AMENDED AND RESTATED

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

CORUS CONSTRUCTION VENTURE, LLC

Dated as of October 16, 2009

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CORUS CONSTRUCTION VENTURE, LLC
AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT (as the same may be amended or modified from time to time in accordance with the terms hereof, this "**Agreement**"), is made and effective as of October 16 2009 (the "**Closing Date**"), by and among the Federal Deposit Insurance Corporation ("**FDIC**"), in its capacity as receiver for Corus Bank, N.A. ("**Failed Bank**"), CCV Managing Member, LLC, a Delaware limited liability company (the "**Private Owner**"), and Corus Construction Venture, LLC, a Delaware limited liability company (the "**Company**"). For purposes of this Agreement, references to the "**Receiver**" shall be a reference to the FDIC, in its capacity as receiver of Failed Bank; references to the "**Initial Member**" shall be a reference to the Receiver, in its capacity as a Member of the Company and as the secured party under Section 3.14 hereof, together with any successor of the Receiver or any transferee of the Interest held by the Receiver); and references to the "**Managing Member**" shall be a reference to Private Owner (or permitted successor Member) in its capacity as the manager of the Company.

WHEREAS, on September 11, 2009, the FDIC was appointed Receiver for Failed Bank;

WHEREAS, on October 12, 2009, Receiver formed the Company as a Delaware limited liability company and was admitted as the "Initial Member" of the Company and received an Interest in the Company representing a one hundred percent (100%) equity interest in the Company pursuant to the terms of that certain Limited Liability Company Operating Agreement dated as of October 13, 2009 by and between Receiver and the Company (the "**Original LLC Operating Agreement**");

WHEREAS, the FDIC and the Company entered into a Loan Contribution and Sale Agreement dated of even date hereof (the "**Contribution Agreement**") pursuant to which (i) Receiver sold in part and contributed in part, to the Company, and the Company purchased from Receiver, all of the Receiver's right, title and interest in and to the Loans and assumed the Obligations (as defined in the Contribution Agreement), (ii) the Company executed and delivered to the Receiver those certain Purchase Money Notes for the benefit of Receiver and dated the date hereof (the "**Purchase Money Notes**"); and (iii) the FDIC, in its corporate capacity (the "**Purchase Money Note Guarantor**") guaranteed payment of principal on the Purchase Money Notes pursuant to the terms of a Guaranty Agreement dated the date hereof between the FDIC, in its corporate capacity, and the Receiver (the "**Purchase Money Notes Guaranty**"), and obtained a security interest in the Loans and Collateral under the Reimbursement, Security and Guaranty Agreement;

WHEREAS, the FDIC has agreed to provide additional financing to the Company to enable it to fund unfunded commitments and certain other advances in connection with the Loans, which funding shall be provided pursuant to, and in accordance with the terms of, the Credit Agreement dated the date hereof between the FDIC and the Company (the "**Advance Facility**"), with the repayment obligations under the Advance Facility being secured by the assets of the Company pursuant to the Reimbursement, Security and Guaranty Agreement;

WHEREAS, following closing of the transactions contemplated by the Contribution Agreement and the execution of the Original LLC Operating Agreement, Initial Member agreed, pursuant to the terms of that certain Limited Liability Company Interest Sale and Assignment Agreement dated of even date herewith (the "**LLC Interest Sale Agreement**"), to sell to Private Owner, effective as of the Closing Date, an Interest representing a forty percent (40%) equity interest in the Company;

WHEREAS, after giving effect to the transactions contemplated by the LLC Interest Sale Agreement, as of the Closing Date the Initial Member and Private Owner will own all the issued and outstanding Interests in the Company;

WHEREAS, upon the occurrence of a Return Threshold Event, the Private Owner will own an Interest representing a thirty percent (30%) equity interest in the Company and the Initial Member will own an Interest representing a seventy percent (70%) equity interest in the Company;

WHEREAS, the parties desire to amend, restate and supersede the Original LLC Operating Agreement in its entirety in order to reflect the admission of Private Owner as a Member of the Company and to set forth the terms and conditions on which the Company shall be owned and operated;

NOW, THEREFORE, in consideration of the premises and the other covenants and conditions contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
Certain Definitions

1.1 Definitions. Initially capitalized terms used and not defined herein shall have the meanings assigned to them in Annex I hereto, which is hereby incorporated into this Agreement as if set forth in full herein.

ARTICLE II
Organization of the Company

2.1 Formation; Continuation and Admission of Members.

(a) On October 12, 2009, the Receiver caused the Certificate of Formation of the Company, in the form attached as Exhibit A hereto (the "**Certificate**"), to be filed in the office of the Secretary of State of the State of Delaware. The Certificate shall not be amended except to change the registered agent or office of the Company.

(b) The Company shall continue as a limited liability company under the Act and in accordance with the further terms and provisions of this Agreement.

(c) The Initial Member previously was, and the Private Owner hereby agrees to be, and is, admitted as a Member of the Company such that, as of the Closing Date, the Initial

Member and the Private Owner are the sole Members of the Company. Until the Company is dissolved pursuant to Section 9.1, the Company shall at all times have two Members.

2.2 Name.

(a) The name of the Company shall be "Corus Construction Venture, LLC".

(b) The Business shall be conducted only under the name of the Company or such other name or names that comply with applicable Law as the Members may select from time to time.

2.3 Organizational Contributions and Related Actions.

(a) Prior to the execution of this Agreement, pursuant to the terms of the Contribution Agreement, the Initial Member:

(i) made a Capital Contribution to the Company in the form of certain Loans (the "**Initial Member Capital Contribution**"); and

(ii) sold and assigned to the Company, and the Company purchased from Initial Member, Loans (other than that portion of the Loans comprising the Initial Member Capital Contribution) and assumed the Obligations in exchange for the Purchase Money Notes.

(b) Contemporaneously with the execution of this Agreement, pursuant to the terms of the LLC Interest Sale Agreement, the Private Owner is acquiring from the Initial Member an Interest representing a forty percent (40%) equity interest for the Purchase Price in accordance with the terms thereof.

(c) Upon the consummation of the transactions contemplated in Sections 2.3(a) and (b) and prior to the occurrence of a Return Threshold Event as described in Section 6.6(b)(iv), the Private Owner shall own forty percent (40%) of the issued and outstanding Interests and the Initial Member shall own sixty percent (60%) of such Interests. Following the occurrence of a Return Threshold Event, the Private Owner shall own thirty percent (30%) of the issued and outstanding Interests and the Initial Member shall own seventy percent (70%) of such Interests.

2.4 Registered Office; Chief Executive Office. The Company shall maintain a registered office and registered agent in Delaware to the extent required by the Act, which office and agent shall be as determined by the Managing Member from time to time and which shall be set forth in the Certificate. Initially (and until otherwise determined by the Managing Member), the registered office in Delaware shall be, and the name and address of the Company's registered agent in Delaware shall be, as specified in the Certificate as originally filed, which may be amended by the Managing Member from time to time as necessary to correctly reflect the name and address of the Company's registered agent. The chief executive office of the Company shall be located at 591 West Putnam Avenue, Greenwich, CT 06830, or such other place as shall be determined by the Managing Member from time to time.

2.5 Purpose; Duration.

(a) The purpose of the Company is to engage in and conduct the Business, directly or, to the extent specifically authorized in this Agreement, indirectly through other Persons. Without limiting the foregoing, the Company shall not form or have any Subsidiaries other than Ownership Entities as or as otherwise authorized in or pursuant to this Agreement. The Company shall have all powers necessary, desirable or convenient, or which the Managing Member deems necessary, desirable or convenient, and may engage in any and all activities necessary, desirable or convenient, or which the Managing Member deems necessary, desirable or convenient, to accomplish the purposes of the Company or consistent with the furtherance thereof.

(b) Subject to Section 9.1, the Company shall continue in existence perpetually.

2.6 Single Purpose Entity; Limitations on Company's Activities. Except to the extent expressly permitted by this Agreement or the Ancillary Documents, the following shall govern for so long as the Company is in existence:

(a) Subject to Section 9.1, the Members shall cause the Company to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises, and the Managing Member also shall cause the Company to:

(i) maintain financial statements separate from any Affiliate; provided, however, that each Ownership Entity shall be consolidated in the financial statements of the Company; and provided, further, that the assets, liabilities and results of operations of the Company may be included in the consolidated financial statements of its parent or ultimate parent in accordance with GAAP;

(ii) at all times hold itself out to the public as a legal entity separate from the Members and any other Person;

(iii) file its own tax returns, as may be required under applicable Law, and pay any taxes so required to be paid under applicable Law;

(iv) except as contemplated hereby or by the Ancillary Documents, segregate its assets and not commingle its assets with assets of any other Person;

(v) conduct the business in its own name and strictly comply with all organizational formalities to maintain its separate legal existence;

(vi) pay its own liabilities only out of its own funds;

(vii) maintain an arm's length relationship with any Affiliate upon terms that are commercially reasonable and that are no less favorable to the Company than could be obtained in a comparable arm's length transaction with an unrelated Person;

(viii) subject at all times to Section 3.3, pay the salaries of its own employees, if any, and maintain, or cause to be maintained, a sufficient number of employees, if any, in light of its contemplated business operations;

(ix) allocate, fairly and reasonably, shared expenses, including any overhead for shared office space;

(x) use separate stationery, invoices and checks;

(xi) correct any known misunderstanding regarding its separate identity; and

(xii) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities, if any.

(b) The Managing Member shall not cause or permit a Dissolution Event or an Insolvency Event to occur with respect to the Company to which the Initial Member has not provided its written consent, and the Managing Member shall not, without the written consent of the Initial Member, cause or permit the Company to:

(i) except as contemplated hereby or by the Ancillary Documents, hold out its credit or assets as being available to satisfy the obligations of others, or become bound by any Guarantee of, or otherwise obligate itself with respect to, the Debts of any other Person, including any Affiliate;

(ii) except as contemplated hereby or by the Ancillary Documents (including the Purchase Money Notes (and any promissory note reissued in respect thereof pursuant to Section 2.8 of the Collateral and Paying Agency Agreement), the Purchase Money Notes Guaranty, the Advance Facility and the Reimbursement, Security and Guaranty Agreement), pledge its assets for the benefit of any other Person, make any loans or advances to any other Person, or encumber or permit any Lien to be placed on the Loans, the Collateral, or the proceeds therefrom; provided that the Company may invest its funds in interest bearing accounts held by any bank that is not its Affiliate and make advances in accordance with Article XII;

(iii) own any assets, or engage in any business, unrelated to the Business;

(iv) incur, create or assume any Debt other than the Purchase Money Notes (and any promissory note reissued in respect thereof pursuant to Section 2.8 of the Collateral and Paying Agency Agreement), any Excess Working Capital Advance or pursuant to the Advance Facility or as otherwise expressly permitted hereby or by the Ancillary Documents;

(v) make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any Person (other than an Ownership Entity), except that the Company may invest in those investments permitted under

the Ancillary Documents and may make any advance required or expressly permitted to be made pursuant to any provisions of Article XII or the Ancillary Documents and permit the same to remain outstanding in accordance with such provisions;

(vi) cause or permit the Company to consolidate or merge with or into any other Person, convert into any other type of Person or convey or transfer its properties and assets substantially as an entirety to any entity, transfer its ownership interests, or engage in any dissolution or liquidation, except in each case to the extent such activities are expressly permitted pursuant to any provision of this Agreement or the Ancillary Documents (and subject to obtaining any approvals required hereunder or thereunder, as applicable);

(vii) except as contemplated or permitted by this Agreement, form, acquire or, subject to the second proviso of the definition of Ownership Entity, hold any Subsidiary other than an Ownership Entity or form any trust for the purpose of holding Loans for the benefit of the Company; or

(viii) breach or violate any representation, warranties, covenants or agreements contained in any of the Ancillary Documents.

(c) The failure of the Company, the Members, or the Managing Member on behalf of the Company, to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of the Company as a separate legal entity or the limited liability of the Members.

2.7 Ratification of Certain Actions. Prior to the Closing Date, the Company previously approved (a) each of the Ancillary Documents, (b) the issuance of the Interests, and (c) the taking of all action reasonably necessary to effect the foregoing approvals, including without limitation the execution and performance of this Agreement and the Ancillary Documents (the "**Previously Approved Matters**"). The Previously Approved Matters, and all actions taken by the Company in furtherance of the Previously Approved Matters, are hereby ratified, approved and confirmed in their entirety by each Member and the Managing Member is hereby authorized and directed to execute and deliver, for and on behalf of the Company, any and all documents as may now or hereafter be reasonably required in order to effect the Previously Approved Matters.

ARTICLE III
Management and Operations of the Company

3.1 Management of the Company's Affairs.

(a) The management of the Company shall be vested exclusively in the Person appointed from time-to-time hereunder as the "manager" of the Company (the "**Managing Member**"). Effective as of the Closing Date, the Private Owner is hereby appointed as Managing Member. Subject to the terms and conditions of this Agreement, the Managing Member shall have full and exclusive power and discretion to, and shall, manage the business and affairs of the

Company in accordance with this Agreement. The Managing Member shall not resign as manager, may not assign or delegate its responsibilities as manager to any other Person, and shall serve as manager until such time as (i) the Private Owner's Interest is Disposed of in accordance with the terms of this Agreement and the transferee is admitted as a Member and successor to the Private Owner, in which case the transferee Member (or its designee) shall, effective upon such Disposition, be appointed as the "Managing Member" of the Company, (ii) the Private Owner is removed as manager by the Initial Member and replaced in accordance with Section 3.2 below; or (iii) the Company is dissolved in accordance with the terms of this Agreement. In the event that a successor manager is appointed in accordance with the terms of this Agreement, all references in this Agreement to the Managing Member, in its capacity as manager of the Company, shall be deemed to be references to the successor manager so appointed. The Managing Member shall devote such time to the affairs of the Company as is necessary to manage the Company as set forth in this Agreement. Private Owner (and any successor or transferee of Private Owner) hereby expressly acknowledges that, as it relates to its role as the Managing Member, this Agreement constitutes a personal services contract between Private Owner and the Company. Nothing in this Section 3.1 eliminates, limits or otherwise modifies any of the express terms of this Agreement or any liability, obligation or covenant of any Person hereunder.

(b) Except as otherwise specifically provided in this Agreement and without limitation of the powers expressly granted to the Managing Member under any other provision of this Agreement, the authority, duties (including fiduciary duties) and functions of the Managing Member shall be identical to the authority, duties (including fiduciary duties) and functions of the board of directors and the officers of a corporation organized under the Delaware General Corporation Law (and not electing to be governed by subchapter XIV thereof). The Managing Member shall have no authority to take or authorize the taking of any action in contravention of any express term of this Agreement.

(c) No Person dealing with the Company or the Managing Member shall be required to determine, and any such Person may conclusively assume and rely upon, the authority of the Managing Member to execute any instrument or make any undertaking on behalf of the Company. No Person dealing with the Company or the Managing Member shall be required to determine any facts or circumstances bearing upon the existence of such authority. Without limitation of the foregoing, any Person dealing with the Company or the Managing Member is entitled to rely upon a certificate signed by the Managing Member as to:

(i) the identity of Members;

(ii) the existence or non-existence of any fact or facts that constitute a condition precedent to acts by the Managing Member or are in any other manner germane to the affairs of the Company;

(iii) the identity of Persons who are authorized to execute and deliver any instrument or document of or on behalf of the Company; or

(iv) any act or failure to act by the Company or any other matter whatsoever involving the Company or the Members.

(d) Notwithstanding anything to the contrary contained in this Agreement, the parties hereto acknowledge and agree that:

(i) nothing contained in this Agreement creates any fiduciary duty on behalf of the Initial Member;

(ii) the Private Owner and the Company hereby expressly waive any fiduciary duties that may otherwise be deemed to be owed by the Initial Member to the Private Owner or the Company; and

(iii) the Initial Member shall be entitled to act and exercise any right of approval or consent that it has under this Agreement in its interest, in its sole and absolute discretion, without regard to and against the interests of the Private Owner or the Company.

(e) Unless and to the extent reimbursement is due hereunder or pursuant to a Related Party Agreement or any Ancillary Document, the Company shall not be liable for, and the Managing Member shall not seek reimbursement from the Company or any Member for any expenses or costs incurred after the formation of the Company by the Managing Member and/or its Affiliates on behalf of or for the benefit of the Company.

(f) This Section 3.1 is subject to any express requirement of direct Initial Member consent set forth elsewhere in this Agreement, including without limitation in Sections 2.6, 3.2, 3.4, 3.7, 8.1, 8.2, 8.8(a), 9.1, 12.3(c), 12.7(b) and 13.6 and in the definition of Permitted Investments. Any purported action by the Company or the Managing Member requiring the consent of the Initial Member under this Agreement shall be null and void *ab initio* unless and until the Initial Member's consent is obtained.

3.2 Removal of the Managing Member as the Manager. Upon an Event of Default, Initial Member may remove Private Owner as the manager and appoint a successor manager in the sole discretion of the Initial Member, whereupon, such successor manager shall immediately succeed to all, or such portion as the Initial Member and successor manager agree, of the rights and obligations of the Managing Member as a manager of the Company hereunder and the predecessor manager shall promptly take such actions as may be reasonably requested by the Initial Member to facilitate the transition to such successor manager. In the event that Private Owner is so removed as a manager of the Company and a successor manager is appointed, (a) all references in this Agreement to the Managing Member, in its capacity as manager of the Company, shall be deemed to be references to the successor manager so appointed by the Initial Member, (b) the successor manager appointed by the Initial Member shall be entitled to be paid the Management Fee (or such portion thereof as the Initial Member and the successor manager agree) in accordance with the terms of this Agreement and the Custodial Agreement, and (c) the removal of the Private Owner as the manager shall not relieve the Private Owner of any obligations or liabilities under this Agreement or any Ancillary Document arising, relating to, occurring or required to have been paid or performed by the Private Owner in its capacity as manager.

3.3 Employees and Services. After the Closing Date, the Managing Member shall cause to be made available to the Company, from time to time, employees, facilities and support services in a manner and to an extent reasonably required for it to fulfill its duties and obligations as Managing Member and for the day-to-day operation of the Business, including the Managing Member's employees, facilities and support services. If necessary to meet the foregoing requirements, the Managing Member shall enter into contractual arrangements to secure employees, facilities and support services from third parties (including its Affiliates); provided, however, that the Managing Member shall at all times provide for the servicing of the Loans through a Servicer under contract with the Managing Member in accordance with Article XII and the safekeeping of the Notes and other Loan Documents by a Custodian under contract with the Company in accordance with the provisions of Section 3.7 below. Notwithstanding anything to the contrary contained in this Section 3.3, no employees of the Managing Member or any third party (including any Affiliate) shall be deemed to be employees of the Company, any contractual relationships entered into by the Managing Member to provide employees, facilities or support services to the Company shall be relationships between the third parties (or Affiliates) and the Managing Member (and not the Company) and shall not relieve the Managing Member of its obligations or any liability hereunder, and no expenses incurred to secure or maintain employees, facilities or support services shall be an expense of the Company unless the same is expressly reimbursable by the Company pursuant to the provisions of Article XII below or is otherwise expressly set forth in this Agreement or in the Ancillary Documents to be an expense of the Company.

