

EXECUTION COPY

CUSTODIAL AND PAYING AGENCY AGREEMENT

by and among

2010-3 SFR VENTURE, LLC,

**FEDERAL DEPOSIT INSURANCE CORPORATION,
in its corporate capacity, as Purchase Money Notes Guarantor,**

**FEDERAL DEPOSIT INSURANCE CORPORATION,
in its capacity as Receiver for various failed financial institutions,
as Collateral Agent**

and

**CITIBANK, N.A.,
as Custodian and Paying Agent**

Dated as of November 30, 2010

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Schedule and Exhibits

<u>Exhibit A</u>	[Reserved]
<u>Exhibit B-1</u>	Form of Certificated Note
<u>Exhibit B-2</u>	Form of Rule 144A Global Note
<u>Exhibit C-1</u>	[Reserved]
<u>Exhibit C-2</u>	Form of Certificate for Acquisition of Regulation S Certificated Notes
<u>Exhibit C-3</u>	Form of Certificate for Acquisition of Rule 144A Certificated Notes or Rule 144A Global Notes
<u>Exhibit C-4</u>	Form of Certificate for Transfer or Exchange of Certificated Note to Rule 144 Global Notes
<u>Exhibit D</u>	[Reserved]
<u>Exhibit E</u>	Form of Collateral Certificate
<u>Exhibit F</u>	Review Procedures
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<u>Exhibit H</u>	Request for Release and Receipt of Custodial Documents
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<u>Exhibit J</u>	Fees and Expenses of Custodian and Paying Agent
<u>Exhibit K</u>	Custodian and Paying Agent Report
<u>Exhibit L</u>	Form of Lost Instrument Affidavit
<u>Exhibit M</u>	Authorized Representatives
<u>Exhibit N</u>	Form of Account Control Agreement

- Exhibit O Notice from Depository to Depository Participants in connection with the offering of the Rule 144A Global Note or the Rule 144A Certificated Note represented by Global Note
- Exhibit P Form of Investor Certification for Website Access
- Exhibit Q Form of Authentication Order

CUSTODIAL AND PAYING AGENCY AGREEMENT

THIS CUSTODIAL AND PAYING AGENCY AGREEMENT (as the same shall be amended, modified or supplemented in accordance with the terms hereof, this "Agreement") is made and entered into as of November 30, 2010, by and among the Company, the Purchase Money Notes Guarantor, the Receiver, the Collateral Agent and the Bank.

RECITALS

WHEREAS the FDIC was appointed receiver for the Failed Banks; and

WHEREAS the Failed Banks previously owned the Mortgage Loans as described on the Mortgage Loan Schedule; and

WHEREAS the Receiver and the Company have entered into the Contribution Agreement dated as of the Closing Date, pursuant to which the Receiver, in its capacity as the Initial Member, transferred all of its right, title, and interest in and to the Mortgage Loans to the Company partly as a capital contribution and partly as a sale and, in consideration for the transfer of the Mortgage Loans to the Company to the extent such transfer constitutes a sale, the Company has issued to the FDIC, the Purchase Money Notes, dated of the Closing Date, with an aggregate Initial Note Principal Balance of \$105,551,000; and

WHEREAS, to provide support for the payment and performance of the Company's obligations under the Purchase Money Notes, the Purchase Money Notes Guarantor entered into that certain Purchase Money Notes Guaranty; and

WHEREAS, pursuant to the Reimbursement and Security Agreement dated as of the Closing Date, by and among the Company, the Collateral Agent and the Purchase Money Notes Guarantor, (i) the Company has pledged the Mortgage Loans and other underlying collateral to the Collateral Agent for the benefit of the Purchase Money Notes Guarantor, and (ii) the Company must retain a document custodian, meeting the requirements set forth in the Reimbursement and Security Agreement, to take possession of the Custodial Documents, in accordance with the terms and conditions hereof and thereof; and

WHEREAS the Initial Member and the Private Owner have entered into the LLC Operating Agreement dated as of the Closing Date; and

WHEREAS the Company wishes to open and maintain in its name at a branch of the Bank certain accounts into which amounts will be deposited and proceeds will be distributed as provided herein and to appoint the Bank as Custodian and Paying Agent to perform the services contemplated by this Agreement; and

WHEREAS the Bank wishes to accept its appointment as Custodian and as Paying Agent to perform the services contemplated by this Agreement; and

WHEREAS the Company and the Bank wish to enter into this Agreement to, among other things, govern the allocation of the proceeds to be distributed from each account established pursuant to this Agreement and the performance of certain tasks by the Bank;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I DEFINITIONS AND CONSTRUCTION

Section 1.1 Definitions. For purposes of this Agreement, certain terms used in this Agreement shall have the meaning and definitions set forth in that certain Agreement of Common Definitions dated as of the Closing Date among the Company, the Purchase Money Notes Guarantor, the Collateral Agent, the Bank and others. In addition, for purposes of this Agreement, the following terms shall have the meanings and definitions hereinafter respectively set forth.

“Accounts” has the meaning given in Section 4.1(b).

“Acquired Property Deed” means the instrument or document required by the Law of the jurisdiction in which the Acquired Property is located to convey fee title.

“Acquired Property Files” means, with respect to each Acquired Property, to the extent applicable, the following: (A) if the related Acquired Property Deed has been delivered for recordation, a copy thereof (which might be electronic) file-stamped with evidence of recording thereon in the name of the Ownership Entity, together with a certificate of the related servicer or the foreclosure attorney certifying that such Acquired Property Deed is a true, correct and complete copy of the original document, or (y) if the related Acquired Property Deed has been delivered for recordation but not yet returned, a copy thereof (which might be electronic) together with a certificate of the servicer or the foreclosure attorney certifying that such Acquired Property Deed is a true, correct and complete copy of the original document, and that the original Acquired Property Deed has been delivered to the proper recording office for recordation; (B) either (x) a copy of each Acquired Property Deed (which might be electronic) that is intervening between the lender that obtained title to such property assets as a result of foreclosure or deed in lieu of foreclosure of a mortgage or deed of trust and the Ownership Entity, with the same certification documentation required in clause (A) above, or (y) the original or a copy of the assignment of foreclosure bid between the foreclosing lender and the Ownership Entity with respect to the related Acquired Property, and in the case of a copy, together with a certificate of the Servicer or the foreclosure attorney certifying that such assignment of foreclosure bid is a true, correct and complete copy of the original document, with the same certification documentation required in clause (A) above; (C) the original title insurance policy or a copy of the title insurance policy in effect prior to foreclosure of the related mortgage loan accompanied by a title report procured upon foreclosure of the related mortgage loan, with respect to the Acquired Property; and (D) for any Acquired Property that is subject to a lease, (x) a copy of the lease together with a certificate of the applicable servicer certifying that such lease is a true, correct and complete copy of the original document, and (y) if required by the Purchase Money Notes Guarantor, the original assignment of such lease from the lessor thereunder to the Ownership Entity or a copy thereof together with a certificate of the applicable servicer certifying that such assignment is a true, correct and complete copy of the original document.

“Agent Member” means the members of, or participants in, DTC and the Clearing Agencies.

“Agreement” has the meaning given in the preamble.

“Authorized Denominations” has the meaning given in Section 2.5(b).

“Authorized Representative” means, with respect to any Person, each individual designated, in writing as required by Section 17.1, by such Person to the Custodian to act as an authorized representative of such Person for purposes of this Agreement.

“Certificated Note” has the meaning given in Section 2.4(a).

“Clearing Agency” means an organization registered as a “clearing agency” pursuant to Section 17A of the Exchange Act.

“Collateral Certificate” has the meaning given in Section 6.1(b).

“Custodial Delivery Failure” has the meaning given in Section 13.1(b).

“Custodial Report” means a report prepared by the Custodian, which shall be in a form acceptable to the Company, detailing, with respect to any Mortgage Loan that has been released by the Custodian, the following: (i) the borrower’s name and any identification number assigned to the Mortgage Loan, (ii) the location to which the Custodial Documents with respect to such Mortgage Loan were delivered by the Custodian, (iii) the date on which such Custodial Documents were released by the Custodian and (iv) the person to which such Custodial Documents were released.

“Debt Agreements” means the Purchase Money Note, the Purchase Money Notes Guaranty, the Reimbursement and Security Agreement and the Account Control Agreement

“Depository” or **“DTC”** means the Depository Trust Company, its nominees, and their respective successors.

“Exception” means, with respect to any Mortgage Loan, any variance from the requirements of Section 6.1(c), including any missing Custodial Document and any document that does not meet the applicable requirements set forth in Section 6.1(c).

“Excess Interest Reserve Amount” has the meaning given in Section 3.4(c).

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

“Final Disposition” means with respect to any Mortgage Loan, any sale, assignment (excluding pledges or other assignments for collateral purposes), conveyance, transfer or other disposition thereof. The terms **“Finally Dispose”** and **“Finally Disposed of”** have correlative meanings.

“Global Note” has the meaning given in Section 2.4(a).

“Interest Proceeds” means with respect to any Distribution Date, the aggregate of all amounts on deposit in the Distribution Account other than those items included in Principal Proceeds less any Recategorized Interest Proceeds.

“Interest Reserve Account Deposit Amount” means, with respect to each Distribution Date, an amount equal to the excess, if any, of (i) the Interest Reserve Target Amount over (ii) the amount on deposit in the Interest Reserve Account as of such Distribution Date (after taking into account any withdrawals to be made therefrom on such Distribution Date).

“Liquidation Proceeds” means cash proceeds of any foreclosure in respect of a defaulted Mortgage Loan, revenues received with respect to the conservation and disposition of a foreclosed property or Acquired Property, any other amounts received in connection with the liquidation of defaulted Mortgage Loans, whether through trustee’s sale, foreclosure sale or otherwise and any sale proceeds received in connection with a Final Disposition.

“Liquidity Account Transfer Amount” means the absolute value of the difference between the amount on deposit in the Liquidity Account and the Liquidity Account Cap.

“Mortgage Loan Schedule and Exception List” means a list of the Mortgage Loans and Acquired Property, identifying, with respect to each Mortgage Loan, each Exception, and that sets forth, with respect to any Mortgage Loan that has been released by the Custodian, the following: (i) the Borrower name and any identification number assigned to the Mortgage Loan, (ii) the location to which the Custodial Documents with respect to such Mortgage Loan were delivered by the Custodian, (iii) the date on which such Custodial Documents were released by the Custodian and (iv) the Person to which such Custodial Documents were released.

“MERS Designated Mortgage Loan” has the meaning given in the Electronic Tracking Agreement.

“MERS Report” means the schedule listing the MERS Designated Mortgage Loans and other information.

“Non-Permitted Noteholder” has the meaning given in Section 2.12(b).

“Noteholder Percentage” means, with respect to each Noteholder, a fraction (expressed as a percentage, carried out to the ninth decimal place), (i) the numerator of which is the Note Principal Balance for such Noteholder at such time and (ii) the denominator of which is the aggregate Note Principal Balance of the Purchase Money Notes at such time.

“Note Owner” means any beneficial owner of an interest in a Global Note.

“Office” has the meaning given in Section 6.1(a).

“Prepaid Purchase Money Note” has the meaning given in Section 2.8.

“Principal Proceeds” means with respect to any Distribution Date, the aggregate sum of (i) any and all proceeds received as principal payments on the Mortgage Loans during the related Due Period (excluding Permitted Investments purchased with Interest Proceeds), (ii) any and all

proceeds received from sales or dispositions of any Mortgage Loans during such Due Period, (iii) all Liquidation Proceeds (including any such proceeds attributed to unpaid interest thereon), insurance proceeds, condemnation payments, rental income, draws on additional collateral, including but not limited to letters of credit and guaranties, and forfeited deposits on contracts of sale received during such Due Period and (iv) Recategorized Interest Proceeds.

“**Purchase Money Notes Interest Rate**” is equal to 1.25% per annum, computed on the basis of a 360-day year comprised of twelve 30-day months.

“**Qualified Institutional Buyer**” means a “qualified institutional buyer” as defined in Rule 144A under the Securities Act.

“**Qualified Purchaser**” means a “qualified purchaser” within the meaning of Section 3(c)(7) of the Investment Company Act.

“**Recategorized Interest Proceeds**” means, with respect to any Distribution Date, the aggregate amount of Principal Proceeds distributed on any prior Distribution Date pursuant to Section 5.1(c)(i) not previously distributed as Principal Proceeds pursuant to Section 5.1(c)(ii) or (iii).

“**Record Date**” means the Determination Date.

“**Recording Office**” means the appropriate recording office of the jurisdiction in which the Mortgaged Property is located with respect to any given Mortgage Loan (if such Mortgage Loan is not Acquired Property) or in which the Acquired Property is located.

“**Regulation S**” means “Regulation S” promulgated pursuant to the Securities Act.

“**Regulation S Certificated Note**” has the meaning given in Section 2.4(c).

“**Reissued Purchase Money Note**” has the meaning given in Section 2.8.

“**Review Procedures**” has the meaning given in Section 6.1(d).

“**Rule 144A Certificated Note**” has the meaning given in Section 2.4(b).

“**Rule 144A Global Note**” has the meaning given in Section 2.4(b).

“**Rule 144A Information**” has the meaning given in Section 2.7(k).

“**Similar Law**” has the meaning given it Section 2.7(o)(vi).

“**Supplemental Delivery Certificate**” has the meaning given in Section 6.1(d).

“**Transferee Certificate**” has the meaning given in Section 2.7(j).

Section 1.2 Rules of Construction. This Agreement shall be construed and interpreted in accordance with the following:

(a) References to “Affiliates” include only other Persons that from time to time constitute “Affiliates” of such specified Person, and do not include, at any particular time, other Persons that may have been, but at such time have ceased to be, “Affiliates” of such specified Person, except to the extent that any such reference specifically provides otherwise.

(b) The term “or” is not exclusive.

(c) A reference to a Law includes any amendment, modification or replacement to such Law.

(d) References to any document, instrument or agreement (a) shall be deemed to include all appendices, exhibits, schedules and other attachments thereto and all documents, instruments or agreements issued or executed in replacement thereof, and (b) shall mean such document, instrument or agreement, or replacement thereto, as amended, modified and supplemented from time to time in accordance with its terms and as the same is in effect at any given time.

(e) Unless otherwise specified, the words “hereof,” “herein” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(f) The words “include” and “including” and words of similar import are not limiting, and shall be construed to be followed by the words “without limitation,” whether or not they are in fact followed by such words.

(g) The word “during” when used with respect to a period of time shall be construed to mean commencing at the beginning of such period and continuing until the end of such period.

(h) Unless the context otherwise requires, singular nouns and pronouns when used herein shall be deemed to include the plural and vice versa and impersonal pronouns shall be deemed to include the personal pronoun of the appropriate gender.

ARTICLE II PAYING AGENT AND PURCHASE MONEY NOTES

Section 2.1 Appointment of Paying Agent. Subject to the terms and conditions of this Agreement, the Company hereby appoints the Bank to perform the duties of Paying Agent specifically set forth hereunder, and the Bank hereby accepts such appointment.

Section 2.2 Delivery of Documentation.

(a) Executed original counterparts of the Debt Agreements have been delivered to the Paying Agent and the Paying Agent acknowledges receipt thereof. The Company agrees to deliver to the Paying Agent each of the Debt Agreements that is executed and delivered by it, or executed by the Purchase Money Notes Guarantor or the Collateral Agent and delivered to it, subsequent to the date of this Agreement promptly upon execution and delivery and to deliver each instrument amending or modifying any agreement previously

delivered to the Paying Agent. Copies of the Contribution Agreement, the Agreement of Common Definitions and the LLC Operating Agreement (or portions thereof) as are necessary for the Paying Agent to be familiar with in order to perform its obligations hereunder have been delivered to the Paying Agent by the Company, and the Paying Agent acknowledges receipt thereof.

(b) The Paying Agent shall retain the Debt Agreements in its possession and custody at all times during the term hereof unless any one of the following events has occurred:

(i) If the Paying Agent has resigned or has been removed in accordance with the provisions of Section 9.1, the Custodian shall deliver the Debt Agreements to the successor Paying Agent in accordance with Section 9.1.

(ii) If the Paying Agent has received a Request for Release and Receipt of the Debt Agreements in the form attached hereto as Exhibit I from an Authorized Representative of the FDIC, the Paying Agent shall deliver the Debt Agreements to the FDIC in accordance with the instructions provided in such notice.

Section 2.3 Duties. The Paying Agent shall have no duties other than those specifically set forth or provided for in this Agreement and each Debt Agreement to which it is a party, and no implied covenants or obligations of the Paying Agent shall be read into this Agreement or any Debt Agreement or any related agreement to which it is a party. The Paying Agent shall have no obligation to inquire whether any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice, document, communication, statement or calculation is in conformity with the terms of the agreement pursuant to which it is given, except those irregularities or errors manifestly apparent on the face of such document or actually known to the Paying Agent. If, however, any remittance or communication received by the Paying Agent appears manifestly erroneous or irregular, the Paying Agent shall endeavor to make prompt inquiry to the Person originating such remittance or communication in order to determine whether a clerical error or inadvertent mistake has occurred.

