

**SETTLEMENT AGREEMENT AND RELEASE**

This settlement agreement (“Agreement”) is made as of this 8th day of April 2016, between and among Plaintiff Federal Home Loan Bank of Chicago (“Plaintiff”), and Defendants The Goldman Sachs Group, Inc., Goldman, Sachs & Co., GS Mortgage Securities Corp. and Goldman Sachs Mortgage Co. (collectively, “Defendants”) (each of the Plaintiff or Defendants may be referred to herein as a “Party” or “Settling Signatory,” and collectively as the “Parties” or “Settling Signatories”).

**WHEREAS**, Plaintiff asserted claims against Defendants in the action pending in the Circuit Court of Cook County, styled *Federal Home Loan Bank of Chicago v. Banc of America Funding Corp.*, et al. No. 10 CH 45033 (Cook County Ch. Ct., filed Apr. 8, 2011) (the “Lawsuit”);

**WHEREAS**, the Lawsuit alleges claims in connection with the offering and sale of certain United States mortgage-related securities issued, underwritten, and/or sold by Defendants as listed in Exhibit A attached hereto (the “RMBS”);

**WHEREAS**, Defendants deny the allegations in the Lawsuit and all claims of wrongdoing, damages, and any liability whatsoever to Plaintiff;

**WHEREAS**, without conceding the merit or lack of merit of any claim or defense or the existence of any liability whatsoever, the Settling Signatories wish to settle, compromise, and finally and forever resolve all matters, controversies, disputes, and claims that may exist between the Parties relating to the subject matter of the Lawsuit, including without limitation any claims in respect of the RMBS that were or could have been asserted in the Lawsuit by Plaintiff, including the released claims described herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this Agreement, and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Settling Signatories agree as follows:

**1. EXECUTION DATE.** As used in this Agreement, the “Execution Date” shall mean the date as of which the Agreement is fully executed.

**2. SETTLEMENT AMOUNT.** In consideration of the release and dismissal of Plaintiff’s claims against the Defendants’ Released Parties as set forth herein, within ten (10) business days after the Execution Date, Defendants shall make or cause to be made a one-time, lump sum payment of thirty-seven million, five hundred thousand dollars (\$37,500,000.00) (the “Settlement Amount”), payable to Plaintiff, pursuant to wire instructions to be separately provided by Plaintiff to Defendants.

(a) The Settlement Amount to be paid out of the escrow account (as that term is defined in Defendants’ related agreement with the United States Department of Justice) shall be disbursed from the Escrow Account in accordance with Paragraph 3, below. There shall be no other condition of escrow or release whatsoever.

**3. DISMISSAL OF THE LAWSUIT.** Within five (5) business days after the Plaintiff's receipt of the payment of the Settlement Amount by Defendants, counsel for Plaintiff will file in the Circuit Court of Cook County, a motion for an order of voluntary dismissal with prejudice—substantially in the form attached hereto as Exhibit B. The documents described in this Paragraph 3 shall be referred to collectively herein as the “Dismissal Documents.” Each Party shall take such further actions as may be necessary to obtain immediate dismissal with prejudice of the claims against Defendants in the Lawsuit, with each side to bear its own costs and disbursements.

**4. TERMINATION PROVISIONS.**

(a) Defendants may terminate or enforce this Agreement in the event that the Dismissal Documents are not filed within the time set forth in Paragraph 3 above.

(b) Plaintiff may terminate or enforce this Agreement in the event that Defendants fail to make payment in accordance with Paragraph 2 above.

(c) In the event of termination by Defendants or Plaintiff pursuant to the foregoing Paragraphs 4(a) or 4(b): (i) the Settlement will become null and void and without force or effect on the Parties; (ii) the Parties shall be restored to their respective positions in the Lawsuit as of the Execution Date; and (iii) Plaintiff shall be required to return the Settlement Amount, including any interest thereon, to Defendants within two (2) business days of any such termination.