3.4 Restrictions on Managing Member. Notwithstanding the delegation of authority to the Managing Member, the Managing Member shall in no event do any act or take any action in contravention of any Law, nor shall it take any of the following actions on behalf of, or with respect to, the Company, without the prior written approval of the Initial Member, which approval may be withheld or conditioned in the Initial Member's sole and absolute discretion except that for purposes of clauses (v), (vi), (ix), (x), (xi), (xiii) or (xiv) of this Section 3.4 shall be considered to have been obtained if such act or action has been described in all material respects in any Approved Business Plan, which approval may be withheld or conditioned in the Initial Member's sole and absolute discretion:

(i) admitting additional or substitute Members, except in accordance with Article VIII;

(ii) changing the legal form of the Company to other than a limited liability company;

(iii) taking any action that would cause the Company to be treated as other than a partnership for federal tax purposes;

(iv) taking any action that would make it impossible to carry on the ordinary business of the Company;

(v) taking any action to conduct a Bulk Sale during the 36 month period commencing on the date of this Agreement;

(vi) incurring any liability on behalf of the Company (other than liabilities in the ordinary course of Business and such other liabilities as may be permitted by this Agreement or any Ancillary Document);

(vii) possessing or transferring Company Property for other than Company purposes;

(viii) taking any action that would require the Company to register as an "investment company" (as defined in the Investment Company Act);

(ix) selling or otherwise transferring any Loan, Collateral or Acquired Collateral (or any portion thereof) to any Affiliate of the Managing Member, any Servicer or any Subservicer, or any Affiliate of any Servicer or any Subservicer;

(x) financing the sale or other transfer of any Loan, Collateral or Acquired Collateral (or any portion thereof);

(xi) selling any Loan, Collateral or Acquired Collateral (or any portion thereof) in a transaction that provides for any recourse against the Company or the FDIC, in any capacity, or against the Interest held by the Initial Member or any share of the Loan Proceeds allocable to the Initial Member; provided, however, that this clause (xi) shall not prohibit the Company from selling any Project (as defined in the Advance Facility Agreement) (in whole but not in part) with reasonable and customary representations and warranties (but in no event shall any representation or warranty survive beyond the dissolution of the Company) for the type of Project sold;

(xii) disbursing funds from the Collection Account or accounts created under the Advance Facility or any Servicing Agreement other than in accordance with the provisions of this Agreement, the Advance Facility, any Servicing Agreement and the Custodial and Paying Agency Agreement and the Reimbursement Security and Guaranty Agreement;

(xiii) advancing additional funds that would increase the Unpaid Principal Balance of any Loan other than with funds provided by the Term Loans under the Advance Facility or Excess Working Capital Advances, in each case used for the purposes for which the proceeds of Term Loans may be used under the Advance Facility or Servicing Expenses to the extent that capitalizing such Servicing Expenses is or would have been, prior to the conversion of Loan to the Acquired Collateral, permitted under the applicable Loan Documents;

(xiv) reimbursing the Managing Member for any expense or cost incurred (or paid) to any Affiliate of the Company, the Managing Member or any Affiliate of the Servicer or any Subservicer;

(xv) taking any action or omitting to take any action that causes the Company to breach any representation, warranty, covenant or other agreement contained herein or in any Ancillary Document; or

(xvi) doing any act for which the consent of the Members is required by the Act.

3.5 Related Party Agreements. Neither the Company nor any of its Subsidiaries shall enter into any current or future contract, agreement, commitment, arrangement or transaction (including any agreement to sell Company Property, incur any Debt or become bound by any Guarantee of any obligations) with or pay any fee to any Affiliate of the Company or of the Private Owner or the Managing Member (a "**Related Party Agreement**"), except (i) for property management agreements related to Acquired Collateral, provided, that the terms and conditions of any such property management agreement (including the amount of the fees thereunder) are arm's length terms and conditions that are not less favorable to the Company or the applicable Ownership Entity than the terms and conditions of property management agreements with unrelated third parties would be and such property management arrangement was contemplated by an Approved Business Plan, (ii) as may otherwise be expressly provided herein or in any Ancillary Document, or (iii) for the Purchase Money Notes or any promissory note reissued in respect thereof in accordance with Section 2.8 of the Custodial and Paying Agency Agreement.

3.6 Real Property. The Company shall not take title in its own name to any Acquired Collateral consisting of real property, and any ownership of any such Acquired Collateral shall be governed by Section 12.13 and the relevant terms of the Servicing Agreement.

3.7 Custodian and Paying Agent. The Managing Member shall cause the Company to retain and enter into and, at all times, be a party to written custodial agreement with a document custodian (the "**Custodian**") that is a Qualified Custodian and approved by the Initial Member, and such Custodian shall at all times have custody and possession of the Notes and other Custodial Documents. The Managing Member shall also cause the Company to retain and enter into and, at all times, be a party to written paying agency agreement with a paying agent selected by the Company (the "**Paying Agent**"), which Paying Agent shall receive and distribute Loan Proceeds in accordance with the applicable Custodial and Paying Agency Agreement. Except as contemplated by Section 13.6(b) below, the Custodian and the Paying Agent shall be the same, and the custodial and paying agency functions shall be performed on the terms set forth in a Custodial and Paying Agency Agreement that is acceptable to the Initial Member. At no time shall the Managing Member permit the Company to have more than one Custodian or one Paying Agent. The fees and expenses paid to the Custodian and Paying Agent shall be no more than market rates and the Custodian and Paying Agent shall be terminable by the Company upon no more than thirty (30) days notice provided by either, without cause under the Custodial and Paying Agency Agreement. In the event that the Managing Member removes, or causes the Company (or any Servicer) to remove, any Notes or other Custodial Documents from the possession of the Custodian (which shall be done only in accordance with the relevant Custodial and Paying Agency Agreement), (i) any loss or destruction of or damage to such Notes or Custodial Documents shall be the liability of the Managing Member (who, along with the relevant Servicer(s), shall be responsible for safeguarding such Notes and Custodial Documents), and (ii) such Notes shall be returned to the Custodian within the time provided under the applicable Uniform Commercial Code to maintain

the perfection of the secured party's security interest therein by possession. If any Notes or other Custodial Documents are removed in connection with the modification or restructuring of a Loan, the modified or restructured Notes and other Custodial Documents removed in connection therewith shall be returned to the Custodian as soon as possible following the completion of the restructuring or modification (and, in any event, in accordance with clause (ii) of the immediately preceding sentence). The Managing Member shall ensure that the Initial Member receives a copy of each demand, notice or other communication given under the Custodial and Paying Agency Agreement at the time that such notice or other communication is given thereunder.

3.8 Relationships with Borrowers, etc. Except as otherwise consented to by the Initial Member, neither the Managing Member nor the Private Owner shall, at any time, (a) be an Affiliate of or a partner or joint venturer with any Borrower, (b) be an agent of any Borrower, or allow any Borrower to be an agent of the Managing Member or the Company, or (c) except as is otherwise contemplated by the Company's ownership of the Loans and its right to hold Acquired Collateral, have any interest whatsoever in any Borrower, Guarantor or other obligor with respect to any Loan or any of the Collateral.

3.9 No Conflicting Obligations. The Managing Member shall cause the Company to comply with the Ancillary Documents in accordance with their terms and shall not, at any time, enter into or become a party to any agreement that would conflict with the terms of this Agreement.

3.10 Compliance with Law. The Managing Member shall, and shall cause the Company to, at all times, comply with applicable Law in connection with the performance of the obligations under this Agreement.

3.11 No Bankruptcy Filing. The Managing Member shall not cause or permit the Company to: (a) file a voluntary petition for bankruptcy, (b) file a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law, (c) make an assignment for the benefit of creditors, (d) seek, consent or acquiesce in the appointment of a trustee, receiver or liquidator or of all or any substantial part of its properties, (e) file an answer or other pleading admitting or failing to contest the material allegations of (i) a petition filed against it in any proceeding described in clause (a) through (d), or (ii) any order adjudging it a bankrupt or insolvent or for relief against it in any bankruptcy or Insolvency Proceeding, or (f) allow itself to become unable to pay its obligations as they become due.

3.12 No Liens. The Managing Member shall not cause or permit the Company to place, or voluntarily permit any Lien to be placed, on any of the Loans, the Collateral, the Loan Documents, or the Loan Proceeds, except, in the case of Collateral, (i) as permitted under the Loan Documents where the applicable Borrower is not in default thereunder and (ii) as permitted by the terms of the Advance Facility or the Reimbursement, Security and Guaranty Agreement, and shall not take any action to interfere with the Collateral Agent's (as defined in the Reimbursement, Security and Guaranty Agreement) rights as a secured party with respect to Loans, the Collateral and the Loan Proceeds.

3.13 Power of Attorney. In the event the Company fails to promptly satisfy its obligations under Section 3.1 or Section 3.2 of the Contribution Agreement as it relates to the transfer and/or recording of any of the Transfer Documents or any other relevant matter set forth therein, the Company hereby grants a limited power of attorney to the Initial Member for the purposes of executing, filing and recording all relevant Transfer Documents and other documents as may be reasonably necessary to satisfy the transfer and recording obligations of the Company under Section 3.1 and Section 3.2 of the Contribution Agreement. Managing Member agrees to cause the Company to comply with its obligations under the Contribution Agreement with respect to preparing and furnishing special warranty deeds for the Initial Member's approval and execution in order to convey the real property subject to any such contract to the Company. All such title curative work, if required, shall be at the Managing Member's sole cost and expense. The Managing Member shall indemnify and hold harmless the Initial Member from and against the claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and other remedies with respect to which Initial Member was released in accordance with Section 4.16 of the Contribution Agreement.

3.14 Remedies Upon an Event of Default; Security Interest. Upon the occurrence of an Event of Default, in addition to all other remedies available hereunder (including pursuant to Sections 3.2 and 12.4 of this Agreement) or under the Ancillary Documents upon such an Event of Default, the Initial Member shall be entitled to (i) remove the Private Owner as a Member, (ii) foreclose on the Interest held by the Private Owner and transfer such Interest to a third party and (iii) designate itself or the transferee Member as the Managing Member hereunder. The removal of the Private Owner as manager or Member shall be subject to Sections 3.2 and 8.4, respectively. This Agreement shall constitute a security agreement under applicable Law for the benefit of the Initial Member and, in furtherance thereof, the Private Owner and the Company shall be deemed to have granted, and each does hereby grant, to the Initial Member a valid and continuing first priority lien on and security interest in all of the Private Owner's and the Company's right, title and interest in, to and under, the Secured Assets, whether now owned or existing, or hereafter acquired and arising in, to and under the Secured Assets and all of the proceeds of the foregoing for the benefit of Initial Member and its assignees as security for the Private Owner's and the Managing Member's obligations under this Agreement. For purposes of this Agreement, the term "**Secured Assets**" shall mean (i) the Interest held by Private Owner, and (ii) all rights to distributions thereon or other income in respect thereof. For the avoidance of doubt, in the event that the Initial Member determines to foreclose on the Interest held by the Managing Member as contemplated by clause (ii) above, it shall deduct from the proceeds of such foreclosure sale any Losses arising out of or resulting from such Event of Default incurred by the Indemnified Parties, together with all costs and expenses of such foreclosure sale and shall remit the remaining proceeds, if any, to the Private Owner; provided, that none of the Private Owner, the Managing Member or any of their Affiliates shall participate in any sale of the Private Owner's Interest without the written consent of the Initial Member.

The Private Owner hereby authorizes the filing by Initial Member and its assignees of such financing or continuation statements in such jurisdictions as Initial Member and its assignees deem appropriate (in its sole and absolute discretion) to perfect and continue their first priority

lien and security interest with respect to the Secured Assets. The Private Owner shall deliver to Initial Member an assignment and assumption agreement with respect to the Interest held by it, in form and substance satisfactory to the Initial Member, endorsed in blank, and executed by the Private Owner. Initial Member may use the assignment and assumption agreement to effect the assignment of the Interest held by the Private Owner at any time if an Event of Default occurs and is continuing. Initial Member's election to exercise any remedy under this Section 3.14 shall in no way limit Initial Member's rights under any Ancillary Document.

3.15 No ERISA Plan Assets. The Managing Member shall use it reasonable best efforts to ensure that the Company's assets are not deemed to be "plan assets" within the meaning of Section 3(42) of ERISA and the Plan Asset Regulation.

ARTICLE IV
Membership Interests; Rights and Duties of, and Restrictions on, Members

4.1 General. The membership of the Company shall consist of the Members listed from time to time in the Annex II (the Member Schedule), and such substituted Members as may be admitted to the Company pursuant to Article VIII. The Managing Member shall cause the Annex II (the Member Schedule) to be amended from time to time to reflect the admission of any additional Members, Capital Contributions of the Members, the issuance of additional Interests, transfers of Interests, repurchases, redemptions or cancellations of Interests, the cessation or withdrawal of a Member for any reason or the receipt by the Company of notice of any change of name or address of a Member.

4.2 Interests.

(a) Creation and Issuance. Subject to the terms of this Agreement, the Company is only authorized to issue the Interests, which shall constitute common equity interests in the Company. The Company's membership interest shall be uncertificated. The Interests shall have the relative rights, powers and duties specified in this Section 4.2. As of the Closing Date, Interests are owned by the Initial Member and the Private Owner, as set forth in the Annex II (Member Schedule). Other than as set forth in this Agreement, each Interest shall be identical in all respects to each other outstanding Interest.

(b) Distributions. Subject to Sections 6.6, distributions to the holders of Interests shall be made as provided in Section 6.6(b) and Section 9.2.

(c) No Retirement Fund or Conversion. The Interests shall not be subject to the operation of a retirement or sinking fund to be applied to the purchase or redemption thereof for retirement and shall not be convertible into any other class of Interests.

(d) Voting Rights. Except to the extent otherwise required by the Act or expressly provided in this Agreement, the holders of Interests shall be entitled to vote on all matters upon which Members have the right to vote as set forth in this Agreement or provided in the Act. Except as expressly set forth elsewhere in this Agreement (including without limitation Section 3.1 and Section 3.4), the voting rights of each holder of Interests shall be based on such holder's Percentage Interest.

4.3 Filings; Duty of Members to Cooperate. The Managing Member shall promptly cause to be executed, delivered, filed, recorded or published, as appropriate, and the Members will, as requested by the Managing Member from time to time but at the sole expense of the Managing Member, execute and deliver, (a) all certificates, documents and other instruments that the Managing Member deems necessary or appropriate to form, qualify or continue the existence or qualification of the Company as a limited liability company in the State of Delaware or as a foreign limited liability company in all other jurisdictions in which the Company may, or may desire to, conduct business or own Company Property, (b) any amendment to the Certificate or any instrument described in clause (a) required because of, or in order to effectuate, an amendment to this Agreement, or any change in the membership of the Company, in accordance with the terms hereof, (c) all certificates, documents and other instruments (including conveyances and a certificate of cancellation) that the Managing Member deems necessary or appropriate to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, and (d) such other certificates, documents and other instruments as are required by Law or by any Governmental Authority to be executed by them in connection with the Business as conducted or proposed to be conducted by the Company from time to time. In addition, as soon as reasonably practical after the date hereof, the Managing Member shall, at its own expense, cause the Company to apply for, and thereafter use its reasonable best efforts to obtain and maintain, all such licenses as are required to conduct the Business, including qualifications to conduct business in jurisdictions other than Delaware and licenses to purchase, own or manage the Loans, if the failure to so obtain such licenses would reasonably be expected to result in the imposition of fines, penalties or other liabilities on the Company, claims and defenses being asserted against the Company (including counterclaims and defenses asserted by borrowers under the Loans), or materially adversely affect the Company or the Company's ability to foreclose on the Collateral securing or otherwise realize the full value of any Loan or Acquired Collateral.

4.4 Certain Restrictions and Requirements.

(a) No Member may use or possess Company Property other than for a Company purpose, except as provided under license or other contractual arrangements. No Member shall have authority to bind, or otherwise to act on behalf of, the Company except pursuant to authority expressly granted herein or pursuant to authority granted by the Managing Member in accordance with the terms hereof.

(b) From and after the Closing Date, no Person may or shall be admitted as a Member in the Company except pursuant to and in accordance with Article VIII hereof.

(c) Each Member, other than the Initial Member, shall at all times meet the qualifications of a Qualified Transferee.

4.5 Liability of Initial Member. Neither the Initial Member nor any of its Affiliates, any officer, director, stockholder, member, manager, employee, agent or assign of the Initial Member or any of its Affiliates (collectively, the "**Related Persons**"), shall be liable, responsible or accountable, whether directly or indirectly, in contract or tort or otherwise, to the Company or any other Person in which the Company has a direct or indirect interest or any Member (or any Affiliate thereof) for any Damages asserted against, suffered or

incurred by the Company or any Person in which the Company has a direct or indirect interest or any Member (or any of their respective Affiliates) arising out of, relating to or in connection with any act or failure to act pursuant to this Agreement or otherwise with respect to:

(a) the management or conduct of the business and affairs of the Company or any Person in which the Company has a direct or indirect interest or any of their respective Affiliates (including, without limitation, actions taken or not taken by any Related Person as an officer or director of any Person in which the Company has a direct or indirect interest or any Affiliates of such Person);

(b) the offer and sale of Interests in the Company or the issuance of Purchase Money Notes; and

(c) the management or conduct of the business and affairs of any Related Person insofar as such business or affairs relate to the Company or any Person in which the Company has a direct or indirect interest or to any Member in its capacity as such, including, without limitation, all:

(i) activities in the conduct of the Business, and

(ii) activities in the conduct of other business engaged in by it (or them) which might involve a conflict of interest vis-à-vis the Company or any Person in which the Company has a direct or indirect interest or any Member (or any of their respective Affiliates) or in which any Related Person realizes a profit or has an interest, in each case to the extent not permitted by this Agreement or the Ancillary Documents;

except, in each case, Damages resulting from acts or omissions of such Related Person which were taken or omitted which constituted fraud, gross negligence, willful misconduct, or an intentional material breach of this Agreement or any Ancillary Document.

4.6 Indemnification.

(a) The Managing Member shall indemnify and hold harmless the Initial Member and the Initial Member's Affiliates, and their respective officers, directors, employees, partners, principals, agents and contractors (the "**Indemnified Parties**"), from and against any losses, Damages, liabilities, costs and expenses (including reasonable attorneys' fees and litigation and similar costs, and other out-of-pocket expenses incurred in investigating, defending, asserting or preparing the defense or assertion of any of the foregoing), deficiencies, claims, interest, awards, judgments, penalties and fines (collectively, "**Losses**"), arising out of or resulting from any breach after the Closing Date, by the Company the Managing Member or any of its Affiliates or any of their respective officers, directors, employees, partners, principals, agents or contractors of any of the Company's or the Managing Member's obligations under or covenants or agreements contained in this Agreement or any Ancillary Document (including Losses relating to the Managing Member's obligations with respect to litigation referred to in Section 4.5 of the Contribution Agreement to the extent provided therein and any claim asserted by the Initial Member against the Company or the Managing Member to enforce its rights hereunder or by any

third party), or any third-party allegation or claim based upon facts alleged that, if true, would constitute such a breach, or any gross negligence, bad faith or willful misconduct (including any act or omission constituting theft, embezzlement, breach of trust or violation of any Law). Such indemnity shall survive the termination of this Agreement. In order for an Indemnified Party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a Loss or a claim or demand made by any Person against the Indemnified Party (a "**Third Party Claim**"), such Indemnified Party shall deliver notice thereof to the Managing Member promptly after receipt by such Indemnified Party of written notice of the Third Party Claim, describing in reasonable detail the facts giving rise to any claim for indemnification hereunder, the amount of such claim (if known) and such other information with respect thereto as is available to the Indemnified Party and as the Managing Member may reasonably request. The failure or delay to provide such notice, however, shall not release the Managing Member from any of its obligations under this Section 4.6 except to the extent that it is materially prejudiced by such failure or delay.

(b) If for any reason the indemnification provided for herein is unavailable or insufficient to hold harmless the Indemnified Parties, the Managing Member shall contribute to the amount paid or payable by the Indemnified Parties as a result of the Losses of the Indemnified Parties in such proportion as is appropriate to reflect the relative fault of the Indemnified Parties, on the one hand, and the Managing Member (including any Servicer or Subservicer), on the other hand in connection with the matters that are the subject of such Losses.

(c) If the Managing Member confirms in writing to the Indemnified Party within fifteen (15) days after receipt of a Third Party Claim the Managing Member's responsibility to indemnify and hold harmless the Indemnified Party therefor, the Managing Member may elect to assume control over the compromise or defense of such Third Party Claim at the Managing Member's own expense and by the Managing Member's own counsel, which counsel must be reasonably satisfactory to the Indemnified Party, provided that (i) the Indemnified Party may, if such Indemnified Party so desires, employ counsel at such Indemnified Party's own expense to assist in the handling (but not control the defense) of any Third Party Claim; (ii) the Managing Member shall keep the Indemnified Party advised of all material events with respect to any Third Party Claim; (iii) the Managing Member shall obtain the prior written approval of the Indemnified Party before ceasing to defend against any Third Party Claim or entering into any settlement, adjustment or compromise of such Third Party Claim involving injunctive or similar equitable relief being imposed upon the Indemnified Party or any of its Affiliates; and (iv) the Managing Member will not, without the prior written consent of the Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened action in respect of which indemnification may be sought hereunder (whether or not any such Indemnified Party is a party to such action), unless such settlement, compromise or consent by its terms obligates the Company to satisfy the full amount of the liability in connection with such Third Party Claim and includes an unconditional release of such Indemnified Party from all liability arising out of such Third Party Claim.