Section 2.4 Forms of Purchase Money Note

(a) Issuance; Forms Generally. The form of the Purchase Money Notes shall be as set forth in the applicable portion of Exhibit B hereto. The Purchase Money Notes may have notations, legends or endorsements required by Law, stock exchange rule or usage. On the Closing Date, the Company shall issue to the Receiver such Purchase Money Notes executed by the Receiver on behalf of the Company and delivered to the Paying Agent, with an original face amount as set forth in an authentication order substantially in the form of Exhibit Q attached hereto. Any Purchase Money Note shall be initially issued in the form of one or more (i) certificated notes in definitive, fully registered form without interest coupons substantially in the form of Exhibit B-1 attached hereto (each, a "Certificated Note"), which shall be registered in the name of the owner or nominee thereof, duly executed by the Company as herein provided or (ii) a global note in definitive, fully registered form without interest coupons substantially in the form of Exhibit B-2 attached hereto (each, a "Global Note"), which shall be (x) registered in the name of the Depository or its nominee, duly executed by the Company as herein provided and

(y) held by the Paying Agent as custodian for the Depository unless the Depository instructs otherwise.

(b) Rule 144A Global Note and Rule 144A Certificated Note. Any Purchase Money Note sold to a Person whom the seller reasonably believes (i) is a Qualified Institutional Buyer purchasing for its own account or for the account of a Qualified Institutional Buyer in compliance with Rule 144A under the Securities Act and (ii) is a Qualified Purchaser purchasing for its own account or for the account of a Qualified Purchaser, will be issued in the form of (x) a beneficial interest in a Global Note, and such purchaser shall receive beneficial interests in one or more Global Notes (each, a “Rule 144A Global Note”), or (y) a Certificated Note (each, a “Rule 144A Certificated Note”):

(c) Regulation S Certificated Note. Any Purchase Money Note sold or transferred to a Person that (i) is not a U.S. Person and is acquiring the Purchase Money Note in an Offshore Transaction (as defined in Regulation S of the Securities Act) in compliance with Rule 903 or Rule 904 of Regulation S under the Securities Act and (ii) is a Qualified Purchaser purchasing for its own account or for the account of a Qualified Purchaser, will only be issued in the form of a Certificated Note (each, a “Regulation S Certificated Note”). The Paying Agent shall require, prior the any sale or transfer of any Regulation S Certificated Note, that the prospective purchaser execute and deliver to the Paying Agent and the Company a certificate in the form of Exhibit C-2 attached hereto or such other form as may be acceptable to the Paying Agent and counsel to the Company.

(d) OID Legend. To the extent required by Sections 1272, 1273 and 1275 of the Code, and any regulations issued regarding such elections, any Purchase Money Note treated as issued at a discount to its stated redemption price at maturity for federal income tax purposes shall bear a legend in substantially the following form:

FOR THE PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THIS PURCHASE MONEY NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT. YOU MAY CONTACT THE FEDERAL DEPOSIT INSURANCE CORPORATION AT 550 17TH STREET, N.W., ROOM F-7014, WASHINGTON, D.C. 20429, ATTENTION: RALPH MALAMI, AND THE FDIC WILL PROVIDE YOU WITH THE ISSUE PRICE AND THE YIELD TO MATURITY OF THIS PURCHASE MONEY NOTE.

Section 2.5 Authorized Amount; Stated Maturity; Denominations; Prepayment

(a) The aggregate face amount of the Purchase Money Notes that may be executed and delivered under this Agreement is limited to U.S.\$105,551,000.00 except for a Purchase Money Note executed and delivered upon registration of transfer of, or in exchange for, or in lieu of, another Purchase Money Note pursuant to Section 2.7, 2.8 or 2.9 of this Agreement.

(b) The Purchase Money Note shall be issuable in minimum denominations of U.S.\$250,000 and integral multiples of U.S.\$10,000 in excess thereof (except that one Purchase

Money Note may be issued in a different amount, so long as such amount exceeds the minimum denominations of U.S. \$250,000 (each such denomination, an “**Authorized Denomination**”). Any interest in a Purchase Money Note equal to or in excess of the applicable minimum denomination at the time of the issuance thereof that ceases or fails to be such minimum or multiple as a result of the repayment of principal may be transferred only in its entirety.

Section 2.6 Execution, Delivery and Dating

(a) The Purchase Money Notes shall be executed on behalf of the Company by one of the Authorized Representatives of the Company. The signature of such Authorized Representative on the Purchase Money Notes may be manual or facsimile.

(b) A Purchase Money Note bearing the manual or facsimile signatures of individuals who were at any time the Authorized Representative of the Company shall bind the Company, notwithstanding the fact that such individuals or any of them have ceased to hold such offices prior to the execution and delivery of such Purchase Money Note or did not hold such offices at the date of issuance of such Purchase Money Note.

(c) The Purchase Money Notes executed and delivered by the Company on the Closing Date shall be dated as of the Closing Date. Any other Purchase Money Note that is executed and delivered after the Closing Date for any other purpose under this Agreement shall be dated the date of its execution.

(d) A Purchase Money Note issued upon transfer, exchange or replacement of another Purchase Money Note shall be issued in Authorized Denominations reflecting the Initial Note Principal Balance of the Purchase Money Note so transferred, exchanged or replaced, but shall represent only the current Note Principal Balance of the Purchase Money Note so transferred, exchanged or replaced. In the event that the Purchase Money Note is divided into more than one Purchase Money Note in accordance with this Article II, the Initial Note Principal Balance of such Purchase Money Note shall be proportionately divided among the Purchase Money Notes delivered in exchange therefor and such proportionate amount shall be deemed to be the Initial Note Principal Balance of such subsequently issued Purchase Money Note. In the event that any of the Purchase Money Notes are restructured or reissued pursuant to Section 13.5 of the LLC Operating Agreement or Section 2.8 hereof, such Purchase Money Notes shall be issued in Authorized Denominations reflecting any adjustments to the principal balances of the Purchase Money Notes so restructured or reissued.

Section 2.7 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept a register (the “**Purchase Money Notes Register**”) in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration, and the registration of transfers, of the Purchase Money Notes. The Paying Agent is hereby initially appointed “**Purchase Money Notes Registrar**” for the purpose of registering the Purchase Money Notes and transfers of such Purchase Money Notes as herein provided. Upon any resignation or removal of the Purchase Money Notes Registrar, the Company shall promptly appoint a successor.

(b) If a Person other than the Paying Agent is appointed by the Company as Purchase Money Notes Registrar, the Company will give the Paying Agent and the Purchase Money Notes Guarantor prompt notice of the appointment of a Purchase Money Notes Registrar and of the location, and any change in the location, of the Purchase Money Notes Registrar, and the Paying Agent shall have the right to inspect the Purchase Money Notes Register at all reasonable times and to obtain copies thereof and the Paying Agent shall have the right to rely upon a certificate executed on behalf of the Purchase Money Notes Registrar by an officer thereof as to the names and addresses of the Noteholders and the principal balances and numbers of such Purchase Money Notes. Upon written request at any time, the Purchase Money Notes Registrar promptly shall provide to the Company or the Collateral Agent a current list of Noteholders as reflected in the Purchase Money Notes Register.

(c) Subject to this Section 2.7, upon surrender to the Purchase Money Notes Registrar for registration of transfer of any Purchase Money Note, the Purchase Money Notes Registrar shall prepare and the Company shall execute and deliver, in the name of the designated transferee or transferees, one or more new Purchase Money Notes of any Authorized Denomination and of like terms and like principal balance. The Company shall furnish a copy of any executed Purchase Money Note to the Purchase Money Notes Registrar.

(d) At the option of a Noteholder, any Purchase Money Note may be exchanged for two or more Purchase Money Notes of like terms, in any Authorized Denominations and of like principal balance upon surrender of the Purchase Money Note to be exchanged at such office or agency. Whenever any Purchase Money Note is surrendered to the Purchase Money Notes Registrar for exchange, the Purchase Money Notes Registrar shall prepare, and the Company shall execute and deliver, the Purchase Money Notes that the Noteholder making the exchange is entitled to receive and shall deliver a copy of such executed Purchase Money Notes to the Purchase Money Note Registrar.

(e) All new Purchase Money Notes issued upon any registration of transfer or exchange of any Purchase Money Note shall be the valid obligations of the Company, evidencing the same debt (to the extent they evidence debt), and entitled to the same benefits under this Agreement as the Purchase Money Note surrendered upon such registration of transfer or exchange.

(f) Every Purchase Money Note presented or surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Purchase Money Notes Registrar duly executed by the Noteholder thereof or his attorney duly authorized in writing.

(g) No service charge shall be made to a Noteholder for any registration of transfer or exchange of a Purchase Money Note, but the Company or the Paying Agent may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

(h) No Purchase Money Note may be sold or transferred (including, without limitation, by pledge or hypothecation), unless such sale or transfer is exempt from the registration requirements of the Securities Act, would not require the registration of the

Company under the Investment Company Act, would not cause the Company to become a “publicly traded partnership” (as such term is defined in Section 7704 of the Code) or a taxable mortgage pool (as such term is defined in Section 7701(i) of the Code) and is exempt under applicable state or foreign securities Laws.

(i) The Purchase Money Notes may only be sold or resold, as the case may be: (1) to a transferee that is a person whom the seller reasonably believes is a Qualified Institutional Buyer purchasing for its own account or for the account of a Qualified Institutional Buyer in compliance with Rule 144A under the Securities Act or (2) to a transferee that is not a U.S. Person and is acquiring the Purchase Money Note in an Offshore Transaction (as defined in Regulation S of the Securities Act) in compliance with Rule 903 or Rule 904 of Regulation S under the Securities Act and, in the case of both clauses (1) and (2) of this Section 2.7(i), to a transferee that is a Qualified Purchaser purchasing for its own account or for the account of a Qualified Purchaser

(j) The Paying Agent shall require, prior to any sale or other transfer of a Purchase Money Note, that the prospective purchaser or transferee execute and deliver to the Paying Agent and the Company a certificate relating to such transfer in the form of the applicable portion of Exhibit C attached hereto or such other form as may be acceptable to the Paying Agent and counsel to the Company (each, a “Transferee Certificate”). The Paying Agent shall be entitled to rely conclusively on any Transferee Certificate and shall be entitled to presume conclusively the continuing accuracy thereof from time to time, in each case without further inquiry or investigation.

(k) At any time when the Company is not subject to Section 13 or 15(d) of the Exchange Act or is exempt from reporting requirements pursuant to Rule 12g3-2(b) thereunder, upon the request of any Noteholder, the Paying Agent, on behalf of the Company, shall promptly furnish to such Noteholder or to a prospective purchaser of any Purchase Money Note designated by such Noteholder the information required to be delivered to Noteholders pursuant to Rule 144A(d)(4) under the Securities Act (“Rule 144A Information”) (as determined by the Company in its sole discretion) in order to permit compliance by such Noteholder with Rule 144A in connection with the resale of such Purchase Money Note by such Noteholder. Upon request by the Company, the Paying Agent shall cooperate with the Company in mailing or otherwise distributing (at the Company’s expense) to such Noteholders or prospective purchasers, at and pursuant to the Company’s written direction, the foregoing materials prepared and provided by the Company; provided that the Paying Agent shall be entitled to affix thereto or enclose therewith such disclaimers as the Paying Agent shall deem reasonably appropriate, at its discretion (such as, for example, a disclaimer that such Rule 144A Information was assembled by the Company and not by the Paying Agent, that the Paying Agent has not reviewed or verified the accuracy thereof and that it makes no representation as to the sufficiency of such information under Rule 144A or for any other purpose).

(l) Transfers and exchanges of Global Notes, in whole or in part, shall only be made in accordance with this Section 2.7(l).

(i) Rule 144A Global Note to Certificated Note. Rule 144A Global Note to Certificated Note. If a Note Owner of a Rule 144A Global Note wishes at any

time to transfer its interest in such Rule 144A Global Note to a Person who wishes to take delivery thereof in the form of a Certificated Note, or to exchange its interest in such Rule 144A Global Note for an interest in a Certificated Note, such Note Owner may, subject to the rules and procedures of the Depository, transfer or exchange, or cause the transfer or exchange of, such interest for an equivalent principal balance of one or more such Certificated Notes as described below. Upon receipt by the Purchase Money Notes Registrar of (A) instructions given in accordance with the Depository's procedures from an Agent Member directing the Paying Agent to deliver one or more such Certificated Notes, designating the applicable registered name or names, address, payment instructions, and principal balances of the Certificated Notes to be executed and delivered (the aggregate Note Principal Balance of such Certificated Notes being equal to the beneficial interest in the Rule 144A Global Note to be transferred), in Authorized Denominations and (B) a certificate in the form of Exhibit C-2 attached hereto, in the case of Regulation S Certificated Notes, and Exhibit C-3 attached hereto, in the case of Rule 144A Certificated Notes, executed and delivered by the transferee of such beneficial interest, then the Purchase Money Notes Registrar shall instruct the Depository to reduce, or cause to be reduced, the applicable Rule 144A Global Note by the aggregate Note Principal Balance of the beneficial interest in such Rule 144A Global Note to be transferred or exchanged and the Purchase Money Notes Registrar shall record the transfer or exchange in the Purchase Money Notes Register in accordance with Section 2.7(a) and authenticate and deliver one or more Certificated Notes registered in the names and amounts specified in clause (A) above..

(m) Transfers and exchanges of Certificated Notes, in whole or in part, shall only be made in accordance with this Section 2.7(m).

(i) Certificated Note to Rule 144A Global Note. If a Noteholder who is the holder of a Certificated Note wishes to transfer such Certificated Note to a Person who wishes to take delivery thereof in the form of an interest in a Rule 144A Global Note, or to exchange such Certificated Note for an interest in a Rule 144A Global Note, such Noteholder may transfer or exchange, or cause the transfer or exchange of, such Certificated Note for an equivalent beneficial interest in a Rule 144A Global Note, provided that such proposed transferee or the Person requesting such exchange, as applicable, is a Qualified Institutional Buyer and a Qualified Purchaser. Upon receipt by the Purchase Money Notes Registrar of (A) such Certificated Note properly endorsed for such transfer and written instructions from such Noteholder directing the Purchase Money Notes Registrar to cause to be credited a beneficial interest in the Rule 144A Global Note in an amount equal to the Note Principal Balance of such Certificated Note, such instructions to contain information regarding the participant account with the Depository to be credited with such increase, (B) a certificate in the form of Exhibit C-4 hereto executed and delivered by the Noteholder of such Certificated Note and stating that, in the case of an exchange, the Noteholder is a Qualified Institutional Buyer and is also a Qualified Purchaser or, in the case of a transfer, such Noteholder reasonably believes that the Person acquiring such interest in the applicable Rule 144A Global Note is a Qualified Institutional Buyer, is obtaining such beneficial interest in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities Laws of any state of the United States or any other jurisdiction and is also a Qualified

Purchaser and (C) in the case of a transfer, a certificate in the form of Exhibit C-1 hereto executed and delivered by the proposed transferee stating that it is both a Qualified Institutional Buyer and a Qualified Purchaser, then the Purchase Money Notes Registrar shall cancel such Certificated Note in accordance with Section 2.16, record the transfer or exchange in the Purchase Money Notes Registrar in accordance with Section 2.7(a) and instruct the Depository to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the Rule 144A Global Note equal to the amount specified in the instructions received pursuant to clause (A) above.

(ii) Certificated Note to Certificated Note. If a Noteholder who is the holder of a Certificated Note wishes at any time to transfer such Certificated Note to another Person, such Noteholder may transfer, or cause the transfer of, such Certificated Note as provided below. Upon receipt by the Purchase Money Notes Registrar of (A) such Noteholder's Certificated Note properly endorsed for assignment to the transferee and (B) a certificate in the form of Exhibit C-2 hereto, in the case of a transfer of Regulation S Certificated Notes, and Exhibit C-3 hereto, in the case of a transfer of Rule 144A Certificated Notes, in each case, executed and delivered by the proposed transferee, then the Purchase Money Notes Registrar shall cancel such Certificated Note in accordance with Section 2.16, record the transfer in the Purchase Money Notes Register in accordance with Section 2.7(a) and, upon execution by the Company, deliver one or more Certificated Notes of the same Class endorsed for transfer, registered in the names specified in the assignment described in clause (A) above, in principal balances designated by the transferee (the principal balances being equal to the aggregate Note Principal Balance of the Certificated Notes surrendered by the transferor), and in Authorized Denominations.

