

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into between the State of New York, by Eric T. Schneiderman, Attorney General of the State of New York (the “NYAG”) and Morgan Stanley, as well as its current and former subsidiaries and affiliates including but not limited to Morgan Stanley & Co. LLC, f/k/a “Morgan Stanley & Co. Incorporated,” Morgan Stanley Mortgage Capital Holdings LLC, Morgan Stanley Mortgage Capital Inc., and Morgan Stanley ABS Capital I Inc. (hereinafter collectively referred to as “Morgan Stanley”). The NYAG and Morgan Stanley are collectively referred to herein as “the Parties.”

WHEREAS, the NYAG conducted an investigation pursuant to Article 23-A of the General Business Law of the State of New York (the “Martin Act”) and Section 63(12) of the Executive Law of the State of New York (“Executive Law § 63(12)”) into the creation, packaging, marketing, underwriting, sale, structuring, arrangement, and issuance of residential mortgage-backed securities (“RMBS”) by Morgan Stanley in 2006 and 2007; and

WHEREAS, the NYAG, based on its investigation, believes that there is an evidentiary basis for potential legal claims by the NYAG against Morgan Stanley for violation of the Martin Act and Executive Law § 63(12) in connection with the same conduct; and

WHEREAS, this Agreement is being entered into in conjunction with an agreement entered into by the United States and Morgan Stanley in connection with the packaging, marketing, underwriting, sale, structuring, arrangement, and issuance by Morgan Stanley of RMBS; and

WHEREAS, as a term of this Agreement, Morgan Stanley acknowledges the facts set out in the Statement of Facts as set forth in Appendix A and hereby incorporated in this Agreement;

and

NOW THEREFORE, in consideration of the mutual promises and obligations of this Agreement, the Parties stipulate and agree as follows:

1. **Payment.** Morgan Stanley shall pay the sum of \$150,000,000 in consideration for the settlement of potential legal claims by the NYAG as compensation for harms to the State of New York allegedly resulting from Morgan Stanley's creation, packaging, marketing, underwriting, sale, structuring, arrangement, and issuance of RMBS in 2006 and 2007. No portion of the funds in this paragraph will be designated or otherwise classified by the State of New York as a civil penalty or fine. Payment shall be made by electronic funds transfer within 15 business days of receiving written payment processing instructions from the NYAG.

2. **Consumer Relief.** Morgan Stanley shall also provide \$400,000,000 worth of consumer relief as set forth in Appendix B, attached and hereby incorporated in this Agreement, to remediate harms allegedly resulting from the conduct of Morgan Stanley. The value of consumer relief provided shall be calculated and enforced pursuant to the terms of Appendix B. An independent monitor will be appointed to determine whether Morgan Stanley has satisfied the obligations contained in this Paragraph (such monitor to be Eric Green, hereinafter the "Monitor") and any costs associated with said Monitor shall be borne by Morgan Stanley. Morgan Stanley will refrain from retaining the Monitor to represent Morgan Stanley in any capacity from the present until two years after the date on which Morgan Stanley satisfies the Consumer Relief obligations set forth in Appendix B. Morgan Stanley will also refrain from engaging the Monitor as a mediator in any further matter to which Morgan Stanley is a party until Morgan Stanley satisfies the Consumer Relief obligations set forth in Appendix B.

3. **Covered Conduct.** “Covered Conduct” as used herein is defined as the creation, packaging, marketing, underwriting, sale, structuring, arrangement or issuance, prior to January 1, 2009, by Morgan Stanley of the RMBS, identified in Appendix C, attached and hereby incorporated in this Agreement. Covered Conduct includes representations, disclosures, or non-disclosures to RMBS investors made about or in connection with the activities set forth above, where the representation or non-disclosure involves information about or obtained during the process of originating, acquiring, securitizing, underwriting or servicing residential mortgage loans included in the RMBS identified in Appendix C. Covered Conduct does not include: (i) conduct relating to the origination of residential mortgages, except representations or non-disclosures to investors in the RMBS listed in Appendix C about origination of, or about information obtained in the course of originating, such loans; (ii) origination conduct unrelated to securitization, such as soliciting, aiding or abetting borrower fraud; (iii) representations or non-disclosures made in connection with collateralized debt obligations, other derivative securities, or secondary trading by Morgan Stanley of RMBS, except to the extent that the representations or non-disclosures are in the offering materials for the underlying RMBS listed in Appendix C; and (iv) the servicing of residential mortgage loans, except representations or non-disclosures to investors in the RMBS listed in Appendix C about servicing, or information obtained in the course of servicing, such loans.