(d) Notwithstanding anything contained herein to the contrary, the Managing Member shall not be entitled to control (and if the Indemnified Party so desires, it shall have sole control over) the defense, settlement, adjustment or compromise of (but the Managing Member shall nevertheless be required to pay all Losses incurred by the Indemnified Party in connection

with such defense, settlement or compromise): (i) any Third Party Claim that seeks an order, injunction or other equitable relief against the Indemnified Party or any of its Affiliates; (ii) any action in which both the Managing Member (or any Affiliate) and the Indemnified Party are named as parties and either the Managing Member (or such Affiliate) or the Indemnified Party determines with advice of counsel that there may be one or more legal defenses available to it that are different from or additional to those available to the other party or that a conflict of interest between such parties may exist in respect of such action; and (iii) any matter that raises or implicates any issue relating to any power, right or obligation of the FDIC under any Law. If the Managing Member elects not to assume the compromise or defense against the asserted liability, fails to timely and properly notify the Indemnified Party of its election as herein provided, or, at any time after assuming such defense, fails to diligently defend against such Third Party Claim in good faith, the Indemnified Party may pay, compromise or defend against such asserted liability (but the Managing Member shall nevertheless be required to pay all Losses incurred by the Indemnified Party in connection with such defense, settlement or compromise). In connection with any defense of a Third Party Claim (whether by the Managing Member or the Indemnified Party), all of the parties hereto shall, and shall cause their respective Affiliates to, cooperate in the defense or prosecution thereof and to in good faith retain and furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested by a party hereto in connection therewith.

(e) In the event the Company is reimbursed for or uses funds drawn under the Advance Facility to pay costs or expenses of the type referred to in clause (iv) or (v) of the definition of Servicing Expenses and it is subsequently determined that the Company was not entitled to reimbursement for (or to use Advance Facility funds to pay) all or any portion of such costs and expenses because the Company did not satisfy the requirements of Section 4.6(c) or clause (iv) of the definition of Servicing Expenses (such costs and expenses, the "**Unreimbursable Expenses**"), the Managing Member shall, in addition to any other Losses for which the Managing Member may be liable with respect to the claim to which such costs and expenses relate, reimburse the cost of such Unreimbursable Expenses to each Member based on such Member's Percentage Interest, as follows: within ten (10) Business Days after written demand therefor from either Member, the Managing Member shall pay each Member by wire transfer of immediately available funds to an account specified by each Member an amount equal to such Member's Percentage Interest (as of the later of (x) the date of such demand or (y) the date of such payment) multiplied by the amount of all such Unreimbursable Expenses.

(f) The Company shall indemnify and hold harmless each Member and their respective officers, directors, employees and members (each a "**Covered Person**") for any Losses incurred by such Covered Person by reason of a Third Party Claim relating to any act or omission by or of such Covered Person in connection with the exercise or performance of the rights, powers, responsibilities and obligations of such Covered Person regarding the Company except (i) in each case, Losses resulting from fraud, gross negligence, willful misconduct or an intentional breach of this Agreement or any Ancillary Document by such Covered Person, and (ii) in the case of the Managing Member, any Third Party Claim that is in whole or in part covered by or subject to an indemnification obligation of the Managing Member under any provision of this Agreement or any Ancillary Document, including the foregoing provisions of Section 4.6(a).

(g) Offsets. Without limiting any other rights of the Initial Member hereunder, in the event the Initial Member exercises any rights or remedies as a result of or in connection with a breach hereunder or the occurrence of an Event of Default (including relating to a breach of Section 4.6), all costs and expenses (including reasonable attorneys' fees and litigation and similar costs, and other out-of-pocket expenses incurred in investigating, defending, asserting or preparing the defense or assertion of any claim) incurred by the Initial Member with respect thereto may be offset against any payment or distribution otherwise payable to the Private Owner (including the Management Fee), whether in its capacity as a Member or as Managing Member.

ARTICLE V
Capital Contributions; Working Capital Advances

5.1 Capital Contributions; Excess Working Capital Advances.

(a) Members' Contribution. Pursuant to the Contribution Agreement, the Initial Member made a Capital Contribution to the Company in an amount equal to the Initial Member Capital Contribution. In connection with the LLC Interest Sale Agreement, Private Owner acquired from the Initial Member an Interest representing a forty percent (40%) equity interest in the Company in exchange for the Purchase Price. After giving effect to the foregoing transactions, the respective Capital Accounts of the Initial Member and the Private Owner as of the Closing Date are as set forth in the Annex II (the Member Schedule).

(b) From and after the Closing Date, the Members shall have no obligation to make any additional Capital Contributions to the Company.

(c) The Managing Member may, in its discretion, make Excess Working Capital Advances to the Company to the extent permitted by the Advance Facility and the other Ancillary Documents. No Excess Working Capital Advance shall accrue any interest thereon. If and to the extent any portion of an Excess Working Capital Advance is used to fund amounts that are reimbursable to the Managing Member hereunder or under the Custodial and Paying Agency Agreement, the reimbursable portion of such Excess Working Capital Advance shall be repaid, in accordance with the Custodial and Paying Agency Agreement, prior to the Company making any other distributions to Members with respect to their Interests pursuant to Section 6.6. All Excess Working Capital Advances, together with a detailed statement of the sources and uses thereof (which shall be broken out by the reimbursable and unreimbursable portions thereof), shall be reflected in the Monthly Report with respect to the calendar month during which the relevant Excess Working Capital Advance was made.

ARTICLE VI
Capital Accounts; Allocations; Priority of Payments; Distributions

6.1 Capital Accounts. A Capital Account shall be established and maintained for each Member to which shall be credited the Capital Contributions made by such Member and such Member's allocable share of Net Income (and items thereof), and from which shall be deducted distributions to such Member of cash or other Property and such Member's allocable share of Net Loss (and items thereof). As to the Private Owner, the initial Capital Account shall correspond to that portion of the Capital Account of the Initial Member

that is attributable to the Interest acquired by the Private Owner pursuant to the LLC Interest Sale Agreement. A Member's Capital Account also shall be adjusted for items specially allocated to such Member under this Article VI. The Capital Accounts of the Members generally shall be adjusted and maintained in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv); provided, however, that such adjustments to, and maintenance of, the Capital Accounts shall not adversely affect the manner in which distributions are to be made to the Members under Section 6.6.

6.2 Allocations to Capital Accounts. Allocation of Net Income and Net Loss shall be made as provided in this Article VI.

(a) Except as otherwise provided in this Agreement, Net Income and Net Loss (and, to the extent necessary, individual items of income, gain, loss, deduction or credit) of the Company shall be allocated among the Members in a manner such that, after giving effect to the special allocations set forth in Section 6.2(b), the Capital Account balance of each Member, immediately after making such allocation, is, as nearly as possible, equal to (i) the distributions that would be made to such Member pursuant to Section 6.6 if the Company were dissolved, its affairs wound up and its assets sold for cash equal to their Book Value, all Company liabilities were satisfied (limited with respect to each nonrecourse liability to the tax bases of the assets securing such liability), and the net assets of the Company were distributed, in accordance with Section 9.2(c), to the Members immediately after making such allocation, minus (ii) such Member's share of "partnership minimum gain" and "partner nonrecourse debt minimum gain" (as such terms are used in Treasury Regulations Section 1.704-2), computed immediately prior to the hypothetical sale of assets.

(b) Allocations in Special Circumstances. The following special allocations shall be made in the following order:

(i) *Minimum Gain Chargeback.* Notwithstanding any other provision of this Article VI, if there is a net decrease in minimum gain (as it corresponds to the definition of "partnership minimum gain" in Treasury Regulations Section 1.704-2(b)(2) and (d)) during any Fiscal Year, the Members shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to the portion of such Member's share of the net decrease in minimum gain, determined in accordance with Treasury Regulations Section 1.704-2(f) and (g). This Section 6.2(b)(i) is intended to comply with the "minimum gain chargeback" requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith.

(ii) *Member Minimum Gain Chargeback.* Notwithstanding any other provision of this Article VI other than Section 6.2(b)(i), if there is a net decrease in minimum gain attributable to a Member nonrecourse debt (as it corresponds to the definition of "partnership nonrecourse debt minimum gain" in Treasury Regulations Section 1.704-2(i)) during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to the portion of such

Member's share of the net decrease in such minimum gain attributable to such Member's nonrecourse debt, determined in accordance with Treasury Regulations Section 1.704-2(i). This Section 6.2(b)(ii) is intended to comply with the "partner minimum gain chargeback" requirement in such section of the Treasury Regulations and shall be interpreted consistently therewith.

(iii) *Qualified Income Offset.* In the event any Member, for any reason, whether expected or not, has an Adjusted Capital Account Deficit, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, such Adjusted Capital Account Deficit as quickly as possible, provided that an allocation pursuant to this Section 6.2(b)(iii) shall be made only if and to the extent that such Member would have such Adjusted Capital Account Deficit after all other allocations provided for in Section 6.2 have been tentatively made as if this Section 6.2(b)(iii) were not in this Agreement. This Section 6.2(b)(iii) is intended to comply with the "qualified income offset" provisions in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(iv) *Nonrecourse Deductions.* Any nonrecourse deductions attributable to a Member nonrecourse debt (as described in Treasury Regulations Section 1.704-2(i)) shall be allocated to the Member who bears the economic risk of loss with respect to such nonrecourse debt. Otherwise, nonrecourse deductions shall be allocable in accordance with the Members' respective Percentage Interests.

(v) *Loss Allocation Limitation.* No allocation of Net Loss (or any item thereof) shall be made to any Member to the extent that such allocation would create or increase a Member's Adjusted Capital Account Deficit. If, in the allocation of Net Loss (or any item thereof), less than all Members would have an Adjusted Capital Account Deficit as a result of such allocation, then any Net Loss (or item thereof) not allocable to any such Member(s) as a result of such limitation shall be allocated (subject to such limitation) to the other Member so as to allocate the maximum permissible Net Loss to each Member under Treasury Regulation Section 1.704-1(b)(2)(ii)(d).

(vi) *Curative Allocations.* The allocation provisions of this Section 6.2(b) are intended to comply with certain requirements of the Treasury Regulations. Notwithstanding any other provisions of this Article VI, any allocation effected pursuant to this Section 6.2(b) shall be taken into account in allocating Net Income and Net Loss among the Members such that the cumulative effect of all such allocations achieves the fundamental purpose of Sections 6.2(a), so that the Capital Account balances correspond to the amounts distributable to the Members.

(c) Transfer of or Change in Interests. The Managing Member is authorized to adopt any convention or combination of conventions likely to be upheld for federal income tax

purposes regarding the allocation of items of Company income, gain, loss, deduction and expense with respect to a transferred Interest. A transferee of an Interest in the Company shall succeed to the Capital Account of the transferor Member to the extent it relates to the transferred Interest.

6.3 Tax Allocations.

(a) General Rules. Except as otherwise provided in Section 6.3(b), for each Fiscal Year, items of Company income, gain, loss, deduction and expense shall be allocated, for federal, state and local income tax purposes among the Members in the same manner as the Net Income (and items thereof) or Net Loss (and items thereof) of which such items are components were allocated pursuant to Section 6.2.

(b) Section 704(c) of the Code. Income, gains, losses and deductions with respect to any property (other than cash) contributed or deemed contributed to the capital of the Company shall, solely for income tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Fair Market Value at the time of the contribution or deemed contribution in accordance with Section 704(c) of the Code and the Treasury Regulations promulgated thereunder. Such allocations shall be made in such manner and utilizing such permissible tax elections as determined in good faith by the Managing Member, following consultation with the Initial Member. In the event of a revaluation of Property pursuant to the definition of Book Value, subsequent allocations of income, gains, losses or deductions with respect to such Property shall take account of any variation between the Book Value and Fair Market Value of such Property, as so determined from time to time, in accordance with Section 704(c) of the Code and the Treasury Regulations promulgated thereunder. Such allocations shall be made in such manner and utilizing such permissible tax elections as determined in good faith by the Managing Member, following consultation with the Initial Member.

(c) Capital Accounts Not Affected. Allocations pursuant to this Section 6.3 are solely for federal, state and local tax purposes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or allocable share of Net Income (or items thereof) or Net Loss (or items thereof).

(d) Tax Allocations Binding. The Members acknowledge that they are aware of the tax consequences of the allocations made by this Section 6.3 and hereby agree to be bound by the provisions of this Section 6.3 in reporting their respective shares of items of Company income, gain, loss, deduction and expense.

6.4 Determinations by Managing Member. All matters concerning the computation of Capital Accounts, the allocation of items of Company income, gain, loss, deduction and expense and the adoption of any accounting procedures not expressly provided for by the terms of this Agreement shall be determined by the Managing Member in good faith, following consultation with the Initial Member. Following such consultation, such determinations shall be final and conclusive as to all the Members. Without in any way limiting the scope of the foregoing, if and to the extent that, for income tax purposes, any contribution to or distribution by the Company or any payment by any Member or by the Company is

recharacterized, the Managing Member may, in good faith following consultation with the Initial Member, specially allocate items of Company income, gain, loss, deduction or expense and/or make correlative adjustments to the Capital Accounts of the Members in a manner so that the net amount of income, gain, loss, deduction and expense realized by each relevant party (after taking into account such special allocations) and the net Capital Account balances of the Members (after taking into account such special allocations and adjustments) shall, as nearly as possible, achieve the fundamental purpose of Sections 6.2(a), such that the Capital Account balances correspond to the amounts distributable to the Members, as if such recharacterization had not occurred.

6.5 Priority of Payments. Each calendar month the amounts deposited in the Distribution Account under the Custodial and Paying Agency Agreement shall be distributed by the Paying Agent in the order of the Priority of Payments; provided, however, that for the avoidance of doubt, to the extent amounts are available for distribution to the Members with respect to their respective Interests (such available amounts, the "**Distributable Cash**"), such Distributable Cash shall be distributed to the Members in accordance with Section 6.6 below.

6.6 Distributions.

(a) No Right to Withdraw. No Member shall have the right to withdraw capital or demand or receive distributions or other returns of any amount in its Capital Account, except as expressly provided in this Agreement.

(b) Ordinary Distributions.

(i) *Timing.* Distributable Cash, if any, shall be distributed to the Members on a monthly basis by the Paying Agent out of the Distribution Account in the manner set forth in the Custodial and Paying Agency Agreement; provided, however, that the Managing Member shall instruct the Paying Agent as to how such distributions are to be allocated as between the Initial Member and the Private Owner based on Section 6.6(b)(ii) below (which instructions shall be included in one or more reports to be provided to Paying Agent in accordance with Section 7.4(b)).

(ii) *Distributions of Distributable Cash.* Each distribution of Distributable Cash shall be made to the Members as follows:

(A) first, 60 percent to the Initial Member and 40 percent to the Private Owner, until the time at which the Return Threshold Event occurs; and

(B) thereafter, 70 percent to the Initial Member and 30 percent to the Private Owner.

(iii) *Return Threshold Event.* The "**Return Threshold Event**" shall occur as of a Distribution Date if (A) the aggregate distributions made to the

Private Owner pursuant to Section 6.6(b)(ii)(A) as of such Distribution Date is equal to or greater than the product of two (2) and the Purchase Price, and (B) the Return Threshold as of such Distribution Date is equal to zero.

(iv) *Return Threshold.* The "**Return Threshold**" shall be determined as follows:

(A) as of the Closing Date, the Return Threshold shall be equal to the Purchase Price; and

(B) as of any Distribution Date, the Return Threshold shall be an amount equal to (1) the sum of (i) the Return Threshold as of the preceding Distribution Date (or, in the case of the first Distribution Date, the Closing Date), and (ii) the Threshold Increase Amount, minus (2) the aggregate distributions made to the Private Owner pursuant to Section 6.6(b)(ii)(A) as of such Distribution Date; provided, that, if, as of any Distribution Date, the amount referred to in clause (B)(2) of Section 6.6(b)(iv) is greater than the amount referred to in clause (B)(1) of Section 6.6(b)(iv), then the Return Threshold shall be deemed to be zero for such Distribution Date and all subsequent Distribution Dates.

(c) Restrictions on Distributions. The foregoing provisions of this Article VI to the contrary notwithstanding, no distribution shall be made if such distribution would violate any contract or agreement to which the Company is then a party or any Law or directive of any Governmental Authority then applicable to the Company.

(d) Withholding. Notwithstanding any other provision of this Agreement, the Managing Member is authorized to take any action that it determines to be necessary or appropriate to cause the Company to comply with any foreign or United States federal, state or local withholding requirement with respect to any allocation, payment or distribution by the Company to any Member or other Person. All amounts so withheld shall be treated as distributions to the applicable Members under the applicable provisions of this Agreement. If any such withholding requirement with respect to any Member exceeds the amount distributable to such Member under the applicable provisions of this Agreement, or if any such withholding requirement was not satisfied with respect to any amount previously allocated or distributed to such Member, such Member and any successor or assignee with respect to such Member's Interest hereby agrees to indemnify and hold harmless the Managing Member and the Company for such excess amount or such withholding requirement, as the case may be.

(e) Record Holders. Any distribution of Property, whether pursuant to this Article VI or otherwise, shall be made only to Persons that, according to the books and records of the Company, were the holders of record of Interests on the date determined by the Managing Member as of which the Members are entitled to any such distribution.

(f) Final Distribution. The final distribution following dissolution of the Company (the "**Final Distribution**") shall be made in accordance with the provisions of Section 9.2.

ARTICLE VII
Accounting, Reporting and Taxation

7.1 Fiscal Year. The books and records of the Company shall be kept on an accrual basis and the fiscal year of the Company shall commence on January 1 and end on December 31 (the "**Fiscal Year**").

7.2 Maintenance of Books and Records.

(a) Maintenance of Books and Records. At all times during the continuance of the Company, the Managing Member shall cause to be kept and maintained (including by the Servicer and any Ownership Entity and including records transferred by Receiver to the Company in connection with its conveyance of the Loans to the Company under the Contribution Agreement), at all times, at the Company's chief executive office referred to in Section 2.4, a complete and accurate set of files, books and records regarding the Loans and the Collateral, and the Company's and the relevant secured parties' interests in the Loans and the Collateral, including records relating to the Collection Account, the Escrow Accounts, accounts created under the Advance Facility, any liquidity reserve account (if permitted), the Defeasance Account, and the disbursement of all Loan Proceeds. This obligation to maintain a complete and accurate set of records shall encompass all files in the Managing Member's or Company's custody, possession or control pertaining to the Loans and the Collateral, including (except as required to be held by the Custodian pursuant to the Custodial and Paying Agency Agreement) all original and other documentation pertaining to the Loans and the Collateral, all documentation relating to items of income and expense pertaining to the Loans and the Collateral, and all of the Managing Member's (and each Servicer's and Subservicer's) internal memoranda pertaining to the Loans and the Collateral. The books of account shall be maintained in a manner that provides sufficient assurance that: (a) transactions of the Company are executed in accordance with the general or specific authorization of the Managing Member consistent with the provisions of this Agreement; and (b) transactions of the Company are recorded in such form and manner as will: (i) permit preparation of federal, state and local income and franchise tax returns and information returns in accordance with this Agreement and as required by Law; (ii) permit preparation of the Company's financial statements in accordance with GAAP and as otherwise set forth herein and the provisions of the reports required to be provided hereunder; and (iii) maintain accountability for the Company's assets.

(b) Retention of Books and Records. The Managing Member shall cause all such books and records to be maintained and retained until the date that is the later of ten (10) years after the Closing Date and three (3) years after the date on which the Final Distribution is made. All such books and records shall be available during such period for inspection by the Initial Member or its representatives (including any Governmental Authority) and agents at the Company's chief executive office referred to in Section 2.4 at all reasonable times during business hours on any Business Day (or, in the case of any such inspection after the term hereof, at such other location as is provided by notice to the Initial Member), in each instance upon two (2) Business Days' prior notice to the Managing Member. Upon request by Initial Member, the Managing Member, at the sole cost and expense of the Initial Member, shall promptly send copies (the number of copies of which shall be reasonable) of such books and records to the Initial Member or its designee. The Managing Member shall provide the Initial Member with reasonable

advance notice of the Managing Member's intention to destroy or dispose of any documents or files relating to the Loans and, upon the request of the Initial Member, shall allow Initial Member, at its own expense, to recover the same (or copies thereof) from the Company. The Managing Member shall also maintain complete and accurate records reflecting the status of taxes, ground leases or other recurring charges which could become a Lien on any Collateral.

7.3 Financial Statements.

(a) Annual Financial Statements. As soon as practicable following, but no later than ninety (90) days immediately after the end of each Fiscal Year, the Managing Member shall prepare and deliver to Initial Member an audited consolidated balance sheet of the Company and the Ownership Entities as at the end of such Fiscal Year, and audited consolidated statements of operations and cash flow of the Company and the Ownership Entities for such Fiscal Year, each prepared in accordance with GAAP and accompanied by the Accountants' report thereon, which shall be certified in the customary manner by the Accountants.