If a Noteholder with one or more Rule 144A Certificated Notes wishes at any time to exchange such Rule 144A Certificated Notes for one or more Rule 144A Certificated Notes of different principal balances, or if a Noteholder with one or more Regulation S Certificated Notes wishes at any time to exchange such Regulation S Certificated Notes for one or more Regulation S Certificated Notes of different principal balances, such Noteholder may exchange or cause the exchange of such Certificated Notes for Certificated Notes endorsed for exchange as provided below. Upon receipt by the Purchase Money Notes Registrar of (A) such Noteholder's Certificated Notes properly endorsed for such exchange and (B) written instructions from such Noteholder designating the number and principal balances of the Certificated Notes to be issued (the Note Principal Balances of the Certificated Notes to be issued being equal to the Note Principal Balances of the Certificated Notes surrendered for exchange), then the Purchase Money Notes Registrar shall cancel such Certificated Notes in accordance with Section 2.16, record the exchange in the Purchase Money Notes Register in accordance with Section 2.7(a) and, upon execution by the Company, deliver one or more Certificated Notes endorsed for exchange, registered in the same name as the Certificated Notes surrendered by such Noteholder, in different principal balances designated by such Noteholder and in Authorized Denominations.

If a Noteholder with one or more Rule 144A Certificated Notes wishes at any time to exchange such Rule 144A Certificated Notes for one or more

Regulation S Certificated Notes, or if a Noteholder holding one or more Regulation S Certificated Notes wishes at any time to exchange such Regulation S Certificated Notes for one or more Rule 144A Certificated Notes, such Noteholder may exchange or cause the exchange of such Certificated Notes for Certificated Notes endorsed for exchange or cause the exchange of such Certificated Notes for Certificated Notes endorsed for exchange as provided below. Upon receipt by the Purchase Money Notes Registrar of (A) such Noteholder's Certificated Notes properly endorsed for such exchange, (B) written instructions from such Noteholder designating the number and principal balances of the Certificated Notes to be issued (the Note Principal Balances of the Certificated Notes to be issued being equal to the Note Principal Balances of the Certificated Notes surrendered for exchange), and (C) a certificate in the form of Exhibit C-2 hereto, in the case of an exchange for Regulation S Certificated Notes, or Exhibit C-3 hereto, in the case of an exchange for Rule 144A Certificated Notes, executed and delivered by the proposed transferee, then the Purchase Money Notes Registrar shall cancel such Certificated Notes in accordance with Section 2.16, record the exchange in the Purchase Money Notes Register in accordance with Section 2.7(a) and, upon execution by the Company, deliver one or more Certificated Notes endorsed for exchange, registered in the same name as the Certificated Notes surrendered by such Noteholder, in different principal balances designated by such Noteholder and in Authorized Denominations.

(n) If Purchase Money Notes are issued upon the transfer, exchange or replacement of Purchase Money Notes bearing the applicable legends set forth in the Exhibits attached to this Agreement and if a request is made to remove such applicable legend on such Purchase Money Notes, the Purchase Money Notes so issued shall bear such applicable legend, or such applicable legend shall not be removed, as the case may be, unless there is delivered to the Paying Agent and the Company such satisfactory evidence, which may include an opinion of counsel acceptable to them, as may be reasonably required by the Company (and which shall by its terms permit reliance by the Paying Agent), to the effect that neither such applicable legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of the Securities Act, the Investment Company Act, ERISA or the Code or any other applicable Law. Upon provision of such satisfactory evidence, the Paying Agent, at the written direction of the Company, shall, after due execution by the Company deliver Purchase Money Notes that do not bear such applicable legend.

(o) Each Note Owner of Rule 144A Global Notes will be deemed to have represented and agreed, and each Noteholder holding Certificated Notes will be required to represent and agree, as follows:

(i) In the case of Purchase Money Notes issued in reliance on Rule 144A: it is aware that the sale of the Purchase Money Notes to it is being made in reliance on the exemption from registration provided by Rule 144A; it is a Qualified Institutional Buyer and a Qualified Purchaser

(ii) In the case of Purchase Money Notes issued in reliance on Regulation S: it is aware that the sale of the Purchase Money Notes to it is being made in reliance on the exemption from registration provided by Regulation S; it is not, and will not be, a U.S. Person; it is a Qualified Purchaser; it is aware that in connection with a

transfer of any Purchase Money Notes acquired in accordance with Regulation S, such Purchase Money Notes must be exchanged for a Rule 144A Certificated Note or beneficial interest in a Rule 144A Global Note; and its purchase of the Purchase Money Notes will comply with all applicable Laws in any jurisdiction in which it resides or is located

(iii) It understands that the Purchase Money Notes will bear a legend set forth in the applicable exhibit attached hereto.

(iv) It (1) was not formed for the purpose of investing in the Company (except when each beneficial owner of the purchaser is a Qualified Purchaser), (2) has received the necessary consent from its beneficial owners if the purchaser is a private investment company formed before April 30, 1996, (3) is not a broker-dealer that owns and invests on a discretionary basis less than U.S.\$25,000,000 in securities of unaffiliated issuers, (4) is not a pension, profit sharing or other retirement trust fund or plan in which the partners, beneficiaries or participants, as applicable, may designate the particular investments to be made, and in a transaction that may be effected without loss of any applicable Investment Company Act exemption, (5) will provide notice to any subsequent transferee of the transfer restrictions provided in the legend, (6) will hold and transfer Purchase Money Notes in an amount of not less than U.S.\$250,000 for it or for each account for which it is acting, (7) will provide the Company and Paying Agent from time to time such information as they may reasonably request in order to ascertain compliance with this paragraph and (8) understands that the Company may receive a list of participants holding positions in its securities from one or more book-entry depositories.

(v) It understands that such Purchase Money Notes are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, such Purchase Money Notes have not been and will not be registered under the Securities Act and, if in the future it decides to offer, resell, pledge or otherwise transfer such Purchase Money Notes, such Purchase Money Notes may be offered, resold, pledged or otherwise transferred only in accordance with the provisions of this Agreement and the legend on such Purchase Money Notes. It acknowledges that no representation has been made as to the availability of any exemption under the Securities Act or any state securities Laws for resale of the Purchase Money Notes.

(vi) On each day from the date on which it acquires the Purchase Money Notes or interest therein through and including the date on which it disposes of its interests in such Purchase Money Note, either that (A) it is not, and is not acting on behalf of, or using the assets of, any employee benefit plan subject to Title I of ERISA or any plan, individual retirement account, Keogh plan or other arrangement subject to Section 4975 of the Code, or any entity whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement or a governmental or other plan which is subject to any provisions under any non-U.S., federal, state or local Law that is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code ("Similar Law") or (B) its acquisition and holding and disposition of such Purchase Money Note (or any interest therein) will not constitute or result in a non-exempt prohibited

transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental or other plan, a violation of Similar Law)).

(vii) It understands that this Agreement permits the Company to demand that (A) any Note Owner of Rule 144A Global Notes (or Noteholder holding Rule 144A Certificated Notes) who is determined not to be both a Qualified Institutional Buyer and a Qualified Purchaser at the time of acquisition of such Purchase Money Notes or (B) any Noteholder holding Regulation S Certificated Notes who is determined not to be both a non-U.S. Person and a Qualified Purchaser at the time of acquisition of such Purchase Money Notes, in either such case sell the Purchase Money Notes (x) to a Person who is a Qualified Institutional Buyer in a transaction meeting the requirements of Rule 144A or another applicable exemption from the registration requirements of the Securities Act or (y) to a Person who will take delivery in the form of a Regulation S Certificated Note and who is not a U.S. Person in a transaction meeting the requirements of Regulation S and, in the case of both clauses (x) and (y), to a person that is a Qualified Purchaser, and if it does not comply with any such demand under clause (A) or (B) within 30 days thereof, the Company may sell the Note Owner's or the Noteholder's Purchase Money Note or interest therein in accordance with and pursuant to the terms of this Agreement.

(viii) It acknowledges that it is its intent and that it understands it is the intent of the Company that, for purposes of U.S. Federal income, state and local income and any other income taxes, the Company will be treated as a partnership and the Purchase Money Notes will be treated as indebtedness of the Company; it agrees to such treatment and agrees to take no action inconsistent with such treatment.

(ix) If it is not a "United States person" as defined in Section 7701(a)(30) of the Code (a "**U.S. Person**"), it is not acquiring any Purchase Money Notes as part of a plan to reduce, avoid or evade U.S. Federal Income taxes owed, owing or potentially owed or owing.

(x) It is aware that, except with respect to Certificated Notes, the Purchase Money Notes will be represented by one or more Rule 144A Global Notes and that the beneficial interests therein may be held only through the Depository or one of its nominees, as applicable.

(xi) It agrees that it will not offer or sell, transfer, assign, or otherwise dispose of any Purchase Money Notes or any interest therein except (A) pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any applicable state securities Laws or the applicable Laws of any other jurisdiction and (B) in accordance with the provisions of this Agreement, to which provisions it agrees it is subject.

(xii) It understands that the Company, the Paying Agent and the Receiver, their respective Affiliates and their counsel will rely upon the accuracy and truth of the foregoing representations, and it consents to such reliance.

(xiii) It will provide notice to each Person to whom it proposes to transfer any interest in the Purchase Money Notes of the transfer restrictions and representations set forth in this Section 2.7, including the Exhibits referenced herein.

(p) Agent Members shall have no rights under this Agreement with respect to any Global Note held on their behalf by the Paying Agent, as custodian for the Depository, and the Depository may be treated by the Company, the Paying Agent, and any agent of the Company or the Paying Agent as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Paying Agent, or any agent of the Company or the Paying Agent, from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial interest in any Global Note.

(q) Notwithstanding any provision to the contrary herein, so long as a Purchase Money Note remains outstanding, transfers and exchanges of a Purchase Money Note, in whole or in part, shall only be made in accordance with this Section 2.7.

(r) Any purported transfer or exchange of a Purchase Money Note not in accordance with this Section 2.7 shall be null and void *ab initio* and shall not be given effect for any purpose hereunder.

(s) Nothing in this Section 2.7 shall be construed to limit any contractual restrictions on transfers of Purchase Money Notes or interests therein that may apply to any Person.

(t) Notwithstanding anything contained herein to the contrary, neither the Paying Agent nor the Purchase Money Notes Registrar shall be responsible for ascertaining whether any transfer complies with the registration provisions of or any exemptions from the Securities Act, applicable state securities Laws or the applicable Laws of any other jurisdiction, ERISA, the Code or the Investment Company Act; provided that if a certificate is specifically required by the express terms of this Agreement to be delivered to the Paying Agent by a Noteholder, Note Owner or transferee of a Purchase Money Note, the Paying Agent shall be under a duty to receive and examine the same to determine whether or not the certificate substantially conforms on its face to the requirements of this Agreement and shall promptly notify the party delivering the same if such certificate does not comply with such terms.

(u) Notwithstanding the foregoing, with the advice of counsel to the Company, the Company may adopt one or more other forms of transfer certificate with respect to the transfer of the Purchase Money Notes after the Closing Date. The Purchase Money Note Registrar shall be notified of such action and, upon receipt of such notice and copies of such other forms of transfer certificate from the Company, shall be deemed to be directed by the Company to also adopt such alternate forms of transfer certificate.

Section 2.8 Reissuance of the Purchase Money Notes. The Company, at the direction of the Purchase Money Notes Guarantor, may prepay the entire aggregate Note Principal Balances of the Purchase Money Notes (such prepaid Purchase Money Notes, the "**Prepaid**

Purchase Money Notes”) and reissue new Purchase Money Notes (such reissued Purchase Money Notes, the **“Reissued Purchase Money Notes”**) to the Receiver (or its assignee) with terms and conditions substantially similar to the terms and conditions of the Prepaid Purchase Money Notes; provided, however, that (x) (i) the maturity date of such Reissued Purchase Money Note shall not be later than the tenth anniversary of the Closing Date and (ii) the aggregate Initial Note Principal Balances of such Reissued Purchase Money Notes at the time of issuance shall be equal to the aggregate Note Principal Balance of the related maturing Purchase Money Notes and (y) no modification to the terms of such Reissued Purchase Money Notes shall adversely affect (i) the amount or timing of distributions to the Private Owner pursuant to the Priority of Payments or (ii) any other rights or obligations of the Private Owner pursuant to this Agreement or any Ancillary Document (other than the Purchase Money Notes). Simultaneously with the issuance of any Reissued Purchase Money Notes, the Company shall use the proceeds of such Reissued Purchase Money Notes to prepay the Noteholders holding the Prepaid Purchase Money Notes in accordance with their Noteholder Percentages. The Reissued Purchase Money Notes shall be subject to all of the terms and conditions of this Agreement and the Reimbursement and Security Agreement.

Section 2.9 Mutilated, Defaced, Destroyed, Lost or Stolen Purchase Money Notes.

(a) If (i) any mutilated or defaced Purchase Money Note is surrendered to a Paying Agent, or if there shall be delivered to the Company and the Paying Agent evidence to their reasonable satisfaction of the destruction, loss or theft of any Purchase Money Note, and (ii) there is delivered to the Company and the Paying Agent such security or indemnity as may be required by them to save each of them and any agent of any of them harmless, then, in the absence of notice to the Company or such Paying Agent that such Purchase Money Note has been acquired by a bona fide purchaser, the Company shall execute and deliver, in lieu of any such mutilated, defaced, destroyed, lost or stolen Purchase Money Note, a new Purchase Money Note, of like tenor (including the same date of issuance) and equal principal or face amount registered in the same manner, dated the date of its authentication, bearing interest from the date to which interest has been paid on the mutilated, defaced, destroyed, lost or stolen Purchase Money Note and bearing a number not contemporaneously outstanding.

(b) If, after delivery of such new Purchase Money Note, a bona fide purchaser of the predecessor Purchase Money Note presents for payment, transfer or exchange such predecessor Purchase Money Note, the Company, the Purchase Money Notes Registrar and the Paying Agent shall be entitled to recover such new Purchase Money Note from the Person to whom it was delivered or any Person taking therefrom, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Company and the Paying Agent in connection therewith.

(c) In case any such mutilated, defaced, destroyed, lost or stolen Purchase Money Note has become due and payable, the Company may in its discretion, instead of issuing a new Purchase Money Note pay such Purchase Money Note without requiring surrender thereof except that any mutilated Purchase Money Note shall be surrendered.

(d) Upon the issuance of any new Purchase Money Note under this Section 2.9, the Company may require the payment by the Noteholder thereof of a sum sufficient to

cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

(e) Every new Purchase Money Note issued pursuant to this Section 2.9 in lieu of any mutilated, defaced, destroyed, lost or stolen Purchase Money Note shall constitute an original additional contractual obligation of the Company, and such new Purchase Money Note shall be entitled, subject to Section 2.9(b), to all the benefits of this Agreement equally and proportionately with any and all other Purchase Money Notes duly issued hereunder.

The provisions of this Section 2.9 are exclusive and shall preclude (to the extent Lawful) all other rights and remedies with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Purchase Money Note.

Section 2.10 Payments with Respect to the Purchase Money Notes.

(a) All reductions in the principal balance of a Purchase Money Note (or one or more predecessor Purchase Money Notes) effected by payments and prepayments of principal shall be binding upon all future Noteholders holding such Purchase Money Note and of any Purchase Money Notes issued upon the registration of transfer thereof or in exchange thereof or in lieu thereof, whether or not such payment is noted on such Purchase Money Note. Subject to the foregoing, each Purchase Money Note delivered under this Agreement and upon registration of transfer of or in exchange for or in lieu of any other Purchase Money Note shall carry the rights of unpaid principal or distributions that were carried by such other Purchase Money Note.

(b) Payments in respect of principal of any Purchase Money Note shall be made by or on behalf of the Company, in U.S. dollars, to the applicable Clearing Agency or its nominee with respect to a Global Note and to the Noteholder or its designee with respect to a Certificated Note, by wire transfer, as directed by such Clearing Agency or Noteholder, as applicable, in immediately available funds to a U.S. dollar account maintained by such Clearing Agency with respect to a Global Note, and to the Noteholder or its designee with respect to a Certificated Note; provided that (i) in the case of a Certificated Note, the Noteholder thereof shall have provided written wiring instructions to the Paying Agent on or before the related Record Date; and (ii) if appropriate instructions for any such wire transfer are not received at least fifteen (15) Business Days prior to the relevant Distribution Date, then such payment shall be made by check drawn on a U.S. bank mailed to the address of the Noteholder specified in the Purchase Money Notes Register. Upon final payment due on the maturity of a Purchase Money Note, the Noteholder thereof shall present and surrender such Purchase Money Note at the office of the Paying Agent on or prior to such maturity; provided that, if the Paying Agent and the Company shall have been furnished such security or indemnity as may be required by them to save each of them harmless and an undertaking thereafter to surrender such Purchase Money Note, then, in the absence of notice to the Company or the Paying Agent that the applicable Purchase Money Note has been acquired by a bona fide or protected purchaser, and upon written direction from the Company, such final payment shall be distributed by the Paying Agent without presentation or surrender; provided further, that the foregoing provisos shall not apply to any Purchase Money Note so long as such Purchase Money Note remains in book entry form, in which case, all payments shall be made through the applicable Clearing Agency. All notices and communications to be given to the Note Owners and all payments to be made to the Note

Owners in respect of the Purchase Money Notes shall be given or made only to or upon the order of the registered Noteholders. Neither the Company nor the Paying Agent shall have any responsibility or liability for any aspects of the records maintained by the Depository or any of the Agent Members relating to or for payments made thereby on account of beneficial interests in a Global Note.

