

# **EXHIBIT “A”**

EX-10.1 2 psaandexhibits.htm POOLING & SERVICING AGREEMENT

STRUCTURED ASSET MORTGAGE INVESTMENTS II INC.  
DEPOSITOR

WELLS FARGO BANK, NATIONAL ASSOCIATION,  
TRUSTEE

AND

EMC MORTGAGE CORPORATION  
SERVICER, SPONSOR AND COMPANY

POOLING AND SERVICING AGREEMENT

DATED AS OF AUGUST 1, 2007

STRUCTURED ASSET MORTGAGE INVESTMENTS II INC.  
Structured Asset Mortgage Investments II Trust 2007-AR4  
Mortgage Pass-Through Certificates, Series 2007-AR4

TABLE OF CONTENTS

ARTICLE I DEFINITIONS.....2

ARTICLE II CONVEYANCE OF MORTGAGE LOANS; ORIGINAL ISSUANCE OF CERTIFICATES.....61

    Section 2.01. Conveyance of Mortgage Loans to Trustee.....61

    Section 2.02. Acceptance of Mortgage Loans by Trustee.....64

    Section 2.03. Assignment of Interest in the Mortgage Loan Purchase Agreement and the  
    Subsequent Mortgage Loan Purchase Agreement.....67

    Section 2.04. Substitution of Mortgage Loans.....68

    Section 2.05. Issuance of Certificates.....69

    Section 2.06. Representations and Warranties Concerning the Depositor.....70

    Section 2.07. Representations and Warranties of the Company and Sponsor.....71

    Section 2.08. Conveyance of Subsequent Mortgage Loans.....74

    Section 2.09. Purposes and Powers of the Trust.....77

ARTICLE III ADMINISTRATION AND SERVICING OF MORTGAGE LOANS.....77

    Section 3.01. Servicer to Act as Servicer.....77

    Section 3.02. REMIC-Related Covenants.....80

    Section 3.03. Monitoring of Subservicers.....80

    Section 3.04. Fidelity Bond.....81

    Section 3.05. Power to Act; Procedures.....81

    Section 3.06. Due-on-Sale Clauses; Assumption Agreements.....82

    Section 3.07. Release of Mortgage Files.....83

    Section 3.08. Documents, Records and Funds in Possession of Servicer To Be Held for  
    Trustee.....84

    Section 3.09. Standard Hazard Insurance and Flood Insurance Policies.....84

    Section 3.10. Presentment of Claims and Collection of Proceeds.....86

    Section 3.11. Maintenance of the Primary Mortgage Insurance Policies.....86

    Section 3.12. Trustee to Retain Possession of Certain Insurance Policies and Documents.....86

    Section 3.13. Realization Upon Defaulted Mortgage Loans.....87

    Section 3.14. Compensation for the Servicer.....87

    Section 3.15. REO Property.....87

    Section 3.16. Annual Statement as to Compliance; Annual Certification.....89

    Section 3.17. Assessments of Compliance and Attestation Reports.....90

    Section 3.18. Reports Filed with Securities and Exchange Commission.....92

    Section 3.19. UCC.....98

    Section 3.20. Optional Purchase of Defaulted Mortgage Loans.....99

    Section 3.21. Statements to the Trustee.....99

    Section 3.22. Books and Records.....99

    Section 3.23. Intention of the Parties and Interpretation.....100

ARTICLE IV ACCOUNTS.....100

    Section 4.01. Custodial Account.....100

    Section 4.02. Permitted Withdrawals and Transfers from the Custodial Account.....102

    Section 4.03. Distribution Account.....103

    Section 4.04. Permitted Withdrawals and Transfers from the Distribution Account.....103

    Section 4.05. Adjustable Rate Supplemental Fund.....105

respect to Mortgage Loans under the direction or authority of the Servicer or a Subservicer.

Subordinate Certificates: The Class B Certificates.

Subsequent Cut-off Date: With respect to each Subsequent Mortgage Loan, the later of (i) the first day of the month in which the related Subsequent Transfer Date occurs or (ii) the date of origination of such Subsequent Mortgage Loan.

Subsequent Mortgage Loan Purchase Agreement: The agreements between EMC, as seller, and the Depositor, as purchaser, and all amendments thereof and supplements thereto, regarding the transfer of the Subsequent Mortgage Loans by EMC to the Depositor, substantially in the form attached hereto as Exhibit J.

Subsequent Mortgage Loans: The mortgage loans acquired by the Trust during the Pre-Funding Period with amounts on deposit in the Pre-Funding Account which mortgage loans will be held as part of the Trust Fund.

Subsequent Recoveries: As of any Distribution Date, amounts received during the related Prepayment Period by the Servicer (net of any related expenses permitted to be reimbursed pursuant to Section 4.02) or surplus amounts held by the Servicer to cover estimated expenses (including, but not limited to, recoveries in respect of the representations and warranties made by the Sponsor pursuant to the Mortgage Loan Purchase Agreement) specifically related to a Liquidated Mortgage Loan, a Mortgage Loan that has been modified which resulted in a Realized Loss or a final disposition of any REO Property prior to the related Prepayment Period that resulted in a Realized Loss.

