ 47,638	\$ 43,114	\$ 33,411	\$ 23,700
Net income (b)	\$ 5,015	\$ 8,314	\$ 3,204	\$ (3,186)
Earnings per common share:				
Basic (b)	\$ 0.23	\$ 0.43	\$ 0.17	\$ (0.17)
Diluted (b)	\$ 0.23	\$ 0.42	\$ 0.17	\$ (0.17)
Weighted average common shares outstanding:				
Basic	21,545	19,434	18,833	18,772
Diluted	21,961	20,273	19,031	18,772

	December 31, 2011	September 30, 2011	June 30, 2011	March 31, 2011
(In thousands, except per share amounts)	(Unaudited)	(Unaudited)	(Unaudited)	(Unaudited)
Revenue	\$ 176,786	\$ 141,624	\$ 137,444	\$ 110,570
Gross margin (a)	\$ 28,562	\$ 23,658	\$ 17,956	\$ 7,125
Net loss (b)	\$ (2,976)	\$ (4,718)	\$ (9,144)	\$ (17,039)
Loss per common share:				
Basic (b)	\$ (0.16)	\$ (0.25)	\$ (0.49)	\$ (0.92)
Diluted (b)	\$ (0.16)	\$ (0.25)	\$ (0.49)	\$ (0.92)
Weighted average common shares outstanding:				
Basic	18,736	18,728	18,711	18,615
Diluted	18,736	18,728	18,711	18,615

- (a) First, second, third and fourth quarters of 2012 include the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs, which reduced gross margin by less than \$0.1 million, \$0.5 million, \$1.3 million and \$1.6 million, respectively. These same charges reduced gross margin in the first, second, third and fourth quarters of 2011 by \$10.9 million, \$5.4 million, \$1.7 million and \$4.0 million, respectively.
- (b) First, second, third and fourth quarters of 2012 include the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs, the write-off of land deposits and pre-acquisition costs and a settlement related to the repair of certain homes in Florida where certain of our subcontractors had purchased defective drywall that may be responsible for accelerated corrosion of certain metals in the home. These charges decreased net income by less than \$0.1 million, \$0.4 million, \$(1.0) million and \$1.0 million, respectively, and decreased earnings per common share for those same periods by \$0.00, \$0.02, \$(0.05) and \$0.05. First, second, third and fourth quarters of 2011 include the impact of charges relating to the impairment of inventory and investment in Unconsolidated LLCs and the write-off of land deposits and pre-acquisition costs. These charges increased net loss by \$6.9 million, \$3.4 million, \$1.1 million and \$2.8 million, respectively, and increased loss per common share for those same periods by \$0.37, \$0.18, \$0.06 and \$0.15.

## Note 20. Subsequent Events

Our board of directors has determined that we will pay the quarterly dividend on our Series A Preferred Shares for the second quarter of 2013. Such dividend will be payable on June 15, 2013 to holders of record of such shares on June 1, 2013.

## Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## Item 9A. CONTROLS AND PROCEDURES

### Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

An evaluation of the effectiveness of the Company's disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) was performed by the Company's management, with the participation of the Company's principal executive officer and principal financial officer, as required by Rule 13a-15(b) under the Exchange Act. Based on that evaluation, the Company's principal executive officer and principal financial officer concluded that the Company's disclosure controls and procedures were effective as of the end of the period covered by this Annual Report on Form 10-K.

## **Management's Annual Report on Internal Control Over Financial Reporting**

The management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). The Company's internal control system was designed to provide reasonable assurance to the Company's management and board of directors regarding the preparation and fair presentation of published financial statements.

All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

The Company's management, with the participation of the principal executive officer and the principal financial officer, assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2012. In making this assessment, it used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control – Integrated Framework*. Based on this assessment, management believes that, as of December 31, 2012, the Company's internal control over financial reporting was effective.

The effectiveness of our internal control over financial reporting as of December 31, 2012 has been audited by Deloitte & Touche LLP, our independent registered public accounting firm, as stated in its attestation report included on page 92 of this Annual Report on Form 10-K.

### **Changes in Internal Control over Financial Reporting**

There were no changes in our internal control over financial reporting during the quarter ended December 31, 2012 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### **Item 9B. OTHER INFORMATION**

None.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of M/I Homes, Inc.  
Columbus, Ohio

We have audited the internal control over financial reporting of M/I Homes, Inc. and subsidiaries (the "Company") as of December 31, 2012, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) the consolidated financial statements as of and for the year ended December 31, 2012 of the Company and our report dated February 25, 2013 expressed an unqualified opinion on those financial statements.

/s/ DELOITTE & TOUCHE LLP

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Deloitte & Touche LLP

Columbus, Ohio  
February 25, 2013

## PART III

### Item 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this item is incorporated herein by reference to our definitive Proxy Statement relating to the 2013 Annual Meeting of Shareholders to be filed with the Securities and Exchange Commission pursuant to Regulation 14A under the Exchange Act.

We have adopted a Code of Business Conduct and Ethics that applies to our directors and all employees of the Company. The Code of Business Conduct and Ethics is posted on our website, [www.mihomes.com](http://www.mihomes.com). We intend to satisfy the requirements under Item 5.05 of Form 8-K regarding disclosure of amendments to, or waivers from, provisions of our Code of Business Conduct and Ethics that apply to our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions, by posting such information on our website. Copies of the Code of Business Conduct and Ethics will be provided free of charge upon written request directed to Investor Relations, M/I Homes, Inc., 3 Easton Oval, Suite 500, Columbus, OH 43219.

### Item 11. EXECUTIVE COMPENSATION

The information required by this item is incorporated herein by reference to our definitive Proxy Statement relating to the 2013 Annual Meeting of Shareholders.

### Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS

#### Equity Compensation Plan Information

The following table sets forth information as of December 31, 2012 with respect to the common shares issuable under the Company's equity compensation plans:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by shareholders (1)	1,819,319	\$24.17	897,634
Equity compensation plans not approved by shareholders (2)	86,313	—	—
Total	1,905,632	\$24.17	897,634

(1) Consists of the 2009 LTIP (800,142 outstanding stock options and 19,000 outstanding stock units), the 1993 Plan (984,067 outstanding stock options), which plan expired in April 2009, and the Company's 2006 Director Plan (16,110 outstanding stock units), which plan was terminated in May 2009. The weighted average exercise price relates to the stock options granted under the 2009 LTIP and the 1993 Plan. The stock units granted under the 2009 LTIP and the 2006 Director Plan are "full value awards" that were issued at an average unit price of \$13.80 and \$28.15, respectively, and will be settled at a future date in Common Shares on a one-for-one basis without the payment of any exercise price. As of December 31, 2012, the aggregate number of Common Shares with respect to which awards may be granted under the 2009 LTIP was 1,600,000 shares plus any shares subject to outstanding awards under the 1993 Plan as of May 5, 2009 that on or after May 5, 2009 cease for any reason to be subject to such awards other than by reason of exercise or settlement of the awards to the extent they are exercised for or settled in vested and non-forfeitable shares (244,244 shares at December 31, 2012).

(2) Consists of the Director Deferred Compensation Plan and the Executives' Deferred Compensation Plan. At December 31, 2012, the average unit price of the outstanding "phantom stock" units granted under these plans was \$19.95. Pursuant to these plans, our directors and eligible employees may defer the payment of all or a portion of their director fees and annual cash bonuses, respectively, and the deferred amount is converted into that number of whole phantom stock units determined by dividing the deferred amount by the closing price of our Common Shares on the NYSE on the date of such conversion (which is the same date the fees or bonus is paid) without any discount on the Common Share price or premium applied to the deferred amount. The phantom stock units are settled at a future date in Common Shares on a one-for-one basis. Neither the Director Deferred Compensation Plan nor the Executives' Deferred Compensation Plan provides for a specified limit on the number of Common Shares which may be attributable to participants' accounts relating to phantom stock units and issued under the terms of these plans.

The remaining information required by this item is incorporated herein by reference to our definitive Proxy Statement relating to the 2013 Annual Meeting of Shareholders.

### Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item is incorporated herein by reference to our definitive Proxy Statement relating to the 2013 Annual Meeting of Shareholders.

### Item 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this item is incorporated herein by reference to our definitive Proxy Statement relating to the 2013 Annual Meeting of Shareholders.

## PART IV

### Item 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

#### (a) Documents filed as part of this report.

(1) The following financial statements are contained in Item 8:

<b>Financial Statements</b>	<b>Page in this report</b>
Report of Independent Registered Public Accounting Firm	<a href="#">54</a>
Consolidated Statements of Operations for the Years Ended December 31, 2012, 2011 and 2010	<a href="#">55</a>
Consolidated Balance Sheets as of December 31, 2012 and 2011	<a href="#">56</a>
Consolidated Statements of Shareholders' Equity for the Years Ended December 31, 2012, 2011 and 2010	<a href="#">57</a>
Consolidated Statements of Cash Flows for the Years Ended December 31, 2012, 2011 and 2010	<a href="#">58</a>
Notes to Consolidated Financial Statements	<a href="#">59</a>

(2) Financial Statement Schedules:

None required.

(3) Exhibits:

The following exhibits required by Item 601 of Regulation S-K are filed as part of this report:

<u>Exhibit Number</u>	<u>Description</u>
3.1	Amended and Restated Articles of Incorporation of M/I Homes, Inc., incorporated herein by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1993 (File No. 1-12434).
3.2	Amendment to Article First of the Amended and Restated Articles of Incorporation of M/I Homes, Inc., dated January 9, 2004, incorporated herein by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006.
3.3	Amendment to Article Fourth of the Amended and Restated Articles of Incorporation of M/I Homes, Inc., dated March 13, 2007, incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on March 15, 2007.
3.4	Amended and Restated Regulations of M/I Homes, Inc., incorporated herein by reference to Exhibit 3.4 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1998 (File No. 1-12434).
3.5	Amendment to Article I(f) of the Amended and Restated Regulations of M/I Homes, Inc., incorporated herein by reference to Exhibit 3.1(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001 (File No. 1-12434).
3.6	Amendment to Article II(f) of the Amended and Restated Regulations of M/I Homes, Inc., incorporated herein by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on March 13, 2009.
4.1	Specimen certificate representing M/I Homes, Inc.'s common shares, par value \$.01 per share, incorporated herein by reference to Exhibit 4 to the Company's Registration Statement on Form S-1, Commission File No. 33-68564.
4.2	Indenture, dated as of March 24, 2005, by and among M/I Homes, Inc., the guarantors named therein and U.S. Bank National Association, as trustee of M/I Homes, Inc.'s 6.875% Senior Notes due 2012, incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on March 24, 2005.

- 4.3 Registration Rights Agreement, dated as of March 24, 2005, by and among M/I Homes, Inc., the guarantors named therein and the initial purchasers named therein, incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on March 24, 2005.
- 4.4 Specimen certificate representing M/I Homes, Inc.'s 9.75% Series A Preferred Shares, par value \$.01 per share, incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on March 15, 2007.
- 4.5 Indenture, dated as of November 12, 2010, by and among M/I Homes, Inc., the guarantors named therein and U.S. Bank National Association, as trustee of M/I Homes, Inc.'s 8.625% Senior Notes due 2018, incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on November 12, 2010.
- 4.6 Registration Rights Agreement, dated as of November 12, 2010, by and among M/I Homes, Inc., the guarantors named therein and the initial purchasers named therein, incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on November 12, 2010.
- 4.7 Registration Rights Agreement, dated as of May 8, 2012, by and among M/I Homes, Inc., the guarantors named therein and the initial purchasers named therein, incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on May 9, 2012.
- 4.8 Indenture, dated as of September 11, 2012, by and among the Company, the Guarantors and U.S. Bank National Association, as Trustee, incorporated herein by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on September 11, 2012.
- 4.9 Supplemental Indenture, dated as of September 11, 2012, by and among the Company, the Guarantors and U.S. Bank National Association, as Trustee, incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on September 11, 2012.
- 4.10 Form of 3.25% Convertible Senior Subordinated Note due 2017 (included as part of Exhibit 4.9), incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on September 11, 2012.
- 4.11 Form of Guarantee of 3.25% Convertible Senior Subordinated Notes due 2017 (included as part of Exhibit 4.9), incorporated herein by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed on September 11, 2012.
- 10.1\* M/I Homes, Inc. 401(k) Profit Sharing Plan, as amended and restated on November 20, 2007, incorporated herein by reference to Exhibit 10.1 to the Company's Registration Statement on Form S-8 filed on August 27, 2010 (File No. 333-169074).
- 10.2\* Amendment to the M/I Homes, Inc. 401(k) Profit Sharing Plan, dated December 4, 2008, incorporated herein by reference to Exhibit 10.2 to the Company's Registration Statement on Form S-8 filed on August 27, 2010 (File No. 333-169074).
- 10.3\* Amendment to the M/I Homes, Inc. 401(k) Profit Sharing Plan, dated September 14, 2009, incorporated herein by reference to Exhibit 10.3 to the Company's Registration Statement on Form S-8 filed on August 27, 2010 (File No. 333-169074).
- 10.4 Credit Agreement, dated as of June 9, 2010, by and among M/I Homes, Inc., as borrower, the lenders party thereto, PNC Bank, National Association, as administrative agent for the lenders, JPMorgan Chase Bank, N.A. and The Huntington National Bank, as co-syndication agents, and Fifth Third Bank and US Bank National Association, as co-documentation agents, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2011.
- 10.5 Amendment to Credit Agreement dated January 31, 2012, by and among M/I Homes, Inc., as borrower, the lenders party thereto, and PNC Bank, National Association, as administrative agent for the lenders, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed February 2, 2012.
- 10.6 Mortgage Warehousing Agreement dated April 18, 2011 by and among M/I Financial Corp., the lenders party thereto (currently Comerica Bank and The Huntington National Bank) and Comerica Bank, as administrative agent, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 20, 2011.



- 10.7 Amendment No. 1 to Mortgage Warehousing Agreement, dated November 29, 2011, by and among M/I Financial Corp., the lenders party thereto and Comerica Bank, as administrative agent, incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2012.
- 10.8 Amendment No. 2 to Mortgage Warehousing Agreement, dated March 23, 2012, by and among M/I Financial Corp., the lenders party thereto and Comerica Bank, as administrative agent, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2012.
- 10.9 Third Amendment to Mortgage Warehousing Agreement, dated September 26, 2012, by and among M/I Financial Corp., the lenders party thereto and Comerica Bank, as administrative agent, incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012.
- 10.10 Master Repurchase Agreement between M/I Financial Corp. and Sterling National Bank dated November 13, 2102. (Filed herewith).
- 10.11 Master Letter of Credit Facility Agreement by and between U.S. Bank National Association and M/I Homes, Inc., dated as of July 27, 2009, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 30, 2009.
- 10.12 Letter of Credit Agreement by and between Regions Bank and M/I Homes, Inc., dated as of July 27, 2009, incorporated herein by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on July 30, 2009.
- 10.13 Third Amended and Restated Master Letter of Credit Facility Agreement by and between U.S. Bank National Association and M/I Homes, Inc., dated as of September 30, 2012, incorporated herein by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012.
- 10.14 First Amendment to Letter of Credit Agreement by and between Regions Bank and M/I Homes, Inc., dated as of August 16, 2010, incorporated herein by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on August 17, 2010.
- 10.15 Second Amendment to Letter of Credit Agreement by and between Regions Bank and M/I Homes, Inc., dated as of August 31, 2011. (Filed herewith).
- 10.16 Third Amendment to Letter of Credit Agreement by and between Regions Bank and M/I Homes, Inc., dated as of August 31, 2012, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012.
- 10.17 Continuing Letter of Credit Agreement by and between Wells Fargo Bank, National Association and M/I Homes, Inc., dated as of June 4, 2010, incorporated herein by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed on August 17, 2010.
- 10.18\* M/I Homes, Inc. 1993 Stock Incentive Plan as Amended, dated April 22, 1999, incorporated herein by reference to Exhibit 4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1999 (File No. 1-12434).
- 10.19\* First Amendment to M/I Homes, Inc. 1993 Stock Incentive Plan as Amended, dated August 11, 1999, incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1999 (File No. 1-12434).
- 10.20\* Second Amendment to M/I Homes, Inc. 1993 Stock Incentive Plan as Amended, dated February 13, 2001, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2002 (File No. 1-12434).
- 10.21\* Third Amendment to M/I Homes, Inc. 1993 Stock Incentive Plan as Amended, dated April 27, 2006, incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2006.
- 10.22\* Fourth Amendment to M/I Homes, Inc. 1993 Stock Incentive Plan as Amended, effective as of August 28, 2008, incorporated herein by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.

- 10.23\* M/I Homes, Inc. Amended and Restated 2006 Director Equity Incentive Plan, effective as of August 28, 2008, incorporated herein by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.
- 10.24\* M/I Homes, Inc. Amended and Restated Director Deferred Compensation Plan, effective as of August 28, 2008, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.
- 10.25\* M/I Homes, Inc. Amended and Restated Executives' Deferred Compensation Plan, effective as of August 28, 2008, incorporated herein by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.
- 10.26\* Collateral Assignment Split-Dollar Agreement, dated as of September 24, 1997, by and among M/I Homes, Inc., Robert H. Schottenstein and Steven Schottenstein (as successor to Janice K. Schottenstein), as Trustee of the Robert H. Schottenstein 1996 Insurance Trust, incorporated herein by reference to Exhibit 10.28 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1997 (File No. 1-12434).
- 10.27\* Collateral Assignment Split-Dollar Agreement, dated as of September 24, 1997, by and between M/I Homes, Inc. and Phillip Creek, incorporated herein by reference to Exhibit 10.37 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2009.
- 10.28\* Change of Control Agreement between M/I Homes, Inc. and Robert H. Schottenstein, dated as of July 3, 2008, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 3, 2008.
- 10.29\* Change of Control Agreement between M/I Homes, Inc. and Phillip G. Creek, dated as of July 3, 2008, incorporated herein by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on July 3, 2008.
- 10.30\* Change of Control Agreement between M/I Homes, Inc. and J. Thomas Mason, dated as of July 3, 2008, incorporated herein by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on July 3, 2008.
- 10.31\* M/I Homes, Inc. 2009 Long-Term Incentive Plan, as amended effective May 8, 2012, incorporated herein by reference to Appendix A to the Company's proxy statement on Schedule 14A relating to the 2012 Annual Meeting of Shareholders of the Company filed on April 4, 2012.
- 10.32\* Form of Stock Units Award Agreement for Directors under the M/I Homes, Inc. 2009 Long-Term Incentive Plan, incorporated herein by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2009.
- 10.33\* Form of Nonqualified Stock Option Award Agreement for Employees under the M/I Homes, Inc. 2009 Long-Term Incentive Plan, incorporated herein by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on February 11, 2010.

21	Subsidiaries of M/I Homes, Inc. (Filed herewith.)
23	Consent of Deloitte & Touche LLP. (Filed herewith.)
24	Powers of Attorney. (Filed herewith.)
31.1	Certification by Robert H. Schottenstein, Chief Executive Officer, pursuant to Item 601 of Regulation S-K as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (Filed herewith.)
31.2	Certification by Phillip G. Creek, Chief Financial Officer, pursuant to Item 601 of Regulation S-K as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (Filed herewith.)
32.1	Certification by Robert H. Schottenstein, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (Filed herewith.)
32.2	Certification by Phillip G. Creek, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (Filed herewith.)
101.INS	XBRL Instance Document. (Furnished herewith.)
101.SCH	XBRL Taxonomy Extension Schema Document. (Furnished herewith.)
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document. (Furnished herewith.)
101.LAB	XBRL Taxonomy Extension Label Linkbase Document. (Furnished herewith.)
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document. (Furnished herewith.)
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document. (Furnished herewith.)

\* Management contract or compensatory plan or arrangement.

(b) Exhibits.

Reference is made to Item 15(a)(3) above for a complete list of exhibits that are filed with this report. The following is a list of exhibits, included in Item 15(a)(3) above, that are filed concurrently with this report.

Exhibit Number	Description
10.1	Master Repurchase Agreement between M/I Financial Corp. and Sterling National Bank dated November 13, 2102. (Filed herewith).
21	Subsidiaries of M/I Homes, Inc.
23	Consent of Deloitte & Touche LLP.
24	Powers of Attorney.
31.1	Certification by Robert H. Schottenstein, Chief Executive Officer, pursuant to Item 601 of Regulation S-K as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification by Phillip G. Creek, Chief Financial Officer, pursuant to Item 601 of Regulation S-K as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification by Robert H. Schottenstein, Chief Executive Officer, pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification by Phillip G. Creek, Chief Financial Officer, pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document. (Furnished herewith.)
101.SCH	XBRL Taxonomy Extension Schema Document. (Furnished herewith.)
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document. (Furnished herewith.)
101.LAB	XBRL Taxonomy Extension Label Linkbase Document. (Furnished herewith.)
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document. (Furnished herewith.)
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document. (Furnished herewith.)

(c) Financial statement schedules

None required.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on this 25th day of February 2013.

M/I Homes, Inc.  
(Registrant)

By: /s/Robert H. Schottenstein  
Robert H. Schottenstein  
Chairman of the Board,  
Chief Executive Officer and President  
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated on the 25th day of February 2013.

<u>NAME AND TITLE</u>	<u>NAME AND TITLE</u>
<u>JOSEPH A. ALUTTO*</u> Joseph A. Alutto Director	<u>/s/Robert H. Schottenstein</u> Robert H. Schottenstein Chairman of the Board, Chief Executive Officer and President (Principal Executive Officer)
<u>FRIEDRICH K. M. BÖHM*</u> Friedrich K. M. Böhm Director	<u>/s/Phillip G. Creek</u> Phillip G. Creek Executive Vice President, Chief Financial Officer and Director (Principal Financial Officer)
<u>WILLIAM H. CARTER*</u> William H. Carter Director	<u>/s/Ann Marie W. Hunker</u> Ann Marie W. Hunker Vice President, Corporate Controller (Principal Accounting Officer)
<u>MICHAEL P. GLIMCHER*</u> Michael P. Glimcher Director	
<u>THOMAS D. IGOE*</u> Thomas D. Igoe Director	
<u>J. THOMAS MASON</u> J. Thomas Mason Executive Vice President, Chief Legal Officer, Secretary and Director	
<u>NORMAN L. TRAEGER</u> Norman L. Traeger Director	
<u>SHAREN J. TURNEY</u> Sharen J. Turney Director	

\*The above-named directors of the registrant execute this report by Phillip G. Creek, their Attorney-in-Fact, pursuant to the powers of attorney executed by the above-named directors, which powers of attorney are filed as Exhibit 24 to this report.

By: /s/Phillip G. Creek  
Phillip G. Creek, *Attorney-In-Fact*

**SUBSIDIARIES OF THE COMPANY**

1. M/I Financial Corp., an Ohio corporation. M/I Financial Corp. is wholly-owned by the Company.
2. MHO, LLC, a Florida limited liability company. MHO, LLC is wholly-owned by MHO Holdings, LLC.
3. M/I Homes Service, LLC, an Ohio limited liability company. M/I Homes Service, LLC is wholly-owned by the Company.
4. M/I Properties, LLC, an Ohio limited liability company. M/I Properties, LLC is wholly-owned by the Company.
5. Northeast Office Venture, LLC, a Delaware limited liability company. Northeast Office Venture, LLC is wholly-owned by the Company.
6. M/I Title Agency Ltd., an Ohio limited liability company. M/I Title Agency Ltd. is wholly-owned by M/I Financial Corp.
7. M/I Homes First Indiana, LLC, an Indiana limited liability company. M/I Homes First Indiana, LLC is wholly-owned by the Company.
8. Washington Metro Residential Title Agency, LLC, a Virginia limited liability company. Washington Metro Residential Title Agency, LLC is 70% owned by M/I Financial Corp.
9. M/I Homes Second Indiana, LLC, an Indiana limited liability company. M/I Homes Second Indiana, LLC is wholly-owned by the Company.
10. M/I Homes of Indiana, L.P., an Indiana limited partnership. M/I Homes Second Indiana, LLC owns 99% of M/I Homes of Indiana, L.P.; M/I Homes First Indiana, LLC owns the remaining 1% of M/I Homes of Indiana, L.P.
11. M/I Homes of Florida, LLC, a Florida limited liability company. M/I Homes of Florida, LLC is wholly-owned by the Company.
12. M/I Homes of Tampa, LLC, a Florida limited liability company. M/I Homes of Tampa, LLC is wholly-owned by M/I Homes of Florida, LLC.
13. M/I Homes of Orlando, LLC, a Florida limited liability company. M/I Homes of Orlando, LLC is wholly-owned by M/I Homes of Florida, LLC.
14. M/I Homes of West Palm Beach, LLC, a Florida limited liability company. M/I Homes of West Palm Beach, LLC is wholly-owned by M/I Homes of Florida, LLC.
15. MHO Holdings, LLC, a Florida limited liability company. MHO Holdings, LLC is wholly-owned by M/I Homes of Florida, LLC.
16. M/I Homes of Charlotte, LLC, a Delaware limited liability company. M/I Homes of Charlotte, LLC is wholly-owned by the Company.
17. M/I Homes of Raleigh, LLC, a Delaware limited liability company. M/I Homes of Raleigh, LLC is wholly-owned by the Company.
18. M/I Homes of DC, LLC, a Delaware limited liability company. M/I Homes of DC, LLC is wholly-owned by the Company.
19. M/I Homes of Cincinnati, LLC, an Ohio limited liability company. M/I Homes of Cincinnati, LLC is wholly-owned by the Company.

20. M/I Homes of Central Ohio, LLC, an Ohio limited liability company. M/I Homes of Central Ohio, LLC is wholly-owned by the Company.
21. The Fields at Perry Hall, LLC, a Maryland limited liability company. The Fields at Perry Hall, LLC is wholly-owned by M/I Homes of DC, LLC.
22. Wilson Farm, LLC, a Maryland limited liability company. Wilson Farm, LLC is wholly-owned by M/I Homes of DC, LLC.
23. TransOhio Residential Title Agency, Ltd., an Ohio limited liability company. TransOhio Residential Title Agency, Ltd. is wholly-owned by the Company.
24. K-Tampa, LLC, a Florida limited liability company. K-Tampa, LLC is wholly-owned by M/I Homes of Tampa, LLC.
25. M/I Homes of Chicago, LLC, a Delaware limited liability company. M/I Homes of Chicago, LLC is wholly-owned by the Company.
26. M/I Homes of Houston, LLC, a Delaware limited liability company. M/I Homes of Houston, LLC is wholly-owned by the Company.
27. Prince Georges Utilities, LLC, a Maryland limited liability company. Prince Georges Utilities, LLC is wholly-owned by the Company.
28. M/I Homes of San Antonio, LLC, a Delaware limited liability company. M/I Homes of San Antonio, LLC is wholly-owned by the Company.
29. M/I Homes of Austin, LLC, an Ohio limited liability company. M/I Homes of Austin, LLC is wholly-owned by the Company.
30. WPE Ventures, LLC, a Delaware limited liability company. WPE Ventures, LCC is wholly-owned by M/I Homes of San Antonio, LLC.
31. Riviera Ventures, LLC an Ohio limited liability company. Riviera Ventures, LLC is wholly-owned by M/I Homes of Central Ohio, LLC.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference to the Registration Statement Nos. 333-76518, 333-70135, 333-82673, 333-35978, 333-40256, 333-134009, 333-144058, 333-151474, 333-160468, 333-169074, 333-185258, and 333-185257 on Form S-8 and Registration Statement No. 333-176088 on Form S-3 and Registration Statement Nos. 333-172653 and 333-181974 on Form S-4 of our reports dated February 25, 2013, relating to the financial statements of M/I Homes, Inc., and the effectiveness of M/I Homes, Inc's., internal control over financial reporting, appearing in the Annual Report on Form 10K of M/I Homes, Inc., for the year ended December 31, 2012.

/s/ DELOITTE & TOUCHE LLP

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Deloitte & Touche LLP

Columbus, Ohio.  
February 25, 2013



**POWER OF ATTORNEY**

I, Robert H. Schottenstein, am Chairman of the Board of Directors, Chief Executive Officer and President of M/I Homes, Inc. (the “Company”), and I do hereby constitute and appoint Phillip G. Creek my true and lawful attorney and agent, with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorney or agent may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorney and agent, or his substitute or substitutes, shall do or cause to be done by virtue hereof.

/s/ Robert H. Schottenstein

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Robert H. Schottenstein

Chairman of the Board, Chief Executive  
Officer (principal executive officer) and  
President

## POWER OF ATTORNEY

I, Phillip G. Creek, am Executive Vice President, Chief Financial Officer (principal financial officer) and a director of M/I Homes, Inc. (the "Company"), do hereby constitute and appoint Robert H. Schottenstein my true and lawful attorney and agent, with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as principal financial officer of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorney or agent may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the "2012 Form 10-K"), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorney and agent, or his substitute or substitutes shall do or cause to be done by virtue hereof.

/s/ Phillip G. Creek

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Phillip G. Creek

Executive Vice President, Chief Financial Officer  
(principal financial officer) and Director

## POWER OF ATTORNEY

I, J. Thomas Mason, am Executive Vice President, Chief Legal Officer, Secretary and a director of M/I Homes, Inc. (the "Company"), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the "2012 Form 10-K"), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ J. Thomas Mason

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J. Thomas Mason

Executive Vice President, Chief Legal Officer,  
Secretary and Director

## POWER OF ATTORNEY

I, Joseph A. Alutto, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ Joseph A. Alutto

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Joseph A. Alutto

Director

## POWER OF ATTORNEY

I, Friedrich K. M. Böhm, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/Friedrich K. M. Böhm

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Friedrich K. M. Böhm

Director

## POWER OF ATTORNEY

I, William H. Carter, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/William H. Carter

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William H. Carter

Director

## POWER OF ATTORNEY

I, Michael P. Glimcher, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ Michael P. Glimcher

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Michael P. Glimcher

Director

## POWER OF ATTORNEY

I, Thomas D. Igoe, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ Thomas D. Igoe

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Thomas D. Igoe

Director



## POWER OF ATTORNEY

I, Norman L. Traeger, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ Norman L. Traeger

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Norman L. Traeger

Director

## POWER OF ATTORNEY

I, Sharen J. Turney, a director of M/I Homes, Inc. (the “Company”), do hereby constitute and appoint Robert H. Schottenstein and Phillip G. Creek, or either of them, my true and lawful attorneys and agents, each with full power of substitution, to do any and all acts and things in my name and on my behalf in my capacity as a director of the Company and to execute any and all instruments for me and in my name in the capacity indicated above, which said attorneys or agents, or either of them, may deem necessary or advisable to enable the Company to comply with the Securities Exchange Act of 1934, as amended, and any rules, regulations and requirements of the Securities and Exchange Commission thereunder, in connection with the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (the “2012 Form 10-K”), including specifically but without limitation, power and authority to sign for me in my name, in the capacity indicated above, the 2012 Form 10-K and any and all amendments to such 2012 Form 10-K; and I do hereby ratify and confirm all that the said attorneys and agents, or their substitute or substitutes, or either of them, shall do or cause to be done by virtue hereof.