Section 2.11 Mandatory Exchange.

(a) A Global Note deposited with the Depository shall be exchanged for one or more Certificated Notes issued to the beneficial owners thereof if (i) either the Depository notifies the Company that it is unwilling or unable to continue as depository for such Global Note or (ii) at any time the Depository ceases to be a Clearing Agency registered under the Exchange Act and, in each case, a successor depository is not appointed by the Company within 90 days after such notice; and provided that such exchange complies with Section 2.7 hereof.

(b) Any Global Note that is exchanged for a Certificated Note pursuant to this Section 2.11 shall be surrendered by the Depository to the Paying Agent to be so transferred, in whole or from time to time in part, without charge, and the Company shall execute, and the Paying Agent shall deliver, upon such transfer of each portion of such Global Note, an equal aggregate Note Principal Balance of Certificated Notes in Authorized Denominations. Any Certificated Note delivered in exchange for an interest in a Global Note shall, except as otherwise provided by Section 2.7(n) hereof, bear the legends set forth in the applicable Exhibit hereto and shall be subject to the transfer restrictions referred to in such legends.

(c) Subject to the provisions of subsection (b) of this Section 2.11, the Noteholder holding a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Noteholder is entitled to take under this Agreement or the Purchase Money Notes.

(d) In the event of the occurrence of the event specified in subsection (a) of this Section 2.11, the Company shall promptly make available to the Paying Agent a reasonable supply of Certificated Notes in definitive, fully registered form without interest coupons. The Certificated Notes shall be in substantially the same form as the Exhibits to this Agreement with such changes therein as the Company and Paying Agent shall agree and the Company shall execute, and the Paying Agent shall deliver, in exchange for the Global Note or Global Notes, as the case may be, the same aggregate Initial Note Principal Balance of Certificated Notes of Authorized Denominations.

Section 2.12 Notes Beneficially Owned by Persons Not Qualified Institutional Buyers or Qualified Purchasers.

(a) Notwithstanding anything to the contrary elsewhere in this Agreement, any transfer of (i) a Rule 144A Global Note or a Rule 144A Certificated Note to a Person that is not both a Qualified Institutional Buyer and a Qualified Purchaser or (ii) a Rule 144A Global Note to any Person that is not a U.S. Person shall be null and void (other than any such transfers

to the Receiver), and any such purported transfer of which the Company or the Paying Agent shall have notice may be disregarded by the Company and the Paying Agent for all purposes.

(b) If (i) any Person that is not a Qualified Institutional Buyer and a Qualified Purchaser shall become a Note Owner of a Rule 144A Global Note or a Noteholder of a Rule 144A Certificated Note or (ii)(A) any U.S. Person or (B) any non-U.S. Person that is not a Qualified Purchaser shall become a Noteholder of a Regulation S Certificated Note (any such Person, a “**Non-Permitted Holder**”), the Company, or the Paying Agent acting on behalf of the Company shall, promptly after discovery that such Person is a Non-Permitted Holder by the Company or the Paying Agent (and notice by the Paying Agent to the Company), send notice to such Non-Permitted Holder demanding that such Non-Permitted Holder transfer its interest to a Person that is not a Non-Permitted Holder within thirty (30) days of the date of such notice. If such Non-Permitted Holder fails to so transfer its interest, the Company shall have the right, without further notice to the Non-Permitted Holder, to sell such interest to a purchaser selected by the Company that is not a Non-Permitted Holder on such terms as the Company may choose. The Company, with the assistance of an independent investment bank of national reputation engaged at the expense of the Company, shall select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the Purchase Money Notes and sell such interest to the highest such bidder. However, the Company may select a purchaser by any other means determined by it in its sole discretion. The Noteholder, the Non-Permitted Holder and each other Person in the chain of title from the Noteholder to the Non-Permitted Holder, by their acceptance of an interest in the Purchase Money Note, agree to cooperate with the Company and the Paying Agent to effect such transfers. The proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale, shall be remitted to the Non-Permitted Holder. The terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Company, and the Company shall not be liable to any Person having an interest in the Purchase Money Notes sold as a result of any such sale or the exercise of such discretion.

Section 2.13 Withholding. If any withholding tax is imposed on any payment made by the Company to any Noteholder, such tax shall reduce the amount otherwise payable to such Noteholder. The Company is hereby authorized to withhold from amounts otherwise payable to any Noteholder sufficient funds for the payment of any tax that is legally owed in connection therewith (but such authorization shall not prevent the Company from contesting any such tax in appropriate proceedings and withholding payment of such tax, if permitted by Law, pending the outcome of such proceedings). The amount of any withholding tax imposed with respect to any Noteholder shall be treated as cash paid to such Noteholder at the time it is withheld. If there is a possibility that withholding tax is payable with respect to a payment, the Company may, in its sole discretion, withhold such amounts in accordance with this Section 2.13. The Company shall not be obligated to pay any additional amounts to any Noteholder or beneficial owner of a Purchase Money Note as a result of any withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges imposed on payments in respect of such Purchase Money Note.

Section 2.14 Persons Deemed Owners. The Company, the Paying Agent and any agent of the Company or the Paying Agent shall treat the Person in whose name any Purchase Money Note is registered as the owner of such Purchase Money Note on the Purchase Money Notes

Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on or other distributions with respect to such Purchase Money Note and on any other date for all other purposes whatsoever (whether or not such payments are overdue), and neither the Company, nor the Paying Agent, nor any agent of the Company or the Paying Agent, shall be affected by notice to the contrary.

Section 2.15 Noteholder Voting. In any case in which consent of the Noteholders is required hereunder, such consent requirement shall be satisfied if the Noteholders of more than fifty percent (50%) of the outstanding principal balance of the Purchase Money Notes consent. Notwithstanding the foregoing, with respect to each of the following, such consent requirement shall only be satisfied if each affected Noteholder consents to:

(a) any amendment, waiver or other modification that would (I) extend the due date for, or reduce the amount of any scheduled repayment of principal of, the Purchase Money Notes; (II) affect adversely the interests, rights or obligations of any Noteholder individually in comparison to any other Noteholder; (III) change any place of payment where, or the coin or currency in which, the Purchase Money Notes are payable; (IV) amend or otherwise modify the definition of "Event of Default" as defined in the Purchase Money Notes; or (V) amend, waive or otherwise modify this Section 2.15; and

(b) any amendment, waiver or other modification that would release the Purchase Money Notes Guarantor from all or any part of its obligation to make each and every payment required under the Purchase Money Notes Guaranty.

Section 2.16 Cancellation. Any Purchase Money Note surrendered for payment, registration or transfer, exchange or redemption, or deemed lost or stolen, shall, if surrendered to any Person other than the Paying Agent, be delivered to the Paying Agent, shall be promptly canceled by it and may not be reissued or resold. No Purchase Money Note shall be issued in lieu of or in exchange for any Purchase Money Note canceled as provided in this Section 2.16, except as expressly permitted by this Agreement. Any cancelled Purchase Money Note held by the Paying Agent shall be destroyed or held by the Paying Agent in accordance with its standard retention policy unless the Company shall direct that such Purchase Money Note be returned to it.

Section 2.17 Section 3(c)(7) Procedures.

(a) Depository Actions. The Company shall direct the Depository to take the following steps in connection with the Rule 144A Global Note:

(i) The Company shall direct the Depository to include the "3c7" marker in the Depository 20-character security descriptor and the 48-character additional descriptor for the Rule 144A Global Note in order to indicate that sales are limited to Persons that are both Qualified Institutional Buyers and Qualified Purchasers.

(ii) The Company shall direct the Depository to cause each physical Depository deliver order ticket delivered by the Depository to purchasers to contain the Depository 20-character security descriptor and shall direct the Depository to cause each

Depository deliver order ticket delivered by the Depository to purchasers in electronic form to contain the “3c7” indicator and a related user manual for participants, which shall contain a description of the relevant restrictions.

(iii) The Company shall instruct the Depository to send a notice substantially in the form attached as Exhibit Q hereto to all Depository participants in connection with the offering of the Rule 144A Global Note.

(iv) The Company shall advise the Depository that it is a Section 3(c)(7) issuer and shall request the Depository to include the Rule 144A Global Note in the Depository’s “Reference Directory” of Section 3(c)(7) offerings.

(v) The Company from time to time shall (upon the request of the Paying Agent or the Purchase Money Notes Registrar) request the Depository to deliver to the Company a list of all Depository participants holding an interest in the Rule 144A Global Note.

(b) Bloomberg Screens, Etc. The Company from time-to-time shall request all third-party vendors to include on screens maintained by such vendors appropriate legends regarding Rule 144A and Section 3(c)(7) restrictions on the Rule 144A Global Note. Without limiting the foregoing, the Company shall request Bloomberg, L.P. to include the following on each Bloomberg screen containing information about the Rule 144A Global Notes or the Rule 144A Certificated Notes represented by Global Notes:

(i) “Security Description” page 1 describing the security states: “144A/3c7 “ok”; Reg S/3c7 “ok”; 144A/DTC Book Entry; Reg S/Certificated.

(ii) “Security Description” page 1 states: “See Page 3 for Comments”.

(iii) (iii) “Security Description” page 3 states: “RESTRICTIONS: These securities are being offered under the Securities Act only (a) in book-entry and certificated form to “qualified institutional buyers” under Rule 144A and (b) in certificated form to non-U.S. Persons in offshore transactions under Regulation S, where (a) and (b) are also “qualified purchasers” within the meaning of Section 3(c)(7) of the U.S. Investment Company Act.”

Notwithstanding the foregoing, in the event that Bloomberg is not able to include the language contained in subsections (b)(i) and (b)(ii) above, the purchaser will ensure as of the Closing Date that “Security Description” page 3 states: “144A/3c7 “ok”; Reg S/3c7 “ok”; 144A/DTC Book Entry; Reg S/Certificated” in addition to the language in subsection (b)(iii) above.

(a) CUSIP. The Company shall cause each “CUSIP” number obtained for the Rule 144A Global Notes to have an attached “fixed field” that contains “3c7” and “144A” indicators.

ARTICLE III ACCOUNTS

Section 3.1 Collection Account. On the Closing Date, the Company shall establish the Collection Account with the Paying Agent, which shall at all times be an Eligible Account.

(a) The Receiver (or any Interim Servicer) shall (i) transfer all Mortgage Loan Proceeds it receives during the Interim Servicing Period, net of any Servicing Expenses and Pre-Approved Charges then due and payable to the Receiver no later than two (2) Business Days prior to the applicable Distribution Date to the Paying Agent for deposit into the Collection Account and (ii) transfer all Mortgage Loan Proceeds it receives after the Servicing Transfer Date promptly following receipt to the Paying Agent for deposit into the Collection Account.

(b) The Company shall transfer, or cause the Servicer or Subservicer to transfer all Mortgage Loan Proceeds received by or on behalf of the Company after the Servicing Transfer Date within two (2) Business Days of receipt to the Paying Agent for deposit into the Collection Account. No funds other than Mortgage Loan Proceeds, interest or earnings on the Mortgage Loan Proceeds, funds transferred from the Liquidity Account pursuant to Section 3.5 and funds advanced by the Manager as Excess Liquidity Advances pursuant to the LLC Operating Agreement and Section 3.8 shall be deposited in and commingled in the Collection Account. Amounts on deposit in the Collection Account (including interest and earnings thereon) shall be distributed in the following order of priority:

(i) from Interest Proceeds then from Principal Proceeds, to the payment of the then-outstanding amount of Servicing Expenses and Pre-Approved Charges either then due and payable or subject to reimbursement;

(ii) first from Principal Proceeds then from Interest Proceeds, to fund any Funding Draws required pursuant to any Mortgage Loan Document; and

(iii) first from Interest Proceeds then from Principal Proceeds, to reimburse the Manager for any Excess Liquidity Advances;

(iv) if the amount on deposit in the Liquidity Account is less than the Liquidity Account Cap, from Interest Proceeds, to the Liquidity Account, the Liquidity Account Transfer Amount; and

(v) the balance, if any, to be transferred to the Distribution Account on the Business Day prior to each Distribution Date.

(c) The Initial Member is authorized to request the withdrawal of funds from the Collection Account to pay Servicing Expenses and Pre-Approved Charges and to fund any Funding Draws incurred during the Interim Servicing Period. The Manager is authorized to request the withdrawal of funds from the Collection Account to pay Servicing Expenses and Pre-Approved Charges incurred at any time following the Cut-Off Date and to fund any Funding Draws, all in accordance with the terms of this Agreement and the Related Agreements. Upon such request, the Paying Agent shall withdraw funds from the Collection Account to pay or reimburse such Operating Expenses and Funding Draws. If the Receiver, the Company, the

Servicer or any Subservicer at any time erroneously deposits any amount into the Collection Account, the Manager is authorized to request the withdrawal of such amount and instruct the Paying Agent to pay such amount to the Receiver, the Company, the Servicer or any Subservicer, as applicable. The Manager shall provide such requests to the Paying Agent in accordance with Section 18.1.

(d) The Paying Agent shall invest the amounts on deposit in the Collection Account in Permitted Investments in accordance with investment directions from the Company or the Purchase Money Notes Guarantor, as applicable, but with a maturity that allows for their allocation and transfer to the Distribution Account in accordance with Section 3.2.

(e) The Collection Account (and all funds therein) shall be subject to the security interest granted to the Collateral Agent under the Reimbursement and Security Agreement and to the Account Control Agreement in substantially the form attached hereto as Exhibit N.

Section 3.2 Distribution Account. On the Closing Date, the Company shall establish the Distribution Account with the Paying Agent, which shall at all times be an Eligible Account. The Paying Agent shall transfer from the Collection Account to the Distribution Account, for application pursuant to Section 5.1, not later than 12:00 p.m. New York time on the Business Day immediately preceding each Distribution Date, the amount specified in the Distribution Date instructions delivered pursuant to Section 11.4 for such Distribution Date and related to the applicable Due Period. No funds from any other source shall be deposited in and commingled in the Distribution Account. Amounts on deposit in the Distribution Account shall be allocated and may be withdrawn and disbursed only in accordance with the provisions of Section 5.1. The Paying Agent shall withdraw funds from the Distribution Account solely to make disbursements in accordance with this Agreement and not for any other purpose. The Distribution Account (and all funds therein) shall be subject to the security interest granted to the Collateral Agent under the Reimbursement and Security Agreement and to the Account Control Agreement. All amounts on deposit in the Distribution Account shall remain uninvested.

Section 3.3 Special Reserve Account

(a) On the Closing Date, the Company shall establish the Special Reserve Account with the Paying Agent for the purpose of (a) holding any funds drawn by the Company under the Qualifying Letter of Credit pursuant to the LLC Operating Agreement and (b) holding the Required Cash Special Reserve Amount.

(b) The Special Reserve Account shall be funded pursuant to the LLC Operating Agreement. Earnings on investments (including any earned interest thereon) made pursuant to Section 4.1 of funds on deposit in the Special Reserve Account shall be immediately deposited in the Special Reserve Account.

(c) At the time of the Final Distribution, the Paying Agent in accordance with the Distribution Date Report provided to it shall allocate and distribute any remaining funds held in the Special Reserve Account to the Collection Account from which account the funds will be

transferred to the Distribution Account and paid to the Private Owner pursuant to the LLC Operating Agreement.

(d) No funds from any other source (other than interest and earnings on the funds on deposit in the Special Reserve Account and funds deposited pursuant to Section 5.3 of the LLC Operating Agreement as described in Section 3.3(b) above) shall be deposited in the Special Reserve Account. The Paying Agent shall withdraw funds from the Special Reserve Account only upon (i) receipt of a written certification from the Initial Member stating that there has been an Event of Default as set forth in the LLC Operating Agreement or (ii) the winding up of the Company (notice of which shall be provided by the Initial Member to the Paying Agent), for delivery to the Private Owner. The Special Reserve Account (and all funds therein) shall be subject to (i) the security interest granted to the Collateral Agent under the Reimbursement and Security Agreement and (ii) to the related Account Control Agreement.