**5. RELEASE.**

(a) In consideration, and upon payment, of the Settlement Amount provided for herein, Plaintiff, on its own behalf and on behalf of its respective parents, subsidiaries, affiliates, officers, directors, agents, employees, successors, and assigns (the “Plaintiff Releasors”), hereby knowingly, voluntarily, fully, finally, and forever releases, relinquishes, settles, and discharges Defendants and their respective parents, subsidiaries, affiliates, successors, and assigns, in their respective capacities as such, and any of their respective present or former partners, managing directors, shareholders, employees, agents, directors, officers, insurers, and attorneys, in their respective capacities as such (collectively, the “Defendants’ Released Parties”) of and from any and all claims, allegations, rights, covenants, causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every nature and description, whether known or Unknown (as defined below), whether arising under federal, state, local, statutory, common law, or any other domestic or foreign law, rule, or regulation, that concern, arise out of, refer, or relate in any way to, or are based upon any of the allegations, transactions, facts, matters, or subject matters, occurrences, representations, statements, or omissions alleged, involved, set forth, or referred to in any complaint or amended complaint filed in the Lawsuit and that are based on, arise from, relate to, or are in connection with the purchase, acquisition, investment in (whether directly or indirectly), holding, sale, or disposition of any United States mortgage-related security (whether a residential mortgage-backed security, collateralized debt obligation, or other mortgage-related investment) by the Plaintiff Releasors (including without limitation any claims based on any action, inaction, misstatement or omission by the Defendants’ Released Parties), that: (i) were

asserted or could have been asserted by the Plaintiff Releasors in the Lawsuit, (ii) would have been barred by *res judicata* had the Lawsuit been fully litigated to a final judgment, or (iii) could have been asserted in any forum or proceeding or otherwise by the Plaintiff Releasors against the Defendants' Released Parties (collectively the "Plaintiff's Released Claims"); *provided, however*, that Plaintiff's Released Claims (1) shall not include claims to enforce the Agreement; (2) shall not extend to, limit, or reduce in any way any rights of FHLBC to receive from time to time distributions of any type whatsoever, including, without limitation, distributions with respect to principal or interest as a holder of any securities; and (3) shall not extend to Morgan Stanley ABS Capital I Inc., Morgan Stanley & Co. Inc., or Morgan Stanley.

(a) Plaintiff represents and warrants to Defendants that Plaintiff has the right and authority to release, relinquish, settle and discharge the Plaintiff's Released Claims on behalf of itself and the Plaintiff Releasors. (b) In consideration, and upon the filing, of the Dismissal Documents, Defendants, on their own behalf and on behalf of their respective parents, subsidiaries, affiliates, officers, directors, agents, employees, successors, and assigns, in their respective capacities as such (the "Defendant Releasors"), hereby knowingly, voluntarily, fully, finally, and forever release, relinquish, settle, and discharge the Plaintiff Releasors of and from any and all claims, allegations, rights, covenants, causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages, and liabilities of every nature and description, whether known or Unknown (as defined below), whether arising under federal, state, local, statutory, common law, or any other domestic or foreign law, rule or regulation, that arise from, relate to or are in connection with the institution, prosecution, assertion, settlement, or resolution of the Lawsuit or the Plaintiff's Released Claims ("Defendants' Released Claims"); *provided, however*, that the Defendants' Released Claims shall not include claims to enforce the Agreement.