/s/ Sharen J. Turney

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Sharen J. Turney

Director

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Phillip G. Creek, certify that:

1. I have reviewed this Annual Report on Form 10-K of M/I Homes, Inc. for the fiscal quarter ended December 31, 2012;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/Phillip G. Creek

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Phillip G. Creek

Executive Vice President and Chief Financial Officer

Date: February 25, 2013

**CERTIFICATION PURSUANT TO SECTION 302  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Robert H. Schottenstein, certify that:

1. I have reviewed this Annual Report on Form 10-K of M/I Homes, Inc. for the fiscal quarter ended December 31, 2012;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/Robert H. Schottenstein  
Robert H. Schottenstein  
Chairman, Chief Executive Officer and  
President

Date: February 25, 2013

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of M/I Homes, Inc. (the "Company") on Form 10-K for the period ended December 31, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert H. Schottenstein, Chairman, Chief Executive Officer and President of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/Robert H. Schottenstein

Robert H. Schottenstein  
Chairman, Chief Executive Officer and  
President

Date: February 25, 2013

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of M/I Homes, Inc. (the "Company") on Form 10-K for the period ended December 31, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Phillip G. Creek, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/Phillip G. Creek

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Phillip G. Creek

Executive Vice President and Chief Financial Officer

Date: February 25, 2013

**MASTER REPURCHASE AGREEMENT**

Between:

**STERLING NATIONAL BANK, as Buyer**

and

**M/I FINANCIAL CORP., as Seller**

Dated as of November 13, 2012

## TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. APPLICABILITY; INCORPORATION OF CUSTOMER GUIDE	1
SECTION 2. DEFINITIONS	1
SECTION 3. INITIATION; TERMINATION 1	
SECTION 4. MARGIN AMOUNT MAINTENANCE 5	
SECTION 5. COLLECTIONS; INCOME PAYMENTS 5	
SECTION 6. REQUIREMENTS OF LAW	7
SECTION 7. TAXES.	7
SECTION 8. SECURITY INTEREST; BUYER'S APPOINTMENT AS ATTORNEY-IN-FACT	9
SECTION 9. PAYMENT, TRANSFER; ACCOUNTS AND CUSTODY	10
SECTION 10. DELIVERY OF DOCUMENTS	10
SECTION 11. REPRESENTATIONS	11
SECTION 12. COVENANTS	15
SECTION 13. EVENTS OF DEFAULT	20
SECTION 14. REMEDIES	21
SECTION 15. INDEMNIFICATION AND EXPENSES; RECOURSE	23
SECTION 16. SERVICING	24
SECTION 17. DUE DILIGENCE	26
SECTION 18. ASSIGNABILITY	27
SECTION 19. TRANSFER AND MAINTENANCE OF REGISTER.	27



SECTION 20.	HYPOTHECATION OR PLEDGE OF PURCHASED MORTGAGE LOANS	28
SECTION 21.	RESERVED	28
SECTION 22.	SET-OFF	28
SECTION 23.	TERMINABILITY	28
SECTION 24.	NOTICES AND OTHER COMMUNICATIONS	29
SECTION 25.	USE OF THE WAREHOUSE ELECTRONIC SYSTEM AND OTHER ELECTRONIC MEDIA	29
SECTION 26.	ENTIRE AGREEMENT; SEVERABILITY; SINGLE AGREEMENT	30
SECTION 27.	GOVERNING LAW	31
SECTION 28.	SUBMISSION TO JURISDICTION; WAIVERS	31
SECTION 29.	NO WAIVERS, ETC.	32
SECTION 30.	NETTING	32
SECTION 31.	CONFIDENTIALITY	32
SECTION 32.	INTENT	33
SECTION 33.	DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS	34
SECTION 34.	MISCELLANEOUS	34
SECTION 35.	GENERAL INTERPRETIVE PRINCIPLES	35

## EXHIBITS

SCHEDULE 1	Schedule of Defined Terms
SCHEDULE 2	Schedule of Facility Information
SCHEDULE 3	Schedule of Representations and Warranties
EXHIBIT A	Form of Opinion Letter
EXHIBIT B	Form of Seller's Officer's Certificate
EXHIBIT C	Form of Servicer Notice
EXHIBIT D	Form of Bailee Letter
EXHIBIT E	Form of Power of Attorney
EXHIBIT F	Form of Seller's Compliance Certificate

## MASTER REPURCHASE AGREEMENT

This is a MASTER REPURCHASE AGREEMENT (the “Agreement”), dated as of November 13, 2012, between **M/I FINANCIAL CORP.**, an Ohio corporation (the “Seller”), and **STERLING NATIONAL BANK**, a national banking association (the “Buyer”).

### SECTION 1. APPLICABILITY; INCORPORATION OF CUSTOMER GUIDE

From time to time the parties hereto may enter into transactions in which Seller agrees to transfer to Buyer Mortgage Loans on a servicing released basis against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Mortgage Loans on a servicing released basis on the Repurchase Date, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a “Transaction” and shall be governed by this Agreement (including any supplemental terms or conditions contained in any annexes identified herein, as applicable hereunder), unless otherwise agreed in writing. This Agreement constitutes a commitment by Buyer to enter into Transactions under the Agreement. The parties acknowledge that Buyer has committed to enter into Transactions with Seller on a committed basis, subject to satisfaction of all terms and conditions of the Agreement.

The Customer Guide is one of the Program Documents as defined below. Such Customer Guide is incorporated by reference into this Agreement and each Seller Party agrees to adhere to all terms, conditions and requirements of the Customer Guide. Buyer may amend the Customer Guide from time to time as more particularly described in Section 34(e). In the event of a conflict or inconsistency between this Agreement and the Customer Guide, the terms of this Agreement shall govern unless subsequently amended by amendments to Customer Guide. Each Seller Party’s execution and delivery of this Agreement constitutes such Seller Party’s acknowledgment of receipt of the Customer Guide and such Seller Party’s agreement to the terms and conditions set forth therein and herein with respect thereto.

### SECTION 2. DEFINITIONS

As used herein, the defined terms set forth on Schedule 1 hereto shall have the meanings set forth therein (all terms defined therein or in other provisions of this Agreement in the singular to have the same meanings when used in the plural and vice versa). Additionally, the following terms shall have the meanings defined in the Uniform Commercial Code: accounts, chattel paper (including electronic chattel paper), goods (including inventory and equipment and any accessions thereto), instruments (including promissory notes), documents, investment property, general intangibles (including payment intangibles and software), and supporting obligations, products and proceeds.

### SECTION 3. INITIATION; TERMINATION

(a) Conditions Precedent to Initial Transaction. Buyer’s agreement to enter into the initial Transaction hereunder is subject to the satisfaction, immediately prior to or concurrently with the making of such Transaction, of the condition precedent that Buyer shall have received from Seller any fees and expenses payable hereunder, and all of the following documents, each of which shall be satisfactory to Buyer and its counsel in form and substance:

- (i) The following Program Documents, duly executed and delivered to Buyer:
  - (A) Agreement. This Agreement, duly executed by the parties thereto.

(B) Program Guaranty. The Program Guaranty, if any, duly executed by the Guarantor.

(C) Electronic Tracking Agreement. For all Mortgage Loans which are registered on the MERS® System, an Electronic Tracking Agreement entered into, duly executed and delivered by the parties thereto, in full force and effect, free of any modification, breach or waiver.

(D) Application. A duly completed Application, executed and delivered by Seller to Buyer.

(ii) Organizational Documents. Certified copies of the organizational documents of each Seller Party.

(iii) Good Standing Certificate. A certified copy of a good standing certificate from the jurisdiction of organization of each Seller Party, dated as of no earlier than the date 10 Business Days prior to the Purchase Date with respect to the initial Transaction hereunder.

(iv) Officer's Certificate. An officer's certificate of each Seller Party in form and substance as set forth in Exhibit B attached hereto.

(v) Opinion of Counsel. An opinion of each Seller Party's counsel, in form and substance substantially as set forth in Exhibit A attached hereto.

(vi) Security Interest. Evidence that all other actions necessary or, in the opinion of Buyer, desirable to perfect and protect Buyer's interest in the Purchased Mortgage Loans and other Repurchase Assets have been taken, including, without limitation, UCC searches and duly authorized and filed Uniform Commercial Code financing statements on Form UCC-1.

(vii) Insurance. Evidence that Seller obtained the insurance policies required by Section 12 (l) hereof, and evidence that Buyer has been named as a loss payee under its Fidelity Insurance and as a direct loss payee/right of action under its errors and omissions insurance policy.

(viii) Fees. Payment of any Warehouse Fees and other costs and expenses due to Buyer hereunder.

(ix) Other Documents. Such other documents as Buyer may reasonably request, in form and substance reasonably acceptable to Buyer.

(b) Conditions Precedent to all Transactions. Upon satisfaction of the conditions set forth in this Section 3(b), Buyer may enter into a Transaction with Seller. Buyer's entering into each Transaction (including the initial Transaction) is subject to the satisfaction of the following further conditions precedent, both immediately prior to entering into such Transaction and also after giving effect thereto to the intended use thereof:

(i) Due Diligence Review. Without limiting the generality of Section 17 of the Agreement, Buyer shall have completed, to its satisfaction, its preliminary due diligence review of the related Mortgage Loans and the Seller Parties.

(ii) No Default. No Default or Event of Default shall have occurred and be continuing under the Program Documents.

(iii) Representations and Warranties. Both immediately prior to the Transaction and also after giving effect thereto and to the intended use thereof, the representations and warranties made by each Seller Party in Section 11 of the Agreement, shall be true, correct and complete on and as of such Purchase Date in all material respects with the same force and effect as if made on and as of such date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date).

(iv) Maximum Purchase Price. After giving effect to the requested Transaction, the aggregate outstanding Purchase Price paid by Buyer for all Purchased Mortgage Loans subject to then outstanding Transactions under this Agreement shall not exceed the Maximum Purchase Price.

(v) No Margin Deficit. After giving effect to the requested Transaction, the Asset Value of all Purchased Mortgage Loans exceeds the aggregate Repurchase Price for such Transactions.

(vi) Transaction Request. On or prior to the times set forth in the Customer Guide, on the related Purchase Date, Seller shall have delivered to Buyer a Transaction Request via the Warehouse Electronic System, and the pre-funding documents specified in the Customer Guide.

(vii) Delivery of Wet File and Mortgage File. Seller shall have delivered to Buyer (A) with respect to each Purchased Mortgage Loan which is not a Wet Loan by the time set forth in the Customer Guide on the Purchase Date, the Mortgage File and (B) with respect to each Wet Loan, (y) by the time set forth in the Customer Guide on the Purchase Date, the Wet File, and (z) on or prior to the Wet Delivery Deadline, the Mortgage File.

(viii) MERS. Evidence that Buyer has been registered as the “warehouse lender” on the MERS System.

(ix) Fees and Expenses. Buyer shall have received all fees and expenses of counsel to Buyer as contemplated by Sections 9 and 15(b) which amounts, at Buyer’s option, may be, with prior notice to Seller, withheld from the proceeds remitted by Buyer to Seller pursuant to any Transaction hereunder; and

(x) No Material Adverse Change. None of the following shall have occurred and be continuing:

(A) an event or events shall have occurred in the good faith determination of Buyer resulting in the effective absence of a “repo market” or comparable “lending market” for financing debt obligations secured by securities or an event or events shall have occurred resulting in Buyer not being able to finance Purchased Mortgage Loans through the “repo market” or “lending market” with traditional counterparties at rates which would have been reasonable prior to the occurrence of such event or events; or

(B) an event or events shall have occurred resulting in the effective absence of a “securities market” for securities backed by mortgage loans or an event or events shall have occurred resulting in Buyer not being able to sell securities backed by mortgage loans at prices which would have been reasonable prior to such event or events; or

(C) there shall have occurred a material adverse change in the financial condition of Buyer which affects (or can reasonably be expected to affect) materially and adversely the ability of Buyer to fund its obligations under this Agreement;

(D) there shall have occurred (i) a material change in financial markets, an outbreak or escalation of hostilities or a material change in national or international political, financial or economic conditions; (ii) a general suspension of trading on major stock exchanges; or (iii) a disruption in or moratorium on commercial banking activities or securities settlement services.

Each Transaction Request delivered by Seller hereunder shall constitute a certification by Seller that all the conditions set forth in this Section 3(b) (other than clauses (ix) and (x) hereof) have been satisfied (both as of the date of such notice or request and as of Purchase Date).

(c) Initiation.

(i) Seller shall deliver a Transaction Request through the Warehouse Electronic System to Buyer as specified in the Customer Guide prior to entering into any Transaction. Such Transaction Request shall include all information required by Buyer pursuant to the Customer Guide. Following receipt of such request, Buyer may agree to enter into such requested Transaction, in which case it will fund the Purchase Price therefor as contemplated in this Agreement. Buyer's funding the Purchase Price of the Transaction and Seller's acceptance thereof, will constitute the parties agreement to enter into such Transaction.

(ii) The information entered into the Warehouse Electronic System with respect to any Transaction, together with this Agreement, shall be conclusive evidence of the terms of the Transaction(s) covered thereby unless objected to in writing by Seller no more than two (2) Business Days after the Purchase Date of the Transaction; provided that Buyer's failure to enter the information into the Warehouse Electronic System shall not affect the obligations of Seller under any Transaction. An objection sent by Seller must state specifically that such writing which is an objection, must specify the provision(s) being objected to by Seller, must set forth such provision(s) in the manner that Seller believes they should be stated, and must be received by Buyer no more than two (2) Business Days after the Purchase Date for the Transaction. Notwithstanding the foregoing, to the extent that Seller accepts funding of the Transaction, Seller shall be deemed to have consented to the terms of the Transaction as set forth in the Warehouse Electronic System.

(iii) The Repurchase Date for each Transaction shall not be later than the Termination Date.

(iv) Subject to the terms and conditions of this Agreement, during such period Seller may sell, repurchase and resell Eligible Mortgage Loans hereunder.

(v) The delivery times and requirements for the Mortgage Loan File as well as the timing and operations for the remittance of Purchase Price shall all be as set forth in the Customer Guide.

(d) Repurchase; Purchase by an Approved Investor

(i) Seller may repurchase Purchased Mortgage Loans without penalty or premium on

any date. Such repurchase may occur simultaneously with a sale of the Purchased Mortgage Loan to an Approved Investor. The Repurchase Price payable for the repurchase of any such Purchased Mortgage Loan shall be reduced as provided in Section 5(c). The timing and requirements for repurchase or sale of a Purchase Mortgage Loan shall be set forth in the Customer Guide.

(ii) On the Repurchase Date, termination of the Transaction will be effected by reassignment to Seller or its designee of the Purchased Mortgage Loans (and any Income in respect thereof received by Buyer not previously credited or transferred to, or applied to the obligations of, Seller pursuant to Section 5) against the simultaneous transfer of the Repurchase Price as described in the Customer Guide. Such obligation to repurchase exists without regard to any prior or intervening liquidation or foreclosure with respect to any Purchased Mortgage Loan (but liquidation or foreclosure proceeds received by Buyer shall be applied to reduce the Repurchase Price for such Purchased Mortgage Loan on each Payment Date except as otherwise provided herein).

#### **SECTION 4. MARGIN AMOUNT MAINTENANCE**

(a) Buyer shall determine the Asset Value of each Purchased Mortgage Loan at such intervals as determined by Buyer in its sole good faith discretion.

(b) If at any time the Asset Value of any Purchased Mortgage Loans subject to a Transaction is less than the Purchase Price for such Transaction (a “Margin Deficit”), then Buyer may by notice to Seller (as such notice is more particularly set forth below, a “Margin Call”), require Seller to transfer to Buyer or its designee cash so that the Asset Value of the Purchased Mortgage Loan will thereupon equal or exceed the Purchase Price for such Transaction.

(c) Notice delivered pursuant to Section 4(b) may be given by any written or electronic means. Any notice given before 10:00 a.m. (New York City time) on a Business Day shall be met, and the related Margin Call satisfied, no later than 5:00 p.m. (New York City time) on such Business Day; notice given after 10:00 a.m. (New York City time) on a Business Day shall be met, and the related Margin Call satisfied, no later than 5:00 p.m. (New York City time) on the following Business Day (the foregoing time requirements for satisfaction of a Margin Call are referred to as the “Margin Deadlines”).

(d) The failure of Buyer, on any one or more occasions, to exercise its rights hereunder, shall not change or alter the terms and conditions to which this Agreement is subject or limit the right of Buyer to do so at a later date. Seller and Buyer each agree that a failure or delay by Buyer to exercise its rights hereunder shall not limit or waive Buyer’s rights under this Agreement or otherwise existing by law or in any way create additional rights for Seller.

(e) Any cash transferred to Buyer pursuant to Section 4(b) above shall be credited to the Repurchase Price of the related Transactions.

#### **SECTION 5. COLLECTIONS; INCOME PAYMENTS**

(a) Upon request of Buyer, Seller shall establish and maintain a segregated time or demand deposit account for the benefit of Buyer (the “Custodial Account”) with Buyer and shall deposit into the Custodial Account, within two (2) Business Days of receipt, all Income received with respect to each Mortgage Loan sold hereunder. Seller shall cause all applicable Subservicers to remit all Income received by them with respect to each such Mortgage Loan directly to the Custodial Account on the remittance date specified in the related servicing agreement (but in no event less frequently than monthly). Under no

circumstances shall Seller deposit any of its own funds into the Custodial Account or otherwise commingle its own funds with funds belonging to Buyer as owner of any Mortgage Loans. Seller shall name the Custodial Account "M/I Financial Corp., in trust for and for the benefit of Sterling National Bank."

(b) All Income received with respect to a Mortgage Loan purchased hereunder, whether or not deposited in the Custodial Account, shall be held in trust for the exclusive benefit of Buyer as the owner of such Mortgage Loan and shall be released only as follows:

(iii) after the Repurchase Price for such Mortgage Loan has been paid in full to Buyer, all amounts previously deposited in the Custodial Account with respect to such Mortgage Loan and then in the Custodial Account shall be:

(A) applied to any Obligations due and payable;

(B) to the extent that there exists no Default, released by Buyer to Seller;

(iv) if a Successor Servicer is appointed by Buyer, all amounts deposited in the Custodial Account with respect to Mortgage Loans to be so serviced shall be transferred into an account established by the Successor Servicer pursuant to its agreement with Buyer;

(v) upon the occurrence and during the continuance of an Event of Default hereunder, all funds then held in the Custodial Account with respect to Mortgage Loans shall only be released by Buyer in its sole good faith discretion; and

(vi) funds may, in Buyer's sole good faith discretion, be remitted to Buyer to cure any Margin Deficit.

(c) On each Payment Date Seller shall remit to Buyer (or Buyer shall withdraw) a portion of the funds held in the Custodial Account with respect to a Mortgage Loan for which the Repurchase Date has not yet occurred equal to the accrued and unpaid Price Differential for such Mortgage Loan. Such remittances shall be by wire transfer in accordance with wire transfer instructions previously given to Seller by Buyer.

(d) Seller authorizes Buyer to withdraw the remittance amount as set forth in Section 5(c) above each month from any of Seller's accounts as more particularly set forth in the Customer Guide.

(e) Seller shall not change the identity or location of the Custodial Account. Seller shall from time to time, at its own cost and expense, execute such directions to Buyer, and other papers, documents or instruments as may be reasonably requested by Buyer.

(f) If Buyer so requests, Seller shall promptly notify Buyer of each deposit in the Custodial Account, and each withdrawal from the Custodial Account, made by it with respect to Mortgage Loans owned by Buyer and serviced by Seller. Seller shall also promptly deliver to Buyer photocopies of all periodic bank statements and other records relating to the Custodial Account as Buyer may from time to time request.

(g) The amount required to be paid or remitted by Seller to Buyer, not made when due (subject to any applicable grace periods) shall bear interest from the due date until the remittance, transfer or payment is made, payable by Seller, at the lesser of the Post-Default Rate or the maximum rate of interest



permitted by law. If there is no maximum rate of interest specified by applicable law, interest on such sums shall accrue at the Post-Default Rate.

## **SECTION 6. REQUIREMENTS OF LAW**

(a) If any Requirement of Law (other than with respect to any amendment made to Buyer's certificate of incorporation and by laws or other organizational or governing documents) including those regarding capital adequacy, or any change in the interpretation or application of any Requirement of Law thereof or compliance by Buyer with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(vii) shall subject Buyer to any Tax or increased Tax of any kind whatsoever with respect to this Agreement or any Transaction or change the basis of taxation of payments to Buyer in respect thereof;

(viii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, deposits or other liabilities in or for the account of, advances, or other extensions of credit by, or any other acquisition of funds by, any office of Buyer which is not otherwise included in the determination of the LIBOR Rate hereunder;

(ix) shall impose on Buyer any other condition;

and the result of any of the foregoing is to increase the cost to Buyer, by an amount which Buyer deems to be material in its sole good faith discretion, of entering, continuing or maintaining any Transaction or to reduce any amount due or owing hereunder in respect thereof, or shall have the effect of reducing Buyer's rate of return then, in any such case, Seller shall promptly pay Buyer such additional amount or amounts as calculated by Buyer in good faith as will compensate Buyer for such increased cost or reduced amount receivable on an after-tax basis.

(b) If Buyer becomes entitled to claim any additional amounts pursuant to this Section, it shall promptly notify Seller of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to this Section submitted by Buyer to Seller shall be conclusive in the absence of manifest error.

## **SECTION 7. TAXES.**

(a) Any and all payments by any Seller Party under or in respect of this Agreement or any other Program Documents to which such Seller Party is a party shall be made free and clear of, and without deduction or withholding for or on account of, any and all present or future taxes, levies, imposts, deductions, charges or withholdings, and all liabilities (including penalties, interest and additions to tax) with respect thereto, whether now or hereafter imposed, levied, collected, withheld or assessed by any taxation authority or other Governmental Authority (collectively, "Taxes"), unless required by law. If a Seller Party shall be required under any applicable Requirement of Law to deduct or withhold any Taxes from or in respect of any sum payable under or in respect of this Agreement or any of the other Program Documents to Buyer, (i) such Seller Party shall make all such deductions and withholdings in respect of Taxes, (ii) such Seller Party shall pay the full amount deducted or withheld in respect of Taxes to the relevant taxation authority or other Governmental Authority in accordance with any applicable Requirement of Law, and (iii) the sum payable by such Seller Party shall be increased as may be necessary so that after such Seller Party has made all required deductions and withholdings (including deductions and withholdings applicable to

additional amounts payable under this Section 7) Buyer receives an amount equal to the sum it would have received had no such deductions or withholdings been made in respect of Non-Excluded Taxes. For purposes of this Agreement the term “Non-Excluded Taxes” are Taxes other than, in the case of Buyer, Taxes that are imposed on its overall Net Income (and franchise taxes imposed in lieu thereof) by the jurisdiction under the laws of which Buyer is organized or of its applicable lending office, or any political subdivision thereof, unless such Taxes are imposed as a result of Buyer having executed, delivered or performed its obligations or received payments under, or enforced, this Agreement or any of the other Program Documents (in which case such Taxes will be treated as Non-Excluded Taxes).

(b) In addition, each Seller Party hereby agrees to pay any present or future stamp, recording, documentary, excise, property or value-added taxes, or similar taxes, charges or levies that arise from any payment made under or in respect of this Agreement or any other Program Document or from the execution, delivery or registration of, any performance under, or otherwise with respect to, this Agreement or any other Program Document (collectively, “Other Taxes”).

(c) Each Seller Party hereby agrees to indemnify Buyer for, and to hold it harmless against, the full amount of Non-Excluded Taxes and Other Taxes, and the full amount of Taxes of any kind imposed by any jurisdiction on amounts payable under this Section 7 imposed on or paid by Buyer and any liability (including penalties, additions to tax, interest and expenses) arising therefrom or with respect thereto. The indemnity by each Seller Party provided for in this Section 7(c) shall apply and be made whether or not the Non-Excluded Taxes or Other Taxes for which indemnification hereunder is sought have been correctly or legally asserted. Amounts payable by a Seller Party under the indemnity set forth in this Section 7(c) shall be paid within ten (10) days from the date on which Buyer makes written demand therefor.

(d) Within thirty (30) days after the date of any payment of Taxes, a Seller Party (or any Person making such payment on behalf of such Seller Party) shall furnish to Buyer for its own account a certified copy of the original official receipt evidencing payment thereof.

(e) Buyer (including for avoidance of doubt any permitted assignee, successor or participant) whose name does not include “Incorporated,” “Inc.,” “Corporation,” “Corp.,” “P.C.,” “insurance company,” or “assurance company” (a “Non-Exempt Buyer”) shall deliver or cause to be delivered to Seller a complete and executed U.S. Internal Revenue Service Form W-9 (or any successor forms thereto), including all attachments.

(f) For any period with respect to which Buyer has failed to provide Seller with the appropriate form, certificate or other document described in subsection (e) of this Section 7 (other than (i) if such failure is due to a change in any applicable Requirement of Law, or in the interpretation or application thereof, occurring after the date on which a form, certificate or other document originally was required to be provided, and (ii) if such form, certificate or other document otherwise is not required under subsection (e) of this Section 7), Buyer shall not be entitled to indemnification or additional amounts under subsection (a) or (c) of this Section 7 with respect to Non-Excluded Taxes imposed by the United States by reason of such failure; provided, however, that should Buyer become subject to Non-Excluded Taxes because of its failure to deliver a form, certificate or other document required hereunder, Seller shall take such steps as Buyer shall reasonably request, to assist Buyer in recovering such Non-Excluded Taxes.

(g) Without prejudice to the survival of any other agreement of any Seller Party hereunder, the agreements and obligations of each Seller Party contained in this Section 7 shall survive the termination of this Agreement. Nothing contained in this Section 7 shall require Buyer to make available any of its tax returns or any other information that it deems to be confidential or proprietary.

(h) Each party to this Agreement acknowledges that it is its intent for purposes of U.S. federal, state and local income and franchise taxes, to treat the Transaction as indebtedness of Seller that is secured by the Purchased Mortgage Loans and the Purchased Mortgage Loans as owned by Seller for federal income tax purposes in the absence of a Default by Seller. All parties to this Agreement agree to such treatment and agree to take no action inconsistent with this treatment, unless required by law.

## **SECTION 8. SECURITY INTEREST; BUYER'S APPOINTMENT AS ATTORNEY-IN-FACT**

(a) Security Interest. On each Purchase Date, Seller hereby sells, assigns and conveys all rights and interests in the Purchased Mortgage Loans identified on the related Mortgage Loan Schedule and the Repurchase Assets. Although the parties intend that all Transactions hereunder be sales and purchases and not loans, in the event any such Transactions are deemed to be loans, and in any event Seller hereby pledges to Buyer as security for the performance by Seller of its Obligations and hereby grants, assigns and pledges to Buyer a fully perfected first priority security interest in the Purchased Mortgage Loans as are specified on a Mortgage Loan Schedule and/or Transaction Request and/or in the Warehouse Electronic System; the Records related to the Purchased Mortgage Loans; the Program Documents (to the extent such Program Documents and Seller's right thereunder relate to the Purchased Mortgage Loans); any Property relating to any Purchased Mortgage Loan or the related Mortgaged Property; any Takeout Commitments relating to any Purchased Mortgage Loan; any Closing Protection Letter, escrow letter or settlement agreement relating to any Purchased Mortgage Loan; any Servicing Rights relating to any Purchased Mortgage Loan; all insurance policies and insurance proceeds relating to any Purchased Mortgage Loan or the related Mortgaged Property, including but not limited to any payments or proceeds under any related primary insurance or hazard insurance; any Income relating to any Purchased Mortgage Loan; the Custodial Account; the Inbound Account; the Haircut Account; any Hedge Agreements relating to any Purchased Mortgage Loan; and any other contract rights, accounts (including any interest of Seller in escrow accounts) and any other payments, rights to payment (including payments of interest or finance charges) and general intangibles to the extent that the foregoing relates to any Purchased Mortgage Loan; and any other assets relating to the Purchased Mortgage Loans (including, without limitation, any other accounts) or any interest in the Purchased Mortgage Loans; and all collateral under any other secured debt facility (including, without limitation, any facility documented as a repurchase agreement or similar purchase and sale agreement) between Seller on the one hand and Buyer or Buyer's Affiliates on the other, in all instances, whether now owned or hereafter acquired, now existing or hereafter created and wherever located (collectively, the "Repurchase Assets").

Seller acknowledges that it has no rights to service the Purchased Mortgage Loan. Without limiting the generality of the foregoing and in the event that Seller is deemed to retain any residual Servicing Rights, and for the avoidance of doubt, Seller grants, assigns and pledges to Buyer a security interest in the Servicing Rights and proceeds related thereto and in all instances, whether now owned or hereafter acquired, now existing or hereafter created. The foregoing provision is intended to constitute a security agreement or other arrangement or other credit enhancement related to the Agreement and Transactions hereunder as defined under Sections 101(47)(v) and 741(7)(x) of the Bankruptcy Code.

Seller hereby authorizes Buyer to file such financing statement or statements relating to the Repurchase Assets and the Servicing Rights as Buyer, at its option, may deem appropriate in its sole good faith discretion. Seller shall pay the out-of-pocket searching and filing costs incurred by Buyer and its counsel for any financing statement or statements prepared or searched pursuant to, and in accordance with, this Agreement.

(b) Buyer's Appointment as Attorney in Fact. Seller agrees to execute a Power of

Attorney, the form of Exhibit E hereto, to be delivered on the date hereof.

## **SECTION 9. PAYMENT, TRANSFER; ACCOUNTS AND CUSTODY**

(a) Payments and Transfers of Funds. Unless otherwise mutually agreed in writing, all transfers of funds to be made by Seller hereunder shall be made in Dollars, in immediately available funds, without deduction, set off or counterclaim, to Buyer at the account maintained by Buyer on the date on which such payment shall become due, all as more particularly described in the Customer Guide.

(b) Remittance of Purchase Price. On the Purchase Date for each Transaction, ownership of the Purchased Mortgage Loans shall be transferred to Buyer or its designee against the simultaneous transfer of the Purchase Price. With respect to the Purchased Mortgage Loans being sold by Seller on a Purchase Date, Seller hereby sells, transfers, conveys and assigns to Buyer or its designee without recourse, but subject to the terms of this Agreement, all the right, title and interest of Seller in and to the Purchased Mortgage Loans together with all right, title and interest in and to the proceeds of any related Repurchase Assets. All transfers of cash and assets shall be made in accordance with the Customer Guide.

(c) Operating Account; Inbound Account; Haircut Account. Seller shall establish and maintain with Buyer an Operating Account, an Inbound Account and a Haircut Account (the “Warehouse Accounts”), each identified on the Schedule of Facility Information, in the form of a non-interest bearing deposit account. Buyer shall have exclusive withdrawal rights from the Inbound Account and the Haircut Account, and shall have non-exclusive withdrawal rights from the Operating Account. Funds deposited in and withdrawn from the Warehouse Accounts may be transferred as set forth in the Customer Guide. All amounts on deposit in the Warehouse Accounts shall be held as cash margin and collateral for all Obligations under this Agreement. Without limiting the generality of the foregoing, in the event that a Margin Call or other Default exists and with prior notice to Seller, Buyer shall be entitled to use any or all of the amounts on deposit in the Warehouse Accounts to cure such circumstance or otherwise exercise remedies available to Buyer.

(d) Maintenance of Balances. If Seller shall fail to maintain with Buyer during any calendar quarter non-interest bearing deposits in the Operating Account, Inbound Account and Haircut Account in the aggregate, after charges to compensate Buyer for services rendered to Seller, equal to at least the Minimum Balance Requirement, Seller shall pay to Buyer a fee equal to the amount of such deficit multiplied by a rate per annum equal to the Pricing Rate plus 2%.