(e) The Paying Agent shall invest the amounts on deposit in the Special Reserve Account in Permitted Investments in accordance with investment directions from the Company.

Section 3.4 Interest Reserve Account

(a) On the Closing Date, the Company shall establish the Interest Reserve Account with the Paying Agent for the purpose of making (a) interest payments on the Purchase Money Notes, to the extent there are insufficient funds in the Distribution Account to make such payments on any Distribution Date, and (b) to reimburse the Purchase Money Notes Guarantor for any payments pursuant to the Purchase Money Notes Guaranty. To the extent there are insufficient funds in the Distribution Account to pay on any Distribution Date both (a) the full interest payment due to the Noteholders pursuant to Section 5.1(b)(iv) and (b) the full amount of any reimbursement payments due to the Purchase Money Notes Guarantor pursuant to Section 5.1(b)(v), the Company shall instruct the Paying Agent to withdraw from the Interest Reserve Account an amount equal to the lesser of (i) the amount of such aggregate shortfall and (ii) the amount then on deposit in the Interest Reserve Account and deposit such amount into the Collection Account for transfer to the Distribution Account for disbursement in accordance with Section 5.1(b).

(b) The Interest Reserve Account shall be funded on the Closing Date pursuant to Section 12.10 of the LLC Operating Agreement. Thereafter, the Interest Reserve Account shall be replenished from funds in the Distribution Account in accordance with Section 5.1(b)(vi) hereof. Earnings on investments (including any earned interest thereon) of funds on deposit in the Interest Reserve Account made pursuant to Section 4.1 shall be immediately deposited in the Interest Reserve Account.

(c) If on any Distribution Date the amount on deposit in the Interest Reserve Account is greater than the Interest Reserve Target Amount, then the Paying Agent shall, in accordance with the Distribution Date Report, transfer such excess (the "Excess Interest Reserve Amount") to the Collection Account for transfer to the Distribution Account for disbursement in accordance with Section 5.1(b).

(d) Upon the earliest to occur of (i) the date on which the aggregate Note Principal Balance of the Purchase Money Notes has been reduced to zero or (ii) the date of the Final Distribution, the Paying Agent shall transfer all remaining funds held in the Interest Reserve Account to the Collection Account for transfer to the Distribution Account for disbursement in accordance with Section 5.1(b).

(e) No funds from any other source (other than interest and earnings on the funds on deposit in the Interest Reserve Account and funds deposited pursuant to Section 5.5 of the LLC Operating Agreement as described in Section 3.4(b) above) shall be deposited in the Interest Reserve Account.

(f) The Interest Reserve Account (and all funds therein) shall be subject to (i) the security interest granted to the Collateral Agent under the Reimbursement and Security Agreement and (ii) the Collateral Accounts Control Agreement.

(g) The Paying Agent shall invest the amounts on deposit in the Interest Reserve Account in Permitted Investments in accordance with investment directions from the Company or the Purchase Money Notes Guarantor, as applicable, but with a maturity that allows for their allocation and transfer to the Distribution Account in accordance with Section 3.2.

Section 3.5 Liquidity Account

(a) On the date hereof, the Company shall establish the Liquidity Account with the Paying Agent, which shall at all times be an Eligible Account, for the purpose of paying the Operating Expenses to the extent there are insufficient funds in the Collection Account with which to pay the outstanding amount of the Operating Expenses then due and payable.

(b) The Liquidity Account shall be funded on the Closing Date pursuant to Section 12.11 of the LLC Operating Agreement. On the Business Day immediately prior to each Distribution Date thereafter, an amount equal to the Liquidity Account Transfer Amount will be transferred from Interest Proceeds on deposit in the Collection Account to the Liquidity Account. If the amount on deposit in the Liquidity Account is greater than the Liquidity Account Cap, then the Paying Agent shall, in accordance with the Distribution Date Report, transfer any such excess to the Collection Account to be treated as Interest Proceeds. Earnings on investments (including any earned interest thereon) made pursuant to Section 4.1 of funds on deposit in the Liquidity Account shall be immediately deposited in the Liquidity Account.

(c) At any time after the Liquidity Account has been funded as described in Section 3.5(b), the Company may, solely for the purpose of paying Operating Expenses, instruct the Paying Agent to transfer funds on deposit in the Liquidity Account to the Collection Account to pay Operating Expenses and the Paying Agent shall, upon such request, transfer such funds.

(d) On the Servicing Transfer Date, the Initial Member shall be reimbursed from the Liquidity Account or if there are not sufficient funds on deposit in the Liquidity Account, through Excess Liquidity Advances, for an amount equal to all Operating Expenses (and any advance of the Initial Member that is reimbursable pursuant to the Contribution

Agreement) paid by it at any time after the Cut-Off Date and on or before such Servicing Transfer Date, to the extent the same have not been otherwise reimbursed.

(e) At the time of the Final Distribution, the Paying Agent shall allocate in accordance with the Distribution Date Report provided to it by the Manager pursuant to Section 11.3 and distribute all remaining funds held in the Liquidity Account to the Collection Account from which account the funds will be transferred to the Distribution Account and made available for distribution in accordance with the Priority of Payments pursuant to Section 5.1 of this Agreement and the LLC Operating Agreement.

(f) No funds from any other source (other than interest and earnings on the funds on deposit in the Liquidity Account and funds deposited pursuant to Section 12.11 of the LLC Operating Agreement as described in Section 3.5(b) above) shall be deposited in the Liquidity Account. The Paying Agent shall withdraw funds from the Liquidity Account only to make distributions in accordance with this Agreement and for no other purpose. The Liquidity Account (and all funds therein) shall be subject to (i) the security interest granted to the Collateral Agent under the Reimbursement and Security Agreement and (ii) to the related Account Control Agreement.

(g) The Paying Agent shall invest the amounts on deposit in the Liquidity Account in Permitted Investments in accordance with investment directions from the Company or the Purchase Money Notes Guarantor, as applicable.

Section 3.6 Excess Liquidity Advances

The Manager shall make Excess Liquidity Advances to the Paying Agent for deposit into the Collection Account from its own funds in accordance with the terms described in Section 5.4 of the LLC Operating Agreement and to the extent that there are insufficient funds in the Collection Account and the Liquidity Account with which to pay Operating Expenses and Funding Draws in full.

ARTICLE IV ADDITIONAL PROVISIONS RELATED TO THE ACCOUNTS

Section 4.1 Investment of Funds in Accounts.

(a) The Purchase Money Notes Guarantor, as long as any Purchase Money Note is outstanding, and thereafter, the Company shall at all times direct the Paying Agent to, and, upon receipt of such investment direction, the Paying Agent shall, invest amounts on deposit and retained in the Collection Account, the Liquidity Account and the Interest Reserve Account, as so directed in Permitted Investments. The Company shall at all times direct the Paying Agent to, and, upon receipt of such investment direction, the Paying Agent shall, invest amounts on deposit and retained in the Special Reserve Account, as so directed in Permitted Investments. If the Company or the Purchase Money Notes Guarantor, as applicable, does not provide the Paying Agent with investment directions pursuant to Sections 3.1, 3.3, 3.4, 3.5 or 4.1, the balance standing to the credit of the Collection Account, the Special Reserve Account, the Liquidity Account or the Interest Reserve Account, as applicable, will remain uninvested

with no liability for interest thereon. It is agreed and understood that the Paying Agent may earn fees associated with Permitted Investments, as agreed to by the Manager and the Paying Agent, and with respect to the Interest Reserve Account, the Purchase Money Notes Guarantor.

(b) Whenever the Paying Agent is directed or authorized in accordance with the terms hereof to make a transfer of funds among the Collection Account, the Liquidity Account, the Distribution Account, Interest Reserve Account and the Special Reserve Account (collectively, the "Accounts"), after application of all other available funds, the Paying Agent shall allocate to the Account to which such funds are to be transferred a portion of any Permitted Investment that would otherwise have to be liquidated to accomplish such transfer in an amount corresponding to the amount to be so transferred. Whenever the Paying Agent is directed or authorized in accordance with the terms hereof to make a transfer of funds from the Accounts (unless such transfer is between Accounts), if, after application of all other available funds, liquidation of a Permitted Investment is necessary to make any such transfer, the Paying Agent is authorized to liquidate such Permitted Investment. If any Permitted Investment so liquidated is then allocated to more than one Account, and it is not possible to liquidate only the portion of such Permitted Investment allocated to the Account from which such transfer is to be made, then the entire Permitted Investment shall be liquidated, and the proceeds of such liquidation shall be allocated to the Accounts involved in the same proportion as the allocation of such Permitted Investment, except that the net costs and expenses, if any, of such liquidation (including any loss of principal) shall be allocated entirely to the Account from which the transfer of funds was required to be made. The Paying Agent shall liquidate all those Permitted Investments that can be liquidated without interest cost or penalty before it shall liquidate any Permitted Investment, the liquidation of which would involve an interest cost or penalty. The Paying Agent shall have no liability with respect to any interest cost or penalty on the liquidation of any Permitted Investment pursuant to this Section 4.1.

(c) The Paying Agent shall have no liability with respect to Permitted Investments (or any losses resulting therefrom) made at the direction of the Company, the Initial Member or the Purchase Money Notes Guarantor, as applicable, pursuant to this Agreement.

(d) All references in this Agreement to the Accounts and to cash, moneys or funds therein or balances thereof shall include the investments in which such moneys are invested.

(e) The Paying Agent may execute any investment directions provided to it in respect of the Permitted Investments through its Affiliates, and neither the Paying Agent nor its Affiliates shall have a duty to monitor the investment rating of any such Permitted Investments. The Paying Agent will have no obligation to invest or reinvest any funds if all or a portion of such funds are deposited with the Paying Agent after 11:00 a.m. New York time on the day of deposit. Directions to invest or reinvest that are received after 11:00 a.m. New York time will be treated as if received on the following Business Day in New York. Subject to Section 4.1(b) above, the Paying Agent will have the power to sell or liquidate Permitted Investments whenever the Paying Agent will be required to make a transfer pursuant to the terms hereof. The Paying Agent will have no responsibility for any investment losses resulting from the investment, reinvestment or liquidation of any funds in accordance with the terms of this Agreement.

Section 4.2 Interest. Any interest or other earnings accrued on any balances in any Account or on any investment thereof, shall be credited to and deposited in such Account and thereafter be applied without differentiation from other funds in such Account.

Section 4.3 Inadequately Identified Amounts. If the Paying Agent receives any amount that is inadequately or incorrectly identified and the Paying Agent is unable to determine the Account into which such amount is to be credited, the Paying Agent shall notify the Company, the Purchase Money Notes Guarantor and the Collateral Agent of such event and shall request instructions as to the Account into which such amount should be credited. The Paying Agent shall credit such amount to the Collection Account until such time as it receives instructions from the Company (with the written consent of the Purchase Money Notes Guarantor and the Collateral Agent) stating that such amount should be credited to another Account in accordance with this Agreement, in which case it shall credit such amount, if still available, to the Account designated by the Company (with the written consent of the Purchase Money Notes Guarantor and the Collateral Agent).

Section 4.4 Payment Procedures. All amounts that from time-to-time are distributable by the Paying Agent from the Distribution Account in accordance herewith shall be paid by the Paying Agent on the Distribution Date in immediately available funds (but not before such amounts become immediately available to it). All payments made by the Paying Agent shall be made to such account(s) as shall be designated in writing by the Company in accordance with the Distribution Date Report and this Agreement.

ARTICLE V DISTRIBUTIONS

Section 5.1 Priority of Payments.

(a) Notwithstanding any other provision in this Agreement, on or before each Distribution Date, the Paying Agent shall distribute amounts transferred to the Distribution Account from the Collection Account pursuant to Section 3.2 for application by the Paying Agent in accordance with the priorities set forth in Sections 5.1(b) and (c) below (the “**Priority of Payments**”) and pursuant to the Distribution Date instructions contained in the Distribution Date Reports delivered by the Manager pursuant to Section 11.3.

(b) On each Distribution Date, the Paying Agent shall distribute all Interest Proceeds in the Distribution Account in the following order of priority:

(i) to pay, the fees and expenses of the Custodian and Paying Agent, including any due and unpaid fees and expenses from any prior Distribution Date and any indemnification payments owing to the Custodian and Paying Agent pursuant to Section 13.1, in accordance with the terms of this Agreement;

(ii) for each Due Period during the Interim Servicing Period, with respect to each Mortgage Loan for which the Initial Member provides interim servicing, to pay to (1) the Initial Member the Interim Servicing Fee, and (2) the Manager, an amount equal to the Management Fee less the Interim Servicing Fee (the “**Interim Management Fee**”),

for each Due Period following the Interim Servicing Period, with respect to each Mortgage Loan, to pay to the Manager an amount equal to the Management Fee;

provided, however that to the extent that there are insufficient funds in the Distribution Account to pay the Interim Management Fee or the Management Fee in full in any Due Period, the amount of such deficiency shall be added to the Management Fee (or Interim Management Fee, as the case may be) that is due on the subsequent Distribution Date(s), without the accrual of interest, until all fees so deferred and unpaid have been paid in full.

(iii) to pay to the Purchase Money Notes Guarantor the full amount of the Purchase Money Notes Guaranty Fee, including any amounts due and unpaid on any prior Distribution Date, together with any accrued interest thereon then due and payable;

(iv) to pay the aggregate amount of interest accrued through and including the Determination Date for the applicable Due Period and unpaid on the Purchase Money Note;

(v) to pay any reimbursement amounts, together with any accrued interest thereon at the Purchase Money Notes Interest Rate, due and payable as of the Determination Date for the applicable Due Period to the Purchase Money Notes Guarantor pursuant to the Reimbursement and Security Agreement for previous payments made by it under the Purchase Money Notes Guaranty;

(vi) as long as any Purchase Money Note remains outstanding, to the Interest Reserve Account, the Interest Reserve Account Deposit Amount, if any; and

(vii) any amount remaining to the Initial Member and the Private Owner, *pro rata* based on their respective Percentage Interests;

(c) On each Distribution Date, the Paying Agent shall distribute all Principal Proceeds in the Distribution Account in the following order of priority:

(i) if there are any outstanding amounts due and payable under clauses (b)(i) through (vi) above, then pursuant to such clauses to such items in the order of priority set forth therein;

(ii) as payments of principal on the Purchase Money Notes, until the aggregate Note Principal Balance of the Purchase Money Notes is reduced to zero; and

(iii) any amount remaining, to the Initial Member and the Private Owner, *pro rata* based on their respective Percentage Interests;

Section 5.2 Notices of Payment Failure.

(a) The Paying Agent shall deliver prompt written notice to the Company, the Initial Member, the Purchase Money Notes Guarantor and the Collateral Agent in the event that it fails to receive the amount required to be paid by the Company on any Distribution Date or the Purchase Money Notes Maturity Date, in reliance upon the applicable Distribution Date Report.

Such notice shall include a statement that the required payment was not made by the Company in full and shall set forth the amount of such required payment and in the case of receipt of a partial payment, the amount of such partial payment.

(b) If the Paying Agent has actual knowledge of any actual or potential payment failure in advance of the related Distribution Date or the Purchase Money Maturity Date, as applicable, it will deliver written notice thereof to the Company, the Initial Member, the Purchase Money Notes Guarantor and the Collateral Agent as soon as practicable in accordance with the last sentence of Section 5.2(a). Upon the Paying Agent's receipt from the Collateral Agent or the Purchase Money Notes Guarantor of written notice at its Office that an Event of Default under the Reimbursement and Security Agreement (and as defined therein) has occurred, or to the extent it has actual knowledge of the occurrence of such an Event of Default, the Paying Agent shall deliver prompt written notice to the Noteholders of the occurrence of such Event of Default.

(c) If the Paying Agent receives notice from the Noteholder of any Purchase Money Note that such Purchase Money Note, has been declared immediately due and payable in accordance with the terms of such Purchase Money Note no later than four (4) Business Days prior to a Distribution Date, the Paying Agent shall determine the amount payable by the Purchase Money Notes Guarantor under the Purchase Money Notes Guaranty (based on the related Distribution Date Report) and shall make a demand therefor no later than four (4) Business Days prior to such Distribution Date to the Purchase Money Notes Guarantor on behalf of the Noteholders in accordance with Section 17 of the Purchase Money Notes Guaranty.

(d) If the Paying Agent receives any such notice from any Noteholder later than four (4) Business Days prior to a Distribution Date, the Paying Agent shall determine the amount payable by the Purchase Money Notes Guarantor under the Purchase Money Notes Guaranty (based on the Distribution Date Report for the immediately succeeding Distribution Date) and shall make a demand therefor no later than four (4) Business Days prior to the immediately succeeding Distribution Date to the Purchase Money Notes Guarantor on behalf of the Noteholders in accordance with Section 17 of the Purchase Money Notes Guaranty.