(c) The releases contemplated by this Agreement extend to claims that the Plaintiff Releasors and Defendant Releasors do not know or suspect to exist at the time of the release, which, if known, might have affected the decision to enter into the release ("Unknown" claims). After consultation with counsel and upon payment of the Settlement Amount, the Parties shall be deemed to have (a) waived and relinquished any and all rights and benefits conferred by any law of the United States or any state or territory of the United States, or any principle of common law that governs or limits a person's release of unknown claims; and (b) waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by California Civil Code § 1542, which provides as follows, or any similar legislation or rule in any other jurisdiction:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

**6. ATTORNEYS' FEES AND EXPENSES.** The Parties agree that the Settlement Amount constitutes the entire payment to be made in settlement of Plaintiff's claims against Defendants in the Lawsuit; and Defendants, on the one hand, and Plaintiff, on the other, will not seek to recover any additional amounts from each other including for their attorneys' fees and expenses in connection with all matters related to the Lawsuit and its settlement. Any fees and

expenses to be paid to Plaintiff's counsel shall be paid from the Settlement Amount after the filing of the Dismissal Documents.

**7. NO ADMISSION OF WRONGDOING.** This Agreement (whether or not consummated), the settlement reflected herein, and all communications or other actions relating to this settlement shall not be used by any Party for any purpose in the Lawsuit and shall not, in any way, be offered or construed as, or received against any of the Parties as evidence in the Lawsuit or in any other civil, criminal, administrative, or other action or proceeding, including, without limitation, as evidence of: (a) an admission by any of the Parties with respect to the truth or falsity of any fact alleged in the Lawsuit or the deficiency of any allegation or defense that has been or could have been asserted, or of any liability, negligence, fault, misrepresentation, omission, or other wrongdoing or actionable conduct of any of the Parties; or (b) any liability, negligence, fault, misrepresentation, omission, or other wrongdoing or actionable conduct with respect to any statement or written document approved or made by Defendants. Notwithstanding the foregoing, the Settling Signatories may refer to this Agreement to effectuate the release of the Plaintiff's Released Claims, Defendants' Released Claims and other liability protections granted hereunder.

**8. GOOD FAITH PLEADINGS.** The Settling Signatories agree not to assert in any forum that: (a) the Lawsuit was brought or defended in bad faith or without a reasonable basis; or (b) any Settling Signatory or its counsel committed any violation of any provision of the Illinois Code of Civil Procedure, Rules of the Circuit Court of Cook County, or any similar law or ethical rule relating to the prosecution or defense of the Lawsuit.

**9. CONSTRUCTION.** The terms, provisions, and conditions of this Agreement are the result of negotiations in good faith and at arm's length between Plaintiff and Defendants, each of which has been represented by legal counsel of its own choosing. Accordingly, the terms, provisions and conditions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, without application of any rule of interpretation or construction providing that ambiguous or conflicting terms, conditions, or provisions shall be interpreted or construed against the Party whose legal counsel prepared the executed version or any prior drafts of the agreement.

**10. ENTIRE AGREEMENT.** The Parties acknowledge and agree that: (a) no promises, representations, or agreements have been made in connection with this Agreement other than those set forth herein, and that they intend this to be a final and binding settlement and release of all of Plaintiff's Released Claims against the Defendants' Released Parties, and of all of Defendants' Released Claims against the Plaintiff Releasers, on the terms set forth herein, whether or not they have been previously asserted or articulated; and (b) except as expressly stated in this Agreement, none of the Parties has made any promise, statement, or representation of fact or law that has been relied upon by any of the other such signatories in entering into this Agreement.

**11. AUTHORITY.**

(a) Plaintiff represents, warrants, and agrees that Plaintiff: (i) has made such investigation of the facts pertaining to this settlement and this Agreement and of all the matters

pertaining thereto as it deems necessary; (ii) has had the opportunity to have counsel of its choosing review this Agreement; (iii) has read this Agreement, understands its contents, and has executed it voluntarily and without duress or undue influence from any person or entity; and (iv) has full power and authority to enter into and perform all actions or transactions contemplated by this Agreement. Without limiting the generality of the foregoing in any way, Plaintiff represents and warrants that it (i) is the sole legal owner of, and has full right, title and interest in, the claims upon which it sued in the Lawsuit; and (ii) has full right, power, and legal authority to release Plaintiff's Released Claims (including without limitation the claims upon which it sued in the Lawsuit) on behalf of the Plaintiff Releasors.