(b) Quarterly Financial Information. As soon as practicable following, but no later than thirty (30) days immediately after, the end of each quarter of each Fiscal Year (other than the last quarter of such Fiscal Year), the Managing Member shall prepare and deliver to Initial Member unaudited consolidated balance sheet of the Company and the Ownership Entities as at the end of such calendar quarter, and unaudited consolidated statements of operations and cash flow of the Company and the Ownership Entities for such calendar quarter, each prepared in accordance with GAAP.

7.4 Additional Reporting and Notice Requirements.

(a) Managing Member's Duty to Initial Member and Secured Parties; Delivery of Certain Notices. In addition to such other reports and access to books, records and reports as are required to be provided under this Agreement, the Managing Member shall cause to be delivered to the Initial Member, the Purchase Money Note Guarantor and the Lender such information as is specified in Exhibit B (in addition to the Monthly Report) and such other information relating to the Loans, the Collateral, the Company, the Servicers and any Subservicers as Initial Member, the Purchase Money Note Guarantor or the Lender may reasonably request from time to time and, in any case, shall ensure that Initial Member, the Purchase Money Note Guarantor and the Lender are promptly advised, in writing, of any matter of which the Managing Member, any Servicer or any Subservicer becomes aware relating to the Loans, the Collateral, the Collection Account, the Escrow Accounts, any accounts created under the Advance Facility, the Defeasance Account, or any Borrower or Guarantor that materially and adversely affects the interests of Initial Member hereunder or of any secured party under the Reimbursement, Security and Guaranty Agreement. Without limiting the generality of the foregoing, the Managing Member shall cause to be delivered to Initial Member information indicating any possible Environmental Hazards with respect to any Collateral. To the extent that the Initial Member requests information which is dependent upon obtaining such information from a Borrower, Guarantor or other third party, the Managing Member shall cause to be made commercially reasonable efforts to obtain such information but it shall not be a breach by the Managing Member of this Agreement if the Managing Member fails to cause such information to be provided to Initial Member because a

Borrower, Guarantor or other Person has failed to provide such information after such efforts have been made.

(b) Monthly Reports. On or prior to the fifteenth (15th) day of each month (or if the fifteenth (15th) day is not a Business Day, then the first Business Day thereafter), commencing on the fifteenth (15th) day of the first month following the calendar month in which the Closing Date occurs, the Managing Member shall provide to the Paying Agent, the Initial Member, the Purchase Money Note Guarantor and the Lender (i) the Monthly Report with respect to the relevant Due Period, and (ii) the related Distribution Date Report with respect to such Due Period, which report shall specify the amounts and recipients of all funds to be distributed by the Paying Agent on the relevant Distribution Date. Following receipt by the Paying Agent of the Monthly Report and the Distribution Date Report with respect to a given Due Period, the Paying Agent shall prepare and deliver the Custodian and Paying Agent Report with respect to such Due Period in accordance with the terms of the Custodial and Paying Agency Agreement. Each of the Monthly Report and the Distribution Date Report shall be certified by the chief financial officer (or an equivalent officer) of the Managing Member. The Monthly Report shall also include a certification of the Managing Member that all withdrawals by the Managing Member from the Collection Account during such Due Period were made in accordance with the terms of this Agreement and the Custodial and Paying Agency Agreement.

(c) Annual Compliance Certificates. The Managing Member shall, and shall cause each Servicer and Subservicer to, deliver to Initial Member, the Purchase Money Note Guarantor and the Lender, on or before March 15 of each year, commencing in the year 2010, an officer's certificate stating, as to the signer thereof, that (i) a review of such party's activities during the preceding calendar year (or portion thereof) and of its performance under this Agreement (or, as applicable, the Servicing Agreement or any Subservicing Agreement) has been made under such officer's supervision, and (ii) to the best of such officer's knowledge and belief, based on such review, such party has fulfilled all of its obligations under this Agreement (or, as applicable, the Servicing Agreement or Subservicing Agreement) in all material respects throughout such year or portion thereof or, if there has been a failure to fulfill any such obligation in any material respect, specifying each such failure and the nature and status thereof. In the event a Servicer or any Subservicer was terminated, resigned or otherwise performed in such capacity for only part of a year, such party shall provide an officer's certificate pursuant to this Section 7.4(c) with respect to such portion of the year.

(d) Annual Compliance Report. On or before March 15 of each year, commencing in the year 2010, the Managing Member shall cause each Servicer and Subservicer, each at its own expense or at the expense of the Managing Member, to provide a report prepared by a nationally recognized firm of independent certified public accountants to the effect that, with respect to the most recently ended Fiscal Year, such firm has examined certain records and documents relating to compliance with the servicing requirements in this Agreement and that, on the basis of such examination conducted substantially in compliance with either the Uniform Single Attestation Program for Mortgage Bankers or Item 1122 of Regulation AB, such firm is of the opinion that the Managing Member's or its Servicers' or Subservicers' activities have been conducted in compliance with this Agreement (including, to the extent applicable, Regulation AB), or that such examination has disclosed no material items of noncompliance except for

(i) such exceptions as such firm believes to be immaterial, and (ii) such other exceptions as are set forth in the report.

(e) Audits. Until the later of the date that is ten (10) years after the Closing Date and the date that is three (3) years after the Final Distribution, the Managing Member shall, and shall cause each Servicer and Subservicer to, (i) provide any representative of Initial Member (including any Governmental Authority), during normal business hours and on reasonable notice, with access to all of the books of account, reports and records relating to the Loans or any Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, any account created under the Advance Facility or the Servicing Agreement, the Defeasance Account, disbursements under the Custodial and Paying Agency Agreement, distributions hereunder or any other matters relating to this Agreement or the rights or obligations hereunder or under the Ancillary Documents; (ii) permit such representatives to make copies of and extracts from the same, (iii) allow Initial Member to cause such books to be audited by accountants selected by Initial Member, and (iv) allow Initial Member's representatives to discuss the Company's, Managing Member's and any Servicer's and any Subservicer's affairs, finances and accounts, as they relate to the Loans, the Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, any account created under the Advance Facility, the Defeasance Account, or any other matters relating to this Agreement, the Ancillary Documents, or the rights or obligations hereunder and thereunder, with its officers, directors, employees, accountants (and by this provision the Company and Managing Member hereby authorizes such accountants to discuss such affairs, finances and accounts with such representatives), Servicers and Subservicers, and attorneys. Any expense incurred by Initial Member and any reasonable out-of-pocket expense incurred by the Company in connection with the exercise by Initial Member of its rights in this Section 7.4(e) shall be borne by the Initial Member; provided, however, that any expense incident to the exercise by Initial Member of its rights pursuant to this Section 7.4(e) as a result of or during the continuance of an Event of Default shall in all cases be borne by the Managing Member.

(f) In addition to the foregoing, the Managing Member shall provide or cause to be provided to the Initial Member, all reports, information (financial or otherwise), certificates and other documents required to be provided by the Company pursuant to the Advance Facility and the Reimbursement, Security and Guaranty Agreement and the Servicer under the Servicing Agreement.

7.5 Designation of Tax Matters Member. The Private Owner is hereby designated as the "**Tax Matters Member**" under Section 6231(a)(7) of the Code and under other similar Laws of other relevant jurisdictions, to manage, in consultation with the Initial Member, administrative tax proceedings conducted at the Company level by the Internal Revenue Service or other tax authorities with respect to Company matters. Each Member expressly consents to such designation and agrees that, upon the request of the Tax Matters Member, it will execute, acknowledge, deliver, file and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent. The Tax Matters Member is specifically directed and authorized to take whatever steps the Tax Matters Member in its sole and absolute discretion deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the Internal Revenue Service (or other tax authorities) and taking such other action as may from time to time be required under

the Code, Treasury Regulations or other Laws. The Tax Matters Member shall have the authority, following consultation with the Initial Member, to make any tax elections on behalf of the Company permitted to be made, including the election pursuant to Section 754, under any section of the Code or the Treasury Regulations promulgated thereunder or under other Laws. In the event the Company may be deemed to be a "small partnership" as described in Section 6231(a)(1)(B), each Member consents to the Company's electing to be treated as a partnership to which the provisions of Code Section 6221 et. seq. apply (thereby electing to have Code Section 6231(a)(1)(B)(i) not apply). The Initial Member may, at any time following an Event of Default, remove the Private Owner as the Tax Matters Member and serve in such capacity.

7.6 Tax Information. Within ninety (90) days after the end of each Fiscal Year, the Managing Member shall send, or cause to be sent to, each Person who was a Member at any time during the Fiscal Year then ended a Schedule K-1 and such Company tax information as the Managing Member reasonably believes shall be necessary for the preparation by such Person of its United States federal, state and local tax returns in accordance with any Law. Such information shall include a statement showing such Person's share of distributions, income, gain, loss, deductions and expenses and other relevant items of the Company for such Fiscal Year. Promptly upon the request of any Member (or any former Member, for tax years during which such Person was a Member), the Managing Member will furnish to such Member (or former Member):

(a) United States federal, state and local income tax returns or information returns, if any, which the Company is required to file; and

(b) at the sole cost and expense of the requesting Member, such other information as such Member may reasonably request for the purpose of applying for refunds of withholding taxes.

ARTICLE VIII
Restrictions on Disposition of Interests

8.1 Limitations on Disposition of Interests. Except as otherwise provided in this Article VIII, the Private Owner shall not, directly or indirectly, Dispose of or permit to be Disposed of, all or any part of its Interest or any of its rights or interests under this Agreement unless (a) (i) the transferee is a Qualified Transferee and (ii) it first obtains the prior written consent of the Initial Member, or (b) such Disposition is done by or at the direction of the Initial Member pursuant to Section 3.14. In addition, the Private Owner shall not Dispose of less than all of its Interest. Transfers satisfying the foregoing criteria are hereinafter referred to as "**Permitted Dispositions**."

8.2 Change of Control. Except as otherwise provided in this Article VIII, the Private Owner will not permit any Change of Control to occur unless (i) it first obtains the prior written consent of the Initial Member, and (ii) following such Change of Control, the Member or successor Member, as applicable, would be a Qualified Transferee.

8.3 Additional Provisions Relating to Permitted Dispositions. Except as otherwise expressly provided in this Section 8.3, the following provisions shall apply to each Permitted Disposition under this Article VIII:

(a) The Private Owner shall not take, or cause the Company to take, any action that involves any material risk (other than any risk attributable to the fact that such action might lead to consummation of the proposed Permitted Disposition) of resulting in a material adverse effect on the business, financial condition, properties or prospects of the Company. In the event the Private Owner proposes to make a Permitted Disposition, the Private Owner shall be required to pay any and all filing and recording fees, fees of counsel and accountants and other out-of-pocket costs and expenses reasonably incurred by the Initial Member and/or the Company in connection with such Permitted Disposition.

(b) The transferee in a Permitted Disposition shall deliver to the Company, with a copy to the Initial Member, an agreement, in form and substance reasonably satisfactory to the Initial Member, by which such transferee shall (i) agree to become a party to and be bound by this Agreement as the "Private Owner," agree to be appointed as the "Managing Member," and without limitation of the generality of the foregoing, agree to be bound by the other terms of Section 8.4 hereof, (ii) assume and agree to perform when due all of the obligations of the Private Owner and Managing Member under this Agreement, and (iii) represent and warrant that it complies with the requirements set forth in Article X.

(c) In connection with each Permitted Disposition, the Private Owner and the transferee shall deliver to the Company, and the Initial Member such other documents and instruments as the Initial Member reasonably may request and which are required to effect the Permitted Disposition and substitute the transferee as a Member.

8.4 Effect of Permitted Dispositions.

(a) Upon consummation of any Permitted Disposition:

(i) the transferee shall be admitted as a Member in the Company and be deemed to be a party to this Agreement as the "Private Owner" and shall be appointed as the Managing Member;

(ii) the transferred Interest shall continue to be subject to all the provisions of this Agreement, and the transferee Member shall have the same status as the Private Owner had at the time of consummation of such Permitted Disposition and, without limiting the generality of the foregoing, any outstanding breach, misrepresentation, violation or default (with respect to this Agreement or any Ancillary Document) by any direct or indirect predecessor to the transferee as the Member, or by any Affiliate of any such predecessor Member, shall be deemed to constitute an outstanding breach, misrepresentation, violation or default as the case may be, by the transferee Member;

(iii) subject to Section 8.4(b) and the last sentence of Section 13.9, the transferor Private Owner shall cease to be a Member of the Company (and

accordingly, except as expressly otherwise provided in Section 8.4(b) or the last sentence of Section 13.9), shall cease to be responsible for the payment or performance of any of the obligations or liabilities under this Agreement of the Private Owner, in any capacity hereunder).

(b) No Permitted Disposition (and no resulting withdrawal or resignation of the transferor Member from the Company) shall:

(i) relieve the Private Owner of any of the obligations or liabilities of the Private Owner, in any capacity, under this Agreement or any Ancillary Document required to have been paid or performed prior to the consummation of such Permitted Disposition (or of any liability it may have arising out of any breach, misrepresentation, violation or default by the Private Owner prior to such consummation);

(ii) result in the termination of, relieve the Private Owner (or any of its Affiliates) of, or otherwise affect, any of the obligations or liabilities of the Private Owner, in any capacity, or its Affiliates under, any Related Party Agreement (such Related Party Agreements to continue in effect in accordance with their respective terms), except to the extent expressly provided in such Related Party Agreement; or

(iii) dissolve the Company.

8.5 Effect of Prohibited Dispositions. No actual or purported Disposition of any Interest (or any portion thereof) owned by the Private Owner, or of any other right or interest of the Private Owner under this Agreement, whether voluntary or involuntary, in violation of any provision of this Agreement shall be valid or effective. To the extent Private Owner Disposes or purports to Dispose of its Interest (or any portion thereof) in violation of any provision of this Agreement, until such Disposition or purported Disposition shall be rescinded, Private Owner shall not be entitled to, and hereby specifically waives any right to, receive Company distributions from and after the date of such Disposition or purported Disposition or failure to comply, as the case may be. Notwithstanding the foregoing, to the extent that the Private Owner would have been entitled to Company distributions but for the preceding provisions of this Section 8.5 ("**Omitted Distributions**"), if and when such Disposition or purported Disposition shall be rescinded, the Private Owner shall be entitled to receive all such Omitted Dispositions (but no interest shall be paid thereon with respect to the period between the date such Omitted Dispositions would have been made but for this Section 8.5 and the date they are actually made).

8.6 Distributions After Disposition. Distributions with respect to an Interest made on or after the effective date of the Permitted Disposition of such Interest shall be made to the transferee Member with respect to such Interest, regardless of when such distributions accrued on the books of the Company.

8.7 Transfers By Initial Member. Notwithstanding anything to the contrary contained in this Agreement, except as provided by applicable Law, there shall be

no restriction on the Initial Member's ability to Dispose of the Interest held by it, directly or indirectly, to any Person as long as such Disposal would not (i) require the Company to register under any federal or state securities laws; (ii) cause the Company to become an investment company under the Investment Company Act of 1940; or (iii) cause the Company to become a "publicly-traded partnership" (as such term is defined in Section 7704 of the Code), and the Private Owner shall have no right to purchase or right-of-first-refusal in connection with any such sale; provided, that, the Initial Member may not assign the consent and voting rights associated with its Interest in the Company to more than one Person (for the avoidance of doubt, except as expressly provided above, the foregoing restriction shall not otherwise limit the Initial Member's right to Dispose of any interest associated with its Interest in the Company); and provided, further, that in the event the Initial Member determines to sell the Interest held by it through an auction process, the Private Owner shall be entitled to participate in such auction on the same terms that apply generally to other participants in the auction.

8.8 Resignation; Dissolution.

(a) Private Owner may not withdraw or resign from the Company, except (i) in connection with a Permitted Disposition made in accordance with the applicable provisions of this Article VIII or (ii) with the prior written consent of the Initial Member.

(b) The Private Owner covenants that it shall not allow a Dissolution Event to occur with respect to itself.

(c) Section 18-304 of the Act shall not apply to the Company. Nothing in this Section 8.8(c) shall limit the terms of Section 9.1 hereof.

(d) Except as is otherwise expressly provided in this Agreement, no Member shall be entitled to receive any payment pursuant to Section 18-604 of the Act.

8.9 Applicable Law Withdrawal. If, as a result of applicable Law, the ownership of an Interest by a Member becomes illegal or is likely to become illegal or the applicable Law more likely than not requires divestiture of such Member's Interest, or the applicable Law would require the Company to register as an investment company under the Investment Company Act, then the Managing Member and the Member shall use their respective commercially reasonable efforts to avoid a violation of any such applicable Law by a Member or the need for the Company to register as an investment company. These steps may include, depending on the provisions of such applicable Law, (i) arranging for the sale of the Member's Interest to a third party upon terms reasonably satisfactory to the Member in a transaction that complies with Articles VIII and X; (ii) making any appropriate applications to the relevant Governmental Authority, (iii) prohibiting such Member from making further Capital Contributions, and converting its Interest into a special interest with no voting or similar rights but with only an economic right (identical to its prior rights as a Member), or (iv) permitting the Member to withdraw from the Company for a "payment" to such Member equal to the value of its Interest at the time of withdrawal, such value to be determined by a third party appraiser mutually agreeable to the Managing Member and all Members. The aforesaid "payment" shall be made in cash unless the Managing Member determines that the payment in cash would be economically detrimental to the Company, in which case such payment may be made in kind,

subject to the applicable Law. The timing of any such withdrawal must be mutually agreeable to the Member and the Managing Member taking proper account of the effective date of the applicable Law or registration requirement that is the basis for the withdrawal or other remedy provided herein and the need of the Managing Member for a reasonable period of time to find a solution to the illegality or requirement for divestiture. Such illegality or registration requirement must be established by (x) an opinion of counsel (which counsel shall be reasonably satisfactory to the Managing Member and the Initial Member) substantially to the effect that the ownership of the Interest more likely than not will result in such illegality or requirement for registration or divestiture or (y) upon a ruling or order from a Governmental Authority.

ARTICLE IX
Dissolution and Winding-Up of the Company

9.1 Dissolution. A dissolution of the Company shall take place upon the first to occur of the following:

(a) the agreement by all Members to dissolve the Company;

(b) the sale of all or substantially all of the Company Property (other than cash and cash equivalent instruments), including as an entirety or substantially as an entirety; or

(c) in the sole discretion of the Initial Member, a Dissolution Event or an Insolvency Event occurs with respect to the Managing Member or a Person that Controls the Managing Member; or

(d) exercise of the Clean-Up Call in accordance with Section 12.15.

9.2 Winding-Up Procedures. If a dissolution of the Company pursuant to Section 9.1 occurs, subject to the Company's compliance with its obligation under the other agreements to which it is a party, the other terms and conditions of this Agreement or the Ancillary Documents, the Managing Member shall proceed as promptly as practicable to wind up the affairs of the Company in an orderly and businesslike manner. A final accounting shall be made by Managing Member. As part of the winding up of the affairs of the Company, the following steps will be taken:

(a) The assets of the Company shall be sold except to the extent that some or all of the assets of the Company are retained by the Company for distribution to the Members as hereinafter provided.

(b) The Company shall comply with Section 18-804(b) of the Act.

(c) Distributions of the assets of the Company after a dissolution of the Company shall be conducted as follows:

(i) first, to creditors, but excluding Members who are creditors, other than the Initial Member (to the extent it continues to hold the Purchase Money Notes or is a lender under the Advance Facility), to the extent otherwise permitted by Law (and, to the extent permitted, in accordance with the Priority of

Payments), in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof);

(ii) second, to Members or former Members who are creditors, to the extent otherwise permitted by Law, in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to Members and former Members under Section 18-601 of the Act;

(iii) third, to Members and former Members in satisfaction of liabilities (if any) for distributions under Section 18-601 of the Act; and

(iv) finally, to the Members in the manner set forth in Section 6.6(b).

(d) Upon dissolution, the Managing Member, may, with the consent of all Members, (i) liquidate all or a portion of the Company assets and apply the proceeds of such liquidation in the manner set forth in Section 9.2(c) and/or (ii) hire independent appraisers to appraise the value of Company assets not sold or otherwise disposed of or determine the Fair Market Value of such assets, and allocate any unrealized gain or loss determined by such appraisal to the Members' respective Capital Accounts as though the properties in question had been sold on the date of distribution and, after giving effect to any such adjustment, distribute said assets in the manner set forth in Section 9.2(c), provided that the Managing Member shall in good faith attempt to liquidate sufficient Company assets to satisfy in cash the debts and liabilities described in Section 9.2. If a Member shall, upon the advice of counsel, determine that there is a reasonable likelihood that any distribution in kind of an asset would cause such Member to be in violation of any Law, such Member and the Managing Member shall each use its best efforts to make alternative arrangements for the sale or transfer into an escrow account of any such distribution on mutually agreeable terms.