ARTICLE VI CUSTODIAL DOCUMENTS

Section 6.1 Delivery of Custodial Documents.

(a) Delivery. As soon as practical after the date hereof, the Company shall deliver or cause to be delivered the Custodial Documents to the Custodian at the office of the Custodian at 5280 Corporate Drive, Frederick, MD 21703 (the "Office").

(b) Collateral Certificate; Exceptions. The Custodian shall make available during normal business hours, and at such other hours as might be reasonable in the circumstances, to the Company (and representatives of the Company and, if the Company so determines, the Receiver) an office space at the Office that is sufficient to accommodate up to six (6) people to review the Custodial Documents with representatives of the Custodian for a period of not more than ten (10) days prior to the delivery of possession of the same to the Custodian.

Within forty-five (45) days after delivery of the Custodial Documents to the Custodian, the Custodian shall execute and deliver to the Company, the Purchase Money Notes Guarantor and the Collateral Agent a certificate, substantially in the form annexed hereto as Exhibit E, to the effect that the Custodian has received and reviewed the Custodial Documents and including a Mortgage Loan Schedule and Exception List ("Collateral Certificate"). In reviewing the documents provided with respect to a Mortgage Loan, the Custodian shall examine the same in accordance with the procedures set forth on Exhibit F hereto and determine, with respect to each such document, whether it (i) appears regular on its face (*i.e.*, is not mutilated, damaged, torn, defaced or otherwise physically altered), (ii) relates to such Mortgage Loan, (iii) bears a signature that purports to be of the named parties thereon, (iv) where applicable, purports to be recorded, and (v) appears to be what it purports to be.

(c) Custodial Documents. For each Mortgage Loan and Acquired Property, to the extent applicable and available, the Custodial Documents shall include the following:

(i) the original Note bearing all intervening endorsements and endorsed "Pay to the order of [____], without recourse" and signed in the name of the Federal Deposit Insurance Corporation as Receiver, and an allonge providing for the endorsement of the Note and endorsed "Pay to the order of _____, without recourse" and signed by the Company as the last endorsee; and in the event that the original Note is not available, a fully executed Assignment and Lost Instrument Affidavit in the form of Exhibit L attached hereto;

(ii) the original Mortgage with evidence of recording or a copy showing evidence of recording thereon, or a certified copy thereof from the applicable Recording Office, or a copy thereof together with an officer's certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(iii) the originals of all assumption, modification, consolidation or extension agreements (if any) with evidence of recording thereon, or certified copies thereof from the applicable Recording Office, or copies thereof together with a certification by or other similar evidence from the applicable Recording Office or an officer's certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(iv) Acquired Property Files (to the extent specifically identified on the Mortgage Loan Schedule or otherwise indicated in writing to the Custodian);

(v) except in the case of any MERS Designated Mortgage Loan, the original Mortgage Assignment in blank for each Mortgage Loan, in form and substance acceptable for recording and signed in the name of the Federal Deposit Insurance Corporation as Receiver for various failed financial institutions to the Company;

(vi) except in the case of any MERS Designated Mortgage Loan, the original Mortgage Assignment in blank for each Mortgage Loan, in form and substance acceptable for recording and signed in the name of the Company to the Collateral Agent;

(vii) except in the case of any MERS Designated Mortgage Loan, the originals of all intervening Mortgage Assignments (if any) with evidence of recording or a copy showing evidence of recording thereon, or certified copies thereof from the applicable Recording Office, or copies thereof together with an officer's certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(viii) the original attorney's opinion of title and abstract of title or the original mortgage title insurance policy (or copy thereof) or, if the original or copy of mortgage title insurance policy has not been issued, the irrevocable commitment to issue the same;

(ix) the originals of all Underlying Collateral Documents executed in connection with the Mortgage Loan, if available;

(x) Uniform Commercial Code financing statements with recording information thereon from the Recording Offices if necessary to perfect the security interest of the Mortgage Loan under the Uniform Commercial Code;

(xi) if the equity interests of any Ownership Entity are certificated, the certificate representing such equity interest;

(xii) any bailee letters regarding any Notes or other Custodial Documents held by the bailee; and

(xiii) solely with respect to each MERS Designated Mortgage Loan, a MERS Report.

(d) Supplemental Deliveries. The Company agrees that it shall deliver or cause to be delivered to the Custodian (i) any and all additional Custodial Documents with respect to a Mortgage Loan that is not Acquired Property within ten (10) days following the execution and delivery of any such instrument and (ii) any and all Custodial Documents with respect to any Acquired Property within ten (10) days following receipt of any such instrument. All such deliveries of Custodial Documents pursuant to this Section 6.1(d) shall be accompanied by a certificate in the form of Exhibit G (a "Supplemental Delivery Certificate"), prepared by an Authorized Representative of the Company, itemizing the Custodial Documents being delivered to the Custodian in such delivery and identifying the Mortgage Loan or Acquired Property with respect to which each such Custodial Document relates. After the receipt thereof, the Custodian shall (A) examine the additional Custodial Documents provided with respect to a Mortgage Loan or Acquired Property in accordance with the review procedures set forth on Exhibit F (the "Review Procedures") and, determine, with respect to each such document, whether it (i) appears regular on its face (*i.e.*, is not mutilated, damaged, torn, defaced or otherwise physically altered), (ii) relates to such Mortgage Loan or Acquired Property, (iii) bears

a signature that purports to be of the named parties thereon, (iv) where applicable, purports to be recorded, and (v) appears to be what it purports to be, and (B) ensure that all such Custodial Documents with respect to a Mortgage Loan or Acquired Property are placed in the file for the related Mortgage Loan. In the event the Custodian determines that the Supplemental Delivery Certificate is inaccurate, the Custodian shall so notify the Company in writing no later than the first Business Day following its receipt of the Supplemental Delivery Certificate. Within twelve (12) Business Days after the receipt of the additional Custodial Documents by the Custodian, the Custodian shall provide the Company (with a copy to the Purchase Money Notes Guarantor and the Collateral Agent) with a Collateral Certificate, to the effect that the Custodian has received and reviewed the additional Underlying Collateral Documents, and include a revised Mortgage Loan Schedule and Exception List.

(e) Mortgage Loan Schedules and Exception Lists; Review Procedures. Each Mortgage Loan Schedule and Exception List shall list all Exceptions using such codes as shall be in form and substance agreed to by the Custodian and the Company. Each Mortgage Loan Schedule and Exception List delivered by the Custodian to the Company shall supersede and cancel the Mortgage Loan Schedule and Exception List previously delivered by the Custodian to the Company hereunder, and shall replace the then existing Mortgage Loan Schedule and Exception List to be attached to the Collateral Certificate. Notwithstanding anything to the contrary set forth herein, in the event that the Mortgage Loan Schedule and Exception List attached to the Collateral Certificate is different from the most recently delivered Mortgage Loan Schedule and Exception List, then the most recently delivered Mortgage Loan Schedule and Exception List shall control and be binding upon the parties hereto. The delivery of each Mortgage Loan Schedule and Exception List to the Company shall constitute the Custodian's representation that, other than the Exceptions listed as part of the last delivered Mortgage Loan Schedule and Exception List: (i) all documents required to be delivered in respect of a Mortgage Loan or Acquired Property pursuant to Section 6.1(c) of this Agreement have been delivered and are in the possession of the Custodian as part of the Custodial Documents, (ii) all such documents have been reviewed and examined by the Custodian in accordance with the review procedures specified on Exhibit F and in this Agreement and appear on their face to be regular and to relate to such Mortgage Loan or Acquired Property and to satisfy (except in the case of a MERS Designated Mortgage Loan) the requirements set forth in Section 6.1(c) of this Agreement, (iii) subject to the provisions of Section 7.2(b), each Mortgage Loan (except in the case of a MERS Designated Mortgage Loan) or Acquired Property identified on such Mortgage Loan Schedule and Exception List is being held by the Custodian as the bailee for the Company and (iv) subject to the provisions of Section 7.2(b), each MERS Designated Mortgage Loan is being held by MERS® as the nominee for the Company. In connection with a Mortgage Loan Schedule and Exception List delivered hereunder by the Custodian, the Custodian shall make no representations as to and shall not be responsible for verifying, except as set forth in Section 6.1(b) of this Agreement, (A) the validity, legality, enforceability, due authorization, recordability, sufficiency or genuineness of any of the Custodial Documents or (B) the collectability, insurability, effectiveness or suitability of any such Mortgage Loan or Acquired Property.

Section 6.2 Examination of Custodian Files; Copies.

(a) Upon reasonable prior written notice to the Custodian, the Company, the Collateral Agent and the Purchase Money Notes Guarantor and their respective agents, accountants, attorneys and auditors, and any other Persons designated by the Company, the Collateral Agent or the Purchase Money Notes Guarantor, as applicable, in writing as authorized to access and review the Custodial Documents, shall be permitted during normal business hours to examine the Custodial Documents.

(b) Upon the request of the Company, the Collateral Agent or the Purchase Money Notes Guarantor, and at the cost and expense of the requesting party, the Custodian shall provide copies of any requested Custodial Documents; provided, however, the requesting party shall reimburse the Custodian for the actual, reasonable and customary costs incurred in providing copies of such Custodial Documents.

Section 6.3 Shipment of Custodial Documents. Prior to any shipment of any Custodial Documents hereunder, the Company shall deliver to the Custodian written instructions as to the method of shipment and the shipper that the Custodian is to utilize in connection with the transmission of such Custodial Documents. The Company shall arrange for the provision of such services at its sole cost and expense (or, at the Custodian's option, reimburse the Custodian for all costs and expenses incurred by the Custodian consistent with such instructions) and will maintain such insurance against loss or damage to the Custodial Documents as the Company may deem appropriate. It is expressly agreed that in no event shall the Custodian have any liability for any losses or damages to any Person, including the Company, arising out of actions of the Custodian pursuant to this Section 6.3 consistent with the instructions of the Company. In the event that the Custodian does not receive such written instructions, the Custodian shall be authorized and shall be indemnified as provided herein to utilize a nationally recognized courier service.

**ARTICLE VII
CUSTODIAN**

Section 7.1 Appointment of the Custodian. Subject to the terms and conditions of this Agreement, the Company hereby appoints the Bank to perform the duties of the Custodian, and the Bank hereby accepts such appointment as Custodian, to act as the Company's agent, custodian and bailee to hold and maintain custody of the Custodial Documents.

Section 7.2 Obligations of the Custodian.

(a) Maintenance of Custody. Subject to the provisions of Section 7.2(b), the Custodian shall (i) hold and maintain continuous custody of all Custodial Documents received by it in trust for and for the benefit of the Company in secure and fire resistant facilities, (ii) act with the same degree of care and skill that the Custodian exercises with respect to any loan files relating to similar loans owned, serviced or held as custodian by the Custodian and, in any event, in accordance with customary standards for such custody, (iii) reflect in its records the interest of the Company therein, (iv) make disposition of the Custodial Documents only in accordance with the provisions of this Agreement, and (v) subject to the provisions of Section 7.2(b), hold all

Custodial Documents received by it for the exclusive use and benefit of the Company, and make disposition thereof only in accordance with written instructions furnished by the Company.

(b) Pledge of Mortgage Loans to the Collateral Agent. Pursuant to the terms and conditions of the Reimbursement and Security Agreement, the Company has pledged all of its rights, title and interest in and to the Mortgage Loans, the Acquired Property and the Custodial Documents to the Collateral Agent for the benefit of the Purchase Money Notes Guarantor and the other Secured Parties (as defined in the Reimbursement and Security Agreement) as security for certain obligations of the Company under the Purchase Money Notes Guaranty. Accordingly, notwithstanding anything to the contrary contained in this Agreement, the Custodian acknowledges and agrees that it holds possession of the Notes and the other Custodial Documents for the Collateral Agent's benefit pursuant to Section 9-313(c) of the Uniform Commercial Code, and the Custodian shall mark its records to reflect the pledge of the Mortgage Loans, the Acquired Property and the Custodial Documents by the Company to the Collateral Agent. The Custodian's records shall reflect the pledge of the Mortgage Loans, the Acquired Property and the Custodial Documents by the Company to the Collateral Agent until such time as the Custodian receives written instructions in the form of Exhibit H from the Company, including a certification that it is entitled pursuant to the Reimbursement and Security Agreement to request the release of the Custodial Documents being requested for release and that the Mortgage Loans and the Acquired Property are no longer pledged by the Company to the Collateral Agent, at which time the Custodian shall change its records to reflect the release of the pledge of the Mortgage Loans, the Acquired Property and the Custodial Documents and that the Custodian is holding the Mortgage Loans, the Acquired Property and the Custodial Documents as custodian for, and for the benefit of, the Company; provided, however, that, subject to the provisions of Section 7.2(d), such pledge shall not affect the right of the Custodian to rely on instructions from the Company hereunder. The Custodian shall (i) make a written request for the return of all Custodial Documents that are removed from the Custodian's possession within (15) days after their removal (if the same are not returned before such time) and thereafter, continue to use commercially reasonable efforts to obtain the return of such removed Custodial Documents until such time as such Custodial Documents are returned and (ii) provide on a monthly basis to the Purchase Money Notes Guarantor, the Collateral Agent and the Company an aging report identifying the released (and unreturned) Custodial Documents.

(c) Qualification To Conduct Business. Nothing contained in this Agreement shall be construed to require the Custodian to qualify to do business in any jurisdiction other than (i) any jurisdiction in which any Custodial Document is or may be held by the Custodian from time to time under this Agreement or (ii) any jurisdiction in which the ownership of its property or the conduct of its business requires such qualification and in which the failure to qualify could have a material adverse effect on the Custodian or its property or business or on the ability of the Custodian to perform its duties and obligations under this Agreement.

(d) Events of Default Under the Reimbursement and Security Agreement. Upon the Custodian's receipt from the Collateral Agent or the Purchase Money Notes Guarantor of written notice at its Office that (i) an Event of Default under the Reimbursement and Security Agreement (as defined therein) has occurred and is continuing, or (ii) to the extent the Custodian has actual knowledge of the occurrence of such Event of Default, the Custodian promptly shall

notify the Collateral Agent in writing and seek instructions from (and take instructions only from) the Collateral Agent as to any action to be taken by the Custodian hereunder.

(e) Third Party Demands. In the event that (i) the Company or the Custodian shall be served by a third party with any type of levy, attachment, writ or court order with respect to any Custodial Document or (ii) a third party shall institute any court proceeding by which any Custodial Document shall be required to be delivered otherwise than in accordance with the provisions of this Agreement, the party receiving such service shall promptly deliver or cause to be delivered to the other parties to this Agreement copies of all court papers, orders, documents and other materials concerning such proceedings. The Custodian shall, to the extent permitted by law, continue to hold and maintain all of the Custodial Documents that are the subject of such proceedings pending a final, nonappealable order of a court of competent jurisdiction permitting or directing disposition thereof. Upon final determination of such court, the Custodian shall dispose of such Custodial Documents as directed by the Company, which shall give a direction consistent with such court determination; provided that to the extent the direction provided by the Company directly contradicts the final determination of such court, the Custodian shall act in accordance with the final determination of such court.

(f) Release of Custodial Documents. Subject to the provisions of this Section 7.2(f), the Custodian shall retain the Custodial Documents in its possession and custody at all times during the term hereof unless any one of the following events has occurred:

(i) If the Custodian has resigned or has been removed in accordance with the provisions of Section 9.1, the Custodian shall deliver the Custodial Documents to the successor Custodian in accordance with Section 9.1.

(ii) If the Custodian has received a notice in the form of Exhibit H from an Authorized Representative of the Company stating that the Company has received all amounts due under a Mortgage Loan, or a discounted payoff as payment in full of such Mortgage Loan, the Custodian shall release the related Custodial Documents to the Company or to the Manager in accordance with the instructions provided in such notice.

(iii) If the Custodian has received notice in the form of Exhibit H from an Authorized Representative of the Company that the Company, the Manager or the Servicer needs the Custodial Documents in order to foreclose on a Mortgaged Property, accept a deed in lieu thereof or modify or restructure the terms thereof or for any other authorized servicing activity, the Custodian shall release the related Custodial Documents to the Company, the Manager or the Servicer, as applicable, in accordance with the instructions provided in such notice.

(iv) If the Custodian has received notice in the form of Exhibit H from an Authorized Representative of the Company that the Company has agreed to sell a Mortgage Loan or the Underlying Collateral, the Custodian shall deliver the related Custodial Documents to the Company or to the Manager in accordance with the instructions provided in such notice.

(g) [Intentionally Omitted].

(h) No Other Duties. The Custodian shall have no duties or responsibilities as Custodian except those that are specifically set forth herein and shall not be liable except for the performance of such duties and obligations. No implied covenants or obligations shall be read into this Agreement.