(b) Defendants, as well as their counsel signing this Agreement, represent, warrant, and agree that Defendants: (i) have made such investigation of the facts pertaining to this settlement and this Agreement and of all the matters pertaining thereto as they deem necessary; (ii) have had the opportunity to have counsel of their choosing review this Agreement; (iii) have read this Agreement, understand its contents, and have executed it voluntarily and without duress or undue influence from any person or entity; (iv) have duly and validly authorized the execution and delivery of this Agreement by their counsel; and (v) have full power and authority to enter into and perform all actions or transactions contemplated by this Agreement. Without limiting the generality of the foregoing in any way, Defendants represent and warrant that they have the full right, power and legal authority to release Defendants' Released Claims on behalf of the Defendant Releasors.

**12. BINDING AGREEMENT.** This Agreement is binding and inures to the benefit of the Parties, their successors, and assigns. Each person signing this Agreement or any portion thereof on behalf of any entity hereby warrants and represents that such person expressly has been authorized to execute this Agreement on behalf of such entity as a document legally binding on such entity, and that such person has full authority to take all such reasonable, necessary and appropriate actions that may be required or permitted to be taken pursuant to the Agreement to effectuate its terms.

**13. MODIFICATION.** This Agreement shall not be altered, amended, modified, or rescinded except by an instrument in writing signed by each of the Parties, and specifically referencing this Agreement.

**14. NO CONTINUING WAIVER.** A waiver of any breach of this Agreement by any Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision of this Agreement.

**15. SIGNATURES IN COUNTERPART.** This Agreement may be executed simultaneously in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Signatures by facsimile or other electronic imaging shall be deemed to constitute original signatures.

**16. APPLICABLE LAW/JURISDICTION.** This Agreement, and any disputes related thereto, shall be governed by the law of the State of Illinois, and the Parties expressly submit any claim arising therefrom to the exclusive jurisdiction of the Circuit Court of Cook County for the State of Illinois, and any courts from which appeals from that court may be heard

for all purposes related to this Agreement, and agree that any order, process, notice of motion, or other application to or by such court or a judge thereof may be served within or without such court's jurisdiction by overnight delivery or by hand, with copies thereof sent by email.

**17. NOTICES.** All notices, requests, demands, or other communications required or contemplated hereunder or relating hereto shall be in writing and forwarded by overnight delivery or by hand, with a copy by email, and addressed as follows:

(a) If to Plaintiff:

Peter E. Gutzmer, Esq.  
Executive Vice President, General Counsel and Corporate Secretary  
Federal Home Loan Bank of Chicago  
200 East Randolph Drive  
Suite 1800  
Chicago, Illinois 60601  
(312) 565-5700  
pgutzmer@fhlbc.com

with a copy to:

Derek W. Loeser, Esq.  
Amy Williams-Derry, Esq.  
Keller Rohrback L.L.P.  
1201 3rd Avenue  
Seattle, Washington 98101  
(206) 623-1900  
awilliams-derry@kellerrohrback.com

(b) If to Defendants:

Richard H. Klapper, Esq.  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004  
(212) 558-3555  
klapperr@sullcrom.com

**IN WITNESS WHEREOF**, the Parties have executed this Settlement Agreement and Release as of this 8th day of April, 2016.

  
\_\_\_\_\_  
Roger D. Lundstrom  
EVP-CFO, Federal Home Loan Bank of Chicago

A handwritten signature in black ink, appearing to read "Richard H. Klapper", written over a horizontal line.

Richard H. Klapper, Esq.  
Counsel for Defendants

**EXHIBIT A**

<b>Ticker</b>	<b>CUSIP</b>
FFML 2006-FF13 A2C	30247DAD3
GSAMP 2006-NC2 A2C	362463AD3
RFMSI 2006-SA2 IIA1	749574AC3