ARTICLE X
Qualified Transferees

10.1 Qualified Transferees. Each Member, other than the Initial Member (including, for the avoidance of doubt, its successors and transferees), shall at all times be in compliance with the following (and any proposed transferee of any Interest in compliance with the following shall be deemed a "**Qualified Transferee**"):

(a) Organization; Good Standing; Licenses. Such Member (i) is a Single Purpose Entity duly organized, validly existing and in good standing under the Laws of the state of its organization, (ii) has qualified or will qualify to do business as a foreign corporation, partnership or other entity and will remain so qualified, and is and will remain in good standing, in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary and in which failure to so qualify would have a material adverse effect upon such Member or its ability to perform its obligations hereunder, (iii) has full power to own its property, to carry on its business as presently conducted, and to enter into and perform its obligations under this Agreement, (iv) has all licenses or other governmental approvals necessary

to perform its obligations hereunder; and (v) has a net worth calculated in accordance with GAAP of not less than $5,000,000 excluding the Interest of such Member.

(b) Authorization; No Violation. The execution and delivery by such Member of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action. Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated, nor compliance with the provisions hereof, will conflict with or result in a breach of, or constitute a default under, (i) any of the provisions of any Law binding on such Member or its properties, (ii) the constituent documents of such Member, or (iii) any of the provisions of any indenture, mortgage, contract or other instrument to which such Member is a party or by which it is bound or result in the creation or imposition of any Lien upon any of its property pursuant to the terms of any such indenture, mortgage, contract or other instrument.

(c) Governmental Approvals. All actions, approvals, consents, waivers, exemptions, variances, franchises, orders, permits, authorizations, rights and licenses required to be taken, given or obtained, as the case may be, by or from any Governmental Authority or agency that are necessary in connection with the execution and delivery by such Member of this Agreement and the consummation of the transactions contemplated hereby and the performance of its obligations hereunder, have been duly taken, given or obtained, as the case may be, are in full force and effect, are not subject to any pending proceedings or appeals (administrative, judicial or otherwise) and either the time within which any appeal therefrom may be taken or review thereof may be obtained has expired or no review thereof may be obtained or appeal therefrom taken.

(d) No Litigation. On the date such Member becomes a party to this Agreement, there is no action, suit, proceeding or investigation pending or threatened against such Member before any Governmental Authority.

(e) No Violation of Orders, Decrees, etc. Such Member is not in default with respect to any order or decree of any court or any Law.

(f) Third Party Consents. No consents, approvals, waivers or notifications of stockholders, creditors, lessors or other nongovernmental persons are required to be obtained by such Member in connection with the execution and delivery of this Agreement and the consummation of all the transactions herein contemplated and the performance of its obligations hereunder.

(g) Owners Accredited Investors. All of the equity owners of such Member are "accredited investors," as that term is defined in Rule 501 under the Securities Act.

(h) Knowledge and Experience. Such Member, either by itself or through its advisers and principals, has, in each case as determined by the Initial Member in its sole discretion, such knowledge and experience in the origination, servicing, sale and/or purchase of performing and non-performing or distressed loans, including construction loans and loans secured by residential and commercial properties, as well as financial and business matters, as to enable such Member to utilize the information made available to it with respect to the Interest

acquired by it and the Loans to evaluate the merits and risks of a purchase of the Interest acquired by it and, indirectly, the Loans, and to make an informed decision with respect thereto.

(i) Economic Risks. Such Member acknowledges, understands and represents that it is able to bear the economic risks associated with the acquisition and ownership of the Interest acquired by it and, indirectly, the Loans, including the risk of a total loss of its investment in the Company and, indirectly, the Loans and/or the risk that it may be required to hold the Interest and, indirectly, the Loans for an indefinite period of time.

(j) No Representations. Such Member hereby acknowledges that, except as is otherwise expressly provided in this Agreement, the LLC Interest Sale Agreement, or the Contribution Agreement, none of the Initial Member or any Affiliate of Initial Member, or any of their respective officers, directors, employees, agents or contractors makes or has made any representation or warranty regarding the Company, the Interest or the Loans or the value of any Collateral.

(k) Due Diligence. Such Member acknowledges and agrees that, whether or not information is available with respect to the Interest or the Loans and whether or not it chooses to review any information that is or was made available to it regarding the Interest or the Loans, such Member, by itself or through its advisers or principals, has the ability and shall be responsible for making its own independent investigation and evaluation of the Interest and the Loans and the economic, credit or other risks involved in an acquisition of the Interest and, indirectly, the Loans. Except as is otherwise expressly provided in this Agreement, none of the Initial Member any Affiliate of Initial Member, or any of their respective officers, directors, employees, agents or contractors makes and representation or warranty as to the completeness or accuracy of any information provided.

(l) No Securities. Such Member acknowledges and agrees that (i) neither the offer nor the sale of the Interest (and, indirectly, the Loans) is intended to constitute an offer or sale of a "security" within the meaning of the Securities Act or any applicable federal or state securities Laws, (ii) no inference that any of the Interest or the Loans is a "security" under such federal or state securities Laws shall be drawn from any of the certifications, representations or warranties made by any Person in this Agreement, (iii) it is not contemplated that any filing will be made with the Securities and Exchange Commission or pursuant to the "Blue Sky" or securities Laws of any jurisdiction, and (iv) if any of the Interest or the Loans is a security, such may not be resold or otherwise transferred by such Member except in accordance with any and all applicable securities and Blue Sky Laws.

(m) Resales. Such Member is acquiring the Interest (and, indirectly, the Loans) for its own account and not with a view toward resale in a distribution within the meaning of the Securities Act.

(n) Resales in Compliance with Law. Such Member will not (i) offer, pledge, sell or otherwise dispose of the Interest (or any interest therein) or any Loan (or any interest therein or evidence thereof) to, or (ii) solicit any offer to buy or accept a transfer, pledge or other disposition of the Interest (or any interest therein) or any Loan (or any interest therein or evidence thereof) from, or (iii) otherwise approach or negotiate with respect to the Interest (or any interest

therein) or any Loan (or any interest therein or evidence thereof) with, any person or entity in any manner, or take any other action, that would (A) not comply with Article VIII, or (B) render the transfer to such Member of the Interest or any interest in any Loan a violation of any Law relating to the issuance, regulation, registration or disposition of securities, nor will it so act, nor will it authorize any person or entity to so act, in any manner with respect to the Interest (or any interest therein) or any Loan (or interest therein or evidence thereof).

(o) Acquisition in Compliance with Law. Such Member's acquisition of the Interest and the resulting investment in the Loans will comply with all applicable Laws, including any and all Laws and/or restrictions imposed on resale of the Interest and the Loans by federal and state securities or Blue Sky Laws.

(p) Independent Evaluation. Such Member has made an independent evaluation of the Company and its assets (including the Loans and related Loan files and/or any electronic data made available to it pertaining to the Loans held by the Company). Such Member also has conducted such other investigations as it deems appropriate, including searches of Uniform Commercial Code, title, court, bankruptcy and other public records. Such Member agrees and represents that it is entering into this Agreement solely on the basis of its own investigations and its judgment as to the value of the Interest and the nature, validity, enforceability, collectibility and value of the Loans and all other facts material to their ownership, including to the legal matters and risks relating to the collection and enforcement, and the performance of any obligations under any of the Loans in any jurisdiction. Such Member further acknowledges that no employee or representative of the Initial Member or any of its Affiliates or officers, directors, employees, agents or contractors has been authorized to make any statements or representations other than those specifically contained in this Agreement or the Contribution Agreement.

(q) Embargoed Person. Such Member certifies, represents and warrants that (a) no consideration that such Member or any of its Affiliates contributes hereunder or under the Ancillary Documents in connection with any transaction regarding any assets will have been derived from or related to any activity that is deemed criminal under United States law; (ii) neither it nor any of its Affiliates or Direct Owners is an Embargoed Person; (iii) neither it nor any of its Affiliates or Direct Owners engages in any dealings or transactions, or is otherwise "associated with" (as defined in 31 CFR 594.101, et seq.), any Embargoed Person; and (iv) if and to the extent such Member or any of its Affiliates are required by law to maintain an anti-money laundering compliance program under applicable anti-money laundering laws and regulations, including without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)) such compliance programs are currently being maintained. For purposes of the foregoing certifications, representations and warranties, such certifications, representations and warranties shall be based upon a due inquiry and investigation; provided, however, that for purposes of determining whether any of the same with respect to indirect ownership are true, the undersigned shall not be required to make an investigation into the ownership of publicly-traded securities (including securities of open-end investment companies registered under the Investment Company Act of 1940, as amended) or the ownership of assets by a collective investment fund that holds assets for employee benefit plans or retirement arrangements.

(r) The assets of such Member (including any successor to or transferee of such Member) are not deemed to be "plan assets" within the meaning of Section 3(42) of the Employee Retirement Income Security Act of 1974 (as amended) ("**ERISA**")) and the "plan asset" regulations set forth in 29 C.F.R. Section 2510.3-101 as promulgated under ERISA, modified to the extent applicable by Section 3(42) of ERISA (the "**Plan Asset Regulation**").

ARTICLE XI
Managing Member Liability

11.1 Liability of Managing Member.

(a) Except as otherwise specifically provided in this Agreement (including in the other subsections of this Section 11.1), the duties (including fiduciary duties) and obligations owed to the Company and Initial Member by the Managing Member shall be as provided in Section 3.1(b) hereof.

(b) The Managing Member may rely, and shall be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

(c) The Managing Member may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the Managing Member reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

(d) The Managing Member shall not be liable to the Company or the Members for its good faith reliance on the provisions of this Agreement.

(e) The limitations and exculpation afforded by each provision of this Section 11.1 are cumulative and not exclusive. Nothing in this Section 11.1 is intended, or shall be deemed, to permit conduct that would otherwise constitute misappropriation of a trade secret of the Company under applicable Law or conduct that, even disregarding the terms hereof otherwise would be actionable by the Company or the Members.

(f) The provisions of this Section 11.1 are for the benefit of the Managing Member, in its capacity as manager of the Company. This Section 11.1 may be amended, modified or repealed in the manner set forth elsewhere in this Agreement, but any amendment, modification or repeal of this Section 11.1 or any provision hereof (including as a result of any amendment, modification or repeal of the Act) shall (unless the Managing Member shall expressly have consented to such amendment, modification or repeal) be prospective only and shall (unless the Managing Member shall expressly have consented to such amendment, modification or repeal) not in any way affect the limitations on liability under this Section 11.1 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to

matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may be asserted.

ARTICLE XII
Servicing of Loans

12.1 Servicing.

(a) Appointment and Acceptance as Servicer. Effective as of the Closing Date, but subject to Section 4.1 of the Contribution Agreement (with which the Managing Member agrees to comply), and Section 12.4 of this Agreement, until such time as the Company is dissolved and liquidated pursuant to Article IX, the Managing Member shall be responsible for (and hereby assumes responsibility for) servicing, administering, managing and disposing of the Loans and the Collateral in accordance with the standards (collectively, the "**Servicing Standard**") set forth in Section 12.2 (such obligations referred to collectively herein as the "**Servicing Obligations**") and the other provisions of this Article XII, including the provisions of Section 12.3 (which require that servicing be performed through one or more Qualified Servicers). Without in any way limiting the foregoing, but subject to Section 4.1 of the Contribution Agreement, the Managing Member shall cause the Loans (including, for all purposes under this Article XII, the related Collateral) to be serviced as follows: (a) such Loan shall, except as provided in the immediately following subsection (b), be serviced by the Servicer(s) appointed in accordance with Section 12.3 below, and (b) following the replacement of Servicer as a result of an Event of Default, the Loans shall be serviced by the Servicer appointed by the Initial Member in accordance with Section 12.4 below. All servicing of Loans following the Closing Date shall be performed in accordance with the terms of the Contribution Agreement and this Article XII.

(b) Servicing and Subservicing Agreement Requirements. Except as is otherwise agreed in writing by Initial Member, each Servicing Agreement (and any Subservicing Agreement with any Subservicer) shall, among other things,

(i) provide for the servicing of the Loans and management of the Collateral by the Servicer (or Subservicer) in accordance with the Servicing Standard and the other terms of this Agreement;

(ii) be terminable upon no more than thirty (30) days prior notice if an Event of Default or any default under the Servicing Agreement (or Subservicing Agreement) has occurred;

(iii) provide that the Managing Member and the Initial Member (and, in the case of any Subservicing Agreement, the Servicer) shall be entitled to exercise termination rights under the relevant Servicing Agreement or Subservicing Agreement;

(iv) provide that the Servicer (or any Subservicer) and the Managing Member acknowledge that the Servicing Agreement (or Subservicing Agreement) constitutes a personal services agreement between the Managing Member and the Servicer (or between the Servicer and the Subservicer, as applicable);

(v) provide that (A) the Company, the Purchase Money Note Guarantor and the Lender under the Advance Facility are third party beneficiaries thereunder to the extent of any rights expressly granted to such Person under the Servicing Agreement or Subservicing Agreement and is entitled to enforce the Servicing Agreement or Subservicing Agreement, as applicable, with respect to such rights; and (B) the Initial Member and, in the case of any Subservicing Agreement, the Managing Member is a third party beneficiary thereunder;

(vi) upon the removal of the Managing Member following an Event of Default or the occurrence of an Event of Default under clause (e) of the definition hereof, the Initial Member may exercise all of the rights of the Managing Member thereunder and cause the termination or assignment of the same to any other Person, without penalty or payment of any fee;

(vii) provide that the Initial Member, the Managing Member, the Purchase Money Note Guarantor, the Lender under the Advance Facility and their respective representatives shall have access to and the right to review, copy and audit the books and records of each Servicer and any Subservicers and that all Servicers and all Subservicers shall make available their respective officers, directors, employees, accountants and attorneys to answer Initial Member's, the Managing Member's, the Purchase Money Note Guarantor's, the Lender under the Advance Facility's and their respective representatives' questions or to discuss any matter relating to the Servicer's or Subservicer's affairs, finances and accounts, as they relate to the Loans, the Collateral, the Collection Account or any other accounts established or maintained pursuant to this Agreement, the Advance Facility or the Servicing Agreement or any Subservicing Agreement, or any matters relating to the Servicing Agreement or the rights or obligations thereunder;

(viii) provide that all Loan Proceeds are to be deposited into the Collection Account on a daily basis (without reduction or setoff) within two Business Days of receipt and that under no circumstances are funds, other than Loan Proceeds and interest and earnings thereon and the proceeds of Working Capital Loans pursuant to the terms of the Advance Facility, to be commingled in the Collection Account;

(ix) provide that the Servicer or Subservicer shall not sell, transfer or assign its rights under the Servicing Agreement or Subservicing Agreement, as applicable, other than Servicer's rights to delegate to Subservicers certain responsibilities thereunder as and to the extent permitted by this Agreement, and that any prohibited transfer shall be void *ab initio*;

(x) provide that (A) the Servicer or Subservicer consents to the immediate termination of the Servicer or Subservicer, as applicable, upon the occurrence of a termination event under the Servicing or Subservicing Agreement, as applicable, and upon the occurrence of any Insolvency Event with respect to the Servicer or Subservicer or any of their respective Related Parties, as

applicable, and (B) the occurrence of any Insolvency Event with respect to the Servicer or Subservicer or any Related Party thereof constitutes a default under the Servicing or Subservicing Agreement, as applicable;

(xi) in the case of a Subservicing Agreement, provide that there shall be no right of setoff on the part of the Subservicer;

(xii) provide for such other matters as are necessary or appropriate to ensure that the Servicer or Subservicer is obligated to comply with the Servicing Obligations of the Managing Member hereunder;

(xiii) provide a full release and discharge of the Initial Member, the Company, the FDIC, the Failed Bank and any predecessor-in-interest thereof, any Ownership Entities existing as of the Closing Date, and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors, assigns and Affiliates (but excluding, in all cases, the Managing Member) (any such Person, a "**Prior Servicer**" and collectively, the "**Prior Servicers**"), from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and remedies of whatever kind or nature that the Servicer had, has or might have in the future, whether known or unknown, which are related in any manner whatsoever to the servicing of the Loans by the Prior Servicers prior to the Closing Date (other than due to gross negligence, violation of law, or willful misconduct of such Prior Servicer); and

(xiv) not conflict with the Servicing Standard or any other terms or provisions of this Agreement or the Ancillary Documents insofar as such other terms or provisions hereof or thereof are required to be imposed by the Managing Member on the Servicer in the Servicing Agreements. Nothing contained in any Servicing Agreement or any Subservicing Agreement shall alter any obligation of the Managing Member under this Agreement and, in the event of any inconsistency between the Servicing Agreement (or any Subservicing Agreement) and the terms of this Agreement, among the Parties to this Agreement the terms of this Agreement shall control.

12.2 Servicing Standard. The Managing Member shall perform (or cause a Servicer to perform) the Servicing Obligations: (i) in the best interests and for the benefit of the Initial Member and the Company, (ii) in accordance with the terms of the Loans (and related Loan Documents), (iii) in accordance with the terms of this Agreement and the other Ancillary Documents, (iv) in accordance with all applicable Law, and (v) to the extent consistent with the foregoing terms, in the same manner in which a prudent servicer would service and administer similar loans and in which a prudent servicer would manage and administer similar properties for its own portfolio or for other Persons, whichever standard is higher, but using no less care and diligence than would be customarily employed by a prudent servicer following customary and usual standards of practice of prudent mortgage lenders, loan servicers and asset managers servicing, managing and administering similar loans and properties on an arms' length basis. The Managing Member shall cause its Servicing Obligations with respect to the Loans

and the Collateral to be performed without regard to (w) any relationship that the Company, the Managing Member, or any Servicer or Subservicer, or any of their respective Affiliates may have to any Borrower, Guarantor or other obligor, or any of their respective Affiliates, including any other banking or lending relationship, (x) the Company's, the Managing Member's, or any Servicer's or Subservicer's, obligation to make disbursements and advances with respect to the Loans and Collateral, (y) any relationship that the Servicer or any Subservicer may have to each other or to the Company, the Managing Member or any of their respective Affiliates, or any relationship that any of their respective Affiliates may have to the Company, the Managing Member or any of their respective Affiliates (other than the contractual relationship evidenced by this Agreement or the Servicing Agreement or any Subservicing Agreement), and (z) the Managing Member's, or any Servicer's or Subservicer's, right to receive compensation (including the Management Fee) for its services under this Agreement, the Servicing Agreement or any Subservicing Agreement. Without limiting the generality of the foregoing, the Managing Member's Servicing Obligations hereunder shall include the following:

(a) discharging in a timely manner each and every obligation which the Loan Documents provide is to be performed by the lender thereunder, on its own behalf and on behalf of the Company and the Initial Member and in the case of REO Property, which the Loan Documents that were applicable to the Collateral before it became REO Property provided were to be performed by the borrower thereunder in respect of such Collateral (not including payment of debt service under the applicable Loan Documents, and except as contemplated in the Approved Business Plan for such REO Property), together with such additional obligations as are required of the Company under the Advance Facility and the Servicing Agreement in respect of such REO Property;

(b) incurring costs (including Servicing Expenses and Pre-Approved Changes) in accordance with the provisions of the Loan Documents, and in the case of REO Property, in accordance with the Loan Documents that were applicable to the REO Property before it became and REO Property (not including payment of debt service under the applicable Loan Documents, and except as contemplated in the Approved Business Plan for such REO Property and otherwise in accordance with the Advance Facility and the Security Agreement in respect of such REO Property;

(c) causing to be maintained for the Collateral (including any Acquired Collateral) with respect to each Loan with respect to which an Ownership Entity or the Borrower has failed to maintain required insurance, with extended coverage as is customary in the area in which the Collateral is located and in such amounts and with such deductibles as the Managing Member may, in the exercise of its reasonable discretion, determine are prudent and as required under the Advance Facility and the Security Agreement;

(d) ensuring compliance with the terms and conditions of each insurer under any hazard policy and preparing and presenting claims under any policy in a timely fashion in accordance with the terms of the policy;

(e) supervising and coordinating the construction, ownership, management, leasing and preservation of the Acquired Collateral as well as all other matters involved in the administration, preservation and ultimate disposition of the Acquired Collateral as would be taken

by a prudent asset manager managing properties similar to the Acquired Collateral and as required of the Company under this Agreement, the Advance Facility and the Security Agreement;

(f) administering the making of advances to Borrowers under Loans pursuant to and in accordance with the Advance Facility;

(g) to the extent consistent with the foregoing, seeking to maximize the timely and complete recovery of principal and interest on the Loans and otherwise to maximize the value of the Loans and the Collateral;

(h) except as otherwise set forth in this Agreement, making decisions under, and enforcing and performing in accordance with, the Loan Documents all loan administration, inspections, review of financial data and other matters involved in the servicing, administration and management of the Loans and the Collateral;

(i) ensuring that all filings required to maintain perfection in any Collateral remain up to date and in force, including Uniform Commercial Code financing statements; and

(j) ensuring that each Borrower (or in the case of REO Property, the applicable Ownership Entity) is diligently performing all applicable construction work using all commercially reasonable efforts in accordance with the requirements of the applicable Loan Document (in the case of REO Property) and the Advance Facility; and

(k) providing the Servicers and Subservicers with copies of such Ancillary Documents (or portions thereof) as are necessary for the Servicers or Subservicers to be familiar with in order to perform their respective obligations provided for in this Agreement, the Servicing Agreements or the Subservicing Agreements, as applicable.