(i) No Investigation. The Custodian shall be under no obligation to make any investigation into the facts or matters stated in any resolution, certificate, statement, acknowledgement, consent, order or other document that is included in the Custodial Documents.

(j) Cooperation. The Company shall cooperate and use commercially reasonable efforts to provide any additional documentation or information reasonably requested by the Custodian in performing its duties and obligations hereunder.

(k) Survival. The provisions of this Section 7.2 shall survive the resignation or removal of the Custodian and Paying Agent and the termination of this Agreement.

ARTICLE VIII FEES AND EXPENSES

Section 8.1 Fees and Expenses. The Bank shall charge such fees for its services and be reimbursed for such of its expenses under this Agreement as are set forth on Exhibit J, which fees and expenses must be reasonable and customary. The Company shall pay such fees and expenses including, without limitation, the reasonable and customary attorneys' fees of the Bank. The provisions of this Section 8.1 shall survive any resignation or removal of the Bank as Custodian or Paying Agent or the termination or assignment of this Agreement.

ARTICLE IX REMOVAL OR RESIGNATION

Section 9.1 Removal or Resignation of Custodian and Paying Agent.

(a) Resignation. Subject to the provisions of Section 9.1(c), the Bank may at any time resign and terminate its obligations as Custodian and Paying Agent under this Agreement upon at least sixty (60) days' prior written notice to the Company, the Initial Member, the Purchase Money Notes Guarantor and the Collateral Agent. In the event the Bank resigns, it must resign as both Custodian and Paying Agent. Promptly after receipt of notice of the Bank's resignation as Custodian and Paying Agent, subject to the provisions of the LLC Operating Agreement and the Reimbursement and Security Agreement as they relate to the Company, the Company shall appoint, by written instrument, with the prior consent of the Initial Member, a successor Custodian and Paying Agent. In the event that no successor shall have been appointed as Custodian and Paying Agent within such sixty (60) day period, the Bank may petition any court of competent jurisdiction to appoint a successor Custodian and Paying Agent.

(b) Removal. Subject to the provisions of Section 9.1(c), the Company, the Initial Member, the Collateral Agent or the Purchase Money Notes Guarantor may remove and discharge the Bank as Custodian and Paying Agent (or any successor custodian and paying agent thereafter appointed) without cause from the performance of its obligations under this Agreement

upon at least thirty (30) days' prior written notice to the Bank. Promptly after the giving of notice of removal to the Bank as Custodian and Paying Agent, subject to the provisions of the LLC Operating Agreement and the Reimbursement and Security Agreement as they relate to the Company, the Company shall appoint, by written instrument, with the prior consent of the Initial Member, a successor Custodian and Paying Agent.

(c) Effectiveness. Upon appointment of a successor Custodian and Paying Agent, the successor Custodian and Paying Agent shall execute, acknowledge and deliver an instrument accepting such appointment under, and agreeing to be bound by the terms of, this Agreement, at which time the resignation or removal of the predecessor Custodian and Paying Agent shall become effective and the successor Custodian and Paying Agent, without any further act, deed or conveyance, shall become fully vested with all rights, powers, duties and obligations of the Custodian and the Paying Agent under this Agreement, as if originally named Custodian and Paying Agent hereunder. One original counterpart of such instrument shall be delivered to each of the Company, the predecessor Custodian and Paying Agent and the successor Custodian and Paying Agent.

(d) Transfer of Documents. In the event of any removal or resignation as Custodian and Paying Agent, the Bank shall promptly transfer to the successor Custodian and Paying Agent, as directed, all Custodial Documents and funds deposited in the Accounts, and the Company and the Bank shall execute and deliver such instruments and do such other things as may reasonably be required for more fully and certainly vesting and confirming in the successor Custodian and Paying Agent all rights, powers, duties and obligations of the Bank as Custodian and Paying Agent under this Agreement.

(e) Costs. The Company shall be responsible for payment to the successor Custodian and Paying Agent of all fees and expenses of the successor Custodian and Paying Agent and any fees and expenses for transferring Custodial Documents and funds deposited in the Accounts to the successor Custodian and Paying Agent.

ARTICLE X REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 10.1 Representations, Warranties and Covenants. The Bank as Custodian and Paying Agent and the Company, as applicable, represent and warrant to each other as follows:

(a) it has the requisite power and authority and the legal right to execute and deliver, and to perform its obligations under, this Agreement, and has taken all necessary corporate or other action to authorize its execution, delivery and performance of this Agreement;

(b) no consent or authorization of, filing with, or other act by or in respect of, any United States or non-United States national, federal, state, local or provincial or international government or any political subdivision of any governmental, regulatory or administrative authority, agency or commission, or judicial or arbitral body, and no consent of any other Person (including any stockholder or creditor) is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement by it;

(c) this Agreement has been duly executed and delivered on behalf of it and constitutes a legal, valid and binding obligation of it enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought in a proceeding in equity or at law); and

(d) the Bank as Custodian and Paying Agent represents and warrants to the Company that the Bank (i) is a bank, trust company or title insurance company subject to supervision and examination by any federal or state regulatory authority, (ii) is experienced in providing services of the type required to be performed by the Bank as the Custodian and Paying Agent under this Agreement, (iii) is qualified and licensed to do business in each jurisdiction in which the Custodial Documents will be held to the extent required unless and to the extent the failure to be so qualified or licensed will not have a material adverse effect on the Custodian or its ability to perform its obligations hereunder, (iv) is not prohibited from exercising custodial powers in any jurisdiction in which the Custodial Documents are or will be held, (v) has combined capital and surplus of at least \$50,000,000 as reported in its most recent report of condition, (vi) has the facilities to safeguard the funds deposited in the Accounts, the Mortgage Loan Documents and other Custodial Documents and (vii) is not an Affiliate of the Company or of any Servicer.

Section 10.2 Insurance. At its own expense, the Custodian and Paying Agent shall maintain at all times and keep in full force and effect (a) fire and other casualty insurance, (b) fidelity insurance, (c) theft of documents insurance, (d) forgery insurance, and (e) errors and omissions insurance. All such insurance shall be in amounts, with standard coverage and subject to deductibles, as are customary for insurance typically maintained by financial institutions which act as paying agent and as custodian of collateral substantially similar to the Custodial Documents. Upon written request, the Company shall be entitled to receive a certificate of the respective insurer that such insurance is in full force and effect.

ARTICLE XI REPORTS

Section 11.1 Paying Agent Report.

(a) The Paying Agent shall cause to be furnished to the Private Owner, the Receiver, the Purchase Money Notes Guarantor and the Collateral Agent, no later than 12:00 noon, New York City time, on each Distribution Date, a report for the applicable Due Period (the "**Paying Agent Report**") with respect to the Mortgage Loans and Underlying Collateral (including the Accounts setting forth in reasonable detail the balances of and any investments in such Accounts as of such date and all deposits to and disbursements, including of all Mortgage Loan Proceeds or the Management Fee from such Accounts, including the date on which made, since the date of the previous report) held by the Paying Agent pursuant to this Agreement and on such other information as may otherwise be agreed by the parties with respect to such Due Period, all as set forth on Exhibit K. The Paying Agent shall follow the procedures and perform the calculations and reconciliations required to prepare the Paying Agent Report, in each case as set forth on Exhibit K. The Paying Agent also shall make such Paying Agent Reports available to the Noteholders each month via the Paying Agent's internet website. Access to all

information on the Paying Agent's internet website will be restricted to Noteholders who provide the Paying Agent with a separate investor certification substantially in the form of Exhibit P attached hereto. As a condition to accessing the Paying Agent's internet website, the Paying Agent may require registration and the acceptance of a disclaimer. The Paying Agent will not be liable for the dissemination of information in accordance with this Agreement.

(b) The Paying Agent Report shall be based on information, upon which the Paying Agent may conclusively rely, except to the extent that such information contains any irregularities or errors manifestly apparent on its face or actually known to the Paying Agent, included in (i) the Manager's Monthly Report for the applicable Due Period and certified by an Authorized Representative of the Manager, (ii) the Distribution Date Report for the applicable Due Period, and (iii) such other information as may be agreed upon by the parties, all as set forth in Exhibit K.

Section 11.2 Additional Reports.

(a) Within two (2) Business Days after receipt of a written request of the Company, the Collateral Agent or the Purchase Money Notes Guarantor for a Custodial Report or an updated Mortgage Loan Schedule and Exception List, the Custodian shall provide the requesting party with the Custodial Report or the updated Mortgage Loan Schedule and Exception List, as applicable.

(b) The Custodian and Paying Agent shall provide any additional information or reports relating to the Accounts and the transactions therein reasonably requested from time to time by the Company, the Collateral Agent or the Purchase Money Notes Guarantor in the case of any Account.

Section 11.3 Company and Servicer Distribution Date Accounting. For each Due Period no later than three (3) Business Days prior to the Distribution Date, the Manager shall prepare and deliver to the Paying Agent, the Initial Member and the Purchase Money Notes Guarantor, a report which shall specify the amounts and recipients of all funds to be distributed by the Paying Agent on the relevant Distribution Date as determined as of the close of business on the applicable Determination Date and certified by an Authorized Representative (who shall be the chief financial officer (or an equivalent officer)) of the Company (the "Distribution Date Report"); provided, however, that (unless the Company and the Initial Member agree otherwise) the Initial Member shall prepare and deliver to the Paying Agent and the Purchase Money Notes Guarantor the Distribution Date Report for all Due Periods ending on or before February 28, 2011. The Distribution Date Report shall be a portion of the Monthly Report to be provided to the Paying Agent, the Initial Member and the Purchase Money Notes Guarantor in accordance with the LLC Operating Agreement. The Distribution Date Report shall contain the following information, in each case with respect to the applicable Due Period:

(a) the aggregate amount of Mortgage Loan Proceeds as of the close of business on such Determination Date, after giving effect to Mortgage Loan Proceeds received with respect to the applicable Due Period;

(b) the amount of Mortgage Loan Proceeds received during the applicable Due Period;

(c) [Intentionally Omitted]

(d) for the Collection Account:

(i) the amount to be transferred from the Collection Account to the Distribution Account which shall equal the sum of: (A) all Mortgage Loan Proceeds received in the applicable Due Period *plus* (B) funds transferred from the Liquidity Account *plus* (C) any Excess Liquidity Advances deposited in the Collection Account *less* (D) the total amount of funds withdrawn from the Collection Account as permitted pursuant to Section 3.1 for the applicable Due Period; and

(ii) the amounts payable from the Collection Account (through a transfer to the Distribution Account) pursuant to the Priority of Payments, specifically including:

(A) the amount of fees and expenses, including any indemnification payments, payable to the Custodian and Paying Agent,

(B) for any Due Period during the Interim Servicing Period, the amount of the Interim Service Fee payable to the Initial Member and the Interim Management Fee payable to the Manager; and for any Due Period thereafter, the amount of the Management Fee payable to the Manager,

(C) the amount to be reimbursed to the Manager for Excess Liquidity Advances,

(D) the amount of the Purchase Money Notes Guaranty Fee and any accrued interest thereon payable to the Purchase Money Notes Guarantor,

(E) the reimbursement amounts and any accrued interest thereon payable to the Purchase Money Notes Guarantor for previous payments made by it under the Purchase Money Notes Guaranty,

(F) the amount of Interest Proceeds payable as distributions to the Initial Member and to the Private Owner,

(G) the amount of Principal Proceeds payable as distributions to the Initial Member and to the Private Owner,

(H) the amount of Recategorized Proceeds,

(I) for the Liquidity Account:

a. the balance in the Liquidity Account as of the commencement of the Due Period;

- b. the amount transferred to or deposited into the Liquidity Account;
- c. the amounts payable from or out of the Liquidity Account and the purpose of such amounts paid; and
- d. the balance in the Liquidity Account as of the last day of the Due Period.

(J) any other amounts or calculations required pursuant to Section 5.1.

Section 11.4 Distribution Date Instructions. Each Distribution Date Report shall contain instructions to the Paying Agent to withdraw on the related Distribution Date from the Distribution Account and pay or transfer the amounts set forth in such report in the manner specified, and in accordance with the priorities established, in Section 5.1 of this Agreement.

Section 11.5 Books and Records. The Paying Agent shall maintain all such accounts, books and records as may be necessary to properly record all transactions carried out by it with respect to the Accounts, including the disbursement of all Mortgage Loan Proceeds. The Paying Agent also shall maintain a complete and accurate set of files, books and records regarding the Mortgage Loans and the Underlying Collateral. This obligation to maintain a complete and accurate set of records shall encompass all files in the Custodian and Paying Agent's custody, possession or control pertaining to the Mortgage Loans and the Underlying Collateral, including all Custodial Documents. The Paying Agent shall permit the Company, the Purchase Money Notes Guarantor and the Collateral Agent to examine such accounts, books and records that relate to any Account, provided that any such examination shall occur upon reasonable prior notice and during normal business hours.

ARTICLE XII NO ADVERSE INTERESTS

Section 12.1 No Adverse Interests. By execution of this Agreement, the Bank represents and warrants that it currently holds, and during the term of this Agreement shall hold, no adverse interest, by way of security or otherwise, in any Mortgage Loan, and hereby waives and releases any such interest which it may have in any Mortgage Loan as of the date hereof. The Mortgage Loans shall not be subject to any security interest, lien or right to set-off by the Bank or any third party claiming through the Bank, and the Bank shall not pledge, encumber, hypothecate, transfer, dispose of, or otherwise grant any third party interest in, any of the Mortgage Loans.

ARTICLE XIII LIABILITY AND INDEMNIFICATION

Section 13.1 Liability; Indemnification.

(a) The Company shall indemnify and hold harmless the Custodian and Paying Agent and the directors, officers, agents and employees of the Custodian and Paying

Agent against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable attorney's fees and litigation costs, that may be imposed on, incurred by, or asserted against it or them in any way relating to or arising out of this Agreement or any action taken or not taken by it or them hereunder unless such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements were imposed on, incurred by or asserted against the Custodian and Paying Agent because of the breach by the Custodian and Paying Agent of its obligations hereunder, which breach was caused by negligence, lack of good faith or willful misconduct on the part of the Custodian and Paying Agent or any directors, officers, agents or employees of the Custodian and Paying Agent. The foregoing indemnification shall survive any resignation or removal of the Custodian and Paying Agent or the termination or assignment of this Agreement.

(b) In the event that the Custodian fails to produce a Custodial Document that was not identified as an Exception in the then controlling Mortgage Loan Schedule and Exception List within two (2) Business Days after required or requested by the Company, and such Custodial Document is not outstanding pursuant to a Request for Release and Receipt of the Custodial Documents in the form attached as Exhibit H (a "**Custodial Delivery Failure**"), then (i) with respect to any missing Note with respect to which a Custodial Delivery Failure has occurred and has continued in excess of three (3) Business Days, the Custodian promptly shall deliver to the Company upon request a Lost Instrument Affidavit in the form attached as Exhibit L (unless the original Note shall have been delivered prior to such time) and (ii) with respect to any missing document related to such Mortgage Loan, including a missing Note, (A) the Custodian shall indemnify the Company, the Purchase Money Notes Guarantor and the Collateral Agent in accordance with Section 13.1(c) and (B) at the Company's option, at any time the long term obligations of the Custodian are rated below the second highest rating category of Moody's Investors Service, Inc. or Standard and Poor's Ratings Group, a division of McGraw-Hill, Inc., the Custodian shall obtain and maintain an insurance bond naming the Company, the Purchase Money Notes Guarantor and the Collateral Agent, and their successors in interest and assigns as loss payees, insuring against any losses associated with the loss of such document, in an amount equal to the then outstanding principal balance of the related Mortgage Loan or such lesser amount requested by the Company in the Company's sole discretion.

(c) The Custodian and Paying Agent hereby indemnifies and holds harmless the Company, the Purchase Money Notes Guarantor and the Collateral Agent and their respective directors, officers, employees, agents and designees, against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever, including reasonable attorneys' fees and litigation costs, that may be imposed on, incurred by, or asserted against it or them in any way relating to or arising out of a Custodial Delivery Failure or the Custodian and Paying Agent's negligence, lack of good faith or willful misconduct or any breach of any of the conditions, representations, warranties or obligations of the Custodian and Paying Agent contained herein; provided that in no event shall the Custodian and Paying Agent or any directors, officers, agents or employees of the Custodian and Paying Agent have any liability with respect to any special, indirect, punitive or consequential damages suffered by the Company. The foregoing indemnification shall survive any termination or assignment of this Agreement.

**ARTICLE XIV
CUSTODIAN AND PAYING AGENT**

Section 14.1 Reliance of Custodian and Paying Agent.