(e) Fees. Seller shall pay in immediately available funds to Buyer all fees, including without limitation, the Warehouse Fees, as and when required hereunder. All such payments shall be made in Dollars, in immediately available funds, without deduction, set-off or counterclaim, to Buyer at such account designated by Buyer. Without limiting the generality of the foregoing or any other provision of this Agreement, with prior notice to Seller, Buyer may withdraw and retain from the Operating Account any Warehouse Fees due and owing to Buyer.

## **SECTION 10. DELIVERY OF DOCUMENTS**

(a) Custody of Mortgage Files. In connection with the sale, transfer, conveyance and assignment of Purchased Mortgage Loans, on or prior to each Purchase Date, Seller shall deliver or cause to be delivered and released to Buyer or its designee the Mortgage File or Wet File, as applicable for the related Purchased Mortgage Loans all as more particularly described in the Customer Guide.

Seller shall be solely responsible for providing each and every document required for each Mortgage File to Buyer or its designee in a timely manner and for completing or correcting any missing, incomplete or inconsistent documents, and Buyer shall not be responsible or liable for taking any such action, causing Seller or any other person or entity to do so or notifying any Person that any such action has or has not been taken.

(b) Release of Mortgage Files. All releases and deliveries of Mortgage Files by Buyer shall be governed by the provisions of the Customer Guide. All Mortgage Files or documents from Mortgage Files released by Buyer to Seller, pursuant to this Section shall be held by Seller in trust for the benefit of Buyer.

## **SECTION 11. REPRESENTATIONS**

(1) Each Seller Party, jointly and severally, represents and warrants to Buyer that as of the Purchase Date for any Purchased Mortgage Loans by Buyer from Seller and as of the date of this Agreement and any Transaction hereunder and at all times while the Program Documents are in full force and effect and/or any Transaction hereunder is outstanding:

(a) Acting as Principal. Seller will engage in such Transactions as principal (or, if agreed in writing in advance of any Transaction by the other party hereto, as agent for a disclosed principal).

(b) No Broker. Seller has not dealt with any broker, investment banker, agent, or other person, except for Buyer, who may be entitled to any commission or compensation in connection with the sale of Purchased Mortgage Loans pursuant to this Agreement.

(c) Financial Statements. The Financial Reporting Party has heretofore furnished to Buyer a copy, certified by its president or chief financial officer, of its (a) Financial Statements for the Financial Reporting Group for the fiscal year ended the Annual Financial Statement Date, setting forth in each case in comparative form the figures for the previous year, with an unqualified opinion thereon of an Approved CPA and (b) Financial Statements for the Financial Reporting Group for such monthly period(s), of the Financial Reporting Group up until Monthly Financial Statement Date, setting forth in each case in comparative form the figures for the previous year. All such Financial Statements are complete and correct and fairly present, in all material respects, the consolidated and consolidating financial condition of the Financial Reporting Group and the consolidated and consolidating results of its operations as at such dates and for such monthly periods, all in accordance with GAAP. Each Guarantor that is an individual person, if any, has heretofore furnished to Buyer a copy of its annual personal financial statement as of the Personal Financial Statement Date and such Guarantor's annual tax return for the year ended the Personal Financial Statement Date. Since the Annual Financial Statement Date, there has been no material adverse change in the consolidated business, operations or financial condition of the Financial Reporting Group taken as a whole from that set forth in said Financial Statements nor is any Seller Party aware of any state of facts which (without notice or the lapse of time) would or could result in any such material adverse change or could have a Material Adverse Effect. The Financial Reporting Party does not have, on the Annual Financial Statement Date, any liabilities, direct or indirect, fixed or contingent, matured or unmatured, known or unknown, or liabilities for taxes, long-term leases or unusual forward or long-term commitments not disclosed by, or reserved against in, said balance sheet and related statements, and at the present time there are no material unrealized or anticipated losses from any loans, advances or other commitments of the Financial Reporting Party except as heretofore disclosed to Buyer in writing.

(d) Organization, Etc. Each Seller Party is duly organized, validly existing and in good

standing under the laws of the jurisdiction of its organization. Each Seller Party (a) has all requisite corporate or other power, and has all governmental licenses, authorizations, consents and approvals necessary to own its assets and carry on its business as now being or as proposed to be conducted, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect; (b) is qualified to do business and is in good standing in all other jurisdictions in which the nature of the business conducted by it makes such qualification necessary, except where failure so to qualify would not be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect.

(e) Authorization, Compliance, Approvals. The execution and delivery of, and the performance by each Seller Party of its obligations under, the Program Documents to which it is a party (a) are within such Seller Party's powers, (b) have been duly authorized by all requisite action, (c) do not violate any provision of applicable Requirement of Law, rule or regulation, or any order, writ, injunction or decree of any court or other Governmental Authority, or its organizational documents, (d) do not violate any indenture, agreement, document or instrument to which such Seller Party or any of its Subsidiaries is a party, or by which any of them or any of their properties, any of the Repurchase Assets is bound or to which any of them is subject and (e) are not in conflict with, do not result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by any Program Document, result in the creation or imposition of any Lien upon any of the property or assets of such Seller Party or any of its Subsidiaries. No Seller Party is required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any Governmental Authority in connection with or as a condition to the consummation of the Transactions contemplated herein.

(f) Litigation. There are no actions, suits, arbitrations, investigations (including, without limitation, any of the foregoing which are pending or threatened) or other legal or arbitrable proceedings affecting any Seller Party or any Subsidiary or affecting any of the Repurchase Assets or any of the other properties of any Seller Party before any Governmental Authority which (i) questions or challenges the validity or enforceability of the Program Documents or any action to be taken in connection with the transactions contemplated hereby, (ii) except as disclosed to Buyer, makes a claim or claims in an aggregate amount greater than the Litigation Threshold, (iii) individually or in the aggregate, if adversely determined, would have a Material Adverse Effect, or (iv) requires filing with the SEC in accordance with its regulations or (v) relates to any violation of the Home Ownership and Equity Protection Act or any state, city or district high cost home mortgage or predatory lending law.

(g) Purchased Mortgage Loans.

(i) Seller has not assigned, pledged, or otherwise conveyed or encumbered any Mortgage Loan to any other Person, and immediately prior to the sale of such Mortgage Loan to Buyer, Seller was the sole owner of such Mortgage Loan and had good and marketable title thereto, free and clear of all Liens, in each case except for Permitted Liens and Liens to be released simultaneously with the sale to Buyer hereunder.

(ii) The provisions of this Agreement are effective to either constitute a sale of Repurchase Assets to Buyer or to create in favor of Buyer a valid first priority security interest in all right, title and interest of Seller in, to and under the Repurchase Assets.

(h) Proper Names; Chief Executive Office/Jurisdiction of Organization. Seller does not operate in any jurisdiction under a trade name, division name or name other than those names previously disclosed in writing by Seller to Buyer. On the Effective Date, Seller's chief executive office is, and has been, located as specified on the signature page hereto. Seller's jurisdiction of organization, type of

organization and organizational identification number is as set forth on the Schedule of Facility Information. The Guarantor's (if any) jurisdiction of organization type of organization and organizational identification number is as set forth on the Schedule of Facility Information.

(i) Location of Books and Records. The location where Seller keeps its books and records, including all computer tapes, computer systems and storage media and records related to the Repurchase Assets is its chief executive office.

(j) Enforceability. This Agreement and all of the other Program Documents executed and delivered by each Seller Party in connection herewith are legal, valid and binding obligations of Seller Party and are enforceable against Seller Party in accordance with their terms except as such enforceability may be limited by (i) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Requirement of Laws affecting creditors rights generally and (ii) general principles of equity.

(k) No Default. No Default or Event of Default has occurred and is continuing.

(l) [Reserved].

(m) Scheduled Indebtedness. All Indebtedness which is presently in effect and/or outstanding is listed on Schedule 2 hereto as Scheduled Indebtedness, and no defaults or events of default exist thereunder.

(n) Accurate and Complete Disclosure. The information, reports, Financial Statements, exhibits and schedules furnished in writing by or on behalf of each Seller Party to Buyer in connection with the negotiation, preparation or delivery of this Agreement or performance hereof and the other Program Documents included herein or therein or delivered pursuant hereto or thereto, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading.

(o) Margin Regulations. The use of all funds acquired by Seller under this Agreement will not conflict with or contravene any of Regulations T, U or X promulgated by the Board of Governors of the Federal Reserve System as the same may from time to time be amended, supplemented or otherwise modified.

(p) Investment Company. No Seller Party nor any Subsidiary of any Seller Party is (i) an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended or (ii) a "holding company" as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935.

(q) Solvency. As of the date hereof and immediately after giving effect to each Transaction, the fair value of the assets of Seller is greater than the fair value of the liabilities (including, without limitation, contingent liabilities if and to the extent required to be recorded as a liability on the Financial Statements of Seller in accordance with GAAP) of Seller and Seller is solvent and, after giving effect to the transactions contemplated by this Agreement and the other Program Documents, will not be rendered insolvent or left with an unreasonably small amount of capital with which to conduct its business and perform its obligations. Seller does not intend to incur, nor does it believe that it has incurred, debts beyond its ability to pay such debts as they mature. No Seller Party is contemplating the commencement of an insolvency, bankruptcy, liquidation, or consolidation proceeding or the appointment of a receiver, liquidator, conservator, trustee, or similar official in respect of itself or any of its property.

(r) ERISA. From the fifth fiscal year preceding the current year through the termination of this Agreement (the “Reporting Period”), with respect to any pension or benefit plan maintained by any Seller Party or any ERISA Affiliate, or to which any Seller Party or any ERISA Affiliate contributes or has contributed (each, a “Plan”), the benefits under which Plan are guaranteed, in whole or in part, by the PBGC (i) any Seller Party and each ERISA Affiliate has funded and will continue to fund each Plan as required by the provisions of Section 412 of the Code; (ii) any Seller Party and each ERISA Affiliate has caused and will continue to cause each Plan to pay all benefits when due; (iii) no Seller Party nor any ERISA Affiliate has been or is obligated to contribute to any multiemployer plan as defined in Section 3(37) of ERISA; (iv) any Seller Party (on behalf of ERISA Affiliate, if applicable) will provide to Buyer (A) no later than the date of submission to the PBGC, a copy of any notice of a Plan’s termination (B) no later than the date of submission to the Department of Labor or to the Internal Revenue Service, as the case may be, a copy of any request for waiver from the funding standards or extension of the amortization periods required by Section 412 of the Code and (C) notice of any Reportable Event as such term is defined in ERISA (and has, prior to the date of this Agreement, provided to Buyer a copy of any document described in clauses (iv)(A), (B) or (C) relating to any date in the Reporting Period prior to the date of this Agreement); and (v) any Seller Party and each ERISA Affiliate will subscribe from the date of this Agreement to the termination of this Agreement to any continent liability insurance provided by the PBGC to protect against employer liability upon termination of a guaranteed pension plan, if available to any Seller Party or ERISA Affiliate, as applicable.

(s) Taxes. Each Seller Party and their respective Subsidiaries have timely filed all tax returns that are required to be filed by them and have timely paid all Taxes due, except for any such Taxes as are being appropriately contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves have been provided. There are no Liens for Taxes, except for statutory liens for Taxes not yet due and payable.

(t) No Reliance. Each Seller Party has made its own independent decisions to enter into the Program Documents and each Transaction and as to whether such Transaction is appropriate and proper for it based upon its own judgment and upon advice from such advisors (including without limitation, legal counsel and accountants) as it has deemed necessary. No Seller Party is relying upon any advice from Buyer as to any aspect of the Transactions, including without limitation, the legal, accounting or tax treatment of such Transactions.

(u) Plan Assets. No Seller Party is an employee benefit plan as defined in Section 3 of Title I of ERISA, or a plan described in Section 4975(e)(1) of the Code, and the Purchased Mortgage Loans are not “plan assets” within the meaning of 29 CFR §2510.3-101, as modified by Section 3(42) of ERISA, in any Seller Party’s hands and transactions by or with any Seller Party are not subject to any state or local statute regulating investments of, or fiduciary obligations with respect to governmental plans within the meaning of Section 3(32) of ERISA.

(v) Agency Approvals. To the extent previously approved, Seller is approved by Fannie Mae as an approved lender, Freddie Mac as an approved seller/servicer, VA as a VA Approved Lender and, to the extent necessary, approved by the Secretary of Housing and Urban Development pursuant to Sections 203 and 211 of the National Housing Act. In each such case, Seller is in good standing, with no event having occurred or Seller having any reason whatsoever to believe or suspect will occur, including, without limitation, a change in insurance coverage which would either make Seller unable to comply with the eligibility requirements for maintaining all such applicable approvals or require notification to the relevant Agency. Seller has adequate financial standing, servicing facilities, procedures and experienced personnel necessary for the sound servicing of mortgage loans of the same types as may from time to time constitute Mortgage Loans and in accordance with Accepted Servicing Practices.



(w) Anti-Money Laundering Laws. Each Seller Party has complied with all applicable anti-money laundering laws and regulations, including without limitation the USA Patriot Act of 2001 (collectively, the “Anti-Money Laundering Laws”); each Seller Party has established an anti-money laundering compliance program as required by the Anti-Money Laundering Laws, has conducted the requisite due diligence in connection with the origination of each Mortgage Loan for purposes of the Anti-Money Laundering Laws, including with respect to the legitimacy of the applicable Mortgagor and the origin of the assets used by the said Mortgagor to purchase the property in question, and maintains, and will maintain, sufficient information to identify the applicable Mortgagor for purposes of the Anti-Money Laundering Laws.

(x) No Prohibited Persons. No Seller Party nor any of their Affiliates, officers, directors, partners or members, is an entity or person (or to the Seller’s knowledge, owned or controlled by an entity or person): (i) that is listed in the Annex to, or is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001 (“EO13224”); (ii) whose name appears on the United States Treasury Department’s Office of Foreign Assets Control (“OFAC”) most current list of “Specifically Designated National and Blocked Persons” (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>); (iii) who commits, threatens to commit or supports “terrorism”, as that term is defined in EO13224; or (iv) who is otherwise affiliated with any entity or person listed above (any and all parties or persons described in clauses (i) through (iv) above are herein referred to as a “Prohibited Person”).

(y) Insured Depository Institution Representations. If any Seller Party is an Insured Depository Institution, such Seller Party makes the following additional representations and warranties: (i) The Program Documents do not violate any statutory or regulatory requirements applicable to such Seller Party; (ii) The Program Documents have been (1) executed contemporaneously with the definitive agreement reached by Buyer and such Seller Party, (2) such Seller Party’s Board of Directors has authorized such Seller Party’s officers to negotiate and enter into the Agreement, which authorization shall be reflected in the minutes of said board, and (3) entered into the official records of such Seller Party, a copy of which approvals, certified by a vice president or higher officer of such Seller Party, has been provided to Buyer; (iii) The aggregate amount of the Purchase Price of the Transactions, after giving effect to any Transactions being made on the Purchase Date hereof, between Buyer and such Seller Party does not exceed any restrictions or limitations imposed by the board of directors or regulatory requirements of such Seller Party; and (iv) As of any date of determination, such Seller Party is Well Capitalized.

## **SECTION 12. COVENANTS**

On and as of the date of this Agreement and each Purchase Date and at all times until this Agreement is no longer in force, each Seller Party covenants, jointly and severally, as follows:

(a) Preservation of Existence; Compliance with Law. Each Seller Party shall (i) preserve and maintain its legal existence and all of its material rights, privileges, licenses and franchises necessary for the operation of its business; (ii) comply with the requirements of all applicable Requirement of Laws, rules, regulations and orders, whether now in effect or hereafter enacted or promulgated by any applicable Governmental Authority (including, without limitation, all environmental laws); (iii) maintain all licenses, permits or other approvals necessary for such Seller Party to conduct its business and to perform its obligations under the Program Documents, and shall conduct its business strictly in accordance with applicable Requirement of Law; (iv) keep adequate records and books of account, in which complete entries will be made in accordance with GAAP consistently applied.

(b) Taxes. Each Seller Party shall timely file all tax returns that are required to be filed by it and shall timely pay all Taxes due, except for any such Taxes as are being appropriately contested in good faith by appropriate proceedings diligently conducted with respect to which adequate reserves have been provided.

(c) Notice of Proceedings or Adverse Change. Each Seller Party shall give notice to Buyer promptly but in no event later than the time frames set forth below after a Responsible Officer of such Seller Party has any knowledge of:

(i) no later than one (1) Business day, the occurrence of any Default or Event of Default;

(ii) no later than one (1) Business Day, any (a) default or event of default under any Indebtedness of such Seller Party the outstanding principal amount of which is in excess of \$1,000,000, or (b) litigation, investigation, regulatory action or proceeding that is pending or threatened by or against such Seller Party in any federal or state court or before any Governmental Authority which, if not cured or if adversely determined, would reasonably be expected to have a Material Adverse Effect or constitute a Default or Event of Default, and (c) any Material Adverse Effect with respect to such Seller Party;

(iii) no later than two (2) Business Days, any litigation or proceeding that is pending or threatened against (a) such Seller Party in which the amount involved exceeds the Litigation Threshold and is not covered by insurance, in which injunctive or similar relief is sought, or which, would reasonably be expected to have a Material Adverse Effect and (b) any litigation or proceeding that is pending or threatened in connection with any of the Repurchase Assets, which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

(iv) no later than two (2) Business Days, and, as soon as reasonably possible, notice of any of the following events: (A) a material change in the insurance coverage of such Seller Party, with a copy of evidence of same attached; (B) any material change in accounting policies or financial reporting practices of such Seller Party; (C) promptly upon receipt of notice or knowledge of any Lien or security interest (other than security interests created hereby or under any other Program Document) on, or claim asserted against, any of the Repurchase Assets; (D) the termination or nonrenewal of any debt facilities of such Seller Party which have a maximum principal amount (or equivalent) available of more than the Facility Termination Threshold; (E) any Change in Control or any change in direct or indirect ownership or controlling interest of any Seller Party's direct or indirect owner; (F) any other event, circumstance or condition that has resulted, or could reasonably be expected to result, in a Material Adverse Effect;

(v) no later than two (2) Business Days after Seller receives notice of the same, (A) any Mortgage Loan submitted for inclusion into an Agency Security and rejected by that Agency for inclusion in such Agency Security; (B) any Mortgage Loan submitted to an Approved Investor (whole loan or securitization) and rejected for purchase by such Approved Investor; (C) any request for repurchase of or indemnification for a Mortgage Loan purchased by a third party investor; or (D) the termination or suspension of approval of Seller to sell any Mortgage Loans to any Approved Investor.

(d) Financial Reporting. Each Seller Party shall maintain a system of accounting established and administered in accordance with GAAP consistently applied, and furnish to Buyer, with a certification by the president or chief financial officer of the Financial Reporting Party (the following

hereinafter referred to as the “Financial Statements”):

(i) Within ninety (90) days after the close of each fiscal year, consolidated and consolidating balance sheets and the related consolidated and consolidating statements of income and retained earnings and of cash flows as at the end of such year for the Financial Reporting Group for the fiscal year, setting forth in each case in comparative form the figures for the previous year, with an unqualified opinion thereon of an Approved CPA;

(ii) Within thirty (30) days after the end of each calendar quarter, the consolidated and consolidating balance sheets and the related consolidated and consolidating statements of income and retained earnings and of cash flows for the Financial Reporting Group for such quarterly period (s), of the Financial Reporting Group, setting forth in each case in comparative form the figures for the previous year;

(iii) Within thirty (30) days after the end of each month, the consolidated and consolidating balance sheets and the related consolidated and consolidating statements of income and retained earnings and of cash flows for the Financial Reporting Group for such monthly period (s), of the Financial Reporting Group;

(iv) Simultaneously with the furnishing of each of the Financial Statements to be delivered pursuant to subsection (i)-(ii) above, and monthly, a certificate in the form of Exhibit F hereto and certified by the president or chief financial officer of the Financial Reporting Party;

(v) If applicable, copies of any 10-Ks, 10-Qs, registration statements and other “corporate finance” SEC filings (other than 8-Ks) by each Seller Party within 5 Business Days of their filing with the SEC; provided, that, each Seller Party will provide Buyer with a copy of the annual 10-K filed with the SEC by such Seller Party, no later than 90 days after the end of the year; and

(vi) Promptly, from time to time, such other information regarding the business affairs, operations and financial condition of each Seller Party as Buyer may reasonably request.

(e) Further Assurances. Each Seller Party shall execute and deliver to Buyer all further documents, financing statements, agreements and instruments, and take all further actions that may be required under applicable Requirement of Law, or that Buyer may reasonably request, in order to effectuate the transactions contemplated by this Agreement and the Program Documents or, without limiting any of the foregoing, to grant, preserve, protect and perfect the validity and first-priority of the security interests created or intended to be created hereby.

(f) True and Correct Information. All information, reports, exhibits, schedules, Financial Statements or certificates of each Seller Party thereof or any of their officers furnished to Buyer hereunder and during Buyer’s diligence of the Seller Parties will be true and complete and will not omit to disclose any material facts necessary to make the statements therein or therein, in light of the circumstances in which they are made, not misleading. All required Financial Statements, information and reports delivered by each Seller Party to Buyer pursuant to this Agreement shall be prepared in accordance with GAAP, or as applicable, to SEC filings, the appropriate SEC accounting requirements.

(g) ERISA Events. No Seller Party shall permit any ERISA Affiliate to be in violation of any provision of Section 11(r) of this Agreement and no Seller Party shall be in violation of Section 11

(u) of this Agreement.

(h) Financial Condition Covenants. The applicable Seller Parties shall comply with the Financial Condition Covenants set forth in the Schedule of Facility Information.

(i) Hedging. Seller shall hedge Purchased Mortgage Loans in accordance with Seller's hedging policies as in effect from time to time. Seller shall not make any material change to its hedging policies without the prior written notice to Buyer. Additionally, Buyer may in its reasonable discretion request a current copy of its hedging policies at any time.

(j) [Reserved].

(k) Servicer Approval. Seller shall not cause the Mortgage Loans to be serviced by any servicer other than a servicer expressly approved in writing by Buyer, which approval shall be deemed granted by Buyer with respect to Seller with the execution of this Agreement.

(l) Insurance. Seller shall maintain Fidelity Insurance and errors and omissions insurance in respect of its officers, employees and agents in such amounts acceptable to Buyer, which shall include a provision that such policies cannot be terminated or materially modified without at least 30 days' prior notice to Buyer. Seller shall notify Buyer of any material change in the terms of any such insurance. Seller shall maintain endorsements for theft of warehouse lender money and collateral, naming Buyer as a loss payee under its Fidelity Insurance and as a direct loss payee/right of action under its errors and omissions insurance policy.

(m) Books and Records. Seller shall, to the extent practicable, maintain and implement administrative and operating procedures (including, without limitation, an ability to recreate records evidencing the Repurchase Assets in the event of the destruction of the originals thereof), and keep and maintain or obtain, as and when required, all documents, books, records and other information reasonably necessary or advisable for the collection of all Repurchase Assets.

(n) Illegal Activities. No Seller Party shall engage in any conduct or activity that could subject its assets to forfeiture or seizure.

(o) Material Change in Business. No Seller Party shall make any material change in the nature of its business as carried on at the date hereof.

(p) Disposition of Assets. Seller shall not cause or permit any of the Purchased Mortgage Loans to be sold, pledged, assigned or transferred except as permitted hereunder.

(q) Transactions with Affiliates. No Seller Party shall enter into such transaction, including, without limitation, the purchase, sale, lease or exchange of property or assets or the rendering or accepting of any service with any Affiliate unless such transaction is (a) not otherwise prohibited in this Agreement, (b) in the ordinary course of a Seller Party's business and (c) upon fair and reasonable terms no less favorable to such Seller Party, as the case may be, than it would obtain in a comparable arm's length transaction with a Person which is not an Affiliate.

(r) Organization. No Seller Party shall (i) cause or permit any change to be made in its name, organizational identification number, identity or corporate structure, each as described in Section 11(h) or (ii) change its jurisdiction of organization, unless it shall have provided Buyer thirty (30) days' prior

written notice of such change and shall have first taken all action required by Buyer for the purpose of perfecting or protecting the lien and security interest of Buyer established hereunder.

(s) Mortgage Loan Reports. On the Reporting Date or with such greater frequency as requested by Buyer, Seller will furnish to Buyer monthly electronic Mortgage Loan performance data, including, without limitation, a Mortgage Loan Schedule, delinquency reports, pool analytic reports and static pool reports (i.e., delinquency, foreclosure and net charge off reports) and monthly stratification reports summarizing the characteristics of the Mortgage Loans.

(t) Approved Underwriting Guidelines. Seller shall not submit to Buyer for purchase, and Buyer shall have no obligation to purchase, any Mortgage Loan underwritten in accordance with underwriting guidelines other than Approved Underwriting Guidelines, including amendments to Approved Underwriting Guidelines not expressly approved by Buyer.

(u) Agency Approvals; Servicing. To the extent previously approved, Seller shall maintain its status with Fannie Mae and Ginnie Mae as an approved lender and Freddie Mac as an approved seller/servicer, in each case in good standing (each such approval, an "Agency Approval"). Should Seller, for any reason, cease to possess all such applicable Agency Approvals to the extent necessary, should Seller experience any change in its delegated underwriting authority from any Agency, or should notification to the relevant Agency or to HUD, FHA or VA be required, Seller shall so notify Buyer promptly in writing. Notwithstanding the preceding sentence and to the extent previously approved, Seller shall take all necessary action to maintain all of its applicable Agency Approvals at all times during the term of this Agreement and each outstanding Transaction.

(v) Sharing of Information. Each Seller Party hereby allows and consents to Buyer, subject to applicable law, exchanging information related to such Seller Party, its credit, its mortgage loan originations and the Transactions hereunder with third party lenders, facility providers and Approved Investors (collectively, "Third Party Participants"), and each Seller Party shall permit each Third Party Participant to share such similar information with Buyer. In furtherance of the foregoing, each Seller Party shall use its best efforts to provide Buyer access to each Third Party Participant's electronic system to retrieve the information described herein.

(w) Most Favored Status. Each Seller Party agrees that should any Seller Party enter into a repurchase agreement or credit facility with any Person other than Buyer or an Affiliate of Buyer, such Seller Party shall promptly provide Buyer with a copy of any such repurchase agreement. To the extent that Buyer determines, in its sole good faith discretion, that any term of any such repurchase agreement provides more favorable terms with respect to any guaranties or financial covenants, including without limitation covenants covering the same or similar subject matter referred to in Section 12(h) hereof (a "More Favorable Agreement"), Buyer shall propose an amendment to this Agreement to include such more favorable term(s) contained in such More Favorable Agreement, which Seller will review and, to the extent acceptable to Seller in its commercially reasonable discretion, execute and deliver to Buyer. In the event that Seller does not execute such amendment, Buyer may terminate this Agreement notwithstanding any commitment hereunder; provided that any such termination shall not, on its own, accelerate the Repurchase Date for any Purchased Mortgage Loan hereunder.

(x) Reporting. Promptly upon request by Buyer, Seller shall furnish to Buyer other third party lender's asset aging reports, production reports, warehouse lender asset status reports, and/or investor scorecards.

## SECTION 13. EVENTS OF DEFAULT

If any of the following events (each an “Event of Default”) occur, Buyer shall have the rights set forth in Section 14, as applicable:

(a) Payment Default. Any Seller Party shall default in the payment of (i) any amount payable by it hereunder in respect of a Repurchase Price on the applicable Repurchase Date or Price Differential on the applicable Payment Date, (ii) Expenses (and such failure to pay Expenses shall continue for more than 30 calendar days), or (iii) any other Obligations within three (3) Business Days after the same is due and payable; or

(b) Representation and Warranty Breach. Any representation, warranty or certification made or deemed made herein or in any other Program Document by a Seller Party or any certificate furnished to Buyer pursuant to the provisions hereof or thereof or any information with respect to the Mortgage Loans furnished in writing by on behalf of a Seller Party shall prove to have been untrue or misleading in any material respect as of the time made or furnished (other than the representations and warranties set forth in Schedule 3, which shall be considered solely for the purpose of determining the Asset Value, the existence of a Margin Deficit and the obligation to repurchase such Mortgage Loan unless (i) such party shall have made any such representations and warranties with knowledge that they were materially false or misleading at the time made, (ii) any such representations and warranties have been determined by Buyer in its sole good faith discretion to be materially false or misleading on a regular basis, or (iii) Buyer, in its sole good faith discretion, determines that such breach of a material representation, warranty or covenant materially and adversely affects (A) the condition (financial or otherwise) of such party or its Subsidiaries; or (B) Buyer’s determination to enter into this Agreement or Transactions with such party, in each such case, then such breach shall constitute an immediate Event of Default and Seller shall have no cure right hereunder); or

(c) Immediate Covenant Default. The failure of a Seller Party to perform, comply with or observe any term, covenant or agreement applicable to Seller contained in any of Sections 12 (a) (Preservation of Existence; Compliance with Law); (f) (True and Correct Information); (h) (Financial Condition Covenants); (j) (No Adverse Selection); (n) (Illegal Activities); (o) (Material Change in Business); (p) (Disposition of Assets; Liens); or (u) (Agency Approvals; Servicing); or

(d) Additional Covenant Defaults. A Seller Party shall fail to observe or perform any other covenant or agreement contained in this Agreement (and not identified in clause (c) of Section 13) or any other Program Document, and if such default shall be capable of being remedied, and such failure to observe or perform shall continue unremedied for a period of 5 Business Days; or

(e) Judgments. A judgment or judgments for the payment of money in excess of the Litigation Threshold in the aggregate shall be rendered against a Seller Party by one or more courts, administrative tribunals or other bodies having jurisdiction and the same shall not be satisfied, discharged (or provision shall not be made for such discharge) or bonded, or a stay of execution thereof shall not be procured, within 60 days from the date of entry thereof, and such Seller Party shall not, within said period of 60 days, or such longer period during which execution of the same shall have been stayed or bonded, appeal therefrom and cause the execution thereof to be stayed during such appeal; or

(f) Cross-Default. Any “event of default” or any other default which permits a demand for, or requires, the early repayment of obligations due by a Seller Party under any agreement (after the expiration of any applicable grace period under any such agreement) relating to any Indebtedness of a Seller

Party;

(g) Insolvency Event. An Insolvency Event shall have occurred with respect to a Seller Party; or

(h) Enforceability. For any reason, this Agreement at any time shall not be in full force and effect in all material respects or shall not be enforceable in all material respects in accordance with its terms, or any Lien granted pursuant thereto shall fail to be perfected and of first priority, or any Person (other than Buyer) shall contest the validity, enforceability, perfection or priority of any Lien granted pursuant thereto, or any party thereto (other than Buyer) shall seek to disaffirm, terminate, limit or reduce its obligations hereunder; or

(i) Liens. Seller shall grant, or suffer to exist, any Lien on any Repurchase Asset (except any Lien in favor of Buyer); or the Repurchase Assets shall neither (A) have been sold to Buyer, nor (B) be subject to first priority perfected Liens in favor of Buyer; or

(j) Material Adverse Effect. Buyer shall have determined that a Material Adverse Effect has occurred.

(k) Change in Control. A Change in Control of any Seller Party shall have occurred; or

(l) Going Concern. The Financial Reporting Party's audited Financial Statements or notes thereto or other opinions or conclusions stated therein shall be qualified or limited by reference to the status of a Seller Party as a "going concern" or reference of similar import; or

(m) Repurchases of Mortgage Loans; Defective Mortgage Loans. The Seller Parties in the aggregate shall have repurchased in the aggregate greater than the Buy Back Threshold (based upon aggregate unpaid principal balance) of Mortgage Loans (excluding repurchases under warehouse or repurchase facilities) in any 30 day period; or one or more Purchased Mortgage Loans shall be Defective Mortgage Loans and Seller fails to repurchase such Defective Mortgage Loans within one Business Day of notice from Buyer that such repurchase is required.