12.3 Servicing of Loans.

(a) Appointment of Servicers. The Managing Member has entered into one or more Servicing Agreements dated the date hereof to provide for the servicing and administration and management of the Loans and Collateral by one or more Qualified Servicers named therein (each, together with other Qualified Servicers, a "**Servicer**"). Each Servicer, at all times during which it acts as Servicer, shall continue to satisfy the definition of Qualified Servicer. Each Loan shall at all times be serviced (and any Collateral managed) by or through at least one Servicer (including any subservicers engaged by the Servicer ("**Subservicers**") as permitted hereunder) and the performance of all day-to-day Servicing Obligations of the Managing Member shall be conducted by or through one or more Servicers (including any Subservicers permitted hereunder). Subject to the other terms and conditions of this Agreement, any Servicer may be an Affiliate of the Managing Member. Each Servicer may engage or retain one or more Subservicers, including Affiliates of the Managing Member, to perform certain of its duties under the Servicing Agreement, as it may deem necessary and appropriate, by entering into a subservicing agreement with each such Subservicer ("**Subservicing Agreement**"), provided that any Subservicer meets (and at all times continues to meet) the requirements set forth in the definition of Qualified Servicer and the terms of the applicable Subservicing Agreement comply with the terms of this Agreement and the applicable Servicing Agreement. The costs and fees of the Servicers (and any

Subservicers) shall be borne exclusively by the Managing Member (it being understood that the Managing Member will receive the Management Fee in accordance with Section 12.5 hereof). Under no circumstances shall the Managing Member transfer, or permit to be transferred, to any Servicer or any other Person any ownership interest in the servicing to the Loans or any right to transfer or sell the servicing to the Loans (other than in connection with the sale of any Loan), and no Servicer shall be permitted to assign, pledge or otherwise transfer to any Subservicer or other Person or purport to assign, pledge or otherwise transfer any interest in the servicing to the Loans (other than in connection with the sale of any Loan), and any purported assignment, pledge or other transfer in violation of this provision shall be void *ab initio* and of no effect.

(b) Managing Member Liable for Servicer and Subservicers. Notwithstanding anything to the contrary contained herein, the use of any Servicer (or any Subservicer) shall not release the Managing Member from any of its Servicing Obligations or other obligations under this Agreement, and the Managing Member shall remain responsible and liable for all acts and omissions of each Servicer (and each Subservicer of each Servicer) as fully as if such acts and omissions were those of the Managing Member. All actions of each Servicer (or any Subservicer) performed pursuant to the Servicing Agreement (or any Subservicing Agreement) shall be performed as an agent of the Managing Member (or, in the case of Subservicers, the Servicer).

(c) Copies of Servicing and Subservicing Agreements. Copies of all fully executed Servicing Agreements and Subservicing Agreements, including all supplements and amendments thereto, shall be provided to the Initial Member, the Purchase Money Note Guarantor and the Lender under the Advance Facility.

(d) Regulation AB Requirements. The Managing Member shall use commercially reasonable efforts to confirm, where applicable, that each Servicer (and any Subservicer) (a) has in place policies and procedures to comply with the provisions of Section 1122(d)(1)(i), (ii) and (iv) of Regulation AB, and provide to the Managing Member at the Servicer's expense the annual reports (including the independent accountant report) required under Section 1122 of Regulation AB (regardless of whether any such requirements apply, by their terms, only to companies registered or required to file reports with the Securities and Exchange Commission) and (b) complies with Section 1122(d)(2)(i) through (vii), Section 1122(d)(3)(i) through (iv) and Section 1122(d)(4)(i) through (xiv) of Regulation AB.

(e) Servicer and Subservicer Fees. No Servicer or Subservicer shall be paid any fees or indemnified out of any Loan Proceeds, it being understood that all fees and related costs of liabilities of the Servicers and Subservicers shall be the sole responsibility of the Managing Member.

(f) Fidelity Bond; E&O Insurance. The Servicer and each Subservicer shall maintain each of the following types of insurance coverage having such limits as described below:

(i) Errors & Omissions Liability with limits of not less than $10,000,000 per claim and $10,000,000 in the aggregate. The Managing Member shall be notified immediately upon the reduction of or potential reduction of 50% of the limits. The Managing Member may require that Servicer and each Subservicer purchase additional limits to provide back to the required limits as

stated above. "Potential reduction of 50%" shall mean any knowledge by the Servicer or Subservicer, as applicable, that a claim or the sum of all claims, current or initiated after effective date of policy which would reduce the limits by 50%.

(ii) Directors & Officers Liability with limits of not less than $10,000,000 each claim and $10,000,000 in the aggregate.

(iii) Crime Insurance or a Fidelity Bond in an amount of not less than $10,000,000 covering employee theft, forgery & alteration, wire/funds transfer, computer fraud, client coverage. Such coverage shall insure all employees or any other persons authorized by Servicer to handle any funds, money, documents and papers relating to any Loan, and shall protect the Servicer or Subservicer, as applicable, against losses arising out of theft, embezzlement, fraud, misplacement, and other similar causes. The Managing Member shall be named as loss payee with respect to claims arising out of assets handled under this agreement.

(iv) General Liability with limits of not less than $1,000,000 each occurrence, $2,000,000 in the aggregate, including coverage for products/completed operations, advertising and personal injury. The Managing Member shall be named as additional insured. Policy shall include a Waiver of Subrogation in favor of the Managing Member.

(v) Auto Liability with a combined single limit of not less than $1,000,000 to provide coverage for any owned, hired, or non-owned vehicles.

(vi) Workers Compensation in such amount as required by the states in which the Servicer or Subservicer, as applicable, operates, including coverage for Employer's Liability in an amount not less than, $1,000,000. Policy shall include a Waiver of Subrogation in favor of PCCP, LLC.

(vii) Umbrella Liability in an amount of not less than $10,000,000 each occurrence and in the aggregate.

All such policies shall be written with carriers having a minimum insurer rating of A- VIII from A.M. Best and A from Standard & Poor's. All such policies shall have a minimum notice of cancellation of thirty (30) days, except for non-payment of premium whereby a ten (10) day notice of cancellation is acceptable. Within ten (10) days of execution of this Agreement, and annually upon the renewal of each policy when requested by the Managing Member, the Servicer and each Subservicer shall deliver to the Managing Member copies of certificates evidencing all such policies. In addition, within ninety (90) days of execution of this Agreement, and thereafter when requested by the Managing Member, Servicer shall deliver to the Managing Member complete copies of such policies. Certificates shall show the Managing Member as Certificate Holder, or as otherwise designated by the language in clauses (i)-(vii) above.

12.4 Removal of Servicer.

(a) Removal of Servicer. Upon the occurrence of an Event of Default, in addition to any other rights it may have pursuant to this Agreement, any Ancillary Document or applicable Law (including the Uniform Commercial Code), whether at law or in equity and whether pursuant to statute or regulation or otherwise, the Initial Member shall have the right to take, at the Managing Member's expense, one or more of the following actions: (i) upon notice in writing to the Managing Member (effective at such time as is specified in such notice), to act on behalf of the Managing Member to terminate the existing Servicer (and any Subservicers) and to cause the Managing Member to enter into a new Servicing Agreement with a servicer (a "**successor Servicer**") selected by Initial Member (in its sole and absolute discretion), and (ii) upon notice in writing to the Managing Member (effective at such time as is specified in such notice), to terminate the Managing Member's rights as servicer pursuant to this Agreement and, in such case, (A) to terminate the Servicer and select (in its sole and absolute discretion), and enter into a Servicing Agreement with, a successor Servicer, such Servicing Agreement to be between Initial Member and the successor Servicer chosen by Initial Member, or (B) to retain the existing Servicer and to enter into a new Servicing Agreement between Initial Member and the Servicer (or to effect an assignment of the existing Servicing Agreement from the Managing Member to Initial Member). Initial Member shall have no obligation to assume any obligations or liabilities of the Managing Member under or in connection with any Servicing Agreement. Managing Member hereby consents to the immediate termination of the Servicer upon the occurrence of any Event of Default. For the avoidance of doubt, the rights of the Initial Member in this Section 12.4 are in addition to, and can be exercised independently of the rights of the Initial Member in Sections 3.2 and 3.14.

(b) Appointment of Successor Servicer. If Initial Member exercises its right to act on behalf of the Managing Member to appoint a successor Servicer, the costs and expenses associated with such successor Servicer (including any servicing fees) shall be borne by the Managing Member (and not the Company or the Initial Member), and no termination or other fee shall be due to the Managing Member or the Servicer or any Subservicer in connection with or as a result of any such action.

(c) Termination of Managing Member's Rights as Servicer. If the Initial Member exercises its right pursuant to this Section 12.4 to terminate the Managing Member's rights as servicer under this Agreement, all authority and power of the Managing Member to act as servicer under this Agreement shall pass to and be vested in the Initial Member under this Section 12.4 and, without limitation, the Initial Member is hereby authorized and empowered, as attorney-in-fact or otherwise, to execute and deliver, on behalf of and at the expense of the Managing Member, any and all documents and other instruments and to do or take any and all acts necessary or appropriate to effect the termination and replacement of the Servicer and, in the event the Initial Member decides to retain a new Servicer, to enter into a new Servicing Agreement between the Initial Member and the Servicer or to effect an assignment of the existing Servicing Agreement from the Managing Member to the Initial Member.

(d) Cooperation To Facilitate Transfer. In the event a Servicer or Subservicer is terminated pursuant to the provisions of this Article XII, the Managing Member shall, and shall cause any Servicer (and any Subservicer) to, provide the Initial Member and any successor

Servicer in a timely manner with all documents, records and data (including electronic documents, records and data) requested by the Initial Member or any successor Servicer to enable it and any successor Servicer to assume the responsibilities as servicer under this Agreement, and to cooperate with the Initial Member in effecting the termination of any Servicer (or Subservicer) or the Managing Member's rights as servicer under this Agreement, including (x) the transfer within one (1) Business Day of all cash amounts which, at the time, shall be or should have been credited to the Collection Account or are thereafter received with respect to any Loans or Acquired Collateral, and (y) the transfer of all lockbox accounts with respect to which payments or other amounts with respect to the Loans are directed or the redirection of all such payments and other amounts to such account as the Initial Member may specify, and (z) the assignment to the Initial Member of the right to access all such lockbox accounts, the Collection Account, any Defeasance Account, and any other account into which Loan Proceeds or Borrower escrow payments are deposited or held. The Managing Member shall be liable for all costs and expenses incurred by the Initial Member (x) associated with the complete transfer of the servicing data, (y) associated with the completion, correction or manipulation of servicing data as may be required to correct errors or insufficiencies in the servicing data to enable the Initial Member and any successor Servicer (and Subservicers) to service the Loans and Acquired Collateral properly and effectively, and (z) to retain and maintain the services of a successor Servicer (and any Subservicers). Within a reasonable time after receipt of a written request of the Managing Member for the same, the Initial Member shall provide reasonable documentation evidencing such costs and expenses.

(e) Power of Attorney. The Company hereby irrevocably constitutes and appoints the Initial Member and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact for the purposes of this Agreement and allowing the Initial Member to perfect, preserve the validity, perfection and priority of, and enforce any Lien granted by this Agreement and, after the occurrence and during the continuance of any Event of Default, to exercise its rights, remedies and powers and privileges under this Agreement. This appointment as attorney-in-fact is irrevocable and coupled with an interest until this Agreement is terminated and the security interests created hereby are released. Without limiting the generality of the foregoing, but subject at all times to the rights of a secured party under the Reimbursement, Security and Guaranty Agreement, the Initial Member shall be entitled under this Section 12.4(e) to do any of the following if an Event of Default has occurred and is continuing: (i) ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of any or all of the Loans; (ii) file any claims or take any action or proceeding in any court of law or equity that the Initial Member may reasonably deem necessary or advisable for the collection or other enforcement of all or any part of the Loans, defend any suit, action or proceeding brought against the Company with respect to any Loan, and settle, compromise or adjust any such suit, action or proceeding; (iii) execute, in connection with any sale or disposition of the Loans, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to all or any part of the Loans; (iv) enforce the rights of the Company under any provision of any Servicing Agreement to the extent permitted thereunder and under the terms of this Agreement; (v) pay or discharge taxes and Liens levied or placed on the Loans; (vi) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Loans as fully and completely as though the Initial Member were the absolute owner thereof for all purposes; and (vii) do, at the Initial Member's option and the Company's expense, at any time and from time to time, all acts and things that the Initial Member reasonably deems necessary to protect, preserve, or realize upon the Loans and the Initial Member's security

interests in any Secured Assets and to effect the intent of this Agreement, all as fully and effectively as the Company might do. Anything in this Section 12.4(e) to the contrary notwithstanding, the Initial Member agrees that it shall not exercise any right under the power of attorney provided for in this Section 12.4(e) unless an Event of Default shall have occurred and be continuing.

12.5 Management Fee. During the Servicing Support Period (as defined in Section 4.1 of the Contribution Agreement), the Company shall pay to the Initial Member an amount equal to 50% of the Management Fee and the Managing Member an amount equal to 50% of the Management Fee with respect to such period. Following the end of the Servicing Support Period, the Company shall pay 100% of the Management Fee to the Managing Member. In the event the Managing Member is removed and replaced by the Initial Member in accordance with Section 3.2 above, the Management Fee shall thereafter be payable to the Initial Member or successor Managing Member.

12.6 Servicing Expenses. From and after the Closing Date, (a) the Company shall pay all amounts due as Servicing Expenses in a timely manner and (b) all Servicing Expenses shall be funded or reimbursed in accordance with the Custodial and Paying Agency Agreement.

12.7 Use of Loan Proceeds.

(a) Permitted Payments. Subject to Section 12.7(b), each month the Loan Proceeds shall be utilized and distributed in the manner set forth in the Custodial and Paying Agency Agreement following receipt by the Paying Agent from the Managing Member of the Distribution Date Report required to be provided under Section 7.4(b).

(b) Costs That Are Not Reimbursable. Notwithstanding anything else to the contrary contained herein or in any Ancillary Document, without the prior written consent of the Initial Member (which may be withheld in the Initial Member's sole and absolute discretion), in no event may the Managing Member deduct, from the Loan Proceeds, or otherwise use Loan Proceeds to reimburse itself or any Servicer or Subservicer or pay for, any of the following (all of which shall be borne by the Managing Member) (collectively, the "**Excluded Expenses**"):

(i) any expenses or costs that are in excess of the relevant amounts provided for in, an Approved Business Plan (assuming that the applicable category of fees, costs or expenses are included in the applicable Approved Business Plan) or that are not permitted to be incurred by the Company or the Managing Member (or any Servicer or Subservicer thereof) under the Advance Facility;

(ii) any expenses or costs that are not incurred in accordance with the Servicing Standard;

(iii) any expenses or costs that are paid to any Affiliate of the Managing Member, or any Affiliate of any Servicer or any Subservicer, except that Excluded Expenses shall not include (x) any fees paid to any Affiliate of the

Managing Member, the Company, the Servicer or any Subservicer that is a property manager of an REO Property, provided, that the terms and conditions of any such property management agreement pursuant to which such fees are payable (including the amount of the fees thereunder) are arm's length terms and conditions that are not less favorable to the applicable Ownership Entity than the terms and conditions of property management agreements with unrelated third parties would be and such property management arrangement was contemplated by an Approved Business Plan, or (y) any other payments to such Affiliates as may otherwise be expressly provided herein;

(iv) any fees or other compensation to or expenses of financial advisers, except to the extent the same are incurred as brokerage fees or sales commissions incurred (x) to market or sell the Loans or any Acquired Collateral in a Bulk Sale, the terms of which Bulk Sale (including the financial adviser's or broker's fees) are approved in advance by the Initial Member); and (y) in connection with the marketing or sale of any Acquired Collateral (including any REO Property) or any portion thereof on an individual basis;

(v) any fine, tax or other penalty, late fee, service charge, interest or similar charge, costs to release Liens or any other costs or expenses (including legal fees and expenses) incurred by or on behalf of the Company or the Managing Member as a result of the Company's or the Managing Member's or the Servicer's or any Subservicer's failure to service any Loan or Collateral properly in accordance with the applicable Loan Documents, this Agreement, the Servicing Agreement, any Subservicing Agreement or otherwise, or failure to make a payment in a timely manner, or failure otherwise to act in a timely manner;

(vi) any interest on any amounts paid by any Person with respect to any Servicing Expenses or Pre-Approved Charges;

(vii) any overhead or administrative costs incurred by the Company, the Managing Member or any other Person (including any expenses incurred by the Managing Member, the Company or any Servicer or Subservicer to comply with Section 4.3, Section 7.2, Section 7.3 and Section 7.4); or

(viii) any servicing, management or similar fees paid to the Servicer, any Subservicer or any other Person, other than any fees paid to any property managers of any REO Properties as otherwise expressly permitted.

12.8 Collection Account. On the Closing Date, the Managing Member shall cause the Company to establish and maintain the Collection Account with the Paying Agent in accordance with the Custodial and Paying Agency Agreement. The Collection Account (and all funds therein) shall be subject to the security interest granted under the Reimbursement, Security and Guaranty Agreement and to the Account Control Agreement under the Custodial and Paying Agency Agreement.

12.9 Distribution Account. On the Closing Date, the Managing Member shall cause the Company to establish the Distribution Account with the Paying Agent in accordance with the Custodial and Paying Agency Agreement. The Distribution Account (and all funds therein) shall be subject to the security interest granted under the Reimbursement, Security and Guaranty Agreement and to the Account Control Agreement under the Custodial and Paying Agency Agreement.

12.10 Defeasance Account. On the Closing Date, the Managing Member shall cause the Company to establish the Defeasance Account with the Paying Agent in accordance with the Custodial and Paying Agency Agreement. The Defeasance Account (and all funds therein) shall be subject to the security interest granted under the Reimbursement, Security and Guaranty Agreement

12.11 Certain Servicing and Loan Administration Decisions. The Managing Member shall have full power and authority, acting alone or through any Servicer or Subservicer, to cause to be done any and all things in connection with the servicing and administration of the Loans that the Managing Member may deem necessary or desirable, and cause to be made all servicing decisions in its reasonable discretion, subject to its obligation to comply with the Servicing Standards, provided, that, the Managing Member shall not and shall not cause any Servicer or any Subservicer to take any action that is inconsistent with the terms of the Advance Facility or any applicable Approved Business Plans, without first obtaining the consent of the Purchase Money Note Guarantor and the Administrative Agent under the Advance Facility. Upon the occurrence of an event of default under any of the Loan Documents, but subject to the other terms and conditions of this Agreement (including the Servicing Standard), the Managing Member shall cause to be determined the response to such default and course of action with respect to such default, including (i) the selection of attorneys to be used in connection with any action, whether judicial or otherwise, to protect the interests of the Company in the Loan and the Collateral, (ii) the declaration and recording of a notice of such default and the acceleration of the maturity of the Loan, (iii) the institution of proceedings to foreclose the Loan Documents securing the Loan pursuant to the power of sale contained therein or through a judicial action, (iv) the institution of proceedings against any Guarantor, (v) the acceptance of a deed in lieu of foreclosure, (vi) the purchase of the real property Collateral at a foreclosure sale or trustee's sale or the purchase of the personal property Collateral at a Uniform Commercial Code sale, and (vii) the institution or continuation of proceedings to obtain a deficiency judgment against such Borrower or any Guarantor. Notwithstanding any provision to the contrary herein, the Managing Member shall not, and shall not cause any Servicer or Subservicer to, take any action that is inconsistent with or prohibited by the terms of the Advance Facility or the Reimbursement, Security and Guaranty Agreement without the prior written consent of the Initial Member and the Lender.

12.12 Management and Disposition of Collateral. Subject to the other terms and conditions of this Agreement (including the Servicing Standard), the Advance Facility and the Reimbursement, Security and Guaranty Agreement, the Managing Member shall have full power and authority, acting alone or through any Servicer and any Subservicer, to cause to be done any and all things in connection with the Managing Member's management of

any Collateral or Acquired Collateral, that the Managing Member may deem necessary or desirable, and cause to be made all asset management decisions in its reasonable discretion.