4. **Releases by the NYAG.** Subject to the exceptions in paragraph 5 below, and conditioned upon compliance with the provisions of paragraph 1 above, the NYAG fully and finally releases and discharges Morgan Stanley from any and all claims that the NYAG has authority to bring relating to or concerning the Covered Conduct, including but not limited to any

such claims under: the Martin Act, Executive Law § 63(12), common law theories of negligence, payment by mistake, unjust enrichment, money had and received, breach of fiduciary duty, breach of contract, misrepresentation, deceit, fraud, and aiding and abetting any of the foregoing.

5. **Excluded Claims.** The following claims are specifically reserved and not released by this Agreement: (a) any liability based upon obligations created by this Agreement; (b) any liability to the State of New York (or its departments or agencies) for any conduct other than the Covered Conduct; and (c) any liability for the claims alleged in the following *qui tam* actions, and no setoff related to amounts paid under this Agreement shall be applied to any recovery in connection with any of these actions: (i) *United States ex rel. [Sealed] v. [Sealed]*, as disclosed to Morgan Stanley, and (ii) *United States ex rel. [Sealed] v. [Sealed]*, as disclosed to Morgan Stanley. In addition, nothing in this Agreement shall be construed to bar any agency or department of the State that is a member of any plaintiff class or a plaintiff in any action related to the Covered Conduct from making a claim as a putative class member or otherwise participating in any private or class action.

6. **Releases by Morgan Stanley.** Morgan Stanley fully and finally releases the NYAG, its political subdivisions, departments, agencies, and all their officers, employees, servants and agents from any claims, including attorney's fees, costs, and expenses of every kind and however denominated, that Morgan Stanley has asserted, could have asserted, or may assert in the future against them related to the Covered Conduct and the investigation to date thereof.

7. This Agreement is intended to be for the benefit of the Parties only. Nothing contained herein shall be construed so as to create any third party rights or private rights of

action nor deprive any third party individual or entity of any private right under the law.

8. The terms of this Agreement were negotiated in good faith by the Parties, and reflect a settlement that was reached voluntarily after full investigation, consultation with experienced legal counsel and arms-length negotiation.

9. This Agreement is made without any trial or adjudication or court finding on any issue of fact or law, and is not a final order of any court or governmental authority.

10. Morgan Stanley represents and warrants, through the signatures below, that the terms and conditions of this Agreement are duly approved, and execution of this Agreement is duly authorized. This Agreement is not intended for use by any third party in any other proceeding and is not intended, and should not be construed, as an admission of liability by Morgan Stanley.

11. This Agreement may not be amended except by an instrument in writing signed on behalf of all the Parties.

12. This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns, provided that no party, other than the NYAG, may assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement (other than by merger) without the prior written consent of the NYAG.

13. Morgan Stanley shall, upon request by the NYAG or the Monitor, provide all non-privileged documentation and information necessary for the NYAG or the Monitor to verify compliance with paragraph 2 of this Agreement.

14. All notices, reports, requests, and other communications to any party pursuant to this Agreement shall be in writing and shall be directed as follows:

If to Morgan Stanley, to:

Scott Tucker, Esq.
Managing Director, Legal and Compliance
Morgan Stanley
1221 Avenue of the Americas, 35th Floor
New York, New York 10020
(212) 762-7321

If to the NYAG, to:

Steven J. Glassman, Esq.
Senior Enforcement Counsel
Economic Justice Division
Office of the Attorney General
State of New York
120 Broadway, 23rd Floor
New York, New York 10271
(212) 416-6542

15. This Agreement shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

16. This Agreement, including the Appendices hereto, constitutes the entire agreement between the Parties, and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Agreement.

17. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

18. This Agreement shall become effective and binding upon execution by the Parties

hereto.

Dated: _____, 2016
New York, New York

MORGAN STANLEY

ERIC T. SCHNEIDERMAN
Attorney General of the State of New
York
120 Broadway
New York, NY 10271

By: _____
Eric F. Grossman
Chief Legal Officer