(n) Investigations. There shall occur the initiation of any investigation, audit, examination or review of a Seller Party by an Agency or any Governmental Authority, with the exception of (i) normally scheduled audits or examinations by such Seller Party's regulators or (ii) audits or examinations conducted in the ordinary course of business.

(o) Governmental Action. A Seller Party shall become the subject of a cease and desist order of the Appropriate Federal Banking Agency or any other Governmental Authority or enter into a memorandum of understanding or consent agreement with the Appropriate Federal Banking Agency or other Governmental Authority, any of which, would have, or is purportedly the result of any condition which would be reasonably likely to have, a Material Adverse Effect.

## **SECTION 14. REMEDIES**

(a) If an Event of Default occurs and is continuing, the following rights and remedies are available to Buyer; provided, that an Event of Default shall be deemed to be continuing unless expressly waived by Buyer in writing.

(vi) At the option of Buyer, exercised by written notice to Seller (which option shall be deemed to have been exercised, even if no notice is given, immediately upon the occurrence and during the continuance of an Insolvency Event of a Seller Party), the Repurchase Date for each Transaction hereunder, if it has not already occurred, shall be deemed immediately to occur. Buyer shall (except upon the occurrence and continuance of an Insolvency Event of a Seller Party) give notice to Seller of the exercise of such option as promptly as practicable.

(vii) If Buyer exercises or is deemed to have exercised the option referred to in subsection (a)(i) of this Section,

(A) Seller's obligations in such Transactions to repurchase all Purchased Mortgage Loans at the Repurchase Price therefor on the Repurchase Date determined in accordance with subsection (a)(i) of this Section, (1) shall thereupon become immediately due and payable and (2) all Income paid after such exercise or deemed exercise shall be retained by Buyer and applied to the aggregate unpaid Repurchase Price and any other amounts owed by Seller hereunder;

(B) to the extent permitted by applicable Requirement of Law, the Repurchase Price with respect to each such Transaction shall be increased by the aggregate amount obtained by daily application of, on a 360 day per year basis for the actual number of days during the period from and including the date of the exercise or deemed exercise of such option to but excluding the date of payment of the Repurchase Price as so increased, (x) the Post-Default Rate in effect following an Event of Default to (y) the Repurchase Price for such Transaction as of the Repurchase Date as determined pursuant to subsection (a)(i) of this Section (decreased as of any day by (i) any amounts actually in the possession of Buyer pursuant to clause (C) of this subsection, and (ii) any proceeds from the sale of Purchased Mortgage Loans applied to the Repurchase Price pursuant to subsection (a)(iv) of this Section; and

(C) all Income actually received by Buyer pursuant to Section 5 shall be applied to the aggregate unpaid Obligations owed by the Seller Parties.

(viii) Upon the occurrence and during the continuance of one or more Events of Default, Buyer shall have the right to obtain physical possession of all files of Seller relating to the Purchased Mortgage Loans and the Repurchase Assets and all documents relating to the Purchased Mortgage Loans which are then or may thereafter come in to the possession of Seller or any third party acting for Seller and Seller shall deliver to Buyer such assignments as Buyer shall request. To the extent permitted by applicable law, Buyer shall be entitled to specific performance of all agreements of Seller contained in the Program Documents.

(ix) At any time on the Business Day following notice to Seller (which notice may be the notice given under subsection (a)(i) of this Section), in the event Seller has not repurchased all Purchased Mortgage Loans, Buyer may (A) immediately sell, without demand or further notice of any kind, at a public or private sale and at such price or prices as Buyer may deem satisfactory any or all Purchased Mortgage Loans and the Repurchase Assets subject to a such Transactions hereunder



and apply the proceeds thereof to the aggregate unpaid Repurchase Prices and any other amounts owing by Seller hereunder or (B) in its sole good faith discretion elect, in lieu of selling all or a portion of such Purchased Mortgage Loans, to give Seller credit for such Purchased Mortgage Loans and the Repurchase Assets in an amount equal to the Market Value of the Purchased Mortgage Loans against the aggregate unpaid Repurchase Price and any other amounts owing by Seller hereunder. The proceeds of any disposition of Purchased Mortgage Loans and the Repurchase Assets following the occurrence and continuance of an Event of Default shall be applied as determined by Buyer in its sole good faith discretion.

(x) Seller shall be liable to Buyer for (i) the amount of all reasonable legal or other out-of-pocket expenses (including, without limitation, all out-of-pocket costs and expenses of Buyer in connection with the enforcement of this Agreement or any other agreement evidencing a Transaction, whether in action, suit or litigation or bankruptcy, insolvency or other similar proceeding affecting creditors' rights generally, further including, without limitation, the reasonable fees and expenses of counsel (including the costs of internal counsel of Buyer) incurred in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damage, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

(xi) Buyer shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable Requirement of Law.

(b) Buyer may exercise one or more of the remedies available hereunder immediately upon the occurrence and during the continuance of an Event of Default and at any time thereafter without notice to Seller. All rights and remedies arising under this Agreement as amended from time to time hereunder are cumulative and not exclusive of any other rights or remedies which Buyer may have.

(c) Buyer may enforce its rights and remedies hereunder without prior judicial process or hearing, and each Seller Party hereby expressly waives any defenses any Seller Party might otherwise have to require Buyer to enforce its rights by judicial process. Each Seller Party also waives any defense (other than a defense of payment or performance) such Seller Party might otherwise have arising from the use of nonjudicial process, enforcement and sale of all or any portion of the Repurchase Assets, or from any other election of remedies. Each Seller Party recognizes that nonjudicial remedies are consistent with the usages of the trade, are responsive to commercial necessity and are the result of a bargain at arm's length.

(d) To the extent permitted by applicable Requirement of Law, Seller shall be liable to Buyer for interest on any amounts owing by Seller hereunder, from the date Seller becomes liable for such amounts hereunder until such amounts are (i) paid in full by Seller or (ii) satisfied in full by the exercise of Buyer's rights hereunder. Interest on any sum payable by Seller to Buyer under this paragraph 14(d) shall be at a rate equal to the Post-Default Rate.

(e) Without limiting the rights of Buyer hereto to pursue all other legal and equitable rights available to Buyer for a Seller Party's failure to perform its obligations under this Agreement, each Seller Party acknowledges and agree that the remedy at law for any failure to perform obligations hereunder would be inadequate and Buyer shall be entitled to specific performance, injunctive relief, or other equitable remedies in the event of any such failure. The availability of these remedies shall not prohibit Buyer from pursuing any other remedies for such breach, including the recovery of monetary damages.

## **SECTION 15. INDEMNIFICATION AND EXPENSES; RECOURSE**

(a) Each Seller Party agrees to hold Buyer, and its Affiliates and their officers, directors, employees, agents and advisors (each an “Indemnified Party”) harmless from and indemnify any Indemnified Party against all liabilities, losses, damages, judgments, costs and expenses of any kind which may be imposed on, incurred by or asserted against such Indemnified Party (collectively, “Costs”), relating to or arising out of this Agreement, any other Program Document or any transaction contemplated hereby or thereby, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement, any other Program Document or any transaction contemplated hereby or thereby, that, in each case, results from anything other than the Indemnified Party’s gross negligence or willful misconduct. Without limiting the generality of the foregoing, each Seller Party agrees to hold any Indemnified Party harmless from and indemnify such Indemnified Party against all Costs with respect to all Mortgage Loans relating to or arising out of any taxes incurred or assessed in connection with the ownership of the Mortgage Loans, that, in each case, results from anything other than the Indemnified Party’s gross negligence or willful misconduct. In any suit, proceeding or action brought by an Indemnified Party in connection with any Mortgage Loan for any sum owing thereunder, or to enforce any provisions of any Mortgage Loan, each Seller Party will save, indemnify and hold such Indemnified Party harmless from and against all expense, loss or damage suffered by reason of any defense, set off, counterclaim, recoupment or reduction or liability whatsoever of the account debtor or obligor thereunder, arising out of a breach by a Seller Party of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of such account debtor or obligor or its successors from a Seller Party. Each Seller Party also agrees to reimburse an Indemnified Party as and when billed by such Indemnified Party for all the Indemnified Party’s costs and expenses incurred in connection with the enforcement or the preservation of Buyer’s rights under this Agreement, any other Program Document or any transaction contemplated hereby or thereby, including without limitation the reasonable fees and disbursements of its counsel.

(b) Each Seller Party agrees to pay as and when billed by Buyer all of the out-of-pocket costs and expenses incurred by Buyer in connection with (i) the initial development, preparation and execution of this Agreement, the other Program Documents and any other documents prepared in connection herewith or therewith in an amount not to exceed the Legal Fee Cap and (ii) any amendment, supplement or modification thereto. Each Seller Party agrees to pay as and when billed by Buyer all of the reasonable out-of-pocket costs and expenses incurred in connection with the consummation and administration of the transactions contemplated hereby and thereby including without limitation search and filing fees and all the reasonable fees, disbursements and expenses of counsel to Buyer subject to the Legal Fee Cap set forth in further detail in the immediately preceding sentence hereto. Each Seller Party agrees to pay Buyer all the reasonable out of pocket due diligence, inspection, testing and review costs and expenses incurred by Buyer with respect to Mortgage Loans submitted by Seller for purchase under this Agreement, including, but not limited to, those out of pocket costs and expenses incurred by Buyer pursuant to Sections 15(a) and 17 hereof.

(c) The obligations of the Seller Parties from time to time to pay the Repurchase Price, the Price Differential, and all other amounts due under this Agreement shall be full recourse obligations of each Seller Party.

## **SECTION 16. SERVICING**

(a) As a condition of purchasing a Mortgage Loan, Buyer may require Seller to service such Mortgage Loan as agent for Buyer for a term of sixty (60) days (the “Servicing Term”), in accordance with prudent mortgage loan servicing standards and procedures generally accepted in the mortgage banking industry and in accordance with all applicable requirements of the Agencies, Requirements of Law, the

provisions of any applicable servicing agreement, and the requirements of any applicable Takeout Commitment and the Approved Investor, so that the eligibility of the Mortgage Loan for purchase under such Takeout Commitment is not voided or reduced by such servicing and administration;

(b) If any Mortgage Loan that is proposed to be sold on a Purchase Date is serviced by a servicer other than Seller (a “Subservicer”), or if the servicing of any Mortgage Loan is to be transferred to a Subservicer, Seller shall provide a copy of the related servicing agreement and a Servicer Notice executed by such Subservicer (collectively, the “Servicing Agreement”) to Buyer prior to such Purchase Date or servicing transfer date, as applicable. Each such Servicing Agreement shall be in form and substance reasonably acceptable to Buyer. In addition, Seller shall have obtained the prior written consent of Buyer for such Subservicer to subservice the Mortgage Loans, which consent may be withheld in Buyer’s sole good faith discretion. In no event shall Seller’s use of a Subservicer relieve Seller of its obligations hereunder, and Seller shall remain liable under this Agreement as if Seller were servicing such Mortgage Loans directly.

(c) Seller shall deliver the physical and contractual master servicing of each Mortgage Loan, together with all of the related Records in its possession, to Buyer’s designee upon the earliest of (w) the occurrence and continuance of a Default or Event of Default hereunder, (x) the termination of Seller as servicer by Buyer pursuant to this Agreement, (y) the expiration (and non-renewal) of the Servicing Term, or (z) the transfer of servicing to any entity approved by Buyer and the assumption thereof by such entity. Buyer shall have the right to terminate Seller as master servicer of any of the Mortgage Loans, which right shall be exercisable at any time in Buyer’s sole good faith discretion, upon prior written notice to Seller. In addition, Seller shall deliver the physical and contractual master servicing of each Mortgage Loan, together with all of the related Records in its possession to Buyer’s designee, upon expiration of the Servicing Term; provided that the Servicing Term and such delivery requirement will be deemed renewed on each Payment Date succeeding the related Purchase Date in the absence of directions to the contrary from Buyer; provided further that such delivery requirement will no longer apply to any Mortgage Loan, and Seller shall have no further obligation to service such Mortgage Loan as agent for Buyer, upon receipt by Buyer of the Repurchase Price therefor. Seller’s transfer of the Records and the physical and contractual servicing under this Section shall be in accordance with customary standards in the industry and such transfer shall include the transfer of the gross amount of all escrows held for the related mortgagors (without reduction for unreimbursed advances or “negative escrows”).

(d) During the period Seller is servicing the Mortgage Loans as agent for Buyer, Seller agrees that Buyer is the owner of the related Credit Files and Records and hereby Seller shall at all times maintain and safeguard and cause the Subservicer to maintain and safeguard the Credit File for the Mortgage Loan (including photocopies or images of the documents delivered to Buyer), and accurate and complete records of its servicing of the Mortgage Loan; Seller’s possession of the Credit Files and Servicing Records being for the sole purpose of master servicing such Mortgage Loans and such retention and possession by Seller being in a custodial capacity only. Seller hereby grants Buyer a security interest in all servicing fees to secure the obligations of Seller and Subservicer to service in conformity with this Section and any related Servicing Agreement. It is understood and agreed by the parties that prior to an Event of Default, Seller shall retain the servicing fees with respect to the Mortgage Loans.

(e) At Buyer’s request, Seller shall promptly deliver to Buyer reports regarding the status of any Mortgage Loan being serviced by Seller, which reports shall include, but shall not be limited to, a description of any default thereunder for more than thirty (30) days or such other circumstances that could cause a material adverse effect on such Mortgage Loan, Buyer’s title to such Mortgage Loan or the collateral securing such Mortgage Loan; Seller may be required to deliver such reports until the repurchase of the Mortgage Loan by Seller. Seller shall promptly, but in no event later than two (2) Business Days after

a Responsible Office of Seller becomes aware of it, notify Buyer of any payment default that occurs under the Mortgage Loan or any default under any Servicing Agreement that would materially and adversely affect any Mortgage Loan subject thereto.

(f) Seller shall release its custody of the contents of any Credit File or Mortgage File only (i) in accordance with the written instructions of Buyer, (ii) upon the consent of Buyer when such release is required as incidental to Seller's servicing of the Mortgage Loan, is required to complete the Takeout Commitment or comply with the Takeout Commitment requirements, or (iii) as required by Requirements of Law.

(g) Buyer reserves the right to appoint a successor servicer at any time to service any Mortgage Loan (each a "Successor Servicer") in its sole good faith discretion. If Buyer elects to make such an appointment due to the continuance of a Default or Event of Default, Seller shall be assessed all costs and expenses incurred by Buyer associated with transferring the Mortgage Loans to the Successor Servicer. In the event of such an appointment, Seller shall perform all acts and take all action so that any part of the Credit File and related Records held by Seller, together with all funds in the Custodial Account and other receipts relating to such Mortgage Loan, are promptly delivered to Successor Servicer, and shall otherwise reasonably cooperate with Buyer in effectuating such transfer. Seller shall have no claim for lost servicing income, lost profits or other damages if Buyer appoints a Successor Servicer hereunder and the servicing fee is reduced or eliminated.

(h) For the avoidance of doubt, Seller retains no economic rights to the servicing of the Purchased Mortgage Loans provided that Seller shall continue to service the Purchased Mortgage Loans hereunder as part of its Obligations hereunder. As such, Seller expressly acknowledges that the Purchased Mortgage Loan are sold to Buyer on a "servicing released" basis.

## **SECTION 17. DUE DILIGENCE**

(a) Each Seller Party acknowledges that Buyer has the right to perform continuing due diligence reviews with respect to the Mortgage Loans, each Seller Party, Settlement Agents, Approved Appraisers, Approved Investors and other parties which may be involved in or related to Transactions (collectively, "Third Party Transaction Parties"), from time to time, for purposes of verifying compliance with the representations, warranties and specifications made hereunder, or otherwise, and each Seller Party agrees that upon reasonable prior notice unless an Event of Default shall have occurred and be continuing, in which case no notice is required, to any Seller Party, Buyer or its authorized representatives will be permitted during normal business hours to examine, inspect, and make copies and extracts of, the Mortgage Files and any and all documents, records, agreements, instruments or information relating to such Mortgage Loans in the possession or under the control of a Seller Party. Each Seller Party will use best efforts to cause Third Party Transaction Parties to cooperate with any due diligence requests of Buyer. Each Seller Party also shall make available to Buyer a knowledgeable financial or accounting officer for the purpose of answering questions respecting the Mortgage Files and the Mortgage Loans. Without limiting the generality of the foregoing, Seller acknowledges that Buyer may purchase Mortgage Loans from Seller based solely upon the information provided by Seller to Buyer in the Purchased Mortgage Loan Schedule and the representations, warranties and covenants contained herein, and that Buyer, at its option, has the right at any time to conduct a partial or complete due diligence review on some or all of the Mortgage Loans purchased in a Transaction, including, without limitation, ordering broker's price opinions, new credit reports and new appraisals on the related Mortgaged Properties and otherwise re-generating the information used to originate such Mortgage Loan. Buyer may underwrite such Mortgage Loans itself or engage a mutually agreed upon third party underwriter to perform such underwriting. Seller agrees to cooperate with Buyer and any third

party underwriter in connection with such underwriting, including, but not limited to, providing Buyer and any third party underwriter with access to any and all documents, records, agreements, instruments or information relating to such Mortgage Loans in the possession, or under the control, of Seller. The Seller Parties further agree that the Seller Parties shall pay all out-of-pocket costs and expenses incurred by Buyer in connection with Buyer's activities pursuant to this Section 17 ("Due Diligence Costs"); provided, the Seller Parties shall not be required to pay Due Diligence Costs incurred by Buyer in excess of the Due Diligence Cap unless a Default or Event of Default has occurred and is continuing.

## **SECTION 18. ASSIGNABILITY**

The rights and obligations of the parties under this Agreement and under any Transaction shall not be assigned by any Seller Party without the prior written consent of Buyer. Subject to the foregoing, this Agreement and any Transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. Nothing in this Agreement express or implied, shall give to any Person, other than the parties to this Agreement and their successors hereunder, any benefit of any legal or equitable right, power, remedy or claim under this Agreement. Buyer may from time to time assign all or a portion of its rights and obligations under this Agreement and the Program Documents to a Permitted Assignee pursuant to an executed assignment and acceptance by Buyer and assignee ("Assignment and Acceptance"), specifying the percentage or portion of such rights and obligations assigned with the prior written consent of Seller which shall not be required (i) if Buyer assigns to an Affiliate or (ii) an Event of Default has occurred and is continuing. Upon such assignment, (a) such Permitted Assignee shall be a party hereto and to each Program Document to the extent of the percentage or portion set forth in the Assignment and Acceptance, and shall succeed to the applicable rights and obligations of Buyer hereunder, and (b) Buyer shall, to the extent that such rights and obligations have been so assigned by it be released from its obligations hereunder and under the Program Documents. Unless otherwise stated in the Assignment and Acceptance, Seller shall continue to take directions solely from Buyer unless otherwise notified by Buyer in writing. Buyer may distribute to any prospective assignee any document or other information delivered to Buyer by Seller.

Buyer may sell participations to one or more Persons in or to all or a portion of its rights and obligations under this Agreement; provided, however, that (i) Buyer's obligations under this Agreement shall remain unchanged, (ii) Buyer shall remain solely responsible to the other parties hereto for the performance of such obligations; and (iii) Seller shall continue to deal solely and directly with Buyer in connection with Buyer's rights and obligations under this Agreement and the other Program Documents except as provided in Section 7.

Buyer may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 18, disclose to the assignee or participant or proposed assignee or participant, as the case may be, any information relating to Seller or any of its Subsidiaries or to any aspect of the Transactions that has been furnished to Buyer by or on behalf of Seller or any of its Subsidiaries; provided that such assignee or participant agrees to hold such information subject to the confidentiality provisions of this Agreement.

In the event Buyer assigns all or a portion of its rights and obligations under this Agreement, the parties hereto agree to negotiate in good faith an amendment to this Agreement to add agency provisions similar to those included in Agreements for similar syndicated repurchase facilities.

## **SECTION 19. TRANSFER AND MAINTENANCE OF REGISTER.**

- (a) Subject to acceptance and recording thereof pursuant to paragraph (b) of this Section

19, from and after the effective date specified in each Assignment and Acceptance the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of Buyer under this Agreement. Any assignment or transfer by Buyer of rights or obligations under this Agreement that does not comply with this Section 19 shall be treated for purposes of this Agreement as a sale by Buyer of a participation in such rights and obligations in accordance with Section 19(b) hereof.

(b) Seller shall maintain a register (the “Register”) on which it will record Buyer’s rights hereunder, and each Assignment and Acceptance and participation. The Register shall include the names and addresses of Buyer (including all assignees, successors and participants) and the percentage or portion of such rights and obligations assigned. Failure to make any such recordation, or any error in such recordation shall not affect Seller’s obligations in respect of such rights. If Buyer sells a participation in its rights hereunder, it shall provide Seller, or maintain as agent of Seller, the information described in this paragraph and permit Seller to review such information as reasonably needed for Seller to comply with its obligations under this Agreement or under any applicable Requirement of Law.

## **SECTION 20. HYPOTHECATION OR PLEDGE OF PURCHASED MORTGAGE LOANS**

Title to all Purchased Mortgage Loans and Repurchase Assets shall pass to Buyer and Buyer shall have free and unrestricted use of all Purchased Mortgage Loans. Nothing in this Agreement shall preclude Buyer from engaging in repurchase transactions with the Purchased Mortgage Loans or otherwise pledging, repledging, transferring, hypothecating, or rehypothecating the Purchased Mortgage Loans to any Person, including without limitation, the Federal Home Loan Bank. Notwithstanding the foregoing, any transaction described in this Section 20 shall not relieve the Buyer of its obligation to deliver any such Purchased Mortgage Loans to Seller following Seller’s repurchase of such Purchased Mortgage Loans in accordance with Section 3(d) hereof. Subject to the foregoing, nothing contained in this Agreement shall obligate Buyer to segregate any Purchased Mortgage Loans delivered to Buyer by Seller.

## **SECTION 21. RESERVED**

## **SECTION 22. SET-OFF**

In addition to any rights and remedies of Buyer hereunder and by law, Buyer shall have the right, without prior notice to any Seller Party, any such notice being expressly waived by each Seller Party to the extent permitted by applicable law, to set-off and appropriate and apply against any Obligation from any Seller Party to Buyer or any of its Affiliates any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other obligation (including to return excess margin), credits, indebtedness or claims or cash, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by or due from Buyer or any Affiliate thereof to or for the credit or the account of any Seller Party. Buyer agrees promptly to notify each Seller Party, in writing, prior to any such set off and application made by Buyer; provided that the failure to give such notice shall not affect the validity of such set off and application.

Buyer shall at any time have the right, in each case until such time as Buyer determines otherwise in its sole good faith discretion, to retain, to suspend payment or performance of, or to decline to remit, any amount or property that Buyer would otherwise be obligated to pay, remit or deliver to Seller hereunder if an Event of Default or Default has occurred and is continuing.

## **SECTION 23. TERMINABILITY**

Each representation and warranty made or deemed to be made by entering into a Transaction, herein or pursuant hereto shall survive the making of such representation and warranty until the termination of this Agreement, and Buyer shall not be deemed to have waived any Default that may arise because any such representation or warranty shall have proved to be false or misleading, notwithstanding that Buyer may have had notice or knowledge or reason to believe that such representation or warranty was false or misleading at the time the Transaction was made. Notwithstanding any such termination or the occurrence of an Event of Default, all of the representations and warranties and covenants hereunder shall continue and survive until the termination of this Agreement. The obligations of the Seller Parties under Section 15 hereof shall survive the termination of this Agreement.

## **SECTION 24. NOTICES AND OTHER COMMUNICATIONS**

Except as otherwise expressly permitted by this Agreement, all notices, requests and other communications provided for herein (including without limitation any modifications of, or waivers, requests or consents under, this Agreement) shall be given or made in writing (including without limitation by telecopy) delivered to the intended recipient at the "Address for Notices" specified below its name on the signature pages hereof or thereof); and with respect to Buyer, as specified in the Customer Guide or, as to any party, at such other address as shall be designated by such party in a written notice to each other party. In all cases, to the extent that the related individual set forth in the respective "Attention" line is no longer employed by the respective Person, such notice may be given to the attention of a Responsible Officer of the respective Person or to the attention of such individual or individuals as subsequently notified in writing by a Responsible Officer of the respective Person. Except as otherwise provided in this Agreement and except for notices given under Section 3 (which shall be effective only on receipt), all such communications shall be deemed to have been duly given when transmitted electronically or by telecopy or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as aforesaid.

## **SECTION 25. USE OF THE WAREHOUSE ELECTRONIC SYSTEM AND OTHER ELECTRONIC MEDIA**

Seller acknowledges and agrees that Buyer may require or permit certain transactions with Buyer be conducted electronically using Electronic Records and/or Electronic Signatures. Seller consents to the use of Electronic Records and/or Electronic Signatures whenever expressly required or permitted by Buyer and acknowledges and agrees that Seller shall be bound by its Electronic Signature and by the terms, conditions, requirements, information and/or instructions contained in any such Electronic Records.

Seller agrees to adopt as its Electronic Signature its user identification codes, passwords, personal identification numbers, access codes, a facsimile image of a written signature and/or other symbols or processes as provided or required by Buyer from time to time (as a group, any subgroup thereof or individually, hereinafter referred to as Seller's Electronic Signature). Seller acknowledges that Buyer will rely on any and all Electronic Records and on Seller's Electronic Signature transmitted or submitted to Buyer.

Buyer shall not be liable for the failure of either its or Seller's internet service provider ("ISP"), or any other telecommunications company, telephone company, satellite company or cable company to timely, properly and accurately transmit any Electronic Record or fax copy.

Before engaging in Electronic Transactions with Seller, Buyer may provide Seller, or require Seller to create, user identification codes, passwords, personal identification numbers and/or access codes, as applicable, to permit access to Buyer's computer information processing system. Each Person permitted access to the Warehouse Electronic System must have a separate identification code and password. Seller

shall be fully responsible for protecting and safeguarding any and all user identification codes, passwords, personal identification numbers and access codes provided or required by Buyer. Seller shall adopt and maintain security measures to prevent the loss, theft or unauthorized or improper disclosure or use of any and all user identification codes, passwords, personal identification numbers and/or access codes by Persons other than the individual Person who is authorized to use such information. Seller shall notify Buyer promptly in the event (i) of any loss, theft or unauthorized disclosure or use of any of the user identification codes, passwords, personal identification numbers and/or access codes or (ii) Seller has any reason to believe there has been a breach of security or that its access to Warehouse Electronic System is no longer secure for any reason.

Seller understands and agrees that it shall be fully responsible for protecting and safeguarding its computer hardware and software from any and all (a) computer “viruses,” “time bombs,” “trojan horses” or other harmful computer information, commands, codes or programs that may cause or facilitate the destruction, corruption, malfunction or appropriation of, or damage or change to, any of Seller’s or Buyer’s computer information processing systems, including without limitation, all hardware, software, Electronic Records, information, data and/or codes and (b) computer “worms,” “trap doors” or other harmful computer information, commands, codes or programs that enable unauthorized access to Seller’s and/or Buyer’s computer information processing systems, including without limitation, all hardware, software, Electronic Records, information, data and/or codes.

Seller agrees that Buyer may, in its sole good faith discretion and from time to time, without limiting Seller’s liability set forth herein, establish minimum security standards that Seller must, at a minimum, comply with in an effort to (x) protect and safeguard any and all user identification codes, passwords, personal identification numbers and/or access codes from loss, theft or unauthorized disclosure or use; and (y) prevent the infiltration and “infection” of Seller’s hardware and/or software by any and all computer “viruses,” “time bombs,” “trojan horses,” “worms,” “trapdoors” or other harmful computer codes or programs.

If Buyer, from time to time, establishes minimum security standards, Seller shall comply with such minimum security standards within the time period established by Buyer. Buyer shall have the right to confirm Seller’s compliance with any such minimum security standards. Seller’s compliance with such minimum security standards shall not relieve Seller from any of its liability set forth herein.

Whether or not Buyer establishes minimum security standards, Seller shall continue to be fully responsible for adopting and maintaining security measures that are consistent with the risks associated with conducting electronic transactions with Buyer. Seller’s failure to adopt and maintain appropriate security measures or to comply with any minimum security standards established by Buyer may result in, among other things, termination of Seller’s access to Buyer’s computer information processing systems.

Each Seller Party understands and agrees that certain elements or components of the Warehouse Electronic System may be provided by third party vendors, and hereby holds Buyer harmless from any liabilities, losses, damages, judgments, costs and expenses of any kind which may be imposed on, incurred by or asserted against a Seller Party relating to or arising out of Seller’s use of the Warehouse Electronic System including without limitation, the use of any elements or components provided by third party vendors other than any such liabilities, losses, damages, judgments, costs or expenses arising from the gross negligence or willful misconduct of Buyer.

## **SECTION 26. ENTIRE AGREEMENT; SEVERABILITY; SINGLE AGREEMENT**



This Agreement, together with the Program Documents, constitute the entire understanding between Buyer and the Seller Parties with respect to the subject matter they cover and shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions involving Purchased Mortgage Loans. By acceptance of this Agreement, Buyer and the Seller Parties each acknowledge that they have not made, and are not relying upon, any statements, representations, promises or undertakings not contained in this Agreement. To the extent permitted by applicable law, each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

Buyer and Seller acknowledge that, and have entered hereinto and will enter into each Transaction hereunder in consideration of and in reliance upon the fact that, all Transactions hereunder constitute a single business and contractual relationship and that each has been entered into in consideration of the other Transactions. Accordingly, each of Buyer and each Seller Party agrees (i) to perform all of its obligations in respect of each Transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Transactions hereunder, (ii) that Buyer shall be entitled to set off claims and apply property held by it in respect of any Transaction against obligations owing to it in respect of any other Transaction hereunder; (iii) that payments, deliveries, and other transfers made by either of them in respect of any Transaction shall be deemed to have been made in consideration of payments, deliveries, and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries, and other transfers may be applied against each other and netted and (iv) to promptly provide notice to the other after any such set off or application.

## **SECTION 27. GOVERNING LAW**

**THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE EFFECTIVENESS, VALIDITY AND ENFORCEABILITY OF ELECTRONIC CONTRACTS, OTHER RECORDS, ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES USED IN CONNECTION WITH ANY ELECTRONIC TRANSACTION BETWEEN BUYER AND A SELLER PARTY SHALL BE GOVERNED BY E-SIGN.**

## **SECTION 28. SUBMISSION TO JURISDICTION; WAIVERS**

**BUYER AND EACH SELLER PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY:**

- (i) SUBMITS FOR ITSELF AND ITS PROPERTY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND THE OTHER PROGRAM DOCUMENTS, OR FOR RECOGNITION AND ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, TO THE NON-EXCLUSIVE GENERAL JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK, THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, AND APPELLATE COURTS FROM ANY THEREOF;**
- (ii) CONSENTS THAT ANY SUCH ACTION OR PROCEEDING MAY BE BROUGHT IN SUCH COURTS AND, TO THE EXTENT PERMITTED BY LAW, WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF**

**ANYSUCHACTIONORPROCEEDINGINANYSUCHCOURTORTHATSUCHACTION ORPROCEEDINGWASBROUGHTINANINCONVENIENTCOURTANDAGREESNOT TO PLEAD OR CLAIM THE SAME;**

**(iii) AGREES THAT SERVICE OF PROCESS IN ANY SUCH ACTION OR PROCEEDING MAY BE EFFECTED BY MAILING A COPY THEREOF BY REGISTERED OR CERTIFIED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL), POSTAGE PREPAID, TO ITS ADDRESS SET FORTH UNDER ITS SIGNATURE BELOW OR AT SUCH OTHER ADDRESS OF WHICH THE OTHER PARTY SHALL HAVE BEEN NOTIFIED; AND**

**(iv) AGREES THAT NOTHING HEREIN SHALL AFFECT THE RIGHT TO EFFECT SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR SHALL LIMIT THE RIGHT TO SUE IN ANY OTHER JURISDICTION.**

**(v) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER PROGRAM DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

#### **SECTION 29. NO WAIVERS, ETC.**

No failure on the part of Buyer to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under any Program Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any Program Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law. An Event of Default shall be deemed to be continuing unless expressly waived by Buyer in writing.