12.13 Acquisition of Collateral.

(a) If title to any Collateral that constitutes real property is to be acquired by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, or otherwise, title to such Acquired Collateral shall be taken and held in the name of an Ownership Entity; provided, however, that for any Collateral with respect to which there exists any Environmental Hazard, the Ownership Entity that holds such Collateral may hold title only to the relevant Collateral with respect to which the Environmental Hazard exists.

(b) Nothing in this Article XII or anything else in this Agreement shall be deemed to affirmatively require the Managing Member to cause the Company to acquire all or any portion of any Collateral with respect to which there exists any Environmental Hazard. Prior to acquisition of title to any Collateral (whether by foreclosure, deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, or otherwise), the Managing Member shall cause to be commissioned with respect to such Collateral either (i) a Transaction Screen Process consistent with ASTM Standard E 1528-06, by an environmental professional or (ii) such other site inspections and assessments by a Person who regularly conducts environmental audits using customary industry standards as would customarily be undertaken or obtained by a prudent lender in order to ascertain whether there are any actual or threatened Environmental Hazards (a "**Site Assessment**"), and the cost of such Site Assessment shall be deemed to be a Servicing Expense as long as the costs for such Site Assessment were not paid to any Affiliate of the Managing Member, or any Affiliate of the Servicer or any Subservicer.

(c) The Company shall be the sole member of any Ownership Entity. The purposes of each Ownership Entity shall be to hold the Acquired Collateral pending sale, to complete construction of such Collateral and to operate the Collateral as efficiently as possible in order to minimize financial loss to the Company, the Lender under the Advance Facility and the Purchase Money Note Guarantor and to sell the Acquired Collateral as promptly as practicable in a way designed to minimize financial loss to the Company, the Lender under the Advance Facility and the Note Guarantor.

12.14 Releases of Collateral. Managing Member is authorized to cause the release or assignment of any Lien granted to or held by the Company on any Collateral upon payment of any Loan in full and satisfaction in full of all of the secured obligations with respect to a Loan, upon receipt of a discounted payoff as payment in full of a Loan, or upon a sale of the Loan to any Person, in each case as and to the extent permitted hereunder and under the Advance Facility and the Reimbursement, Security and Guaranty Agreement.

12.15 Clean-Up Call Rights.

(a) If, and only if, all amounts owing under the Purchase Money Notes and the Advance Facility have paid in full, and all reimbursement and other obligations to the FDIC under the Reimbursement, Security and Guaranty Agreement and the Advance Facility have been satisfied in full, the Initial Member shall have the right, exercisable in its sole and absolute

discretion, to require the liquidation and sale, for cash consideration, of any remaining Loans and Acquired Collateral held by the Company or any Ownership Entity (the "**Clean-Up Call**") at any time after the tenth (10^{th}) anniversary of the Closing Date.

(b) In order to exercise its rights under this Section 12.15, Initial Member shall give notice in writing to the Managing Member, setting forth the date by which the remaining Loans and Acquired Collateral are to be liquidated by the Company, which date shall be no less than 150 calendar days after the date of such notice.

(c) The Managing Member shall proceed expeditiously to cause to be commenced the liquidation of the remaining Loans and Acquired Collateral by means of sealed bid sales to Persons other than Affiliates of the Company, the Servicer or any Subservicer, or Affiliates of the Servicer or any Subservicer. The selection of any financial adviser or other Person, broker or sales agent retained for the liquidation of the remaining Loans and Acquired Collateral pursuant to this Section 12.15 shall be subject to the prior approval of Initial Member, such approval not to be unreasonably withheld, delayed or conditioned as long as the fees to be charged by such financial adviser or other Person, broker or sales agent are reasonable and such Person is not an Affiliate of the Managing Member or any Servicer or Subservicer. In the event the remaining Loans and Acquired Collateral are not liquidated by the date specified in the notice provided by Initial Member pursuant to Section 12.15(b), Initial Member shall be entitled to liquidate the remaining Loans and Acquired Collateral in its discretion and Managing Member shall, and shall cause the Company to, cooperate and assist with such liquidation to the extent reasonably requested by Initial Member. In the event the Managing Member or any Affiliate thereof desires to bid to acquire the remaining Loans and Acquired Collateral, then Initial Member shall be entitled to liquidate the remaining Loans and Acquired Collateral in its discretion. In the event Initial Member undertakes to liquidate the remaining Loans and Acquired Collateral pursuant to this Section 12.15(c), all costs and expenses incurred by it shall be deducted from the Loan Proceeds and retained by Initial Member and the remaining Loan Proceeds shall be distributed in accordance with Section 9.2.

ARTICLE XIII
Miscellaneous

13.1 Waiver of Rights of Partition and Dissolution. Each Member (other than the Initial Member) hereby irrevocably waives all rights it may have at any time to maintain any action for division or sale of the Company Property as now or hereafter permitted under any applicable Law. Each Member (other than the Initial Member) hereby waives and renounces its rights to seek a court decree of dissolution or to seek the appointment of a court receiver for the Company as now or hereafter permitted under any applicable Law.

13.2 Entire Agreement; Other Agreements.

(a) This Agreement, together with the Annexes and Exhibits hereto and the Ancillary Documents (and any other agreements expressly contemplated hereby or thereby), constitutes the entire agreement and understanding, and supersedes all other prior agreements and understandings, both written and oral, between the Members or their respective Affiliates or any of them and the Company with respect to the subject matter hereof; provided that, the

Confidentiality Agreement, dated August 27, 2009, between the FDIC and the Affiliates of the Private Owner named therein (including by way of joinder) shall remain in full force and effect to the extent provided therein, except that the Company's rights under Article VI of the Contribution Agreement shall not be deemed a repurchase option for purposes of Section 2 of such Confidentiality Agreement. The Members acknowledge that certain agreements or other instruments are being (or were) executed by the Company, the Members and/or Affiliates of the Members simultaneously or otherwise in connection with the execution of this Agreement and that notwithstanding anything to the contrary contained in the foregoing sentence of this Section 13.2, such agreements shall be effective and binding on the parties thereto in accordance with the terms thereof.

(b) By executing this Agreement, the Managing Member agrees to be bound by the terms of the Ancillary Documents pursuant to which the Managing Member is expressly required to take or omit from taking certain actions, as in each case, with the same effect as if the Managing Member were a party to such Ancillary Document.

13.3 Governing Law; Jurisdiction. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, 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. In the event of a direct conflict between the provisions of this Agreement and any mandatory, non-waivable provision of the Act, such provision of the Act shall control to the extent necessary to eliminate such direct conflict. Nothing in this Agreement shall require any unlawful action or inaction by any Person.

13.4 Third Party Beneficiaries. For so long as any obligations remain outstanding under the Purchase Money Note Guaranty or the Advance Facility, each of the Purchase Money Note Guarantor and the Lender, as applicable, is hereby constituted an express third party beneficiary of this Agreement. Subject to Section 11.1 and to the immediately preceding sentence, (i) this Agreement is for the benefit solely of, and shall inure solely to the benefit of, the Members and the Company, and (ii) this Agreement is not enforceable by any Person (including any creditor of the Company or of any Member) other than the Members and the Company.

13.5 Expenses. Except as may otherwise be expressly provided herein or in any Ancillary Document, each Member shall pay its own expenses (including legal, accounting investment banker, broker or finders fees) incident to the negotiation and execution of this Agreement and the Ancillary Documents, the consummation of the transactions contemplated by Section 2.3 hereof and the performance of its obligations hereunder.

13.6 Waivers and Amendments.

(a) This Agreement may be amended or modified, and the terms hereof may be waived, only by a written instrument signed by all Members, provided, that, following an Event of Default, this Agreement may be amended, modified and the terms hereof may be waived by a written instrument signed only by the Initial Member as long as such amendment, modification or waiver would not (i) adversely affect the Private Owner's or the Company's

limited liability status; (ii) adversely affect the Private Owner's share of the Company's distributions, income, gains or losses; (iii) impose on the Private Owner any additional obligations or (iv) amend Section 3.14 or this Section 13.16. Except where a specific period for action or inaction is provided herein, no failure on the part of the Members to exercise, and no delay on the part of the Members in exercising, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of the Members of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) Notwithstanding anything to contrary contained elsewhere in this Agreement (including without limitation the foregoing Section 13.6(a)) or in any Ancillary Document, but subject to the restrictions in Section 9.4(b) of the Contribution Agreement, in order to facilitate the possible restructuring and sale of the Purchase Money Notes, the FDIC, without the consent of the Private Owner or the Company, may at any time cause the Company to replace or reissue the Purchase Money Notes (or any promissory note reissued in respect thereof) pursuant to Section 2.8 of the Custodial and Paying Agency Agreement.

13.7 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 or electronic mail address 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 (or refused) for 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 (which form of delivery is subject to the provisions of this paragraph), when delivered. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

If to the Company, to:

Corus Construction Venture, LLC
591 West Putnam Avenue
Greenwich, CT 06830
Attention: John McCarthy
Facsimile: (203) 422-7825

With a copy to:

Rinaldi, Finkelstein & Franklin, LLC
591 West Putnam Avenue
Greenwich, CT 06830
Attention: Ellis Rinaldi
Email Address: Rinaldi@Starwood.com

If to the Initial Member, to:

Senior Capital Market Specialist
c/o Federal Deposit Insurance Corporation
550 17th Street, NW
Room F-7026
Washington, D.C. 20429-0002
Attention: Timothy A. Kruse
Email Address: TKruse@fdic.gov

With a copy to:

Senior Capital Markets Specialist
Federal Deposit Insurance Corporation
550 17th Street, NW
Room F-7036
Washington, D.C. 20429
Attention: Robert W. McComis
Email Address: RMcommis@fdic.gov

With a copy to:

Manager, Capital Markets & Resolutions
c/o Federal Deposit Insurance Corporation
550 17th Street, NW
Room F-7008
Washington, D.C. 20429-0002
Attention: George C. Alexander
Email Address: GAlexander@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
Email Address: DGearin@fdic.gov

With a email copy to:

Thomas Raburn
Federal Deposit Insurance Corporation
Email: TRaburn@fdic.gov

If to the Private Owner, to:

CCV Managing Member, LLC
591 West Putnam Avenue
Greenwich, CT 06830
Attention: John McCarthy
Facsimile: (203) 422-7825

13.8 Counterparts; Facsimile Signatures.

(a) This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all parties hereto.

(b) 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.

13.9 Successors and Assigns. Except as otherwise specifically provided in this Agreement (including in Article VIII), this Agreement shall be binding upon and inure to the benefit of the Members and the Company and their respective Successors and assigns. Without limitation of Section 8.4, this Agreement, as in effect on the date that any particular Person shall cease to be Member, shall continue to bind such Person in relation to the period during which it was Member.

13.10 Construction.

(a) Captions. 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 this Agreement unless otherwise specified.

(b) References to Persons Exclusive. References to "Affiliates" or "Subsidiaries" of a specified Person refer to, and include, only other Persons which from time to time constitute "Affiliates" or "Subsidiaries," as the case may be, 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," or "Subsidiaries," as the case may be, of such specified Person, except to the extent that any such reference specifically provides otherwise. A reference to Member or other Person, in and of itself, does not, and shall not be deemed to, refer to or include any other Person having an interest in Member or other Person (such as, without limitation, any stockholder or member of or partner in Member, or other Person).

(c) Use of "Or." The term "or" is not exclusive.

(d) References to Laws. A reference in this Agreement to a Law includes any amendment, modification or replacement to such Law.

(e) Use of Accounting Terms. Accounting terms used herein shall have the meanings assigned to them by GAAP applied on a consistent basis by the accounting entity to which they refer.

(f) References to Documents. References to any document, instrument or agreement (i) 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 (ii) shall mean such document, instrument or agreement, or replacement thereof, 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.

(g) Use of "Herein." Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(h) Use of "Including." The words "include" and "including" and words of similar import when used in this Agreement 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.

(i) Use of "During." The word "during" when used in this Agreement 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.

13.11 Compliance With Law; Severability.

(a) Compliance With Law. Except as otherwise specifically provided herein, each party to this Agreement shall obey and comply with all applicable Laws, as they may pertain to such party's performance of its obligations hereunder.

(b) 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 without limitation, 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 13.11(b) 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 13.3.

13.12 Power of Attorney.

(a) Each Member does hereby constitute and appoint the Managing Member as its true and lawful representative and attorney-in-fact, in its name, place and stead to make, execute, sign, acknowledge, deliver or file any certificate, document or other instrument that Member is required to execute and deliver pursuant to clause (a), (b), (c) or (d) of Section 4.3 hereof. The foregoing notwithstanding, the Managing Member shall not have any right, power or authority to amend or modify this Agreement. The power of attorney granted hereby is coupled with an interest and shall (i) survive and not be affected by the subsequent death, incapacity, disability, dissolution, termination or bankruptcy of Member granting the same or the transfer of all or any portion of Member's Interest and (ii) extend to Member's Successors, assigns and legal representatives.

(b) The Company hereby grants to the Managing Member a limited power of attorney to execute all documents on its behalf in accordance with the Servicing Standard set forth above and as may be necessary to effectuate the Managing Member's obligations under Article XII until such time as the Company revokes said limited power of attorney. Revocation of the limited power of attorney shall take effect upon (i) the receipt by the Managing Member of written notice thereof from the Initial Member, or (ii) removal of the Managing Member in accordance with the terms of this Agreement; provided, however, in the event of such removal, the power of attorney granted hereunder shall thereafter automatically be vested in the successor or replacement Managing Member appointed in accordance with this Agreement.

13.13 Jurisdiction; Venue and Service.

(a) Each of the Managing Member, the Private Owner and the Company, on behalf of 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 Initial Member 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 other court or dispute-resolution forum (other than the

Court in which the Initial Member files the action, suit or proceeding) without the consent of the Initial Member;

(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 Chancery Court of the State of Delaware for any suit, action or proceeding against it or any of its Affiliates commenced by the Initial Member 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 other court or dispute-resolution forum without the consent of the Initial Member;

(B) assert that venue is improper in the Chancery Court of the State of Delaware; or

(C) assert that the Chancery Court of the State of Delaware is an inconvenient forum;

(iii) agrees to bring any suit, action or proceeding by the Managing Member, the Private Owner, the Company, or its Affiliates against the Initial Member arising out of, relating to, or in connection with this Agreement or any Ancillary Document in only 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 Initial Member, and 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 Initial Member; 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 13.13(a)(iii), to bring that suit, action or proceeding in only the Chancery Court of the State of Delaware, 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 Initial Member.

(b) Each of the Managing Member, the Private Owner and the Company, 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 13.13(a) may be enforced in any court of competent jurisdiction;

(c) Subject to the provisions of Section 13.13(d), each of the Managing Member, the Private Owner and the Company, on behalf of itself and its Affiliates, and the Initial Member hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 13.13(a) or Section 13.13(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 13.7 (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 13.13(c) shall affect the right of any party to serve process in any other manner permitted by Law;

(d) Nothing in this Section 13.13 shall constitute consent to jurisdiction in any court by the FDIC, other than as expressly provided in Section 13.13(a)(iii) and Section 13.13(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

13.14 Waiver of Jury Trial. EACH OF THE MEMBERS AND THE COMPANY, FOR ITSELF AND ITS AFFILIATES, 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 OR THE ANCILLARY DOCUMENTS AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers or agents thereunto duly authorized on the date first above written.

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Corus Bank, N.A.

By: [redacted]
Name: Timothy A. Kruse
Title: Senior Capital Markets Specialist

CCV MANAGING MEMBER, LLC
(As Member and Managing Member)

By: _____
Name:
Title:

CORUS CONSTRUCTION VENTURE, LLC

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Corus Bank, N.A., as the Initial Member

By: [redacted]
Name: Timothy A. Kruse
Title: Senior Capital Markets Specialist

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers or agents thereunto duly authorized on the date first above written.

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Corus Bank, N.A.

By: _____
Name: Timothy A. Kruse
Title: Senior Capital Markets Specialist

CCV MANAGING MEMBER, LLC
(As Member and Managing Member)

By: [redacted]
Name: Marcos Alvarado
Title: Interim Co-President

CORUS CONSTRUCTION VENTURE, LLC

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Corus Bank, N.A., as the Initial Member

By: _____
Name: Timothy A. Kruse
Title: Senior Capital Markets Specialist

Annex I
Certain Definitions

As used in the Agreement, the following terms have the following meanings (terms defined in the singular to include the plural and vice versa and references in this Annex I to sections constitute references to sections of the Agreement unless otherwise expressly indicated):

"**Acceptable Investment Rating**" shall mean any of the top three rating categories that may be assigned to any security, obligation or entity by the Rating Agencies.

"**Acceptable Rating**" shall mean (i) a rating of "Average (Select Servicer List)" for construction loan servicers by Standard and Poor's Ratings Service, a division of The McGraw-Hill Companies, Inc., (ii) a rating of "Acceptable" for construction loan servicers by Fitch, Inc., or (iii) a rating of "Approved" for construction loan servicers by Moody's Investors Service.

"**Account Control Agreement**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Accountants**" shall mean the independent certified public accountants of the Company.

"**Acquired Collateral**" shall mean (i) Collateral to which title is acquired by or on behalf of the Company or any Ownership Entity, the Failed Bank or the Receiver by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code; (ii) the equity interests in the Ownership Entities and (iii) the assets held directly or indirectly by the Ownership Entities.

"**Act**" shall mean the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101 et seq.

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(A) Credit to such Capital Account any amounts that such Member is obligated to restore or is deemed to be obligated to restore pursuant to Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(B) Debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6). The foregoing definition of Adjusted Capital Account Deficit is intended with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"**Advance Facility**" shall have the meaning given in the preamble.

"**Affiliate**" shall mean, with respect to any specified Person, (i) any other Person directly or indirectly Controlling or Controlled by or under common Control with such specified Person, (ii) any Person owning or Controlling ten percent (10%) or more of the outstanding voting securities, voting equity interests, or beneficial interests of the Person specified, (iii) any officer, director, general partner, managing member, trustee, employee or promoter of the Person specified or any Immediate Family Member of such officer, director, general partner, managing member, trustee, employee or promoter, (iv) any corporation, partnership, limited liability company or trust for which any Person referred to in clause (ii) or (iii) acts in that capacity, or (v) any Person who is an officer, director, general partner, managing member, trustee or holder of ten percent (10%) or more of the outstanding voting securities, voting equity interests or beneficial interests of any Person described in clauses (i) through (iv); provided, however, that for purposes of this Agreement, none of the Initial Member, the Purchase Money Note Guarantor, the initial Lender under the Advance Facility, the administrative agent under the Advance Facility or the collateral agent under the Reimbursement, Security and Guaranty Agreement shall be deemed to be Affiliates of the Company or any Affiliate of the Company.

"**Agreement**" shall have the meaning given in the preamble.

"**Ancillary Documents**" shall mean the Contribution Agreement, the Servicing Agreement, the Custodial and Paying Agency Agreement, one or more Account Control Agreements, the LLC Interest Sale Agreement, the Purchase Money Notes (and any promissory note reissued in respect thereof pursuant to Section 2.8 of the Custodial and Paying Agency Agreement), the Advance Facility and the Reimbursement, Security and Guaranty Agreement, in each case once executed and delivered, and any and all other agreements and instruments executed and delivered in connection with the Closing or the transactions contemplated thereby.

"**Approved Business Plan**" shall have the meaning given in the Advance Facility.

"**Book Value**" shall mean, (i) with respect to contributed property, the initial Fair Market Value of such property, and (ii) with respect to any other Company asset, the adjusted basis of such asset for federal income tax purposes; provided, however, that the Book Values of all Company assets shall be adjusted to equal their respective Fair Market Values, in accordance with the rules set forth in Section 1.704-1(b)(2)(iv)(f) of the Treasury Regulations, except as otherwise provided herein, immediately prior to: (a) the date of the acquisition of any additional Interest by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (b) the date of the actual distribution of more than a *de minimis* amount of Company property (other than a pro rata distribution) to a Member in connection with the redemption of all or part of such Member's Interest; or (c) the date of the actual liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations; and provided further, that adjustments pursuant to clauses (a) and (b) above shall be made only if the Managing Member reasonably determines, after consultation with the Initial Member, that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members. The Book Value of any Company Property distributed to any Member shall be adjusted immediately prior to such distribution to equal its Fair Market Value as of such date.

"**Borrower**" shall mean any borrower or other obligor with respect to any Loan.