Subsequent Transfer Date: Each date on which any Subsequent Mortgage Loans are transferred to the Trustee, on behalf of the Trust, pursuant to any subsequent transfer instruments between the Depositor and the Trustee.

Subsequent Transfer Instrument: Each subsequent transfer instrument, dated as of a Subsequent Transfer Date, executed by the Trustee at the written direction of the Sponsor and substantially in the form attached hereto as Exhibit M, by which Subsequent Mortgage Loans are transferred to the Trust Fund.

Subservicer: Any Person that services Mortgage Loans on behalf of the Servicer or any Subservicer and is responsible for the performance (whether directly or through Subservicers or Subcontractors) of a substantial portion of the material servicing functions required to be performed by the Servicer under this Agreement or any Reconstitution Agreement that are identified in Item 1122(d) of Regulation AB.

Substitute Mortgage Loan: A mortgage loan tendered to the Trust pursuant to the Mortgage Loan Purchase Agreement, the Subsequent Mortgage Loan Purchase Agreement or Section 2.04, as applicable, in each case, (i) which has an Outstanding Principal Balance not greater nor materially less than the Mortgage Loan for which it is to be substituted; (ii) which has a Mortgage Interest Rate and Net Rate not less than, and not materially greater than, such Mortgage Loan; (iii) which has a maturity date not materially earlier or later than such Mortgage Loan and not later than the latest maturity date of any Mortgage Loan; (iv) which is of the same property type and occupancy type as such Mortgage Loan; (v) which has a Loan-to-Value Ratio not greater than the Loan-to-Value Ratio of such Mortgage Loan; (vi) which is current in payment of principal and interest as of the date of substitution; (vii) as to which the payment terms do not vary in any material respect from the payment terms of the Mortgage Loan for which it is to be substituted, (viii) which has a Gross Margin, Periodic Rate Cap and Maximum Lifetime Mortgage Rate no less than those of such Mortgage Loan, has the same Index and interval between Interest Adjustment Dates as such Mortgage Loan, and a Minimum Lifetime Mortgage Rate no lower than that of such Mortgage Loan and (ix) has a negative amortization cap of no more than that of the Mortgage Loan for which it is to be substituted.

Substitution Adjustment Amount: The amount, if any, required to be paid by the Sponsor to the Trustee for deposit in the Distribution Account pursuant to Section 2.04 in connection with the substitution of a Mortgage Loan.

Swap Agreement: The ISDA Master Agreement and related Confirmation, dated as of the Closing Date, between the Swap Counterparty and the Grantor Trustee with respect to the Underlying Class A-4B Certificates.

Swap Counterparty: Bear Stearns Capital Markets Inc.

Swap Counterparty Payment: On each Distribution Date and with respect to the Grantor Trust Certificates, the following amounts due to the Swap Counterparty pursuant to the Swap Agreement: (i) from interest payments on the Underlying Certificates, accrued and unpaid interest on the Swap Deferred Interest Amount and (ii) to the extent of principal payments on such Underlying Certificates, the Swap Deferred Interest Amount.

Tax Administration and Tax Matters Person: The Trustee and any successor thereto or assignee thereof shall serve as tax administrator hereunder and as agent for the Tax Matters Person. The Holder of the largest percentage interest of each Class of Residual Certificates shall be the Tax Matters Person for the related REMIC, as more particularly set forth in Section 9.12.

Termination Purchase Price: The price, calculated as set forth in Section 10.01, to be paid in connection with the repurchase of the Mortgage Loans pursuant to Section 10.01.

Trigger Event: The occurrence of either a Delinquency Test Violation or a Cumulative Loss Test Violation. A Trigger Event may be amended to change the calculation of delinquencies and Realized Losses for purposes of this definition without consent of the related Certificateholders, provided that, a letter is obtained from each Rating Agency stating that such amendment would not result in the downgrading or withdrawal of the respective ratings then assigned to the related Certificates.

Trust Fund or Trust: The corpus of the trust created by this Agreement, consisting of the Mortgage Loans and the other assets described in Section 2.01(a).

Trustee: Wells Fargo Bank, National Association, or its successor in interest, or any successor trustee appointed as herein provided.

Trustee Compensation: As defined in Section 9.05.

Trustee Fee: A monthly fee equal to 1/12th of the Trustee Fee Rate multiplied by the aggregate Stated Principal Balance of the Mortgage Loans as of the Due Date in the month preceding the month in which such Distribution Date occurs,

Trustee Fee Rate: 0.0075% per annum.

Uncertificated Accrued Interest: With respect to any Uncertificated Regular Interest for any Distribution Date, one month's interest at the related Uncertificated Pass-Through Rate for such Distribution Date, accrued on the Uncertificated Principal Balance immediately prior to such Distribution Date. Uncertificated Accrued Interest for the Uncertificated Regular Interests shall accrue on the basis of a 360-day year consisting of twelve 30-day