#### **SECTION 30. NETTING**

If Buyer and Seller are “financial institutions” as now or hereinafter defined in Section 4402 of Title 12 of the United States Code (“Section 4402”) and any rules or regulations promulgated thereunder (a) all amounts to be paid or advanced by one party to or on behalf of the other under this Agreement or any Transaction hereunder shall be deemed to be “payment obligations” and all amounts to be received by or on behalf of one party from the other under this Agreement or any Transaction hereunder shall be deemed to be “payment entitlements” within the meaning of Section 4402, and this Agreement shall be deemed to be a “netting contract” as defined in Section 4402; (b) the payment obligations and the payment entitlements of the parties hereto pursuant to this Agreement and any Transaction hereunder shall be netted as follows. In the event that either party (the “Defaulting Party”) shall fail to honor any payment obligation under this Agreement or any Transaction hereunder, the other party (the “Nondefaulting Party”) shall be entitled to reduce the amount of any payment to be made by the Nondefaulting Party to the Defaulting Party by the amount of the payment obligation that the Defaulting Party failed to honor.

#### **SECTION 31. CONFIDENTIALITY**

Buyer and each Seller Party hereby acknowledge and agree that all written or computer-readable information provided by one party to any other regarding the terms set forth in any of

the Program Documents or the Transactions contemplated thereby (the “Confidential Terms”) shall be kept confidential and shall not be divulged to any party without the prior written consent of such other party except to the extent that (i) it is necessary to do so in working with legal counsel, auditors, taxing authorities or other governmental agencies or regulatory bodies or in order to comply with any applicable federal or state laws, (ii) any of the Confidential Terms are in the public domain other than due to a breach of this covenant, (iii) during the continuance of an Event of Default Buyer determines such information to be necessary or desirable to disclose in connection with the marketing and sales of the Purchased Mortgage Loans or otherwise to enforce or exercise Buyer’s rights hereunder, (iv) by Buyer in connection with any marketing material undertaken by Buyer, or (v) it may be necessary to do so in connection with the filing of any 10-K, 10-Q, registration statements and other “corporate finance” SEC filings by such party or, with respect to Seller, M/I Homes, Inc.

Notwithstanding the foregoing or anything to the contrary contained herein or in any other Program Document, the parties hereto may disclose to any and all Persons, without limitation of any kind, the federal, state and local tax treatment of the Transactions, any fact relevant to understanding the federal, state and local tax treatment of the Transactions, and all materials of any kind (including opinions or other tax analyses) relating to such federal, state and local tax treatment and that may be relevant to understanding such tax treatment; provided that no Seller Party may disclose the name of or identifying information with respect to Buyer or any pricing terms (including, without limitation, the Pricing Rate, Warehouse Fees, Purchase Price) or other nonpublic business or financial information (including any sublimits and financial covenants) that is unrelated to the federal, state and local tax treatment of the Transactions and is not relevant to understanding the federal, state and local tax treatment of the Transactions, without the prior written consent of Buyer. The provisions set forth in this Section 31 shall survive the termination of this Agreement.

Notwithstanding anything in this Agreement to the contrary, each Seller Party shall comply with all applicable local, state and federal laws, including, without limitation, all privacy and data protection law, rules and regulations that are applicable to the Purchased Mortgage Loans and/or any applicable terms of this Agreement (the “Confidential Information”). Each Seller Party understands that the Confidential Information may contain “nonpublic personal information”, as that term is defined in Section 509(4) of the Gramm-Leach-Bliley Act (the “GLB Act”), and each Seller Party agrees to maintain such nonpublic personal information that it receives hereunder in accordance with the GLB Act and other applicable federal and state privacy laws. Each Seller Party shall implement such physical and other security measures as shall be necessary to (a) ensure the security and confidentiality of the “nonpublic personal information” of the “customers” and “consumers” (as those terms are defined in the GLB Act) of Buyer or any Affiliate of Buyer which Buyer holds (b) protect against any threats or hazards to the security and integrity of such nonpublic personal information, and (c) protect against any unauthorized access to or use of such nonpublic personal information. Each Seller Party shall, at a minimum establish and maintain such data security program as is necessary to meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in the Code of Federal Regulations at 12 C.F.R. Parts 30, 208, 211, 225, 263, 308, 364, 568 and 570. Upon request by Buyer, each Seller Party will provide evidence reasonably satisfactory to allow Buyer to confirm that such Seller Party has satisfied its obligations as required under this Section. Without limitation, this may include Buyer’s review of audits, summaries of test results, and other equivalent evaluations of such Seller Party. Each Seller Party shall notify Buyer promptly following discovery of any breach or compromise of the security, confidentiality, or integrity of nonpublic personal information of the customers and consumers of Buyer or any Affiliate of Buyer provided directly to such Seller Party by Buyer or such Affiliate. Each Seller Party shall provide such notice to Buyer by personal delivery, by facsimile with confirmation of receipt, or by overnight courier with confirmation of receipt to the applicable requesting individual.

## **SECTION 32. INTENT**

(a) The parties recognize that each Transaction is a “repurchase agreement” as that term is defined in Section 101 of Title 11 of the United States Code, as amended and a “securities contract” as that term is defined in Section 741 of Title 11 of the United States Code, as amended and that all payments hereunder are deemed “margin payments” or “settlement payments” as defined in Title 11 of the United States Code.

(b) It is understood that either party’s right to liquidate Purchased Mortgage Loans delivered to it in connection with Transactions hereunder or to exercise any other remedies pursuant to Section 14 hereof is a contractual right to liquidate such Transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

(c) The parties agree and acknowledge that if a party hereto is an “insured depository institution,” as such term is defined in the Federal Deposit Insurance Act, as amended (“FDIA”), then each Transaction hereunder is a “qualified financial contract,” a “repurchase agreement” and a “securities contract” as such terms are defined in FDIA and any rules, orders or policy statements thereunder.

(d) It is understood that this Agreement constitutes a “netting contract” as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”) and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a “covered contractual payment entitlement” or “covered contractual payment obligation”, respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a “financial institution” as that term is defined in FDICIA).

(e) Each party agrees that this Agreement is intended to create mutuality of obligations among the parties, and as such, this Agreement constitutes a contract which (i) is between all of the parties and (ii) places each party in the same right and capacity.

## **SECTION 33. DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS**

The parties acknowledge that they have been advised that (a) in the case of Transactions in which one of the parties is a broker or dealer registered with the Securities and Exchange Commission (“SEC”) under Section 15 of the Securities Exchange Act of 1934 (“1934 Act”), the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 (“SIPA”) do not protect the other party with respect to any Transaction hereunder; (b) in the case of Transactions in which one of the parties is a government securities broker or a government securities dealer registered with the SEC under Section 15C of the 1934 Act, SIPA will not provide protection to the other party with respect to any Transaction hereunder; and (c) in the case of Transactions in which one of the parties is a financial institution, funds held by the financial institution pursuant to a Transaction hereunder are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable.

## **SECTION 34. MISCELLANEOUS**

(a) Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart.

(b) Captions. The captions and headings appearing herein are for included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

(c) Acknowledgment. Each Seller Party hereby acknowledges that (i) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Program Documents; (ii) Buyer has no fiduciary relationship to any Seller Party; and (iii) no joint venture exists between Buyer and Seller Party.

(d) Documents Mutually Drafted. The Seller Parties and Buyer agree that this Agreement each other Program Document prepared in connection with the Transactions set forth herein have been mutually drafted and negotiated by each party, and consequently such documents shall not be construed against either party as the drafter thereof.

(e) Amendments. This Agreement and each other Program Document may be amended from time to time, either by amendment to the Customer Guide from time to time, or such other amendments to this Agreement, without further consent or assent by any Seller Party and such amendments not consented to by Seller shall be effective upon ten (10) Business Days notice to Seller Party of the change (whether that notice is sent individually or posted to Warehouse Electronic System) and Mortgage Loans sold to Buyer after the effective date shall be governed by the revised Agreement; provided that any such amendment which has the effect of changing the material economic terms of any Program Document, any financial covenants contained in any Program Document or the committed nature of the facility provided herein shall not be incorporated herein without the prior written consent of Seller.

(f) Acknowledgement of Anti Predatory Lending Policies. Buyer has in place internal policies and procedures that expressly prohibit its purchase of any High Cost Mortgage Loan.

(g) Authorizations. Any of the persons whose signatures and titles appear on Schedule 5 are authorized, acting singly, to act for a Seller Party, under this Agreement. Any persons identified in the Customer Guide are authorized to act for Buyer under this Agreement.

## **SECTION 35. GENERAL INTERPRETIVE PRINCIPLES**

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires: (a) the terms defined in this Agreement have the meanings assigned to them in this Agreement and include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other gender; (b) accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP; (c) references herein to “Articles”, “Sections”, “Subsections”, “Paragraphs”, and other subdivisions without reference to a document are to designated Articles, Sections, Subsections, Paragraphs and other subdivisions of this Agreement; (d) a reference to a Subsection without further reference to a Section is a reference to such Subsection as contained in the same Section in which the reference appears, and this rule shall also apply to Paragraphs and other subdivisions; (e) the words “herein”, “hereof”, “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular provision; (f) the term “include” or “including” shall mean without limitation by reason of enumeration; (g) all times specified herein or in any other Program Document (unless expressly specified otherwise) are local times in New York, New York unless otherwise stated; and (h) all references herein or in any Program Document to “good faith” means good faith as defined in Section 1-201(19) of the UCC as in effect in the State of New York.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date set forth above.

BUYER:

**STERLING NATIONAL BANK**

By:  
Name:  
Title:

Address for Notices: AS SET FORTH IN THE  
CUSTOMER GUIDE

SELLER:

**M/I FINANCIAL CORP.**

By: \_\_\_\_\_  
Name:  
Title:

Address for Notices:

Derek Klutch  
Chief Operating Officer and Executive Vice President  
M/I Financial Corp.  
3 Easton Oval, Suite 540  
Columbus, OH 43219  
614-418-8655 office  
614 418-8686 fax  
dklutch@mihomes.com

SCHEDULE OF DEFINED TERMS

“1934 Act” shall have the meaning set forth in Section 33 of the Agreement.

“Accepted Servicing Practices” shall mean, with respect to any Mortgage Loan, those mortgage servicing practices of prudent mortgage lending institutions which service mortgage loans of the same type as such Mortgage Loan in the jurisdiction where the related Mortgaged Property is located.

“Acquisition Cost” shall mean the total cost to Seller (including purchase price and/or outstanding principal balance) of originating or acquiring a Mortgage Loan.

“Affiliate” shall mean with respect to any Person, any “affiliate” of such Person, as such term is defined in the Bankruptcy Code.

“Aged Mortgage Loan” shall have the meaning specified in the Schedule of Facility Information.

“Agency” shall mean Freddie Mac, Fannie Mae, Ginnie Mae, as applicable.

“Agency Security” shall mean a security issued in exchange for Purchased Mortgage Loans and backed by such Purchased Mortgage Loans that is (a) guaranteed by Ginnie Mae or (b) issued by Fannie Mae or Freddie Mac.

“Aging Limit” shall have the meaning specified in the Schedule of Facility Information.

“Agreement” shall mean this Master Repurchase Agreement between Buyer and each Seller Party, dated as of November 13, 2012 as the same may be further amended, supplemented or otherwise modified in accordance with the terms of the Agreement.

“Annual Financial Statement Date” shall have the meaning set forth in the Schedule of Facility Information.

“Application” shall mean the application delivered by Seller to Buyer in connection with Buyer’s approval of Seller for the program evidenced by the Agreement.

“Appraisal” shall mean an appraisal by a licensed appraiser selected in accordance with Agency guidelines and not identified to Seller as an unacceptable appraiser by an Agency, and who is experienced in estimating the value of property of that same type in the community where it is located, and who — unless approved by Buyer on a case-by-case basis — is not a director, officer or employee of Seller or any of its Affiliates, or related as a parent, sibling, child or first cousin to Seller or any of its Affiliates’ respective directors or officers or any of their spouses, a signed copy of the written report of which Appraisal is in the possession of Seller or the Servicer.

“Appraised Value” shall mean the value set forth in an Appraisal made in connection with the origination of the related Mortgage Loan as the value of the Mortgaged Property.



“Appropriate Federal Banking Agency” shall have the meaning ascribed to it by Section 1813(q) of Title 12 of the United States Code, as amended from time to time.

“Approved CPA” shall mean Deloitte & Touche LLP, and any other certified public accountant approved by Buyer in writing in its sole good faith discretion.

“Approved Investor” shall mean any institution which has made a Takeout Commitment and has been approved by Buyer.

“Approved Mortgage Product” shall mean each Mortgage Product approved by Buyer as identified in the Schedule of Facility Information.

“Approved Underwriting Guidelines” shall mean the underwriting guidelines approved by Buyer in its sole good faith discretion.

“Asset Value” shall mean with respect to each Eligible Mortgage Loan, the applicable Purchase Price for the related Purchased Mortgage Loan.

(a) Without limiting the generality of the foregoing, Seller acknowledges that the Asset Value of a Purchased Mortgage Loan may be reduced to zero by Buyer if any of the following occurs:

(i) such Purchased Mortgage Loan ceases to be an Eligible Mortgage Loan;

(ii) the Purchased Mortgage Loan has been released from the possession of Buyer (other than to an Approved Investor pursuant to a Bailee Letter) for a period in excess of 10 calendar days;

(iii) the Purchased Mortgage Loan has been released from the possession of Buyer to an Approved Investor pursuant to a Bailee Letter for a period in excess of 30 calendar days;

(iv) the Purchased Mortgage Loan is a Wet Loan for which the related Mortgage File has not been received by Buyer on or prior to the end of the Aging Limit for such Wet Loan;

(v) such Purchased Mortgage Loan is rejected by the related Approved Investor or there shall occur a Takeout Failure;

(vi) such Purchased Mortgage Loan is a Delinquent Mortgage Loan;

(vii) such Purchased Mortgage Loan has been subject to a Transaction hereunder for a period of greater than its applicable Aging Limit;

(viii) Buyer has determined in its sole good faith discretion that the Purchased Mortgage Loan is not eligible for whole loan sale or securitization in a transaction consistent with the prevailing sale and securitization industry with respect to substantially similar Mortgage Loans; or

(ix) there occurs any material breach of a representation or warranty

made by Seller in Schedule 3 of this Repurchase Agreement in connection with such Purchased Mortgage Loan;

(a) The aggregate Asset Value of each Approved Mortgage Product shall not exceed the Concentration Limit for such applicable Approved Mortgage Product.

“Assignment and Acceptance” shall have the meaning set forth in Section 18 of the Agreement.

“Bailee Letter” shall mean the bailee letter, in the form of Exhibit D, for use by Buyer in connection with the release of Mortgage Loans to an Approved Investor pursuant to Section 10 of the Agreement.

“Bankruptcy Code” shall mean the United States Bankruptcy Code of 1978, as amended from time to time.

“Business Day” shall mean a day other than (i) a Saturday or Sunday, (ii) any day on which banking institutions are authorized or required by law, executive order or governmental decree to be closed in the State of New York or (iii) any day on which the Federal Reserve is closed.

“Buy Back Threshold” shall have the meaning specified in the Schedule of Facility Information.

“Buyer” shall mean Sterling National Bank, its successors in interest and permitted assigns and, with respect to Section 7, its participants.

“Change in Control” shall have the meaning specified in the Schedule of Facility Information.

“Closing Protection Letter” shall mean a letter of indemnification from a title insurer addressed to Seller and/or Buyer or for which Buyer is a third party beneficiary, with coverage that is customarily acceptable to Persons engaged in the origination of mortgage loans, identifying the Settlement Agent covered thereby and indemnifying Seller and/or Buyer (directly or as a third party beneficiary) against losses incurred due to malfeasance or fraud by the Settlement Agent or the failure of the Settlement Agent to follow the specific escrow instructions specified by Seller to the Settlement Agent or otherwise by Buyer with respect to the closing of the Mortgage Loan. The Closing Protection Letter shall be either with respect to the individual Mortgage Loan being purchased pursuant hereto or a blanket Closing Protection Letter which covers closings conducted by the Settlement Agent in the jurisdiction in which the closing of such Mortgage Loan takes place.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time.

“Combined Loan-to-Value Ratio” or “CLTV” shall mean with respect to any Mortgage Loan, the ratio of the original outstanding principal amount of the Mortgage Loan and all other loans secured by the Mortgaged Property to the Appraised Value of the Mortgaged Property at origination.

“Concentration Limit” shall mean, for each Approved Mortgage Product, the limitation set forth in the Schedule of Facility Information.

“Confidential Terms” shall have the meaning set forth in Section 31 of the Agreement.

“Costs” shall have the meaning set forth in Section 15(a) of the Agreement.

“Credit File” shall mean with respect to each Mortgage Loan, the documents and instruments relating to the origination and administration of such Mortgage Loan.

“Custodial Account” shall have the meaning set forth in Section 5(a) of the Agreement.

“Customer Guide” shall mean the guidelines and other information provided to Seller by Buyer from time to time, setting forth the policies and procedures to be followed by Seller when utilizing the facility contemplated under this Agreement.

“Debt to Income Ratio” or “DTI” shall mean with respect to any Mortgagor, the ratio of the Mortgagor’s average monthly debt obligations to the Mortgagor’s average monthly gross income.

“Default” shall mean an Event of Default or an event that with notice or lapse of time or both would become an Event of Default.

“Defaulting Party” shall have the meaning set forth in Section 30 of the Agreement.

“Defective Mortgage Loan” shall mean a Mortgage Loan (a) which is in foreclosure, has been foreclosed upon or has been converted to real estate owned property, (b) for which the Mortgagor is in bankruptcy, (c) that is not subject to a valid and binding Takeout Commitment or Hedge Agreement, (d) that is subject to a Takeout Commitment with respect to which Seller or Approved Investor is in default, (e) that is rejected or excluded for any reason from the related Takeout Commitment by the Approved Investor, (f) that is not purchased by the Approved Investor in compliance with the Takeout Commitment at or prior to the expiration or termination of the Takeout Commitment for any reason, or (g) that is not repurchased by Seller in compliance with the provisions of Section 3(d).

“Delinquent Mortgage Loan” shall mean any Mortgage Loan as to which any Monthly Payment, or part thereof, remains unpaid for 30 days or more following the original Due Date for such Monthly Payment.

“Dollars” and “\$” shall mean lawful money of the United States of America.

“Due Date” shall mean the day of the month on which the Monthly Payment is due on a Mortgage Loan, exclusive of any days of grace.

“Due Diligence Cap” shall have the meaning set forth in the Schedule of Facility Information.

“Due Diligence Costs” shall have the meaning set forth in Section 17 of the Agreement.

“Due Diligence Review” shall mean the performance by Buyer of any or all of the reviews permitted under Section 17 of the Agreement with respect to any Seller Party or any or all of the Mortgage Loans, as desired by Buyer from time to time.

“E-Sign” shall mean the federal Electronic Signatures in Global and National Commerce Act, as amended from time to time.

“Effective Date” shall mean the date upon which the conditions precedent set forth in Section 3(a) shall have been satisfied.

“Electronic Record” shall mean “Record” and “Electronic Record,” both as defined in E-Sign, and shall include but not be limited to, recorded telephone conversations, fax copies or electronic transmissions, including without limitation, those involving the Warehouse Electronic System.

“Electronic Signature” shall have the meaning set forth in E-Sign.

“Electronic Tracking Agreement” shall mean an Electronic Tracking Agreement among Buyer, Seller, MERS and MERSCORP Holdings, Inc., as the same may be amended from time to time.

“Electronic Transactions” shall mean transactions conducted using Electronic Records and/or Electronic Signatures or fax copies of signatures.

“Eligible Mortgage Loan” shall mean a Purchased Mortgage Loan which is (a) an Approved Mortgage Product, (b) complies with the representations and warranties set forth on Schedule 3 hereto (assuming that they are made as of each date of determination), (c) is not a Defective Mortgage Loan and (d) is not a Delinquent Mortgage Loan.

“ERISA” shall, with respect to any Person, mean the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor thereto, and the regulations promulgated and rulings issued thereunder.

“ERISA Affiliate” shall, with respect to any Person, mean any Person which is treated as a single employer under Section 414(b) or (c) of the Code, or solely for purposes of Section 302 of ERISA and Section 412 of the Code is treated as a single employer described in Section 414 of the Code.

“Escrow Payments” shall mean, with respect to any Mortgage Loan, the amounts constituting ground rents, taxes, assessments, water rates, sewer rents, municipal charges, mortgage insurance premiums, fire and hazard insurance premiums, condominium charges, and any other payments required to be escrowed by the Mortgagor with the mortgagee pursuant to the Mortgage or any other document.

“Event of Default” shall have the meaning specified in Section 13 of the Agreement.

“Expenses” shall mean all out-of-pocket present and future expenses incurred by or on behalf of Buyer in connection with this Agreement or any of the other Program Documents and any amendment, supplement or other modification or waiver related hereto or thereto, whether incurred heretofore or hereafter, which expenses shall include the cost of title, lien, judgment and other record searches; attorneys’ fees; and costs of preparing and recording any UCC financing statements or other filings necessary to perfect the security interest created hereby.

“Facility Termination Threshold” shall have the meaning specified in the Schedule of Facility Information.

“Fannie Mae” shall mean Fannie Mae, or any successor thereto.

“FDIA” shall have the meaning set forth in Section 32 of the Agreement.

“FDICIA” shall have the meaning set forth in Section 32 of the Agreement.

“FHA” shall mean the Federal Housing Administration, an agency within the United States Department of Housing and Urban Development, or any successor thereto, and including the Federal Housing

Commissioner and the Secretary of Housing and Urban Development where appropriate under the FHA Regulations.

“FHA Loan” shall mean a Mortgage Loan which is the subject of an FHA Mortgage Insurance Certificate.

“FHA Mortgage Insurance” shall mean mortgage insurance authorized under the National Housing Act, as amended from time to time, and provided by the FHA.

“FHA Mortgage Insurance Certificate” shall mean the certificate evidencing the contractual obligation of the FHA respecting the insurance of a Mortgage Loan.

“FHA Mortgage Insurance Contract” shall mean the contractual obligation of the FHA respecting the insurance of a Mortgage Loan.

“FHA Regulations” shall mean the regulations promulgated by the Department of Housing and Urban Development under the National Housing Act, as amended from time to time and codified in 24 Code of Federal Regulations, and other Department of Housing and Urban Development issuances relating to FHA Loans, including the related handbooks, circulars, notices and mortgagee letters.

“Fidelity Insurance” shall mean insurance coverage with respect to employee errors, omissions, dishonesty, forgery, theft, disappearance and destruction, robbery and safe burglary, property (other than money and securities) and computer fraud in an aggregate amount acceptable to Buyer.

“Financial Reporting Party” shall have the meaning specified in the Schedule of Facility Information.

“Financial Reporting Group” shall mean Seller and its Subsidiaries.

“Financial Statements” shall have the meaning set forth in Section 12(d) of the Agreement.

“Freddie Mac” or “FHLMC” shall mean Freddie Mac, or any successor thereto.

“GAAP” shall mean generally accepted accounting principles in the United States of America, applied on a consistent basis and applied to both classification of items and amounts, and shall include, without limitation, the official interpretations thereof by the Financial Accounting Standards Board, its predecessors and successors.

“Ginnie Mae” shall mean the Government National Mortgage Association and any successor thereto.

“Governmental Authority” shall mean any nation or government, any state, county, municipality or other political subdivision thereof or any governmental body, agency, authority, department or commission (including, without limitation, any taxing authority) or any instrumentality or officer of any of the foregoing (including, without limitation, any court or tribunal) exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any corporation, partnership or other entity directly or indirectly owned by or controlled by the foregoing and with respect to any insured depository institution, including without limitation the Appropriate Federal Banking Agency.

“Guarantee” shall mean, as to any Person, any obligation of such Person directly or indirectly

guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, by agreement to keep - well, to purchase assets, goods, securities or services, or to take - or - pay or otherwise); provided that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee of a Person shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The terms “Guarantee” and “Guaranteed” used as verbs shall have correlative meanings.

“Guarantor” shall mean the Guarantor and/or Guarantors, if any specified in the Schedule of Facility Information, its successors in interest and assigns.

“Haircut Account” shall mean the account established pursuant to Section 9(c) of the Agreement.

“Haircut Amount” shall mean the excess of the outstanding principal balance of the Purchased Mortgage Loan being purchased on the Purchase Date over the Purchase Price for such Purchased Mortgage Loan.

“Hedge Agreement” shall mean, with respect to any or all of the Purchased Mortgage Loans, any short sale of a US Treasury Security, or futures contract, or mortgage related security, or Eurodollar futures contract, or options related contract, or interest rate swap, cap or collar agreement or Takeout Commitment, or similar arrangement providing for protection against fluctuations in interest rates or the exchange of nominal interest obligations, either generally or under specific contingencies, entered into by Seller with a party and with terms reasonably acceptable to Buyer.

“High Cost Mortgage Loan” shall mean a Mortgage Loan classified as (a) a “high cost” loan under the Home Ownership and Equity Protection Act of 1994 or (b) a “high cost,” “high risk,” “high rate,” “threshold,” “covered,” or “predatory” loan under any other applicable state, federal or local law (or a similarly classified loan using different terminology under a law, regulation or ordinance imposing heightened regulatory scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees).

“HUD” shall mean the Department of Housing and Urban Development.

“Inbound Account” shall mean the account established pursuant to Section 9(c) of the Agreement.

“Income” shall mean, with respect to any Mortgage Loan at any time, any principal thereof then payable and all interest, dividends or other distributions payable thereon.

“Indebtedness” shall have the meaning specified in the Schedule of Facility Information.

“Indemnified Party” shall have the meaning set forth in Section 15(a) of the Agreement.

“Index Rate” shall have the meaning specified in the Schedule of Facility Information.

“Insolvency Event” shall mean, for any Person:

- (a) that such Person shall discontinue or abandon operation of its business; or
- (b) that such Person shall fail generally to, or admit in writing its inability to, pay its debts as they become due; or
- (c) a proceeding shall have been instituted in a court having jurisdiction in the premises seeking a decree or order for relief in respect of such Person in an involuntary case under any applicable bankruptcy, insolvency, liquidation, reorganization or other similar Requirement of Law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, trustee, custodian, sequestrator, conservator or other similar official of such Person, or for any substantial part of its property, or for the winding-up or liquidation of its affairs; or
- (d) the commencement by such Person of a voluntary case under any applicable bankruptcy, insolvency or other similar Requirement of Law now or hereafter in effect, or such Person's consent to the entry of an order for relief in an involuntary case under any such Requirement of Law, or consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator, conservator or other similar official of such Person, or for any substantial part of its property, or any general assignment for the benefit of creditors; or
- (e) that such Person shall become insolvent; or
- (f) if such Person is a corporation, such Person shall take any corporate action in furtherance of, or the action of which would result in any of the actions set forth in the preceding clauses (a), (b), (c), (d) or (e).

“Insured Depository Institution” shall have the meaning ascribed to such term by Section 1813(c)(2) of Title 12 of the United States Code, as amended from time to time.

“Legal Fee Cap” shall have the meaning specified in the Schedule of Facility Information.

“LIBOR Rate” shall have the meaning specified in the Schedule of Facility Information.

“Lien” shall mean any lien, claim, charge, restriction, pledge, security interest, mortgage, deed of trust or other encumbrance.

“Litigation Threshold” shall have the meaning specified in the Schedule of Facility Information.

“Loan-to-Value Ratio” or “LTV” shall mean with respect to any Mortgage Loan, the ratio of the original outstanding principal amount of the Mortgage Loan to the Appraised Value of the Mortgaged Property at origination.

“Margin Call” shall have the meaning specified in Section 4.

“Margin Deficit” shall have the meaning specified in Section 4.

“Market Value” shall mean, as of any date with respect to any Purchased Mortgage Loan, the price at which such Mortgage Loan could readily be sold as determined by Buyer in its sole good faith discretion.

“Material Adverse Effect” shall mean a material adverse effect on (a) the Property, business, operations, or financial condition of any Seller Party, (b) the ability of any Seller Party to perform its obligations under any of the Program Documents to which it is a party, (c) the validity or enforceability of any of the Program Documents, (d) the rights and remedies of Buyer or any Affiliate under any of the Program Documents, (e) the timely payment of any amounts payable under the Program Documents, or (f) the Asset Value of the Purchased Mortgage Loans taken as a whole.

“Maximum Purchase Price” shall have the meaning set forth in the Schedule of Facility Information.

“MERS” shall mean Mortgage Electronic Registration Systems, Inc., a corporation organized and existing under the laws of the State of Delaware, or any successor thereto.

“MERS System” shall mean the system of recording transfers of mortgages electronically maintained by MERS.

“Minimum Balance Requirement” shall have the meaning set forth in the Schedule of Facility Information.

“Monthly Financial Statement Date” shall have the meaning set forth in the Schedule of Facility Information.

“Monthly Payment” shall mean the scheduled monthly payment of principal and interest on a Mortgage Loan.

“Moody’s” shall mean Moody’s Investor’s Service, Inc. or any successors thereto.

“Mortgage” shall mean each mortgage, assignment of rents, security agreement and fixture filing, or deed of trust, assignment of rents, security agreement and fixture filing, deed to secure debt, assignment of rents, security agreement and fixture filing, or similar instrument creating and evidencing a first lien on real property and other property and rights incidental thereto.

“Mortgage File” shall mean, with respect to a Mortgage Loan, the documents and instruments relating to such Mortgage Loan and set forth in the Customer Guide and the Schedule of Facility Information.

“Mortgage Interest Rate” shall mean the rate of interest borne on a Mortgage Loan from time to time in accordance with the terms of the related Mortgage Note.

“Mortgage Loan” shall mean any first lien, one-to-four-family residential mortgage loan evidenced by a Mortgage Note and secured by a Mortgage, which Mortgage Loan is subject to a Transaction hereunder, which in no event shall include any mortgage loan which (a) is subject to Section 226.32 of Regulation Z or any similar state Requirement of Law (relating to high interest rate credit/lending transactions), (b) includes any single premium credit, life or accident and health insurance or disability insurance, or (c) is a High Cost Mortgage Loan.

“Mortgage Loan Schedule” shall mean with respect to any Transaction as of any date, a mortgage loan schedule in the form of a computer tape or other electronic medium generated by Seller and delivered to Buyer via the Warehouse Electronic System which provides information (including, without limitation, the information required pursuant to the Customer Guide relating to the Purchased Mortgage Loans in a format required pursuant to the Customer Guide.



“Mortgage Note” shall mean the promissory note or other evidence of the indebtedness of a Mortgagor secured by a Mortgage.

“Mortgaged Property” shall mean the real property securing repayment of the debt evidenced by a Mortgage Note.