(a) Documents; Communications. The Custodian and Paying Agent may rely conclusively on any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice or other document or communication furnished to the Custodian and Paying Agent hereunder or under any Mortgage Loan Document that the Custodian and Paying Agent believes in good faith (i) to have been signed or presented by an Authorized Representative and (ii) conforms in form to the requirements of this Agreement; provided, however, that in the case of any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice or other document or communication which by any provision hereof is specifically required to be furnished to the Custodian and Paying Agent, the Custodian and Paying Agent shall be under a duty to examine the same in accordance with the requirements of this Agreement and any Mortgage Loan Document.

(b) Requested Instructions. Subject to the provisions of Section 7.2(d), in which case the Custodian and Paying Agent shall take instructions only from the Collateral Agent, if the Custodian and Paying Agent requests instructions from the Company with respect to any act, action or failure to act in connection with this Agreement, the Custodian and Paying Agent shall be entitled (without incurring any liability therefor to the Company, the Collateral Agent, the Purchase Money Notes Guarantor or any other Person) to refrain from taking such action and continue to refrain from acting unless and until the Custodian and Paying Agent shall have received written instructions from the Company (or the Collateral Agent, as the case may be).

(c) Certificates. Whenever the Custodian and Paying Agent shall deem it necessary or desirable that a matter be proved or established in connection with taking or omitting any action by it hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Custodian and Paying Agent, be deemed to be conclusively proved or established by a certificate of an Authorized Representative of the relevant Party delivered to the Custodian and Paying Agent.

(d) Reliance on Experts. The Custodian and Paying Agent may consult with and obtain advice from reputable and experienced outside counsel, certified public accountants that are nationally recognized, or other experts and the advice or any opinion of such counsel, accountants or other experts shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel, accountants or other experts.

(e) Limited Risk. None of the provisions of this Agreement shall require the Custodian and Paying Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any

of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(f) Merger or Consolidation. Any corporation into which the Custodian and Paying Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Custodian and the Paying Agent shall be a party, or any corporation succeeding to the business of the Custodian and Paying Agent, except for any such Person who is or, upon consummation of such transaction, will be an Affiliate of the Company or any Servicer, shall be the successor of the Custodian and Paying Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by Law to effect such succession, anything herein to the contrary notwithstanding; provided that any such successor shall satisfy the representations, warranties and covenants set forth in Section 10.1 of this Agreement. The Custodian and Paying Agent or successor Custodian and Paying Agent shall provide the Company with written notice prior to or within ten (10) days after the consummation of any such transaction. At no time shall an Affiliate of the Company or any Servicer be the Custodian and Paying Agent under this Agreement.

ARTICLE XV TAXES

Section 15.1 Tax Reports. The Custodian and Paying Agent shall not be responsible for the preparation or filing of any reports or returns relating to federal, state or local income taxes with respect to this Agreement, other than in respect of the Custodian and Paying Agent's compensation or for reimbursement of expenses.

Section 15.2 Stamp and Other Similar Taxes. The Company agrees to indemnify and hold harmless the Custodian and Paying Agent from, and shall reimburse the Custodian and Paying Agent for, any present or future claim for liability for any stamp or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with this Agreement. The obligations of the Company under this Section 15.2 shall survive the termination of the other provisions of this Agreement.

Section 15.3 Tax Characterization. Each Noteholder, by acceptance of a Purchase Money Note or an interest in a Purchase Money Note, shall be deemed to have agreed to treat, and shall treat, such Purchase Money Note as debt of the Company for U.S. federal income tax purposes except as otherwise required by Law.

Section 15.4 Back-Up Withholding. Each Noteholder, by acceptance of a Purchase Money Note or an interest in a Purchase Money Note, shall be deemed to understand and acknowledge that failure to provide the Company, the Custodian or the Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a U.S. Person or an appropriate Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a U.S. Person) may result in U.S. federal back-up withholding, pursuant to Section 3406 of the Code, from payments in respect of such Purchase Money Note.

ARTICLE XVI TERM

Section 16.1 Term. This Agreement shall terminate upon (a) the first to occur of (i) the final payment or other liquidation of all of the Mortgage Loans and (ii) disposition of all Underlying Collateral (including any Acquired Property), and (b) the release and delivery to the Company of all Custodial Documents held by or in the possession of the Custodian in accordance with the terms of this Agreement. Notwithstanding anything to the contrary herein, this Agreement may be terminated without cause upon at least thirty (30) days' prior written notice to the Custodian and Paying Agent, by any of the Company, the Purchase Money Notes Guarantor and the Collateral Agent.

ARTICLE XVII AUTHORIZED REPRESENTATIVES

Section 17.1 Authorized Representatives. Each individual designated as an Authorized Representative of any Person is authorized to give and receive notices, requests and instructions and to deliver certificates and documents in connection with this Agreement on behalf of such Person, and the specimen signature for each such Authorized Representative, initially authorized hereunder, is set forth on Exhibit M. From time to time, any Person may, by delivering to the other parties hereto a revised copy of Exhibit M, or any resolution, incumbency certificate or similar document setting forth the officers of such Person, which officers shall be deemed to the Authorized Representatives of such Person for purposes of this Agreement, change such Person's Authorized Representative (and amend this Agreement to so provide), but until a new Exhibit M, resolution, incumbency certificate or similar document with the information regarding the successor Authorized Representative is delivered to a party in accordance with this Agreement, that party shall be entitled to rely conclusively on the Exhibit M, resolution, incumbency certificate or similar document, as applicable, last delivered hereunder.

ARTICLE XVIII NOTICES

Section 18.1 Notices. All notices, requests, demands, and other communications required or permitted to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be mailed or delivered to the applicable address or electronic mail address of the parties specified below for such Person or to such other address, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt (or refusal thereof) by the relevant party hereto and (ii) (A) if delivered by hand or by nationally recognized courier service, when signed for (or refused) by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; and (C) if delivered by electronic mail, when delivered. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder. From time to time, any Person may designate a new address for purposes of notice hereunder by notice to such effect to the other Persons identified below.

If to the Bank:

388 Greenwich Street
14th Floor
New York, NY 10013
Attention: Cirino Emanuele

If to the Bank (Custodian):

5280 Corporate Drive
Frederick, MD 21703
Attention: Loretta Badgett

If to the Company:

2010-3 SFR Venture, LLC
5032 Parkway Plaza Blvd.
Charlotte, NC 28217
Attention: Peter Schancupp
E-mail: [REDACTED]
Telephone No.: [REDACTED]
Facsimile No.: [REDACTED]

with a copy to:

Phillip Kardis, II
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006
E-mail: [REDACTED]
Telephone No.: [REDACTED]
Facsimile No.: [REDACTED]

If to the Purchase Money Notes Guarantor or the Collateral Agent:

Assistant Director Structured Transactions
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Room F-7014
Washington, D.C. 20429
Attention: Ralph Malami
E-Mail Address: RMalami@fdic.gov

with a copy to:

Senior Counsel
FDIC Legal Division
Litigation and Resolutions Branch, Receivership Section
Special Issues Unit
3501 Fairfax Drive (Room E-7056)
Arlington, VA 22226
Attention: David Gearin
E-Mail Address: DGearin@fdic.gov

with a copy by email to:

Thomas Raburn
E-Mail Address: TRaburn@fdic.gov

with a copy of notices or communications to Collateral Agent only to:

James Hammett
Resolutions & Receivership Specialist
Federal Deposit Insurance Corporation
1601 Bryan Street
Dallas, TX 75201
JHammett@fdic.gov

ARTICLE XIX MISCELLANEOUS

Section 19.1 Governing Law. EACH PARTY TO THIS AGREEMENT AGREES AND ELECTS THAT, IN ACCORDANCE WITH SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION, AND EACH PARTY TO THIS AGREEMENT UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAWS OF ANY OTHER JURISDICTION GOVERN THIS AGREEMENT. NOTHING IN THIS AGREEMENT SHALL REQUIRE ANY UNLAWFUL ACTION OR INACTION BY ANY PARTY TO THIS AGREEMENT.

Section 19.2 Waiver of Jury Trial. EACH OF THE COMPANY, THE PURCHASE MONEY NOTES GUARANTOR, THE COLLATERAL AGENT AND THE BANK HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

Section 19.3 Jurisdiction; Venue and Service.

(a) Each of the Company and the Bank, for itself and its Affiliates, hereby irrevocably and unconditionally:

(i) consents to the jurisdiction of the United States District Court for the Southern District of New York and to the jurisdiction of the United States District Court for the District of Columbia for any suit, action or proceeding against it or any of its Affiliates commenced by the Purchase Money Notes Guarantor or the Collateral Agent arising out of, relating to, or in connection with this Agreement or any Ancillary Document, and waives any right to:

(A) remove or transfer such suit, action or proceeding to any court or dispute-resolution forum other than the court in which the Purchase Money Notes Guarantor or the Collateral Agent, as applicable, files the suit, action or proceeding without the consent of the Purchase Money Notes Guarantor or the Collateral Agent, as applicable;

(B) assert that venue is improper in either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia; or

(C) assert that the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia is an inconvenient forum.

(ii) consents to the jurisdiction of the Supreme Court of the State of New York for any suit, action or proceeding against it or any of its Affiliates commenced by the Purchase Money Notes Guarantor or the Collateral Agent arising out of, relating to, or in connection with this Agreement or any Ancillary Document (other than the LLC Operating Agreement), and waives any right to:

(A) remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the Purchase Money Notes Guarantor or the Collateral Agent, as applicable;

(B) assert that venue is improper in the Supreme Court of the State of New York; or

(C) assert that the Supreme Court of the State of New York is an inconvenient forum.

(iii) agrees to bring any suit, action or proceeding by the Company, the Bank, or its Affiliate against the Purchase Money Notes Guarantor or the Collateral Agent in only either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the Purchase Money Notes Guarantor or the Collateral Agent, as applicable, and, if such suit, action or proceeding is not brought in either United States District Court for the Southern District of New York or the United States District Court for the District of Columbia, agrees to consent thereafter to transfer of the suit, action or proceeding to either the United States District Court for

the Southern District of New York or the United States District Court for the District of Columbia at the option of the Purchase Money Notes Guarantor or the Collateral Agent, as applicable; and

(iv) agrees, if the United States District Court for the Southern District of New York and the United States District Court for the District of Columbia both lack jurisdiction to hear a suit, action or proceeding falling within Section 19.3(a)(iii), to bring that suit, action or proceeding in only the Supreme Court of the State of New York, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the Purchase Money Notes Guarantor or the Collateral Agent, as applicable.

(b) Each of the Company and the Bank, on behalf of itself and its Affiliates, hereby irrevocably and unconditionally agrees that any final judgment entered against it in any suit, action or proceeding falling within Section 19.3(a) may be enforced in any court of competent jurisdiction.

(c) Subject to the provisions of Section 19.3(d), each of the Company and the Bank, on behalf of itself and its Affiliates, and each of the Purchase Money Notes Guarantor and the Collateral Agent hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 19.3(a) or Section 19.3(b) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at its address for notices pursuant to Section 18.1 (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 19.3(c) shall affect the right of any party to serve process in any other manner permitted by Law.

(d) Nothing in this Section 19.3 shall constitute consent to jurisdiction in any court by the FDIC, other than as expressly provided in Section 19.3(a)(iii) and Section 19.3(a)(iv), or in any way limit the FDIC's right to remove, transfer, seek to dismiss, or otherwise respond to any suit, action, or proceeding against it in any forum.

Section 19.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same agreement. This Agreement and any amendments hereto, to the extent signed and delivered by facsimile or other electronic means, shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No signatory to this Agreement shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature or agreement was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation or enforceability of a contract and each such Person forever waives any such defense.

Section 19.5 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be ineffective, but such ineffectiveness shall be limited as follows: (i) if such provision is prohibited or unenforceable in such jurisdiction only as to a particular Person or Persons and/or under any particular circumstance or circumstances, such provision shall be ineffective, but only in such jurisdiction and only with respect to such

particular Person or Persons and/or under such particular circumstance or circumstances, as the case may be; (ii) without limitation of clause (i), such provision shall in any event be ineffective only as to such jurisdiction and only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction; and (iii) without limitation of clauses (i) or (ii), such ineffectiveness shall not invalidate any of the remaining provisions of this Agreement. Without limitation of the preceding sentence, it is the intent of the parties to this Agreement that in the event that in any court proceeding, such court determines that any provision of this Agreement is prohibited or unenforceable in any jurisdiction (because of the duration or scope (geographic or otherwise) of such provision, or for any other reason) such court shall have the power to, and shall, (x) modify such provision (including, to the extent applicable, by limiting the duration or scope of such provision and/or the Persons against whom, and/or the circumstances under which, such provision shall be effective in such jurisdiction) for purposes of such proceeding to the minimum extent necessary so that such provision, as so modified, may then be enforced in such proceeding and (y) enforce such provision, as so modified pursuant to clause (x), in such proceeding. Nothing in this Section 19.5 is intended to, or shall, limit (1) the ability of any party to this Agreement to appeal any court ruling or the effect of any favorable ruling on appeal or (2) the intended effect of Section 19.1.

Section 19.6 Compliance With Law. Except as otherwise specifically provided herein, each party to this Agreement shall, at its own cost and expense, obey and comply with all applicable laws, as they may pertain to such party's performance of its obligations hereunder.

Section 19.7 Entire Agreement. This Agreement contains the entire agreement between the Company, the Purchase Money Notes Guarantor, the Collateral Agent and the Custodian with respect to the subject matter hereof and supersedes any and all other prior agreements, whether oral or written.

Section 19.8 Assignment: Binding Effect. Except as is permitted pursuant to the provisions of this Agreement providing for successor Custodians and Paying Agents, the Custodian and Paying Agent shall not assign or delegate this Agreement or any of its rights or obligations hereunder without the prior written consent of the Company and any such purported assignment or delegation without such consent shall be void *ab initio*. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and no other Person or Persons shall have any rights or remedies under or by reason of this Agreement.

Section 19.9 Rights Cumulative. The rights, powers and remedies of the Custodian and Paying Agent, the Purchase Money Notes Guarantor, the Collateral Agent and the Company under this Agreement shall be in addition to all rights, powers and remedies given to the Custodian and Paying Agent, the Purchase Money Notes Guarantor, the Collateral Agent and the Company by virtue of any statute or rule of law, or any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised successively or concurrently.

Section 19.10 Amendments. Subject to the requirements of the LLC Operating Agreement as they relate to the Company, this Agreement may be amended from time to time by

written agreement signed by the Company, the Purchase Money Notes Guarantor, the Collateral Agent and the Custodian and Paying Agent.

Section 19.11 Headings. Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof. All section and paragraph references contained herein shall refer to sections and paragraphs in this Agreement unless otherwise specified.

IN WITNESS WHEREOF, the Bank, the Purchase Money Notes Guarantor, the Collateral Agent and the Company have each caused this Agreement to be executed as of the date first written above.

CITIBANK N.A. as Custodian and Paying Agent

By: _____

Name: Cirino Emanuele
Title: Vice President

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its corporate capacity, as Purchase Money Notes
Guarantor

By: _____

Name: Ralph Malami
Title: Attorney-in-Fact

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its capacity as Receiver for the Failed Banks, as
Collateral Agent

By: _____

Name: Ralph Malami
Title: Attorney-in-Fact

2010-3 SFR VENTURE, LLC, as the Company

By: SFR 2010-3 ACQUISITION LLC, its Manager

By: _____

Name:
Title:

IN WITNESS WHEREOF, the Bank, the Purchase Money Notes Guarantor, the Collateral Agent and the Company have each caused this Agreement to be executed as of the date first written above.

CITIBANK, N.A., as Custodian and Paying Agent

By:

Name: Cirino Emanuele
Title: Vice President

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its corporate capacity, as Purchase Money Notes
Guarantor

By:

Name: Ralph Malami
Title: Attorney-in-Fact

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its capacity as Receiver for the Failed Banks, as
Collateral Agent

By:

Name: Ralph Malami
Title: Attorney-in-Fact

2010-3 SFR VENTURE, LLC, as the Company

By: SFR 2010-3 ACQUISITION LLC, its Manager

By:

Name:
Title:

IN WITNESS WHEREOF, the Bank, the Purchase Money Notes Guarantor, the Collateral Agent and the Company have each caused this Agreement to be executed as of the date first written above.

CITIBANK, N.A., as Custodian and Paying Agent

By: _____
Name: Cirino Emanuele
Title: Vice President

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its corporate capacity, as Purchase Money Notes
Guarantor


By: _____
Name: Ralph Malami
Title: Attorney-in-Fact

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its capacity as Receiver for the Failed Banks, as
Collateral Agent

By: _____
Name: Ralph Malami
Title: Attorney-in-Fact

2010-3 SFR VENTURE, LLC, as the Company

By: SFR 2010-3 ACQUISITION LLC, its Manager

By: 
Name: Shaun Ahmad
Title: Secretary