“Mortgagor” shall mean the obligor or obligors on a Mortgage Note, including any Person who has assumed or guaranteed the obligations of the obligor thereunder.

“Net Income” shall have the meaning specified in the Schedule of Facility Information.

“Non- Excluded Taxes” shall have the meaning set forth in Section 7(a) of the Agreement.

“Non- Exempt Buyer” shall have the meaning set forth in Section 7(e) of the Agreement.

“Nondefaulting Party” shall have the meaning set forth in Section 30 of the Agreement.

“Note Amount” shall mean the outstanding principal balance of a Mortgage Note.

“Obligations” shall mean (a) any amounts owed by Seller to Buyer in connection with a Transaction hereunder, together with interest thereon (including interest which would be payable as post-petition interest in connection with any bankruptcy or similar proceeding) and all other fees or expenses which are payable hereunder or under any of the Program Documents; (b) all other obligations or amounts owed to Buyer under the Program Guaranty, if any, and (c) all other obligations or amounts owed by Seller to Buyer or an Affiliate of Buyer under any other contract or agreement, in each case, whether such amounts or obligations owed are direct or indirect, absolute or contingent, matured or unmatured.

“OFAC” shall have the meaning set forth in Section 11(x) of the Agreement.

“Operating Account” shall mean the account established pursuant to Section 9(c) of the Agreement.

“Other Taxes” shall have the meaning set forth in Section 7(b) of the Agreement.

“Payment Date” shall mean the 15<sup>th</sup> day of each month, or if such date is not a Business Day, the Business Day immediately preceding such date.

“PBGC” shall mean the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

“Permitted Assignee” shall mean (a) prior to an Event of Default, any Person who is (i) not a natural person, (ii) not a direct or indirect competitor of Seller or any Affiliate of Seller and (iii) a U.S. Affiliate of Buyer, and (b) after the occurrence and continuance of an Event of Default, any Person who is not a natural person.

“Permitted Liens” shall mean Liens permitted pursuant to clause (I) of Schedule 3 of the Agreement.

“Person” shall mean any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any

agency, instrumentality or political subdivision thereof).

“PMI Policy” shall mean a policy of primary mortgage guaranty insurance issued by a Qualified Insurer, as required by this Agreement with respect to certain Mortgage Loans.

“Post-Default Rate” shall have the meaning set forth in the Schedule of Facility Information.

“Power of Attorney” shall mean that certain Power of Attorney from Seller in favor of Buyer in the form of Exhibit E hereto.

“Price Differential” shall mean, with respect to any Transaction hereunder as of any date, the aggregate amount obtained by daily application of the Pricing Rate (or, during the continuation of an Event of Default, by daily application of the Post-Default Rate) for such Transaction to the Purchase Price for such Transaction on a 360 day per year basis for the actual number of days during the period commencing on (and including) the Purchase Date for such Transaction and ending on (but excluding) the Repurchase Date (reduced by any amount of such Price Differential previously paid by Seller to Buyer with respect to such Transaction).

“Pricing Rate” shall have the meaning set forth in the Schedule of Facility Information.

“Pricing Spread” shall have the meaning set forth in the Schedule of Facility Information.

“Program Documents” shall mean this Agreement, the Customer Guide, the Program Guaranty, if any, the Electronic Tracking Agreement, the Application, a Servicer Notice, if any, and the Power of Attorney.

“Program Guaranty” shall mean that certain guaranty made by the Guarantor in favor of Buyer, as amended from time to time.

“Prohibited Person” shall have the meaning set forth in Section 11(x) of the Agreement.

“Property” shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

“Purchase Date” shall mean the date on which Purchased Mortgage Loans are transferred by Seller to Buyer or its designee.

“Purchase Price” shall have the meaning set forth in the Schedule of Facility Information.

“Purchased Mortgage Loan” shall mean each Mortgage Loan sold by Seller to Buyer in a Transaction, as reflected in the Warehouse Electronic System.

“Qualified Insurer” shall mean a mortgage guaranty insurance company duly authorized and licensed where required by law to transact mortgage guaranty insurance business and acceptable under the Approved Underwriting Guidelines.

“Records” shall mean all instruments, agreements and other books, records, and reports and data generated by other media for the storage of information maintained by Seller or any other person or entity with respect to a Purchased Mortgage Loan. Records shall include the Mortgage Notes, any Mortgages, the Mortgage Files, the credit files related to the Purchased Mortgage Loan and any other instruments

necessary to document or service a Mortgage Loan.

“Register” shall have the meaning set forth in Section 19(b) of the Agreement.

“Regulations T, U and X” shall mean Regulations T, U and X of the Board of Governors of the Federal Reserve System (or any successor), as the same may be modified and supplemented and in effect from time to time.

“Reportable Event” shall mean any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .21, .22, .24, .26, .27 or .28 of PBGC Reg. § 4043.

“Reporting Date” shall have the meaning set forth in the Schedule of Facility Information.

“Reporting Period” shall have the meaning provided in Section 11(r) of the Agreement.

“Repurchase Assets” shall have the meaning provided in Section 8(a) of the Agreement.

“Repurchase Date” shall mean the date on which Seller is to repurchase the Purchased Mortgage Loans subject to a Transaction from Buyer which shall be the earliest of (i) the date specified in the related Transaction Request, (ii) the date requested pursuant to Section 3(d), (iii) a date no later than the Aging Limit, (iv) the Termination Date, or (v) any date determined by application of the provisions of Sections 3(d) or 14.

“Repurchase Price” shall mean the price at which Purchased Mortgage Loans are to be transferred from Buyer or its designee to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the Purchase Price and the Price Differential as of the date of such determination.

“Requirement of Law” shall mean as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule, regulation, procedure or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its Property is subject.

“Responsible Officer” shall mean an officer of Seller Party listed on Schedule 2 hereto, as such Schedule 2 may be amended from time to time.

“S&P” shall mean Standard & Poor’s Ratings Services, or any successor thereto.

“Schedule of Facility Information” shall mean the schedule containing certain financial and pricing information related to this Agreement as identified on Schedule 2 hereto.

“SEC” shall have the meaning set forth in Section 33 of the Agreement.

“Section 4402” shall have the meaning set forth in Section 30 of the Agreement.

“Seller” shall mean M/I Financial Corp., or any successor in interest thereto.

“Seller Party” shall mean each of Seller and the Guarantor, if any, and collectively, Seller Parties.

“Servicer” shall have the meaning set forth in the Schedule of Facility Information, or any successor or permitted assigns.

“Servicer Notice” shall mean to the extent applicable, the notice acknowledged by the Servicer substantially in the form of Exhibit C hereto.

“Servicing Rights” shall mean the rights of any Person to administer, service or subservice, the Purchased Mortgage Loans or to possess related Records.

“Servicing Term” shall have the meaning set forth in Section 16(a) of the Agreement.

“Settlement Agent” shall have the meaning set forth in the Schedule of Facility Information.

“SIPA” shall have the meaning set forth in Section 33 of the Agreement.

“Subservicer” shall have the meaning set forth in Section 16(b) of the Agreement.

“Subsidiary” shall mean, 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 Servicer” shall have the meaning set forth in Section 16(g) of the Agreement.

“Takeout Commitment” shall mean a commitment of Seller to sell one or more Mortgage Loans to an Approved Investor, and the corresponding Approved Investor’s commitment back to Seller to effectuate the foregoing.

“Takeout Failure” shall mean the failure of an Approved Investor to purchase one or more Mortgage Loans pursuant to the applicable Takeout Commitment.

“Takeout Price” shall mean the price at which the Approved Investor has agreed to purchase a Purchased Mortgage Loan from Seller.

“Taxes” shall have the meaning set forth in Section 7(a) of the Agreement.

“Termination Date” shall have the meaning set forth in the Schedule of Facility Information.

“Test Period” shall have the meaning set forth in the Schedule of Facility Information.

“Transaction” shall have the meaning specified in Section 1.

“Transaction Request” shall mean a request from Seller to Buyer to enter into a Transaction, which shall be submitted electronically through the Warehouse Electronic System in accordance with the Customer Guide.

“Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non perfection of the security interest in any Repurchase Assets or the continuation, renewal or enforcement thereof is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, “Uniform Commercial Code” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions of the Agreement relating to such perfection or effect of perfection or non perfection.

“VA” shall mean the U.S. Department of Veterans Affairs, an agency of the United States of America, or any successor thereto including the Secretary of Veterans Affairs.

“VA Approved Lender” shall mean a lender which is approved by the VA to act as a lender in connection with the origination of VA Mortgage Loans.

“VA Mortgage Loan” means a Mortgage Loan which is subject of a VA Mortgage Loan Guaranty Agreement as evidenced by a loan guaranty certificate, or a Mortgage Loan which is a vender loan sold by the VA.

“VA Mortgage Loan Guaranty Agreement” means the obligation of the United States to pay a specific percentage of a Mortgage Loan (subject to a maximum amount) upon default of the Mortgagor pursuant to the Servicemen’s Readjustment Act, as amended.

“Warehouse Electronic System” shall mean the system utilized by Buyer either directly, or through its vendors, and which may be accessed by Seller in connection with delivering and obtaining information and requests as described further in the Customer Guide.

“Warehouse Fees” shall be the fees set forth on Schedule 2 hereto.

“Well Capitalized” shall mean, with respect to any Insured Depository Institution, the maintenance by such Insured Depository Institution of capital ratios at or above the required minimum levels for such capital category under the regulations promulgated pursuant to Section 1831(o) (“Prompt Corrective Action”) of the United States Code, as amended from time to time, by the Appropriate Federal Banking Agency for such institution, as such regulation may be amended from time to time.

“Wet File” shall mean, with respect to a Wet Loan, the documents and instruments relating to such Mortgage Loan and set forth in the Customer Guide for Wet Loans.

“Wet Loan” shall mean a Mortgage Loan which Seller is selling to Buyer simultaneously with the origination thereof and for which the Mortgage File has not been delivered to Buyer.

SCHEDULE OF FACILITY INFORMATION

**SECTION 1. Parties; Jurisdictions.**

**Seller:**

“Jurisdiction of Organization of Seller” shall mean Ohio.

“Type of Organization of Seller” shall mean corporation.

“Organizational Identification Number of Seller” shall mean 621252.

“UCC Filing Jurisdictions of Seller” shall mean Ohio.

**Servicer:**

“Servicer” shall mean Seller, its successors in interest and assigns.

**Guarantor:** N/A

**SECTION 1. Maximum Purchase Price; Account Balance Requirements.**

“Maximum Purchase Price” shall mean \$15,000,000.

“Minimum Balance Requirement” shall mean \$225,000.

**SECTION 2. Commitment.** The Agreement constitutes a commitment by Buyer to enter into Transactions under the Agreement. The parties acknowledge that the Buyer has committed to enter into Transactions with Seller on a committed basis, subject to satisfaction of all terms and conditions of the Agreement.

**SECTION 3. Termination Date.** The Termination Date shall mean November 12, 2013, or such other date declared by either Seller or Buyer as contemplated below, or such date as determined by Buyer pursuant to its rights and remedies under the Agreement.

**SECTION 4. Asset Classifications, Concentration Limits and Purchase Price.** Set forth below is a table of type of asset, Concentration Limit, Purchase Price, and Aging Limits, as applicable.

<b>Approved Mortgage Product</b>	<b>Concentration Limit (based upon Maximum Purchase Price unless otherwise noted)</b>	<b>Purchase Price</b>	<b>Aging Limit (Days from Purchase Date)</b>
<p><b>Conforming Mortgage Loan:</b> A Mortgage Loan which is secured by a first lien, is originated by Seller and such Mortgage Loan (a) meets all applicable Fannie Mae or FHLMC underwriting standards and received a favorable eligibility response from any of Fannie Mae Desktop Underwriter or FHLMC Loan Prospector and is at or below the current year's published general loan limits for conventional mortgages (currently \$417,000) and (i) has a minimum FICO score of 640 and (ii) may be approved by Buyer in its sole good faith discretion and (iii) has an LTV or CLTV less than 100% or (b) is eligible to be insured by the VA or FHA (excluding any FHA Loan or VA Mortgage Loan which exceeds the Fannie Mae or FHLMC guidelines for maximum general conventional loan amount, currently \$417,000) and (i) has a minimum FICO score of 640 and (ii) has an LTV or CLTV less than 100%. In no event shall the Mortgagor's DTI exceed 50%.</p> <p>Please see the website below for more information on loan limits: <a href="https://www.efanniemae.com/sf/refmaterials/loanlimits/index.jsp">https://www.efanniemae.com/sf/refmaterials/loanlimits/index.jsp</a>.</p>	<p>100%</p> <p>No more than 4 Mortgage Loans with any single Mortgagor across all product types</p>	<p>The least of (a) 98% of the Takeout Price, (b) 98% of the Acquisition Cost, (c) 98% of the Note Amount, and (d) 98% of the Market Value</p> <p>Purchase Price will not exceed \$2 million in aggregate for one or more Mortgage Loans for any single Mortgagor</p>	<p>30 calendar days</p>
<p><b>Agency High Balance Mortgage Loan:</b> A Mortgage Loan which is secured by a first lien Mortgage and is originated by Seller that (a) has an original Mortgage Loan amount in excess of general Conforming Mortgage Loan limits specified under Conforming Mortgage Loans and (i) has an original Mortgage Loan amount that is less than the maximum high balance county limit for the county that the subject property is located in and (ii) meets the eligibility requirements of Buyer as determined in its sole good faith discretion and (iii) has a minimum FICO score of 640 and (iv) has an LTV or CLTV less than 100% or (b) is eligible to be insured by the VA or FHA and (i) has a minimum FICO score of 640 and (ii) has an LTV or CLTV less than 100%. In no event shall the Mortgagor's DTI exceed 50%.</p> <p>Please see the website below for more information on high-balance loan limits: <a href="https://www.efanniemae.com/sf/mortgageproducts/fixed/highbalance.jsp">https://www.efanniemae.com/sf/mortgageproducts/fixed/highbalance.jsp</a></p>	<p>100%</p> <p>No more than 4 Mortgage Loans with any single Mortgagor across all product types</p>	<p>The least of (a) 98% of the Takeout Price, (b) 98% of the Acquisition Cost, (c) 98% of the Note Amount, and (d) 98% of the Market Value</p> <p>Purchase Price will not exceed \$2 million in aggregate for one or more Mortgage Loans for any single Mortgagor</p>	<p>30 calendar days</p>

Approved Mortgage Product	Concentration Limit (based upon Maximum Purchase Price unless otherwise noted)	Purchase Price	Aging Limit (Days from Purchase Date)
<p><b>Jumbo Mortgage Loan:</b> A Mortgage Loan which is secured by a first lien Mortgage and is originated by Seller that (i) has an original Mortgage Loan amount in excess of general Conforming Loan limits (ii) has an original Mortgage Loan amount in excess of the maximum high balance county limit for the county that the subject property is located in (iii) meets the eligibility requirements of Buyer as determined in its sole discretion and (iv) has a Takeout Commitment from an Approved Investor which shall include evidence of an underwriting approval, with no conditions outstanding to close the Mortgage Loan and a purchase price, purchase price commitment number and purchase price commitment expiration date for the Mortgage Loan. In no event shall the Mortgagor's DTI exceed 50%.</p>	<p>25%</p> <p>No more than 4 Mortgage Loans with any single Mortgagor across all product types</p>	<p>The least of (a) 97% of the Takeout Price, (b) 97% of the Acquisition Cost, (c) 97% of the Note Amount, and (d) 97% of the Market Value</p> <p>Purchase Price will not exceed \$2 million in aggregate for one or more Mortgage Loans for any single Mortgagor</p>	<p>30 calendar days</p>
<p><b>Aged Mortgage Loan:</b> A Conforming Mortgage Loan or Agency High Balance Mortgage Loan meeting the other criteria for an Approved Mortgage Product subject to a Transaction in excess of 30 days from the Purchase Date but less than 45 days from the Purchase Date.</p>	<p>\$2,000,000</p>	<p>The least of (a) 95% of the Takeout Price, (b) 95% of the Note Amount, and (c) 95% of the Market Value</p>	<p>15 calendar days from the date on which the Mortgage Loan becomes an Aged Mortgage Loan</p>
<p><b>Shipped Mortgage Loan.</b> Purchased Mortgage Loan shipped to an Approved Investor.</p>	<p>n/a</p>	<p>Per Approved Mortgage Product Category</p>	<p>25 calendar days from the date of shipment of the Mortgage Loan</p>
<p><b>Mortgage Loan Released on Trust Receipts.</b> A Mortgage Note with respect to a Purchased Mortgage Loan returned to Seller for purposes of correction.</p>	<p>Maximum of one Mortgage Loan at any time</p>	<p>Per Approved Mortgage Product Category</p>	<p>10 calendar days from the date of release of the Mortgage Loan</p>
<p><b>Wet Loan.</b> An Eligible Mortgage Loan meeting the other criteria for an Approved Mortgage Product for which the Mortgage Loan documents relating to such Mortgage Loan have not been received by the Buyer or its agent. The Wet Loan will be closed by either (a "Settlement Agent"):</p> <ul style="list-style-type: none"> <li>(i) a Title Company or its agent which has been pre-approved by Buyer in its sole good faith discretion for which Buyer is in receipt of a Closing Protection Letter; or</li> <li>(ii) a closing agent other than referred to in (i) which has been pre-approved by Buyer in its sole good faith discretion.</li> </ul> <p>A Mortgage Loan is no longer a Wet Loan when the Mortgage Loan documents have been received by Buyer and are acceptable to Buyer in form and substance.</p>	<p>40%</p>	<p>Per Approved Mortgage Product Category</p>	<ul style="list-style-type: none"> <li>(i) Title Company: 5 Business Days</li> <li>(ii) closing agent: 3 Business Days</li> </ul>



**SECTION 5. Price Differential; Pricing Rate; Post-Default Rate.**

“Post-Default Rate” shall mean a rate equal to the sum of (a) the Pricing Rate plus (b) three percent (3.00%).

The “Pricing Rate” shall be a rate per annum equal to the sum of (i) the Index Rate plus (ii) the Pricing Spread. Buyer’s calculations with respect thereto shall be conclusive absent manifest error.

The “Pricing Spread” shall equal:

(a) with respect to Transactions the subject of which are Mortgage Loans which are Conforming Mortgage Loans and Agency High Balance Mortgage Loans, 3.50%;

(b) with respect to Transactions the subject of which are Mortgage Loans which are Jumbo Mortgage Loans, 4.125%; or

(c) with respect to Transactions the subject of which are Mortgage Loans which are Aged Mortgage Loans, 4.125%.

The “Index Rate” shall equal the LIBOR Rate.

The “LIBOR Rate” shall mean for each day the rate per annum determined on the basis of the rate for deposits in Dollars for a period equal to 30 days appearing on page BBAM of Bloomberg L.P. as “LIBOR” (or any successor page). In the event that such rate does not appear on page BBAM of Bloomberg L.P. as “LIBOR” (or otherwise on such screen), the LIBOR Rate shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by Buyer or, in the absence of such availability, by reference to the rate at which Buyer is offered Dollar deposits at or about 11:00 A.M., New York City time, in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on such day and in an amount comparable to the amount of the Transactions to be outstanding during such day.

**SECTION 6. Certain Financial Condition Covenants.** Without limiting any provision set forth in the Agreement, the applicable Seller Party shall comply with the following covenants:

(a) Maintenance of Tangible Net Worth. Seller shall maintain a Tangible Net Worth\* of not less than \$10,000,000.

(b) Reserved.

(c) Maintenance of Ratio of Indebtedness to Tangible Net Worth. Seller shall maintain the ratio of (a) Indebtedness to (b) Tangible Net Worth no greater than 10:1.

(d) Maintenance of Profitability. Seller shall not permit, for any Test Period, Net Income? for such Test Period, before income taxes for such Test Period and distributions made during such Test Period, to be less than \$1.00. “Test Period” shall mean any two consecutive calendar quarters.

(e) Guarantees. Without the written approval of Buyer, Seller shall not create, incur, assume or suffer to exist any Guarantees, except to the extent reflected in Seller’s Financial Statements or notes thereto.

(f) Total Warehouse Capacity. Seller shall ensure that the Maximum Aggregate Purchase Price does not exceed 50% the aggregate maximum availability under its Warehouse Facilities (whether drawn or undrawn).

(g) Maintenance of Liquidity. The Seller shall ensure that, as of the end of each calendar month, it has cash and Cash Equivalents (excluding Restricted Cash or cash pledged to Persons other than Buyer), in an amount not less than \$5,000,000.

(h) Reserved.

(i) Scheduled Indebtedness. Without the prior written notice to Buyer, Seller shall not incur any additional material Indebtedness (other than the Scheduled Indebtedness listed under the definition thereof). Seller shall use commercially reasonable efforts to cause each counterparty under Seller's Indebtedness to enter into an Interparty Agreement, in form and substance acceptable to Buyer.

(j) Limitation on Dividends and Distributions. Upon the occurrence and after the continuance of an Event of Default, Seller shall not make any payment on account of, or set apart assets for, a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of any equity interest of Seller, whether now or hereafter outstanding, or make any other distribution or dividend in respect of any of the foregoing or to any shareholder or equity owner of Seller, either directly or indirectly, whether in cash or property or in obligations of Seller or any of Seller's consolidated Subsidiaries.

(k) For purposes hereof, the following terms shall have the following meanings:

(i) "Cash Equivalents" shall mean (a) securities with maturities of 90 days or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (b) certificates of deposit and eurodollar time deposits with maturities of 90 days or less from the date of acquisition and overnight bank deposits of Buyer or its Affiliates or of any commercial bank having capital and surplus in excess of \$500,000,000, (c) repurchase obligations of Buyer or its Affiliates or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than seven days with respect to securities issued or fully guaranteed or insured by the United States Government, (d) commercial paper of a domestic issuer rated at least A - 1 or the equivalent thereof by S&P or P - 1 or the equivalent thereof by Moody's and in either case maturing within 90 days after the day of acquisition, (e) securities with maturities of 90 days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's, (f) securities with maturities of 90 days or less from the date of acquisition backed by standby letters of credit issued by Buyer or any commercial bank satisfying the requirements of clause (b) of this definition or (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

(ii) "Indebtedness" shall mean (i) all indebtedness for borrowed money or for the deferred purchase price of property or services and all obligations under leases which are or should be under GAAP, recorded as capital leases, in respect of which a person is directly or contingently liable as borrower, guarantor, endorser or otherwise, or in respect of which a person otherwise assures a creditor against loss and (ii) all other obligations for borrowed money or for the deferred purchase price of a property or services secured by (or for which the holder has an existing right, contingent or otherwise, to be secured by) any lien upon property (including without limitation accounts receivable and contract rights) owned by a person, whether or not such person has assumed or become liable for the payment thereof.

(iii) “Net Income” shall mean, for any Person for any period, the net income of such Person for such period as determined in accordance with GAAP.

(iv) “Restricted Cash” shall mean for any Person, any amount of Cash of such Person that is contractually required to be set aside, segregated or otherwise reserved.

(v) “Scheduled Indebtedness” shall mean the \$70,000,000 Comerica Bank syndicated warehouse line of credit maturing in March 2013, as amended, modified, supplemented or restated from time to time.

(vi) “Tangible Net Worth” shall mean, as of the date of determination thereof, (a) total assets (excluding (i) all Intangible Assets and (ii) all obligations owed from affiliates or any employee), minus (b) total liabilities (excluding Subordinated Indebtedness). For purposes of this definition, “Intangible Assets” shall mean, as of the date of determination thereof, assets that in accordance with GAAP are properly classifiable as intangible assets, including, but not limited to goodwill, franchises, licenses, patents, trademarks trade names and copyrights and any other asset categories the Buyer deems as Intangible Assets in its sole good faith discretion.

(vii) “Warehouse Facility” shall mean any loan, repurchase facility or other arrangement for incurring Indebtedness secured by Seller’s Mortgage Loans.

#### **SECTION 1. Financial Reporting.**

“Annual Financial Statement Date” shall mean December 31, 2011.

“Financial Reporting Party” shall mean Seller.

“Monthly Financial Statement Date” shall mean June 30, 2012.

#### **SECTION 2. Change in Control.**

“Change in Control” shall mean:

(a) any transaction or event as a result of which M/I Homes, Inc. ceases to own, directly 100% of the stock of Seller;

(b) the sale, transfer, or other disposition of all or substantially all of any Seller Party’s assets (excluding any such action taken in connection with any securitization transaction); or

(c) the consummation of a merger or consolidation of a Seller Party with or into another entity or any other corporate reorganization (in one transaction or in a series of transactions), if more than 50% of the combined voting power of the continuing or surviving entity’s stock outstanding immediately after such merger, consolidation or such other reorganization is owned by persons who were not stockholders of a Seller Party immediately prior to such merger, consolidation or other reorganization; or

(d) as of any date a majority of the Board of Directors of Seller consists of individuals who were not either (i) directors of Seller as of the corresponding date of the previous year, (ii) selected or nominated to become directors by the Board of Directors of Seller of which a majority consisted of individuals described in clause (d)(i) above, or (iii) selected or nominated to become directors by the Board of Directors of Seller of which a majority consisted of individuals described in clause (d) (i) above and individuals

described in clause (d)(ii) above.

**SECTION 3. Certain Thresholds and Reporting Date.**

“Buy Back Threshold” shall have mean \$5,000,000.

“Facility Termination Threshold” shall mean \$15,000,000.

“Litigation Threshold” shall mean \$200,000.

“Reporting Date” shall mean the 10<sup>th</sup> day of each month, or if such day is not a Business Day, the next succeeding Business Day.

**SECTION 4. Contents of Mortgage File.**

Seller shall be required to deliver the items as more particularly described in the Customer Guide.

**SECTION 5. Warehouse and Other Fees.**

(d) Commitment Fee. Seller shall pay to Buyer in immediately available funds, earned on the date of the Agreement, a non - refundable Commitment Fee equal to 0.25% multiplied by the Maximum Purchase Price. The Commitment Fee shall be paid in full on the date hereof.

(e) Non-Use Fee. Commencing on the thirty-first (31<sup>st</sup>) day following the date hereof, no later than the 15<sup>th</sup> day (and if such day is not a Business Day, the following Business Day) following the end of each calendar month, Seller shall pay in immediately available funds to Buyer a non - refundable Non-Use Fee equal to the product of (a) 0.25% per annum calculated on the basis of a 360 day year and (b) the excess of (i) 50% of Maximum Purchase Price over (ii) the average daily Purchase Price of the Purchased Mortgage Loans during such calendar month.

(f) Aging Exception Fee. \$10 per day per Purchased Mortgage Loan that is past its applicable Aging Limit.

(g) Asset Handling Fee. For each Purchased Mortgage Loan \$65 per Purchased Mortgage Loan.

(h) Purchase and Repurchase Wire Fee. \$10 per wire.

(i) Legal Fee Cap. \$20,000.

(j) Due Diligence Cap. \$6,000 per year.

Asset Handling Fees and Purchase and Repurchase Wire Fees will be deducted from investor remittances prior to the release of proceeds to Seller. All other fees will be due within 15 days of notification to Seller.

**SECTION 6. Account Information.**

(l) INBOUND ACCOUNT:

“M/I Financial Corp. Inbound Account in trust for Sterling National Bank.”  
Account No. 5300000830  
Reference: SNB- M/I Financial Corp.,  
ABA No. 026007773

(m) HAIRCUT ACCOUNT:

“M/I Financial Corp.Haircut Account in trust for Sterling National Bank.”  
Account No. 5300000822  
Reference: SNB- M/I Financial Corp.,  
ABA No. 026007773

(n) OPERATING ACCOUNT

“M/I Financial Corp. Operating Account in trust for Sterling National Bank.”  
Account No. 5300000849  
Reference: SNB- M/I Financial Corp.,  
ABA No. 026007773

**SECTION 7. List of Responsible Officers**

**SELLER NOTICES**

Name: M/I Financial Corp.  
Telephone: 614-418-8655  
Facsimile: 614 418-8686

Address: 3 Easton Oval, Suite 540  
Columbus, OH 43219

**SELLER AUTHORIZATIONS**

Any of the persons whose signatures and titles appear below are authorized, acting singly, to act for Seller under this Agreement:

<b>Name</b>	<b>Title</b>	<b>Signature</b>
Paul Rosen	President/CEO	
Derek Klutch	COO/EVP	

REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Buyer, with respect to each Mortgage Loan, that as of the Purchase Date for the purchase of any Purchased Mortgage Loans by Buyer from Seller and as of the date of this Agreement and any Transaction hereunder and at all times while the Facility Documents and any Transaction hereunder is in full force and effect, that the following are true and correct. For purposes of this Schedule 3 and the representations and warranties set forth herein, a breach of a representation or warranty shall be deemed to have been cured with respect to a Mortgage Loan if and when Seller has taken or caused to be taken action such that the event, circumstance or condition that gave rise to such breach no longer adversely affects such Mortgage Loan, including, without limitation, the repurchase of such Mortgage Loan by Seller in accordance with the provisions hereof. With respect to those representations and warranties which are made to the best of Seller's knowledge, if it is discovered by Seller or Buyer that the substance of such representation and warranty is inaccurate, notwithstanding Seller's lack of knowledge with respect to the substance of such representation and warranty, such inaccuracy shall be deemed a breach of the applicable representation and warranty.

(a) Mortgage Loans as Described. The information set forth in the Mortgage Loan Schedule is complete, true and correct in all material respects;

(b) Payments Current. No payment required under the Mortgage Loan is 30 days or more delinquent nor has any payment under the Mortgage Loan been 30 days or more delinquent at any time since the origination of the Mortgage Loan;

(c) Origination Date. The Purchase Date is no more than thirty (30) days following the origination date;

(d) Approved Underwriting Guidelines. The Mortgage Loan satisfies the Approved Underwriting Guidelines;

(e) No Outstanding Charges. There are no defaults in complying with the terms of the Mortgage, and all taxes, governmental assessments, insurance premiums, water, sewer and municipal charges, leasehold payments or ground rents which previously became due and owing have been paid, or an escrow of funds has been established in an amount sufficient to pay for every such item which remains unpaid and which has been assessed but is not yet due and payable. Seller has not advanced funds, or induced, solicited or knowingly received any advance of funds by a party other than the Mortgagor, directly or indirectly, for the payment of any amount required under the Mortgage Loan, except for interest accruing from the date of the Mortgage Note or date of disbursement of the Mortgage Loan proceeds, whichever is earlier, to the day which precedes by one month the Due Date of the first installment of principal and interest;

(f) Original Terms Unmodified. The terms of the Mortgage Note and Mortgage have not been impaired, waived, altered or modified in any respect, from the date of origination except by a written instrument which has been recorded, if necessary to protect the interests of Buyer, and which has been delivered to Buyer or to such other Person as Buyer shall designate in writing, and the terms of which are reflected in the Mortgage Loan Schedule. The substance of any such waiver, alteration or modification has been approved by the issuer of any related PMI Policy and the title insurer, if any, to the extent required by the policy, and its terms are reflected on the Mortgage Loan Schedule, if applicable. No Mortgagor has been

released, in whole or in part, except in connection with an assumption agreement, approved by the issuer of any related PMI Policy and the issuer of the title insurer, to the extent required by the policy, and which assumption agreement is part of the Mortgage Loan File delivered to Buyer or to such other Person as Buyer shall designate in writing and the terms of which are reflected in the Mortgage Loan Schedule;

(g) No Defenses. The Mortgage Loan is not subject to any right of rescission, set-off, counterclaim or defense, including without limitation the defense of usury, nor will the operation of any of the terms of the Mortgage Note or the Mortgage, or the exercise of any right thereunder, render either the Mortgage Note or the Mortgage unenforceable, in whole or in part, or subject to any right of rescission, set-off, counterclaim or defense, including without limitation the defense of usury, and no such right of rescission, set-off, counterclaim or defense has been asserted with respect thereto, and no Mortgagor was a debtor in any state or federal bankruptcy or insolvency proceeding at, or subsequent to, the time the Mortgage Loan was originated;

(h) Hazard Insurance. Pursuant to the terms of the Mortgage, all buildings or other improvements upon the Mortgaged Property are insured by a generally acceptable insurer against loss by fire, hazards of extended coverage and such other hazards as are provided for in the Fannie Mae Guides or by Freddie Mac, as well as all additional requirements set forth in the Approved Underwriting Guidelines. If required by the National Flood Insurance Act of 1968, as amended, each Mortgage Loan is covered by a flood insurance policy meeting the requirements of the current guidelines of the Federal Insurance Administration as in effect which policy conforms to Fannie Mae and Freddie Mac, as well as all additional requirements set forth in the Servicing Agreement. All individual insurance policies contain a standard mortgagee clause naming Seller and its successors and assigns as mortgagee, and all premiums thereon have been paid and such policies may not be reduced, terminated or cancelled without 30 days' prior written notice to the mortgagee. The Mortgage obligates the Mortgagor thereunder to maintain the hazard insurance policy at the Mortgagor's cost and expense, and on the Mortgagor's failure to do so, authorizes the holder of the Mortgage to obtain and maintain such insurance at such Mortgagor's cost and expense, and to seek reimbursement therefor from the Mortgagor. Where required by state law or regulation, the Mortgagor has been given an opportunity to choose the carrier of the required hazard insurance, provided the policy is not a "master" or "blanket" hazard insurance policy covering a condominium, or any hazard insurance policy covering the common facilities of a planned unit development. The hazard insurance policy is the valid and binding obligation of the insurer, is in full force and effect, and will be in full force and effect and inure to the benefit of Buyer upon the consummation of the transactions contemplated by this Agreement. Seller has not engaged in, and has no knowledge of the Mortgagor's or any servicer's having engaged in, any act or omission which would impair the coverage of any such policy, the benefits of the endorsement provided for herein, or the validity and binding effect of such policy, including, without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other person or entity, and no such unlawful items have been received, retained or realized by Seller;

(i) Compliance with Applicable Laws. Any and all requirements of any federal, state or local law including, without limitation, usury, truth-in-lending, real estate settlement procedures, consumer credit protection, anti-predatory lending laws, laws covering fair housing, fair credit reporting, community reinvestment, homeowners equity protection, equal credit opportunity and disclosure laws or unfair and deceptive practices laws applicable to the Mortgage Loan have been complied with, the consummation of the transactions contemplated hereby will not involve the violation of any such laws or regulations. Seller shall maintain in its possession, available for Buyer's inspection, and shall deliver to Buyer upon demand, evidence of compliance with all requirements set forth herein;



(j) No Satisfaction of Mortgage. The Mortgage has not been satisfied, canceled, subordinated or rescinded, in whole or in part, and the Mortgaged Property has not been released from the lien of the Mortgage, in whole or in part, nor has any instrument been executed that would effect any such release, cancellation, subordination or rescission. Seller has not waived the performance by the Mortgagor of any action, if the Mortgagor's failure to perform such action would cause the Mortgage Loan to be in default, nor has Seller waived any default resulting from any action or inaction by the Mortgagor;

(k) Location and Type of Mortgaged Property. The Mortgaged Property is a fee simple property located in the state identified in the Mortgage Loan Schedule except that with respect to real property located in jurisdictions in which the use of leasehold estates for residential properties is a widely-accepted practice, the Mortgaged Property may be a leasehold estate and consists of a single parcel of real property with a detached single family residence erected thereon, or a two- to four- family dwelling, or an individual residential condominium or cooperative unit in a low- rise or high-rise condominium or cooperative project, or an individual unit in a planned unit development and that no residence or dwelling is (i) a mobile home or (ii) a manufactured home, provided, however, that any condominium or cooperative unit or planned unit development shall not fall within any of the "Ineligible Projects" of part VIII, Section 102 of the Fannie Mae Selling Guide and shall conform with the Approved Underwriting Guidelines. The Mortgaged Property is not raw land. As of the date of origination, no portion of the Mortgaged Property was used for commercial purposes, and since the date of origination, no portion of the Mortgaged Property has been used for commercial purposes; provided, that Mortgaged Properties which contain a home office shall not be considered as being used for commercial purposes as long as the Mortgaged Property has not been altered for commercial purposes and is not storing any chemicals or raw materials other than those commonly used for homeowner repair, maintenance and/or household purposes;

(l) Valid First Lien. Each Mortgage is a valid and subsisting first lien of record on a single parcel of real estate constituting the Mortgaged Property, including all buildings and improvements on the Mortgaged Property and all installations and mechanical, electrical, plumbing, heating and air conditioning systems located in or annexed to such buildings, and all additions, alterations and replacements made at any time, subject in all cases to the exceptions to title set forth in the title insurance policy with respect to the related Mortgage Loan, which exceptions are generally acceptable to prudent mortgage lending companies, and such other exceptions to which similar properties are commonly subject and which do not individually, or in the aggregate, materially and adversely affect the benefits of the security intended to be provided by such Mortgage. In no event shall any Mortgage Loan be in a lien position more junior than a second lien. The lien of the Mortgage is subject only to:

(i) the lien of current real property taxes and assessments not yet due and payable;

(ii) covenants, conditions and restrictions, rights of way, easements and other matters of the public record as of the date of recording acceptable to prudent mortgage lending institutions generally and specifically referred to in the lender's title insurance policy delivered to the originator of the Mortgage Loan and (a) specifically referred to or otherwise considered in the appraisal made for the originator of the Mortgage Loan or (b) which do not adversely affect the Appraised Value of the Mortgaged Property set forth in such appraisal; and

(iii) other matters to which like properties are commonly subject which do not materially interfere with the benefits of the security intended to be provided by the Mortgage or the use, enjoyment, value or marketability of the related Mortgaged Property.

Any security agreement, chattel mortgage or equivalent document related to and delivered in connection

with the Mortgage Loan establishes and creates a valid, subsisting, enforceable and perfected first lien and first priority security interest on the property described therein and Seller has full right to sell and assign the same to Buyer. The Mortgaged Property was not, as of the date of origination of the Mortgage Loan, subject to a mortgage, deed of trust, deed to secure debt or other security instrument creating a lien subordinate to the lien of the Mortgage;

(m) Validity of Mortgage Documents. Each of the Mortgage Note, the Mortgage and any other agreement executed and delivered by a Mortgagor in connection with a Mortgage Loan is the legal, valid and binding obligation of the maker thereof enforceable in accordance with its terms. To Seller's knowledge, all parties to the Mortgage Note, the Mortgage and any other such related agreement (other than Seller) had legal capacity to enter into the Mortgage Loan and to execute and deliver the Mortgage Note, the Mortgage and any such agreement, and the Mortgage Note, the Mortgage and any other such related agreement have been duly and properly executed by other such related parties. The documents, instruments and agreements submitted for loan underwriting were not falsified and contain no untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the information and statements therein not misleading. No fraud, error, omission, misrepresentation, negligence or similar occurrence with respect to a Mortgage Loan has taken place on the part of any Person, including without limitation, the Mortgagor, any appraiser, any builder or developer, or any other party involved in the origination or servicing of the Mortgage Loan or in the application or any insurance in relation to such Mortgage Loan. Seller has reviewed all of the documents constituting the Servicing File and has made such inquiries as it deems necessary to make and confirm the accuracy of the representations set forth herein;

(n) Full Disbursement of Proceeds. The Mortgage Loan has been closed and the proceeds of the Mortgage Loan have been fully disbursed and there is no requirement for future advances thereunder, and any and all requirements as to completion of any on-site or off-site improvement and as to disbursements of any escrow funds therefor have been complied with. All costs, fees and expenses incurred in making or closing the Mortgage Loan and the recording of the Mortgage were paid, and the Mortgagor is not entitled to any refund of any amounts paid or due under the Mortgage Note or Mortgage. All points and fees related to each Mortgage Loan were disclosed in writing to the Mortgagor in accordance with applicable state and federal law and regulation. No Mortgagor was charged "points and fees" (whether or not financed) in an amount that exceeds the greater of (1) 5% of the principal amount of the Mortgage Loan or (2) \$1,000; such limitation is calculated in accordance with Fannie Mae's requirements as set forth in the Fannie Mae Selling Guide. All fees and charges (including finance charges) and whether or not financed, assessed, collected or to be collected in connection with the origination and servicing of each Mortgage Loan has been disclosed in writing to the Mortgagor in accordance with applicable state and federal law and regulation;

(o) Ownership. Seller is the sole owner of record and holder of the Mortgage Loan and the indebtedness evidenced by each Mortgage Note and upon the sale of the Mortgage Loans to Buyer, Seller will retain the Mortgage Files or any part thereof with respect thereto not delivered to Buyer, Buyer or Buyer's designee, in trust only for the purpose of servicing and supervising the servicing of each Mortgage Loan. The Mortgage Loan is not assigned or pledged, and Seller has good, indefeasible and marketable title thereto, and has full right to transfer and sell the Mortgage Loan to Buyer free and clear of any encumbrance, equity, participation interest, lien, pledge, charge, claim or security interest, and has full right and authority subject to no interest or participation of, or agreement with, any other party, to sell and assign each Mortgage Loan pursuant to this Agreement and following the sale of each Mortgage Loan, Buyer will own such Mortgage Loan free and clear of any encumbrance, equity, participation interest, lien, pledge, charge, claim or security interest. Seller intends to relinquish all rights to possess, control and monitor the Mortgage Loan;

(p) Doing Business. To Seller's knowledge, all parties which have had any interest in the Mortgage Loan, whether as mortgagee, assignee, pledgee or otherwise, are (or, during the period in which they held and disposed of such interest, were) (1) in compliance with any and all applicable licensing requirements of the laws of the state wherein the Mortgaged Property is located, and (2) either (i) organized under the laws of such state, or (ii) qualified to do business in such state, or (iii) a federal savings and loan association, a savings bank or a national bank having a principal office in such state, or (3) not doing business in such state;

(q) LTV, PMI Policy. No Mortgage Loan has an LTV greater than 100%. The LTV of the Mortgage Loan either is not more than 80% or the excess over 75% of the Appraised Value is and will be insured as to payment defaults by a PMI Policy until the LTV of such Mortgage Loan is reduced to 80%. All provisions of such PMI Policy have been and are being complied with, such policy is in full force and effect, and all premiums due thereunder have been paid. Any Mortgage Loan subject to a PMI Policy obligates the Mortgagor thereunder to maintain the PMI Policy and to pay all premiums and charges in connection therewith. Each Mortgage Loan which is represented to Buyer to have, or to be eligible for, FHA insurance is insured, or eligible to be insured, pursuant to the National Housing Act. Each Mortgage Loan which is represented by Seller to be guaranteed, or to be eligible for guaranty, by the VA is guaranteed, or eligible to be guaranteed, under the provisions of Chapter 37 of Title 38 of the United States Code. As to each FHA insurance certificate or each VA guaranty certificate, Seller has complied with applicable provisions of the insurance for guaranty contract and federal statutes and regulations, all premiums or other charges due in connection with such insurance or guarantee have been paid, there has been no act or omission which would or may invalidate any such insurance or guaranty, and the insurance or guaranty is, or when issued, will be, in full force and effect with respect to each Mortgage Loan. The Mortgage Interest Rate for the Mortgage Loan as set forth on the Mortgage Loan Schedule is net of any such insurance premium. No action, inaction, or event has occurred and no state of facts exists that has, or will result in the exclusion from, denial of, or defense to insurance coverage;

(r) Title Insurance. The Mortgage Loan is covered by an ALTA lender's title insurance policy, or with respect to any Mortgage Loan for which the related Mortgaged Property is located in California a CLTA lender's title insurance policy, or other generally acceptable form of policy or insurance acceptable to Fannie Mae or Freddie Mac and each such title insurance policy is issued by a title insurer acceptable to Fannie Mae or Freddie Mac and qualified to do business in the jurisdiction where the Mortgaged Property is located, insuring Seller, its successors and assigns, as to the first priority lien of the Mortgage in the original principal amount of the Mortgage Loan, subject only to the exceptions contained in clauses (1), (2) and (3) of paragraph (j) of this Schedule 3, and in the case of adjustable rate Mortgage Loans, against any loss by reason of the invalidity or unenforceability of the lien resulting from the provisions of the Mortgage providing for adjustment to the Mortgage Interest Rate and Monthly Payment. Where required by state law or regulation, the Mortgagor has been given the opportunity to choose the carrier of the required mortgage title insurance. Additionally, such lender's title insurance policy affirmatively insures ingress and egress, and against encroachments by or upon the Mortgaged Property or any interest therein. The title policy does not contain any special exceptions (other than the standard exclusions) for zoning and uses and has been marked to delete the standard survey exception or to replace the standard survey exception with a specific survey reading. Seller, its successors and assigns, are the sole insureds of such lender's title insurance policy, and such lender's title insurance policy is valid and remains in full force and effect and will be in force and effect upon the consummation of the transactions contemplated by this Agreement. No claims have been made under such lender's title insurance policy, and no prior holder of the related Mortgage, including Seller, has done, by act or omission, anything which would impair the coverage of such lender's title insurance policy, including without limitation, no unlawful fee, commission, kickback or other unlawful compensation or value of any kind has been or will be received, retained or realized by any attorney, firm or other Person

or entity, and no such unlawful items have been received, retained or realized by Seller;

(s) No Defaults. Other than payments due but not yet 30 days or more delinquent, there is no default, breach, violation or event which would permit acceleration existing under the Mortgage or the Mortgage Note and no event which, with the passage of time or with notice and the expiration of any grace or cure period, would constitute a default, breach, violation or event which would permit acceleration, and neither Seller nor any of its affiliates nor any of their respective predecessors, have waived any default, breach, violation or event which would permit acceleration;

(t) No Mechanics' Liens. There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are outstanding that under law could give rise to such liens) affecting the related Mortgaged Property which are or may be liens prior to, or equal or coordinate with, the lien of the related Mortgage;

(u) Location of Improvements; No Encroachments. All improvements which were considered in determining the Appraised Value of the Mortgaged Property lay wholly within the boundaries and building restriction lines of the Mortgaged Property, and no improvements on adjoining properties encroach upon the Mortgaged Property. No improvement located on or being part of the Mortgaged Property is in violation of any applicable zoning law or regulation;

(v) Origination; Payment Terms. The Mortgage Loan was originated by Seller. Seller is a mortgagee approved by the Secretary of Housing and Urban Development pursuant to Sections 203 and 211 of the National Housing Act, a savings and loan association, a savings bank, a commercial bank, credit union, insurance company or other similar institution which is supervised and examined by a federal or state authority. The documents, instruments and agreements submitted for loan underwriting were not falsified and contain no untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the information and statements therein not misleading. No Mortgage Loan contains terms or provisions which would result in negative amortization. Principal payments on the Mortgage Loan commenced no more than sixty days after funds were disbursed in connection with the Mortgage Loan. The mortgage interest rate as well as the lifetime rate cap and the periodic cap are as set forth on the Mortgage Loan Schedule. The Mortgage Note is payable in equal monthly installments of principal and interest, which installments of interest, with respect to adjustable rate Mortgage Loans, are subject to change due to the adjustments to the mortgage interest rate on each interest rate adjustment date, with interest calculated and payable in arrears, sufficient to amortize the Mortgage Loan fully by the stated maturity date, over an original term of not more than thirty years from commencement of amortization. Unless otherwise specified, the Mortgage Loan is payable on the first day of each month. There are no Mortgage Loans which contain a provision allowing the Mortgagor to convert the Mortgage Note from an adjustable interest rate Mortgage Note to a fixed interest rate Mortgage Note;

(w) Customary Provisions. The Mortgage contains customary and enforceable provisions such as to render the rights and remedies of the holder thereof adequate for the realization against the Mortgaged Property of the benefits of the security provided thereby, including, (i) in the case of a Mortgage designated as a deed of trust, by trustee's sale, and (ii) otherwise by judicial foreclosure. Upon default by a Mortgagor on a Mortgage Loan and foreclosure on, or trustee's sale of, the Mortgaged Property pursuant to the proper procedures, the holder of the Mortgage Loan will be able to deliver good and merchantable title to the Mortgaged Property. There is no homestead or other exemption or other right available to the Mortgagor or any other person, or restriction on Seller or any other person, including without limitation, any federal, state or local, law, ordinance, decree, regulation, guidance, attorney general action, or other pronouncement, whether temporary or permanent in nature, that would interfere with, restrict or delay, either

(y) the ability of Seller, Buyer or any servicer or any successor servicer to sell the related Mortgaged Property at a trustee's sale or otherwise, or (z) the ability of Seller, Buyer or any servicer or any successor servicer to foreclose on the related Mortgage;

(x) Conformance with Agency and Approved Underwriting Guidelines. The Mortgage Loan was underwritten in accordance with the Approved Underwriting Guidelines (a copy of which has been delivered to Buyer). The Mortgage Note and Mortgage are on forms acceptable to Freddie Mac or Fannie Mae and Seller has not made any representations to a Mortgagor that are inconsistent with the mortgage instruments used. The methodology used in underwriting the extension of credit for each Mortgage Loan employs objective quantitative principles which relate the Mortgagor's credit characteristics, income, assets and liabilities (as applicable to a particular underwriting program) to the proposed payment, and such underwriting methodology does not rely on the extent of the Mortgagor's equity in the collateral as the principal determining factor in approving such credit extension. Such underwriting methodology confirmed that at the time of origination (application/approval) the Mortgagor had a reasonable ability to make timely payments on the Mortgage Loan;

(y) Occupancy of the Mortgaged Property. The Mortgaged Property is lawfully occupied under applicable law. All inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the Mortgaged Property and, with respect to the use and occupancy of the same, including but not limited to certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities;

(z) No Additional Collateral. The Mortgage Note is not and has not been secured by any collateral except the lien of the corresponding Mortgage and the security interest of any applicable security agreement or chattel mortgage referred to in clause (j) above;

(aa) Deeds of Trust. In the event the Mortgage constitutes a deed of trust, a trustee, authorized and duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in the Mortgage, and no fees or expenses are or will become payable by Buyer to the trustee under the deed of trust, except in connection with a trustee's sale after default by the Mortgagor;

(bb) Acceptable Investment. There are no circumstances or conditions with respect to the Mortgage, the Mortgaged Property, the Mortgagor, the Mortgage File or the Mortgagor's credit standing that can reasonably be expected to cause private institutional investors to regard the Mortgage Loan as an unacceptable investment, cause the Mortgage Loan to become delinquent, or adversely affect the value or marketability of the Mortgage Loan, or cause the Mortgage Loans to prepay during any period materially faster or slower than the mortgage loans originated by Seller generally;

(cc) Delivery of Mortgage Documents. The Mortgage Note, the Mortgage, the Assignment of Mortgage and any other documents required to be delivered pursuant to the Customer Guide for each Mortgage Loan have been delivered to Buyer. Seller is in possession of a complete, true and accurate Mortgage File in compliance with the Customer Guide, except for such documents the originals of which have been delivered to Buyer;

(dd) Condominiums/Planned Unit Developments. If the Mortgaged Property is a condominium unit or a planned unit development (other than a de minimis planned unit development) such condominium or planned unit development project is (i) acceptable to Fannie Mae or Freddie Mac or (ii) located in a condominium or planned unit development project which has received project approval from

Fannie Mae or Freddie Mac. The representations and warranties required by Fannie Mae with respect to such condominium or planned unit development have been satisfied and remain true and correct;

(ee) Transfer of Mortgage Loans. The Assignment of Mortgage with respect to each Mortgage Loan is in recordable form and is acceptable for recording under the laws of the jurisdiction in which the Mortgaged Property is located. The transfer, assignment and conveyance of the Mortgage Notes and the Mortgages by Seller are not subject to the bulk transfer or similar statutory provisions in effect in any applicable jurisdiction;

(ff) Due-On-Sale. With respect to each fixed rate Mortgage Loan, the Mortgage contains an enforceable provision for the acceleration of the payment of the unpaid principal balance of the Mortgage Loan in the event that the Mortgaged Property is sold or transferred without the prior written consent of the mortgagee thereunder, and to the best of Seller's knowledge, such provision is enforceable;

(gg) Assumability. With respect to each adjustable rate Mortgage Loan, the Mortgage Loan documents provide that after the related first interest rate adjustment date, a related Mortgage Loan may only be assumed if the party assuming such Mortgage Loan meets certain credit requirements stated in the Mortgage Loan documents;

(hh) No Buydown Provisions; No Graduated Payments or Contingent Interests. The Mortgage Loan does not contain provisions pursuant to which Monthly Payments are paid or partially paid with funds deposited in any separate account established by Seller, the Mortgagor, or anyone on behalf of the Mortgagor, or paid by any source other than the Mortgagor nor does it contain any other similar provisions which may constitute a "buydown" provision. The Mortgage Loan is not a graduated payment mortgage loan and the Mortgage Loan does not have a shared appreciation or other contingent interest feature;

(ii) Consolidation of Future Advances. Any future advances made to the Mortgagor prior to the Purchase Date have been consolidated with the outstanding principal amount secured by the Mortgage, and the secured principal amount, as consolidated, bears a single interest rate and single repayment term. The lien of the Mortgage securing the consolidated principal amount is expressly insured as having first lien priority by a title insurance policy, an endorsement to the policy insuring the mortgagee's consolidated interest or by other title evidence acceptable to Fannie Mae and Freddie Mac. The consolidated principal amount does not exceed the original principal amount of the Mortgage Loan;

(jj) Mortgaged Property Undamaged; No Condemnation Proceedings. There is no proceeding pending or threatened for the total or partial condemnation of the Mortgaged Property. The Mortgaged Property is undamaged by waste, fire, earthquake or earth movement, windstorm, flood, tornado or other casualty so as to affect adversely the value of the Mortgaged Property as security for the Mortgage Loan or the use for which the premises were intended and each Mortgaged Property is in good repair;

(kk) Collection Practices; Escrow Deposits; Interest Rate Adjustments. The origination, servicing and collection practices used by Seller with respect to the Mortgage Loan have been in all respects in compliance with Accepted Servicing Practices, applicable laws and regulations, and have been in all respects legal and proper and prudent in the mortgage origination and servicing business. With respect to escrow deposits and Escrow Payments, all such payments are in the possession of, or under the control of, Seller and there exist no deficiencies in connection therewith for which customary arrangements for repayment thereof have not been made. All Escrow Payments have been collected in full compliance with state and federal law and the provisions of the related Mortgage Note and Mortgage. An escrow of funds is not prohibited by applicable law and has been established in an amount sufficient to pay for every item that

remains unpaid and has been assessed but is not yet due and payable. No escrow deposits or Escrow Payments or other charges or payments due Seller have been capitalized under the Mortgage or the Mortgage Note. All mortgage interest rate adjustments have been made in strict compliance with state and federal law and the terms of the related Mortgage and Mortgage Note on the related interest rate adjustment date. If, pursuant to the terms of the Mortgage Note, another index was selected for determining the mortgage interest rate, the same index was used with respect to each Mortgage Note which required a new index to be selected, and such selection did not conflict with the terms of the related Mortgage Note. Seller executed and delivered any and all notices required under applicable law and the terms of the related Mortgage Note and Mortgage regarding the mortgage interest rate and the Monthly Payment adjustments. Any interest required to be paid pursuant to state, federal and local law has been properly paid and credited;

(ll) No Violation of Environmental Laws. The Mortgaged Property is free from any and all toxic or hazardous substances and there exists no violation of any local, state or federal environmental law, rule or regulation in any material respect. There is no pending action or proceeding directly involving the Mortgaged Property in which compliance with any environmental law, rule or regulation is an issue; there is no violation of any environmental law, rule or regulation with respect to the Mortgaged Property; and nothing further remains to be done to satisfy in full all requirements of each such law, rule or regulation constituting a prerequisite to use and enjoyment of said property;

(mm) Servicemembers Civil Relief Act of 2003. The Mortgagor has not notified Seller, and Seller has no knowledge of any relief requested or allowed to the Mortgagor under the Servicemembers Civil Relief Act of 2003;

(nn) Appraisal. The Mortgage File contains an Appraisal of the related Mortgaged Property signed prior to the approval of the Mortgage Loan application by a qualified appraiser, duly appointed by Seller, who had no interest, direct or indirect in the Mortgaged Property or in any loan made on the security thereof, and whose compensation is not affected by the approval or disapproval of the Mortgage Loan, and the appraisal and appraiser both satisfy the requirements of Fannie Mae or Freddie Mac and Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the regulations promulgated thereunder, all as in effect on the date the Mortgage Loan was originated;

(oo) Disclosure Materials. The Mortgagor has executed a statement to the effect that the Mortgagor has received all disclosure materials required by, and Seller has complied with, all applicable law with respect to the making of the Mortgage Loans. Seller shall maintain such statement in the Mortgage File;

(pp) Construction or Rehabilitation of Mortgaged Property. No Mortgage Loan was made in connection with the construction or rehabilitation of a Mortgaged Property or facilitating the trade - in or exchange of a Mortgaged Property;

(qq) No Defense to Insurance Coverage. Seller has caused or will cause to be performed any and all acts required to preserve the rights and remedies of Buyer in any insurance policies applicable to the Mortgage Loans including, without limitation, any necessary notifications of insurers, assignments of policies or interests therein, and establishments of coinsured, joint loss payee and mortgagee rights in favor of Buyer. No action has been taken or failed to be taken, no event has occurred and no state of facts exists or has existed on or prior to the Purchase Date (whether or not known to Seller on or prior to such date) which has resulted or will result in an exclusion from, denial of, or defense to coverage under any applicable, special hazard insurance policy, or applicable PMI Policy or bankruptcy bond (including, without limitation, any exclusions, denials or defenses which would limit or reduce the availability of the timely payment of

the full amount of the loss otherwise due thereunder to the insured) whether arising out of actions, representations, errors, omissions, negligence, or fraud of Seller, the related Mortgagor or any party involved in the application for such coverage, including the appraisal, plans and specifications and other exhibits or documents submitted therewith to the insurer under such insurance policy, or for any other reason under such coverage, but not including the failure of such insurer to pay by reason of such insurer's breach of such insurance policy or such insurer's financial inability to pay;

(rr) Escrow Analysis. With respect to each Mortgage, Seller has within the last twelve months (unless such Mortgage was originated within such twelve month period) analyzed the required Escrow Payments for each Mortgage and adjusted the amount of such payments so that, assuming all required payments are timely made, any deficiency will be eliminated on or before the first anniversary of such analysis, or any overage will be refunded to the Mortgagor, in accordance with Real Estate Settlement Procedures Act and any other applicable law;

(ss) Credit Information. As to each consumer report (as defined in the Fair Credit Reporting Act, Public Law 91 - 508) or other credit information furnished by Seller to Buyer, that Seller has full right and authority and is not precluded by law or contract from furnishing such information to Buyer and Buyer is not precluded from furnishing the same to any subsequent or prospective purchaser of such Mortgage. Seller shall hold Buyer harmless from any and all damages, losses, costs and expenses (including attorney's fees) arising from disclosure of credit information in connection with Buyer's secondary marketing operations and the purchase and sale of mortgages or Servicing Rights thereto;

(tt) Leaseholds. If the Mortgage Loan is secured by a long - term residential lease, (1) the lessor under the lease holds a fee simple interest in the land; (2) the terms of such lease expressly permit the mortgaging of the leasehold estate, the assignment of the lease without the lessor's consent and the acquisition by the holder of the Mortgage of the rights of the lessee upon foreclosure or assignment in lieu of foreclosure or provide the holder of the Mortgage with substantially similar protections; (3) the terms of such lease do not (a) allow the termination thereof upon the lessee's default without the holder of the Mortgage being entitled to receive written notice of, and opportunity to cure, such default, (b) allow the termination of the lease in the event of damage or destruction as long as the Mortgage is in existence, (c) prohibit the holder of the Mortgage from being insured (or receiving proceeds of insurance) under the hazard insurance policy or policies relating to the Mortgaged Property or (d) permit any increase in rent other than pre-established increases set forth in the lease; (4) the original term of such lease is not less than 15 years; (5) the term of such lease does not terminate earlier than five years after the maturity date of the Mortgage Note; and (6) the Mortgaged Property is located in a jurisdiction in which the use of leasehold estates in transferring ownership in residential properties is a widely accepted practice;

(uu) Prepayment Penalty. Each Mortgage Loan is subject to a prepayment penalty as provided in the related Mortgage Note unless otherwise as set forth on the Mortgage Loan Schedule related to the Agreement. Each Mortgage Loan that is subject to a prepayment penalty: (i) prior to the Mortgage Loan's origination, the Mortgagor agreed to such premium in exchange for a monetary benefit, including but not limited to a rate or fee reduction, (ii) prior to the Mortgage Loan's origination, the Mortgagor was offered the option of obtaining a Mortgage Loan that did not require prepayment penalty, (iii) the prepayment penalty is disclosed to the Mortgagor in the Mortgage Loan documents pursuant to applicable state and federal law, (iv) the duration of the prepayment period shall not exceed three (3) years from the date of the note, and (v) notwithstanding any state or federal law to the contrary, the Servicer shall not impose such prepayment premium in any instance when the mortgage debt is accelerated as the result of the borrower's default in making the loan payments;



(vv) Predatory Lending Regulations; High Cost Loans. No Mortgage Loan (a) is subject to the requirement of the Home Ownership and Equity Protection Act of 1994, Section 226.32 of Regulation Z (“HOEPA”) or any similar state law (relating to high interest rate credit/lending transactions), (b) is classified as a High Cost Mortgage Loan, (c) is subject to any law, regulation or rule that (i) imposes liability on a mortgagee or a lender to a mortgagee for upkeep to a Mortgaged Property prior to completion of foreclosure thereon, or (ii) imposes liability on a lender to a mortgagee for acts or omissions of the mortgagee or otherwise defines a mortgagee in a manner that would include a lender to a mortgagee, or (d) is a “residential mortgage transaction” within the meaning of the federal Truth in Lending Act, Regulation Z, 12 CFR Section 226.32, has either an “annual percentage rate” or “total points and fees” payable by the borrower that exceeds the applicable thresholds under HOEPA. No Mortgagor was encouraged or required to select a Mortgage Loan product offered by Seller or the originator which is a higher cost product designed for less creditworthy borrowers, unless at the time of the Mortgage Loan’s origination, such Mortgagor did not qualify taking into account credit history and debt to income ratios for a lower cost credit product then offered by Seller or originator. If, at the time of loan application, the Mortgagor qualified for a lower cost credit product then offered by Seller or the originator’s standard mortgage channel (if applicable), Seller or the originator directed the Mortgagor towards such standard mortgage channel, or offered such lower-cost credit product to the Mortgagor;

(ww) Ohio Stated Income Exclusion. Each Mortgage Loan with an origination date on or after January 1, 2007 which is secured by Mortgaged Property located in Ohio was originated pursuant to a program which requires verification of the borrower's income in accordance with “Full and Alternative Documentation” programs as described within the Approved Underwriting Guidelines;

(xx) Origination. No predatory or deceptive lending practices, including, without limitation, the extension of credit without regard to the ability of the Mortgagor to repay and the extension of credit which has no apparent benefit to the Mortgagor, were employed in the origination of the Mortgage Loan;

(yy) Single-premium Credit or Life Insurance Policy. In connection with the origination of any Mortgage Loan, no proceeds from any Mortgage Loan were used to purchase any single premium credit insurance policy (e.g., life, mortgage, disability, accident, unemployment, or health insurance product) or debt cancellation agreement as a condition of obtaining the extension of credit. No Mortgagor obtained a prepaid single-premium credit insurance policy (e.g., life, mortgage, disability, accident, unemployment, or health insurance product) or debt cancellation agreement in connection with the origination of the Mortgage Loan; No proceeds from any Mortgage Loan were used to purchase single premium credit insurance policies (e.g., life, mortgage, disability, accident, unemployment, or health insurance product) or debt cancellation agreements as part of the origination of, or as a condition to closing, such Mortgage Loan;

(zz) Tax Service Contract; Flood Certification Contract. Each Mortgage Loan is covered by a paid in full, life of loan, tax service contract and a paid in full, life of loan, flood certification contract and each of these contracts is assignable to Buyer;

([[) Qualified Mortgage. The Mortgage Loan is a “qualified mortgage” within the meaning of Section 860G(a)(3) of the Code;

(aaa) Regarding the Mortgagor. The Mortgagor is one or more natural persons and/or trustees for an Illinois land trust or a trustee under a “living trust” and such “living trust” is in compliance with Fannie Mae guidelines for such trusts;

(bbb) Recordation. Each original Mortgage was recorded and, except for those Mortgage Loans subject to the MERS identification system, all subsequent assignments of the original Mortgage (other than the assignment to Buyer) have been recorded in the appropriate jurisdictions wherein such recordation is necessary to perfect the lien thereof as against creditors of Seller, or is in the process of being recorded;

(ccc) FICO Scores. Each Mortgage Loan has a non-zero FICO score. No Mortgage Loan has a Mortgagor with a FICO score of less than 640;

(ddd) Compliance with Anti-Money Laundering Laws. Seller has complied with all applicable anti-money laundering laws and regulations, including without limitation the USA Patriot Act of 2001 (collectively, the “Anti-Money Laundering Laws”); Seller has established an anti-money laundering compliance program as required by the Anti-Money Laundering Laws, has conducted the requisite due diligence in connection with the origination of each Mortgage Loan for purposes of the Anti-Money Laundering Laws, including with respect to the legitimacy of the applicable Mortgagor and the origin of the assets used by the said Mortgagor to purchase the property in question, and maintains, and will maintain, sufficient information to identify the applicable Mortgagor for purposes of the Anti-Money Laundering Laws;

(eee) Illinois Mortgage Loans. All Mortgage Loans originated on or after September 1, 2006 secured by property located in Cook County, Illinois are recordable at the time of origination;

(fff) Georgia Mortgage Loans. No Mortgage Loan was originated on or after October 1, 2002 and before March 7, 2003, which is governed by the Georgia Fair Lending Act;

(ggg) Subprime Mortgage Loans. No Mortgage Loan is a “Subprime Home Loan” as defined in New York Banking Law 6-m, effective September 1, 2008;

(hhh) Balloon Mortgage Loans. No Mortgage Loan is a balloon mortgage loan that has an original stated maturity of less than seven (7) years;

(iii) Adjustable Rate Mortgage Loans. Each Mortgage Loan that is an adjustable rate Mortgage Loan and that has a residential loan application date on or after September 13, 2007, complies in all material respects with the Interagency Statement on Subprime Mortgage Lending, 72 FR 37569 (July 10, 2007), regardless of whether the Mortgage Loan’s originator or Seller is subject to such statement as a matter of law;

(jjj) Fannie Mae Mortgage Loans. Each Mortgage Loan that is subject to a Takeout Commitment with Fannie Mae as the Approved Investor had a principal balance at its origination that did not exceed Fannie Mae’s conforming loan limits as of the Purchase Date;

(kkk) Freddie Mac Mortgage Loans. Each Mortgage Loan that is subject to a Takeout Commitment with Freddie Mac as the Approved Investor had a principal balance at its origination that did not exceed Freddie Mac’s conforming loan limits as of the Purchase Date;

(III) Nontraditional Mortgage Loan. Each Mortgage Loan that is a “nontraditional mortgage loan” within the meaning of the Interagency Guidance on Nontraditional Mortgage Product Risks, 71 FR 58609 (October 4, 2006), and that has a residential loan application date on or after September 13, 2007, complies in all material respects with such guidance, regardless of whether the Mortgage Loan’s originator or Seller is subject to such guidance as a matter of law;

(mmm) Mandatory Arbitration. No Mortgage Loan is subject to mandatory arbitration;

(nnn) Federal Home Loan Bank. No Mortgage Loan sold by Seller hereunder is expressly prohibited by the Federal Home Loan Bank of New York's Member Products Guide;

(ooo) Wet Loans. With respect to each Mortgage Loan that is a Wet Loan, (i) such Mortgage Loan (other than a Mortgage Loan originated in the State of New York) is covered by a duly authorized, executed, delivered and enforceable Closing Protection Letter, and (ii) the Settlement Agent has been instructed in writing by the applicable Seller to hold the related Mortgage Loan documents as agent and bailee for Buyer or Buyer agent and to promptly forward such Mortgage Loan documents to Buyer; and

(ppp) FHA Mortgage Insurance; VA Mortgage Loan Guaranty. With respect to the FHA Loans, the FHA Mortgage Insurance Contract is in full force and effect and there exists no impairment to full recovery without indemnity to HUD or the FHA under FHA Mortgage Insurance. With respect to the VA Mortgage Loans, the VA Mortgage Loan Guaranty Agreement is in full force and effect to the maximum extent stated therein. All necessary steps have been taken to keep such guaranty or insurance valid, binding and enforceable and each of such is the binding, valid and enforceable obligation of the FHA and the VA, respectively, to the full extent thereof, without surcharge, set-off or defense. Each FHA Loan and VA Mortgage Loan was originated in accordance with the criteria of an Agency for purchase of such Mortgage Loans.

FORM OF OPINIONS

See Attached

\_\_\_\_\_, 20\_\_\_\_

Sterling National Bank  
650 Fifth Avenue  
New York, NY 10019-6108

Dear Sirs and Mesdames:

You have requested our opinion as counsel to M/I Financial Corp., a corporation organized and existing under the laws of Ohio (the “Seller”), with respect to certain matters in connection with that certain (i) Master Repurchase Agreement governing purchases and sales of certain Mortgage Loans, dated November 13, 2012 (the “Repurchase Agreement”), by and between Seller and Sterling National Bank (the “Buyer”). Capitalized terms not otherwise defined herein have the meanings set forth in the Repurchase Agreement.

[We] [I] have examined the following documents:

1. the Repurchase Agreement;
2. unfiled copies of each financing statements listed on Schedule 1 (collectively, the “Financing Statements”) naming Seller as Debtor and Buyer as Secured Party and describing the Repurchase Assets (as defined in the Master Repurchase Agreement) as to which security interests may be perfected by filing under the Uniform Commercial Code of the States listed on Schedule 1 (the “Filing Collateral”), which I understand will be filed in the filing offices listed on Schedule 1 (the “Filing Offices”);
3. the reports listed on Schedule 2 as to UCC financing statements (collectively, the “UCC Search Report”);
4. such other documents, records and papers as we have deemed necessary and relevant as a basis for this opinion.

To the extent [we] [I] have deemed necessary and proper, [we] [I] have relied upon the representations and warranties of Seller contained in the Repurchase Agreement. [We] [I] have assumed the authenticity of all documents submitted to me [us] as originals, the genuineness of all signatures, the legal capacity of natural persons and the conformity to the originals of all documents.

Based upon the foregoing, it is [our] [my] opinion that the execution, delivery and performance by the Seller Parties of, and the consummation of the transactions contemplated by the Governing Agreements to which it is a party do not and will not (a) violate any provision of the Seller Parties’ charter or by laws, (b) violate any applicable law, rule or regulation, (c) violate any order, writ, injunction or decree of any court or governmental authority or agency or any arbitral award applicable to the Seller Parties of which I [we] have knowledge (after due inquiry) or (d) result in a breach of, constitute a default under, require any consent under, or result in the acceleration or required prepayment of any indebtedness

pursuant to the terms of, any agreement or instrument of which I have knowledge (after due inquiry) to which either Seller Party is a party or by which it is bound or to which it is subject, or (except for the Liens created pursuant to the Repurchase Agreement) result in the creation or imposition of any Lien upon any Property of such party pursuant to the terms of any such agreement or instrument.

Very truly yours,

FORM OF SELLER'S OFFICER'S CERTIFICATE

SELLER'S OFFICER'S CERTIFICATE

The undersigned, \_\_\_\_\_ of M/I Financial Corp., an Ohio corporation (the "Seller"), hereby certifies as follows:

1. Attached hereto as Exhibit 1 is a copy of the formation documents of the Seller, as certified by the Secretary of State of the State of Ohio.

2. Neither any amendment to the formation documents of the Seller nor any other charter document with respect to the Seller has been filed, recorded or executed since \_\_\_\_\_, 201\_\_, and no authorization for the filing, recording or execution of any such amendment or other charter document is outstanding.

3. Attached hereto as Exhibit 2 is a true, correct and complete copy of the Code of Regulations of the Seller as in effect as of the date hereof and at all times since \_\_\_\_\_, \_\_\_\_\_.

4. Attached hereto as Exhibit 3 is a true, correct and complete copy of resolutions adopted by the Board of Directors of the Seller by unanimous written consent on \_\_\_\_\_, 2012 (the "Resolutions"). The Resolutions have not been further amended, modified or rescinded and are in full force and effect in the form adopted, and they are the only resolutions adopted by the Board of Directors of the Seller or by any committee of or designated by such Board of Directors relating to the execution and delivery of, and performance of the transactions contemplated by the Master Repurchase Agreement dated as of November 13, 2012 (the "Repurchase Agreement"), between the Seller and Sterling National Bank (the "Buyer"). Unless otherwise defined herein, terms in the Repurchase Agreement shall have their respective assigned meanings when used herein.

5. The Repurchase Agreement is substantially in the form approved by the Resolutions or pursuant to authority duly granted by the Resolutions.

6. Seller is an Ohio corporation duly organized, validly existing and in good standing under the laws of the State of Ohio and is qualified to transact business in, and is in good standing under, the laws of the State of Ohio.

7. No consent, approval, authorization or order of, and no filing or registration with, any court or governmental agency or regulatory body is required on the part of the Seller for the execution, delivery or performance by such party of the Repurchase Agreement and any other document delivered in connection with the transactions to which it is a party or for the sales by Seller under the Repurchase Agreement or the sale of the Repurchase Assets to Buyer and/or granting of a security interest to Buyer in the Repurchase Assets, pursuant to the Repurchase Agreement.

8. There is no action, suit, proceeding or investigation pending or, to the best of my knowledge, threatened against either the Seller which, in my judgment, either in any one instance or in the aggregate, would be reasonably likely to result in any material adverse change in the properties, business or financial condition, or prospects of such party or in any material impairment of the right or ability of such party to carry on its business substantially as now conducted or in any material liability on the part of such party or which would draw into question the validity of the Repurchase Agreement or any other document delivered in connection with the transactions to which it is a party or the Mortgage Loans or of any action taken or to be taken in connection with the transactions contemplated thereby, or which would be reasonably



likely to impair materially the ability of such party to perform under the terms of the Repurchase Agreement or any other document delivered in connection with the transactions to which it is a party or the Mortgage Loans.

9. Seller is not an “investment company”, or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended.

10. The undersigned, as a officers of the Seller or as attorney-in-fact, are authorized to and have signed manually the Repurchase Agreement or any other document delivered in connection with the transactions contemplated thereby, were duly elected or appointed, were qualified and acting as such officer or attorney-in-fact at the respective times of the signing and delivery thereof, and were duly authorized to sign such document on behalf of the Seller, and the signature of each such person appearing on any such document is the genuine signature of each such person.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, the undersigned has hereunto executed this Certificate as of the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

M/I Financial Corp., as Seller

By: \_\_\_\_\_  
Name:  
Title:

Exhibit 3 to Officer's Certificate of the Seller

RESOLUTIONS OF SELLER

Action of the Board of Directors  
Without a Meeting

The undersigned, being the directors of M/I Financial Corp., an Ohio corporation (the "Company"), do hereby consent to the taking of the following action without a meeting and do hereby adopt the following resolutions by written consent:

WHEREAS, it is in the best interests of the Company to transfer from time to time to Sterling National Bank ("Buyer") Mortgage Loans against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Company such Mortgage Loans at a date certain or on demand, against the transfer of funds by Company pursuant to the terms of the Repurchase Agreement (as defined below).

NOW, THEREFORE, be it

RESOLVED, that the execution, delivery and performance by the Company of the Master Repurchase Agreement (the "Repurchase Agreement") to be entered into by the Company and Buyer substantially in the form of the draft dated November 13, 2012, attached hereto as Exhibit A, are hereby authorized and approved and that the [President] or any [Vice President] (collectively, the "Authorized Officers") of the Company be and each of them hereby is authorized and directed to execute and deliver the Repurchase Agreement to the Buyer with such changes as the officer executing the same shall approve, his execution and delivery thereof to be conclusive evidence of such approval;

RESOLVED, that the Authorized Officers hereby are, and each hereby is, authorized to execute and deliver all such aforementioned agreements on behalf of the Company and to do or cause to be done, in the name and on behalf of the Company, any and all such acts and things, and to execute, deliver and file in the name and on behalf of the Company, any and all such agreements, applications, certificates, instructions, receipts and other documents and instruments, as such Authorized Officer may deem necessary, advisable or appropriate in order to carry out the purposes of the foregoing resolutions.

RESOLVED, that the proper officers, agents and counsel of the Company are, and each of such officers, agents and counsel is, hereby authorized for and in the name and on behalf of the Company to take all such further actions and to execute and deliver all such other agreements, instruments and documents, and to make all governmental filings, in the name and on behalf of the Company and such officers are authorized to pay such fees, taxes and expenses, as advisable in order to fully carry out the intent and accomplish the purposes of the resolutions heretofore adopted hereby.

Dated as of: \_\_\_\_\_, 201\_

DIRECTORS:

\_\_\_\_\_

FORM OF SERVICER NOTICE

[Date]

[\_\_\_\_\_], as Servicer

[ADDRESS]

Attention: \_\_\_\_\_

Master Agreement, dated as of November 13, 2012 (the "Agreement"), by and between M/I Financial Corp. (the "Seller") and Sterling National Bank (the "Buyer").

Ladies and Gentlemen:

[\_\_\_\_\_] (the "Servicer") is servicing certain mortgage loans for Seller pursuant to that certain Servicing Agreement between the Servicer and Seller. Pursuant to the Agreement between Buyer and Seller, the Servicer is hereby notified that Seller has pledged to Buyer certain mortgage loans which are serviced by Servicer which are subject to a security interest in favor of Buyer.

Upon receipt of a Notice of Event of Default from Buyer in which Buyer shall identify the mortgage loans which are then pledged to Buyer under the Agreement (the "Mortgage Loans"), the Servicer shall segregate all amounts collected on account of such Mortgage Loans, hold them in trust for the sole and exclusive benefit of Buyer, and remit such collections in accordance with Buyer's written instructions. Following such Notice of Event of Default, Servicer shall follow the instructions of Buyer with respect to the Mortgage Loans, and shall deliver to Buyer any information with respect to the Mortgage Loans reasonably requested by Buyer.

Notwithstanding any contrary information which may be delivered to the Servicer by Seller, the Servicer may conclusively rely on any information or Notice of Event of Default delivered by Buyer, and Seller shall indemnify and hold the Servicer harmless for any and all claims asserted against it for any actions taken in good faith by the Servicer in connection with the delivery of such information or Notice of Event of Default.

Please acknowledge receipt of this instruction letter by signing in the signature block below and forwarding an executed copy to Buyer promptly upon receipt. Any notices to Buyer should be delivered to the following addresses: Sterling National Bank, \_\_\_\_\_; Attention: \_\_\_\_\_; Telephone: [\_\_\_\_]; Facsimile:[\_\_\_\_].

Very truly yours,

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name:  
Title:

ACKNOWLEDGED:

[\_\_\_\_\_] ,  
as Servicer

By:  
Title:  
Telephone:  
Facsimile:

FORM OF BAILEE LETTER

**STERLING NATIONAL BANK  
c/o STERLING NATIONAL MORTGAGE, INC.  
98 Cuttermill Road, Suite 200 North  
Great Neck, NY 11021**

[Date]

[INVESTOR]

[NAME]

[ADDRESS]

Attn:

[BAILEE]

[NAME]

[ADDRESS]

Attn:

Purchase of Mortgage Loans from M/I Financial Corp. (the "Seller")

Ladies and Gentlemen:

Pursuant to the terms and conditions set forth below, Sterling National Bank, as Buyer (the "Buyer") hereby delivers to [NAME] (the "Investor") or [BAILEE], as investor's bailee (the "Bailee"), with this letter, the original executed promissory note(s) and other documentation, all as set forth on the schedule attached hereto (the "Mortgage Loan Documentation") evidencing the mortgage loan(s) described on the schedule attached hereto (the "Mortgage Loan(s)"). Buyer is the owner of, or has a perfected first lien security interest in the Mortgage Loan(s) under the Master Repurchase Agreement dated November 13, 2012 (the "Repurchase Agreement") between Buyer and Seller and expressly retains and reserves all of its rights in the Mortgage Loan(s), the Mortgage Loan Documentation and all related security instruments, files, and documents (the "Loan Documents") until the Investor has paid Buyer the Purchase Amount (as hereinafter defined) for the Mortgage Loan(s) in accordance with this letter.

By taking physical possession of this letter, the Mortgage Loan Documentation and the other Loan Documents, the Investor and Bailee each hereby agrees: (i) that the Bailee shall hold in trust, as bailee for Buyer, the Mortgage Loan Documentation and all Loan Documents that it receives related to the Mortgage Loan(s), until its status as bailee is terminated as set forth herein; (ii) that the Bailee shall not release or deliver, and the Bailee and Seller shall not authorize the release or delivery of any of the Mortgage Loan Documentation or any other Loan Documentation to Seller or any other person or take any other action with respect to the Mortgage Loan Documentation or any Loan Document which release, delivery or other action could cause the interest of Buyer to become unperfected or which could otherwise jeopardize the interest of Buyer in the Mortgage Loan(s); (iii) that Seller shall not deliver, or to cause to be delivered, the Purchase Amount (as defined below) only to the account set forth below pursuant to the terms set forth below and to honor a change in such terms only upon receipt of written instruction by Buyer; (iv) that the Bailee shall

return the Mortgage Loan Documentation immediately to Buyer at the address above (A) upon receipt of a written request by Buyer, (B) in the event that the Investor elects not to purchase the Mortgage Loan(s), (C) in the event that the Mortgage Loan Documentation requires completion and/or correction; or (D) within thirty (30) days following receipt of the Mortgage Loan Documentation if the Investor has failed to purchase the Mortgage Loan(s) by such time and (v) that Seller shall remit the Purchase Amount to the account set forth below or in accordance with the written instructions of Buyer. Please note that should the Investor remit the Purchase Amount to any other entity or Person, Buyer will not consider the Purchase Amount to have been paid and will not release its interest or terminate the responsibilities of the Bailee as bailee for Buyer until the Purchase Amount has been properly remitted to the account set forth herein.

Buyer agrees that its interest in the Mortgage Loan(s) shall be fully released and the responsibilities of the Investor and Bailee shall terminate upon the Investor's irrevocable payment to Buyer of an amount (the "Purchase Amount") equal to the greater of (1) the purchase price for the Mortgage Loan (s) agreed to by the Investor and Seller and (2) Repurchase Price in respect of the Mortgage Loan(s). If Buyer consents to, or otherwise accepts, the payment of a Purchase Amount for the Mortgage Loan(s) that is less than the amount of the outstanding Transactions with respect to the Mortgage Loan(s), as set forth in clause (2) of the preceding sentence, Buyer shall release its interest in the Mortgage Loan(s) only upon full payment of the remaining outstanding Transactions (as defined in the Repurchase Agreement) with respect to such Mortgage Loan(s). All payments by the Investor shall be remitted via federal funds pursuant to the following wire transfer instructions:

[BANK]

ABA#

A/C#

Account #

By acceptance of the Mortgage Loan Documentation on behalf of Investor, Bailee and Investor each agrees to be bound by the terms of this letter (regardless of whether Bailee or Investor has executed same). In the event of any inconsistency between the provisions of this letter and the provisions of any other instrument or document delivered by Buyer to the Bailee or Investor with this letter or in connection with the Mortgage Loan(s), including, without limitation, any "release" or similar document, the provisions of this letter shall control.

Sincerely,

STERLING NATIONAL BANK  
as Buyer

By: STERLING NATIONAL MORTGAGE, INC.  
as Agent

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

Name:

Title:

IRREVOCABLY ACKNOWLEDGED AND AGREED TO:

[INVESTOR]

BY: \_\_\_\_\_

TITLE:

DATE:

IRREVOCABLY ACKNOWLEDGED AND AGREED TO:

[BAILEE]

BY: \_\_\_\_\_

TITLE:

DATE:



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that M/I Financial Corp. ("Seller") hereby irrevocably constitutes and appoints Sterling National Bank ("Buyer") and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Seller and in the name of Seller or in its own name, from time to time in Buyer's discretion:

(a) in the name of Seller, or in its own name, or otherwise, to take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due with respect to any assets purchased by Buyer under the Master Repurchase Agreement (as amended, restated or modified) dated November 13, 2012 (the "Assets") and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Buyer for the purpose of collecting any and all such moneys due with respect to any other assets whenever payable;

(ii) to pay or discharge taxes and liens levied or placed on or threatened against the Assets;

(iii) (A) to direct any party liable for any payment under any Assets to make payment of any and all moneys due or to become due thereunder directly to Buyer or as Buyer shall direct; (B) to ask or demand for, collect, receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Assets; (C) to sign and endorse any invoices, assignments, verifications, notices and other documents in connection with any Assets; (D) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Assets or any proceeds thereof and to enforce any other right in respect of any Assets; (E) to defend any suit, action or proceeding brought against Seller with respect to any Assets; (F) to settle, compromise or adjust any suit, action or proceeding described in clause (E) above and, in connection therewith, to give such discharges or releases as Buyer may deem appropriate; and (G) generally, to sell, transfer, pledge and make any agreement with respect to or otherwise deal with any Assets as fully and completely as though Buyer were the absolute owner thereof for all purposes, and to do, at Buyer's option and Seller's expense, at any time, and from time to time, all acts and things which Buyer deems necessary to protect, preserve or realize upon the Assets and Buyer's Liens thereon and to effect the intent of this Agreement, all as fully and effectively as Seller might do;

(iv) for the purpose of carrying out the transfer of servicing with respect to the Assets from Seller to a successor servicer appointed by Buyer in its sole good faith discretion and to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish such transfer of servicing, and, without limiting the generality of the foregoing, Seller hereby gives Buyer the power and right, on behalf of Seller, without assent by Seller, to, in the name of Seller or its own name, or otherwise, prepare and send or cause to be sent "good-bye" letters to all mortgagors under the Assets, transferring the servicing of the Assets to a successor servicer appointed by Buyer in its sole good faith discretion;

(v) for the purpose of delivering any notices of sale to mortgagors or other third parties, including without limitation, those required by law.

Seller hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

Seller also authorizes Buyer, from time to time, to execute, in connection with any sale, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Assets.

The powers conferred on Buyer hereunder are solely to protect Buyer's interests in the Assets and shall not impose any duty upon it to exercise any such powers. Buyer shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to Seller for any act or failure to act hereunder, except for its or their own gross negligence or willful misconduct.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, SELLER HEREBY AGREES THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND BUYER ON ITS OWN BEHALF AND ON BEHALF OF BUYER'S ASSIGNS, HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

Special Language Required to Comply with New York Law:

CAUTION TO THE PRINCIPAL:

Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. "Important Information for the Agent" at the end of this document describes your agent's responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney by executing this Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a "Health Care Proxy" to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, [www.senate.state.ny.us](http://www.senate.state.ny.us) or [www.assembly.state.ny.us](http://www.assembly.state.ny.us).

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

#### IMPORTANT INFORMATION FOR THE AGENT:

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record of all receipts, payments, and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manner: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or give major gifts to yourself or anyone else unless the principal has specifically granted you that authority in this Power of Attorney or in a Statutory Major Gifts Rider attached to this Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest. You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

#### Liability of agent:

The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURES FOLLOW.]

IN WITNESS WHEREOF Seller has caused this Power of Attorney to be executed this \_\_\_\_  
day of \_\_\_\_\_, 2012.

M/I Financial Corp.  
(Seller)

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF Buyer has caused this Power of Attorney to be executed and Buyer's seal to be affixed this \_\_\_ day of \_\_\_\_\_, 2012.

Sterling National Bank  
(Buyer)

By: \_\_\_\_\_  
Name:  
Title:

Acknowledgment of Execution by Seller (Principal):

STATE OF )

) ss.:

COUNTY OF )

On the \_\_\_ day of \_\_\_\_\_, 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as \_\_\_\_\_ for M/I Financial Corp. and that by his signature on the instrument, the person upon behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand affixed my office seal the day and year in this certificate first above written.

\_\_\_\_\_

Notary Public

My Commission expires \_\_\_\_\_

Acknowledgment of Execution by Buyer (Agent):

STATE OF )

) ss.:

COUNTY OF )

On the \_\_\_\_ day of \_\_\_\_\_, 201\_ before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as \_\_\_\_\_ for Sterling National Bank and that by his signature on the instrument, the person upon behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand affixed my office seal the day and year in this certificate first above written.

\_\_\_\_\_

Notary Public

My Commission expires \_\_\_\_\_

FORM OF COMPLIANCE CERTIFICATE

I, \_\_\_\_\_, do hereby certify that I am the [duly elected, qualified and authorized] [CFO/TREASURER/FINANCIAL OFFICER] of M/I Financial Corp. (“Reporting Party”). This Certificate is delivered to you in connection with Section 12(d)(iv) of the Master Repurchase Agreement dated as of November 13, 2012, between Reporting Party and Sterling National Bank (as amended from time to time, the “Agreement”), as the same may have been amended from time to time. Capitalized terms shall have the meaning set forth in the Agreement. I hereby certify that, as of the date of the financial statements attached hereto and as of the date hereof, M/I Financial Corp. is and has been in compliance with all the terms of the Agreement and, without limiting the generality of the foregoing, I certify that:

Maintenance of Tangible Net Worth. Seller has maintained a Tangible Net Worth of not less than \$10,000,000. A detailed summary of the calculation of Seller’s Tangible Net Worth is set forth on Schedule 1 hereto.

Maintenance of Ratio of Indebtedness to Tangible Net Worth. Seller has maintained the ratio of (a) Indebtedness to (b) Tangible Net Worth no greater than 10:1. A detailed summary of the calculation of Seller’s ratio of Indebtedness to Tangible Net Worth is set forth on Schedule 1 hereto.

Maintenance of Profitability. Seller has not permitted, for any Test Period, Net Income for such Test Period, before income taxes for such Test Period and distributions made during such Test Period, to be less than \$1.00. A detailed summary of the calculation of Seller’s Net Income is set forth on Schedule 1 hereto.

Guarantees. Seller has not created, incurred, assumed or suffered to exist any Guarantees, except to the extent reflected in the Seller’s Financial Statements or notes thereto.

Total Warehouse Capacity. Seller has ensured that the Maximum Aggregate Purchase Price does not exceed 50% of its total the aggregate maximum availability under its Warehouse Facilities (whether drawn or undrawn).

Maintenance of Liquidity. The Seller has ensured that, as of the end of each calendar month, it has cash and Cash Equivalents (excluding Restricted Cash or cash pledged to Persons other than Buyer), in an amount not less than \$5,000,000.

Warehouse Lines. All warehouse lines of Seller existing on the date hereof are listed on Schedule 3 hereto.

Limitation on Dividends and Distributions. Upon the occurrence and after the continuance of an Event of Default, Seller has not made any payment on account of, or set apart assets for, a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of any equity interest of Seller, whether now or hereafter outstanding, or made any other distribution or dividend in respect of any of the foregoing or to any shareholder or equity owner of Seller, either directly or indirectly, whether in cash or property or in obligations of Seller or any of its consolidated Subsidiaries.

Financial Statements. The financial statements attached fairly present in all material respects



the financial condition and results of operations of Seller and its consolidated Subsidiaries and the financial condition and results of operations of Seller, in accordance with GAAP, consistently applied, as at the end of, and for, the calendar month ending on [DATE] (subject to normal year-end adjustments).

Originations. Attached hereto as Schedule 2 is a true and correct summary of all Mortgage Loans originated by Seller for the calendar month ending [DATE] and for the year to date ending [DATE].

Documentation. Seller has performed the documentation procedures required by its operational guidelines with respect to endorsements and assignments, including the recordation of assignments, or has verified that such documentation procedures have been performed by a prior holder of such Mortgage Loan.

Compliance. Seller has observed or performed in all material respects all of its covenants and other agreements, and satisfied every condition, contained in the Agreement and the other Program Agreements to be observed, performed and satisfied by it. *[If a covenant or other agreement or condition has not been complied with, Seller shall describe such lack of compliance and provide the date of any related waiver thereof.]*

Regulatory Action. Seller is not currently under investigation or, to best of Seller's knowledge, no investigation by any federal, state or local government agency is threatened. Seller has not been the subject of any government investigation which has resulted in the voluntary or involuntary suspension of a license, a cease and desist order, or such other action as could adversely impact Seller's business. *[If so, Seller shall describe the situation in reasonable detail and describe the action that Seller has taken or proposes to take in connection therewith.]*

No Default. No Default or Event of Default has occurred or is continuing. *[If any Default or Event of Default has occurred and is continuing, Seller shall describe the same in reasonable detail and describe the action Seller has taken or proposes to take with respect thereto, and if such Default or Event of Default has been expressly waived by Buyer in writing, Seller shall describe the Default or Event of Default and provide the date of the related waiver.]*

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

M/I Financial Corp.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 1 TO OFFICER'S COMPLIANCE CERTIFICATE  
CALCULATIONS OF FINANCIAL COVENANTS**

**As of the month ended: [Date]**

<b>Covenant</b>	<b>Actual</b>	<b>Requirement</b>	<b>Compliance (Y/N)</b>
TNW (including Sub Debt)*			
Leverage**			
Quarterly Profitability ***			

\*

TNW Calculation

Book Net Worth	
Less:	
Prepaid Expenses	
Intercompany Receivables	
Employee Receivables	
Restricted Cash	
Deposits	
Goodwill	
Other	
Tangible Net Worth	

\*\*

Leverage:	
Indebtedness (excluding Sub Debt)	
TNW (including Sub Debt)	

\*\*\*

Net Income:	
Monthly	
As of Most Recent Quarter	

SCHEDULE 2 to OFFICER'S COMPLIANCE CERTIFICATE

**PRODUCTION INFORMATION (banked)**

	<b>Monthly</b>	<b>Year to Date</b>
Conventional Conforming		
FHA/VA		
Agency High Balance		
Jumbo		
TOTAL		
% Refinance		
% Purchase		
% Retail		
% Wholesale		

SCHEDULE 3 to OFFICER'S COMPLIANCE CERTIFICATE

**WAREHOUSE LINES**

	<b>Line Amount</b>	<b>Amount Outstanding</b>	<b>Expiration Date</b>
Sterling National Bank			
Comerica Bank			