"**Bulk Sale**" shall mean the sale or other disposition, in a single transaction or a series of related transactions, of (i) Loans having an aggregate Unpaid Principal Balance of $100,000,000 or more as of the time of such sale or disposition or (ii) Collateral or Acquired Collateral (including REO Property), or any portion thereof, having an aggregate value of $100,000,000 or more (based on the most recent appraisal price or broker opinion) as of the time of such sale or disposition.

"**Business**" shall mean the acquisition of the Loans pursuant to the Contribution Agreement and the ownership, servicing, administration, management and liquidation of the Loans.

"**Business Day**" shall mean any day except a Saturday, Sunday or other day on which commercial banks in Washington, D.C. or United States federal government offices are required or authorized by Law to close.

"**Capital Account**" shall mean the capital account of a Member related to such Member's outstanding Interests, as adjusted to account for allocations of Net Income (and items thereof) and Net Loss (and items thereof), and contributions and distributions relating to such Interests, as provided in greater detail in Section 6.2and elsewhere in this Agreement.

"**Capital Contribution**" shall mean a contribution to the capital of the Company made, deemed to be made, or to be made pursuant to the Original LLC Operating Agreement, the Contribution Agreement, or this Agreement.

"**Certificate**" shall have the meaning given in Section 2.1(a).

"**Change of Control**" shall mean, except as otherwise agreed to in writing by the Initial Member:

(i) the failure of VIII/CB Co-Invest, L.L.C. (including any successor thereto, the "Starwood Member") and its Permitted Transferees to own at least 50.1% of the equity interests of NI held by the Starwood Member immediately following the Closing;

(ii) the failure of TPG VI SD II, L.P., TPG V SD, L.P. and TPG Opportunity Fund II, L.P., (including any successor to either, collectively, the "TPG Member") and its Permitted Transferees to own at least 50.1% of the equity interests of NI held by the TPG Member immediately following the Closing;

(iii) the acquisition or ownership by any Person and its Affiliates, other than the Starwood Member or the TPG Member or their respective Permitted Transferees, of common or other voting equity interests of NI in excess of the lesser of (i) an amount representing more than 25% of the total outstanding common or other voting equity interests of NI, (ii) for so long as the TPG Member is, or is entitled to become a, co-managing member of the Managing Member, the lesser of the amounts of common equity interests of NI held by either the Starwood Member or the TPG Member and their respective Permitted

Transferees or (iii) in the event the TPG Member no longer has such right, the greater of the amounts of common or other voting equity interests of NI held by either the Starwood Member or the TPG Member and their respective Permitted Transferees;

(iv) any amendment or modification to, or waiver (express or implied) of, (A) Section 4.1(e) of the NI Operating Agreement relating to the resolution of disputes between the NI managing member and the NI co-managing member as contemplated thereby (or any successor provision) or (B) the provisos contained in Section 4.11(b)(ii)(2), (5), (11) or (12) of the NI Operating Agreement (or any successor provision);

(v) the failure of NI to own 100% of the equity interests of CCV Managing Member LLC; or

(vi) the failure of the FDIC to consent to the appointment of any successor managing member of NI if both the applicable Affiliate of the Starwood Member and the applicable Affiliate of the TPG Member are either removed or resign as NI managing member or NI co-managing member, respectively.

"**Clean-up Call**" shall have the meaning set forth in Section 12.15.

"**Closing**" shall mean the consummation of the transactions contemplated in the LLC Interest Sale Agreement.

"**Closing Date**" shall have the meaning given in the preamble.

"**Code**" shall mean the United States Internal Revenue Code of 1986, as amended.

"**Collateral**" shall mean any and all real or personal property, whether tangible or intangible, securing or pledged to secure a Loan, including any account, equipment, guarantee or contract right, equity, partnership or other interest that is the subject of any Collateral Document, and, as the context requires, includes Acquired Collateral, whether or not expressly so specified.

"**Collateral Document**" shall mean any pledge agreement, security agreement, personal, corporate or other guaranty, deed of trust, deed, trust deed, deed to secure debt, mortgage, contract for the sale of real property, assignment, collateral agreement, stock power or other agreement or document of any kind, whether an original or a copy, whether similar to or different from those enumerated, (i) securing in any manner the performance or payment by any Borrower of its obligations or the obligations of any other Borrower under any of the Loans or the Notes evidencing the Loans, or (ii) evidencing ownership of any Acquired Collateral.

"**Collection Account**" shall mean a segregated trust or custodial account established and maintained at a branch of the Paying Agent in accordance with, and for the purposes set forth in, the Custodial and Paying Agency Agreement.

"**Company**" shall have the meaning given in the preamble.

"**Company Property**" shall mean all property, whether real or personal, tangible or intangible, owned by the Company, including the Loans contributed or sold by the Initial Member pursuant to the Contribution Agreement.

"**Contribution Agreement**" shall have the meaning given in the recitals.

"**Control**" (including the phrases "**Controlled by**" and "**under common Control with**") when used with respect to any specified Person shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

"**Covered Person**" shall have the meaning given in Section 4.6.

"**Custodial and Paying Agency Agreement**" shall mean, initially, the Custodial and Paying Agent Agreement dated as of October 16, 2009, by and between the Company and Wells Fargo Bank, N.A., and thereafter any replacement agreement entered into with a Custodian pursuant to Section 3.7.

"**Custodial Documents**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Custodian**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Custodian and Paying Agent Report**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Cut-Off Date**" shall have the meaning given in the Contribution Agreement.

"**Damages**" shall mean any and all damages, disbursements, suits, claims, liabilities, obligations, judgments, fines, penalties, charges, amounts paid in settlement, costs and expenses (including, without limitation, attorneys' fees and expenses) arising out of or related to litigation and interest on any of the foregoing.

"**Debt**" of any Person shall mean (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person for the deferred purchase price of property or services (excluding trade payables arising in the ordinary course of business), (iii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iv) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (v) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, or (vi) all indebtedness or obligations of others of the kinds referred to in clauses (i) through (v) above in respect of which such Person has entered into or issued any Guarantee.

"**Determination Date**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Defeasance Account**" shall have the meanings given in Custodial and Paying Agency Agreement

"**Direct Owner**" shall mean, with respect to any Person, any other Person who has any direct ownership interest in such Person.

"**Disposition**" shall mean any sale, assignment, alienation, gift, exchange, conveyance, transfer, pledge, hypothecation, granting of a security interest or other disposition or attempted disposition whatsoever, whether voluntary or involuntary. For the avoidance of doubt, it is understood and agreed that a statutory conversion of a Person into another form of Person does not constitute a Disposition. The term "**Dispose**" shall mean to make or consummate a "Disposition."

"**Dissolution Event**" shall mean, with respect to any specified Person, (i) in the case of a specified Person that is a partnership or limited partnership or a limited liability company, the dissolution and commencement of winding up of such partnership, limited partnership or limited liability company, and (ii) in the case of a specified Person that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter and the expiration of 90 days after the date of notice to the corporation of revocation without a reinstatement of its charter. For the avoidance of doubt, it is understood and agreed that a statutory conversion of a Person into another form of Person does not constitute a "Dissolution Event."

"**Distributable Cash**" shall have the meaning given in Section 6.5.

"**Distribution Account**" shall mean a segregated trust or custodial account established and maintained under the Custodial and Paying Agency Agreement at a branch of the Paying Agent for the sole purpose of holding and distributing Loan Proceeds in accordance with the Custodial and Paying Agency Agreement.

"**Distribution Date**" shall mean the 25th day of each calendar month during the term of the Company.

"**Distribution Date Report**" shall have the meaning given in the Custodial and Paying Agency Agreement, which report shall be prepared and distributed by the Managing Member to the Paying Agent in accordance with Section 7.4(b).

"**Due Period**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Embargoed Person**" shall mean any person subject to trade restrictions under United States law, including, without limitation, the International Emergency Economic Powers Act, 50 U.S.C. §§1701, *et seq.*, The Trading with the Enemy Act, 50 U.S.C. §§ App. 1, *et seq.*, any foreign assets control regulations of the United States Treasury Department (31 C.F.R.,

Subtitle B, Chapter V, as amended), or any enabling legislation or regulations promulgated thereunder or any executive order relating thereto (including Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079 (2001)) or 31 C.F.R. §594.101, et seq.) with the result that a purchase of Assets or any other transaction entered into with respect to any Assets (including, without limitation, any investment in any structured transaction), whether directly or indirectly, is prohibited by or in violation of law.

"**Environmental Hazard**" shall have the meaning given in the Reimbursement, Security and Guaranty Agreement.

"**ERISA**" shall have the meaning given in Section 10.1(r).

"**Escrow Account**" shall have the meaning given in the Contribution Agreement.

"**Escrow Advance**" shall mean any advance made to pay taxes or insurance premiums or any other cost or expense that, but for a shortfall in the Borrower's Escrow Account, is payable using funds in the Borrower's Escrow Account.

"**Events of Default**" shall mean any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) the receipt by the Company of notice from either the administrative agent under the Advance Facility that an Event of Default under and as defined in the Advance Facility has occurred or the collateral agent under the Reimbursement, Security and Guaranty Agreement that an Event of Default under and as defined in the Reimbursement, Security and Guaranty Agreement has occurred; or

(b) the occurrence of any Insolvency Event (without any cure period other than as may be provided for in the definition of Insolvency Event) with respect to (i) the Company, (ii) the Private Owner, (iii) the Managing Member or (iv) the Servicer; or

(c) any failure of the Company to pay any Servicing Expense when due, respectively, of this Agreement, which failure continues unremedied for a period of thirty (30) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Company; or

(d) the failure of the Company or the Managing Member to comply in any material respect with and enforce the provisions of this Agreement, which continues unremedied for a period of thirty (30) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member; or

(e) the occurrence of either (i) a failure by the Servicer to perform in any material respect its obligations under the Servicing Agreement, which continues unremedied for a period of thirty (30) days after the date on which written notice of such failure requiring the

same to be remedied shall have been given by the Managing Member or the Initial Member to the Servicer, or (ii) a failure by the Managing Member to replace the Servicer upon the occurrence of either an Event of Default under the Reimbursement, Security and Guaranty Agreement as a result of the Servicer's acts or omissions or a material breach of or event of default under the Servicing Agreement by the Servicer, in either case which continues unremedied for a period of thirty (30) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member; or

(f) the failure of the Managing Member to comply in any material respect with its obligations under the Servicing Agreement or the Company to comply in any material respect with its obligations under the Custodial and Paying Agency Agreement (including any failure to pay fees or expenses due thereunder) which, in either case, remains unremedied for a period of thirty (30) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member or the Company, as applicable; or

(g) there shall be a change in the Private Owner or the Managing Member or there shall occur a Change of Control with respect to the Private Owner or the Managing Member other than as permitted under Section 8.2; or

(h) the failure of the Company to remit or cause to be remitted all Loan Proceeds to the Paying Agent as and when required.

"**Excess Working Capital Advance**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Excluded Expenses**" shall have the meaning given in Section 12.7(b).

"**Failed Bank**" shall have the meaning given in the preamble.

"**Fair Market Value**" shall mean, with respect to any asset on a given date, the gross fair market value of such asset, unreduced by any liability, on such date as determined in good faith by the Managing Member after consultation with the Initial Member; provided, however, that the parties hereto acknowledge and agree that, as of the Closing Date, the Fair Market Value of the Capital Contribution made by the Initial Member shall be based on the Purchase Price, as set forth in the LLC Interest Sale Agreement, and such Fair Market Value shall be utilized for determining the initial Capital Accounts of the Members as of the Closing Date.

"**Fannie Mae**" shall mean the Federal National Mortgage Association of the United States, or any successor thereto.

"**FDIC**" shall have the meaning given in the preamble.

"**Final Distribution**" shall have the meaning given in Section 6.6(f).

"**Fiscal Year**" shall have the meaning given in Section 7.1.

"**Foreign Assets Control Regulations**" has the meaning given in Section 10.1(q).

"**GAAP**" shall mean United States generally accepted accounting principles as in effect from time to time.

"**Governmental Authority**" shall mean any United States or non-United States national, federal, state, local, municipal or provincial or international government or any political subdivision of any governmental, regulatory or administrative authority, agency or commission, or judicial or arbitral body.

"**Guarantee**" shall mean, with respect to any particular indebtedness or other obligation, (i) any direct or indirect guarantee thereof by a Person other than the obligor with respect to such indebtedness or other obligation or any transaction or arrangement intended to have the effect of directly or indirectly guaranteeing such indebtedness or other obligation, including without limitation any agreement by a Person other than the obligor with respect to such indebtedness or other obligation (A) to pay or purchase such indebtedness or other obligation or to advance or supply funds for the payment or purchase of such indebtedness or other obligation, (B) to purchase, sell or lease (as lessee or lessor) property of, to purchase or sell services from or to, to supply funds to or in any other manner invest in, the obligor with respect to such indebtedness or other obligation (including any agreement to pay for property or services of the obligor irrespective of whether such property is received or such services are rendered), primarily for the purpose of enabling the obligor to make payment of such indebtedness or other obligation or to assure the holder or other obligee of such indebtedness or other obligation against loss, or (C) otherwise to assure the obligee of such indebtedness or other obligation against loss with respect thereto, or (ii) any grant (or agreement in favor of the obligee of such indebtedness or other obligation to grant such obligee, under any circumstances) by a Person other than the obligor with respect to such indebtedness or other obligation of a security interest in, or other lien on, any property or other interest of such Person, whether or not such other Person has not assumed or become liable for the payment of such indebtedness or other obligation.

"**Guarantor**" shall mean any guarantor of all or any portion of any Loan or all or any of any Borrower's obligations set forth and described in the Loan Documents, and shall include the guarantor under any completion guaranty or similar document.

"**Immediate Family Member**" shall mean, with respect to any individual, his or her spouse, parents, parents-in-law, grandparents, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children (whether natural or adopted), children-in-law, stepchildren, grandchildren and grandchildren-in-law.

"**Indemnified Parties**" shall have the meaning give in Section 4.6(a).

"**Initial Member**" shall have the meaning given in the preamble.

"**Initial Member Capital Contribution**" shall have the meaning given in Section 2.3(a)(i).

"**Insolvency Event**" shall mean, with respect to any specified Person, the occurrence of any of the following events:

1. the specified Person makes an assignment for the benefit of creditors;

2. the specified Person files a voluntary petition for relief in any Insolvency Proceeding;

3. the specified Person is adjudged bankrupt or insolvent or there is entered against the specified Person an order for relief in any Insolvency Proceeding;

4. the specified Person files a petition or answer seeking for the specified Person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law;

5. the specified Person seeks, consents to, or acquiesces in the appointment of a trustee, receiver or liquidator of the specified Person or of all or any substantial part of the specified Person's properties;

6. the specified Person files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the specified Person in any proceeding described in clauses (1) through (5);

7. the specified Person becomes unable to pay its obligations (other than, with respect to the Company, the Purchase Money Notes unless a Purchase Money Note Trigger Event (as defined in the Reimbursement, Guaranty and Security Agreement) has occurred and is continuing and is not cured within ten (10) Business Days) as they become due; or

8. at least sixty (60) days have passed following the commencement of any proceeding against the specified Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law and such proceeding has not been dismissed, or at least sixty (60) days have passed following the appointment of a trustee, receiver or liquidator for the specified Person or all or any substantial part of the specified Person's properties without the specified Person's agreement or acquiescence, and such appointment has not been vacated or stayed, or if such appointment has been stayed, at least sixty (60) days have passed following the expiration of the stay if the appointment has not been vacated.

"**Insolvency Proceeding**" shall mean any proceeding under Title 11 of the United States Code (11 U.S.C. §§101, *et seq.*) or any proceeding under the Law of any jurisdiction involving any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief.

"**Interest**" shall mean, with respect to any particular Member, the entire limited liability company interest (as such term is defined in the Act) of such Member, including (i) such Member's rights to share in the income, gain, loss, deductions and credits of, and the right to receive distributions from, the Company, (ii) all other rights, benefits and privileges enjoyed by such Member (under the Act, this Agreement or otherwise) in its capacity as a Member, including rights to vote, consent and approve, and (iii) all obligations, duties and liabilities imposed on such Member (under the Act, this Agreement or otherwise) in its capacity as a Member.

"**Investment Company Act**" shall mean the Investment Company Act of 1940, as amended from time to time.

"**Law**" shall mean any applicable statute, law, ordinance, regulation, rule, code, injunction, judgment, decree or order (including any executive order) of any Governmental Authority.

"**Lender**" shall mean a lender under the Advance Facility.

"**Lien**" shall mean any mortgage, deed of trust, pledge, deed to secured debt, trust deed, security interest, charge, restriction on or condition to transfer, voting or exercise or enjoyment of any right or beneficial interest, option, right of first refusal, easement, covenant, restriction and any other lien, claim or encumbrance of any nature whatsoever.

"**LLC Interest Sale Agreement**" shall mean that certain Limited Liability Company Interest Sale and Assignment Agreement dated the date hereof between the Initial Member and the Private Owner.

"**Loan**" shall mean any loan, Participated Loan (as defined in the Contribution Agreement), Ownership Entity (including any cash and cash equivalents held directly or indirectly by such Ownership Entities (excluding security deposits, deposits made by prospective purchasers of condominium or cooperative units or other portions of the interest in the Acquired Collateral and other cash and cash equivalents to the extent that such Ownership Entity has a corresponding liability to a third party) or Acquired Collateral listed on the Loan Schedule, and any loan into which any listed loan or Participated Loan is refinanced or modified, and includes with respect to each such loan, Participated Loan, Ownership Entity, Acquired Collateral or other related asset or Related Agreements: (i) any obligation evidenced by a Note; (ii) all rights, powers or Liens of the Company or any Ownership Entity in or under the Collateral and Collateral Documents and in and to Acquired Collateral (including all Ownership Entities and REO Property held by any Ownership Entity); (iii) all rights of the Company or any Ownership Entity under any lease and the related leased property; (iv) all rights to causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by or for the benefit of the Company or any Ownership Entity with respect to the Loans, the Collateral or the ownership, use, function, value of or other rights pertaining thereto, whether arising by way of counterclaim or otherwise, other than any claims retained by the Initial Member pursuant to Section 2.6 of the Contribution Agreement; and (v) all guaranties, warranties, indemnities and similar rights in favor of the Company or any Ownership Entity with respect to any of the Loans;

and (vi) all rights of the Company or any Ownership Entity under the Related Agreement (as defined in the Contribution Agreement).

"**Loan Documents**" shall have the meaning given in the Contribution Agreement.

"**Loan File**" shall have the meaning given in the Contribution Agreement.

"**Loan Participation**" shall mean any Loan subject to a shared credit, participation, co-lending or similar inter-creditor agreement under which the Failed Bank or the Receiver was, or the Company is, the lead or agent financial depository institution or otherwise managed or held the credit or sold participations, or under which the Failed Bank or the Receiver was, or the Company is, a participating financial depository institution or purchased participations in a credit managed by another Person.

"**Loan Participation Agreement**" shall mean an agreement under which the Failed Bank or the Receiver was, or the Company is, the lead or agent financial depository institution or otherwise managed or held a shared credit or sold participations, or under which the Failed Bank or the Receiver was, or the Company is, a participating financial depository institution or purchased participations in a credit managed by another Person.

"**Loan Proceeds**" shall mean all of the following: (i) any and all proceeds (net of such proceeds as are payable to others under any Loan Participation Agreement) with respect to any or all of the Loans and any or all of the Collateral, including principal, interest, default interest, prepayment fees, premiums and charges, extension and exit fees, late fees, assumption fees, other fees and charges, insurance proceeds and condemnation payments (or any portion thereof) that are not used and disbursed to repair, replace or restore the related Collateral in accordance with the terms of the Loan Documents and the Ancillary Documents, and, with respect to any Acquired Collateral, operating cash flow realized from such Acquired Collateral net of Servicing Expenses, whether paid directly to the Company or distributed by an Ownership Entity; (ii) any and all proceeds from sales or other dispositions or refinancings of any or all of the Loans (including Acquired Collateral) net of Servicing Expenses incurred in connection with such sale or other disposition or refinancing; (iii) any proceeds from making a draw under any letter of credit or certificate of deposit held with respect to any Loan, provided that such draw is permitted by the terms of the Loan Documents; (iv) any recoveries from Borrowers or Guarantors of any kind or nature with respect to the Loans; (v) any deposits or down payments forfeited by prospective purchasers or lessees of apartments, or other units for space at any Collateral; and (vi) any interest or other earnings accrued and paid on any of the amounts described in the foregoing clauses (i) through (v) while held in the Collection Account or any other account (other than the Defeasance Account or the Advance Lender Escrow Account).

"**Losses**" shall have the meaning given in Section 4.6(a).

"**Management Fee**" shall mean a fee, payable on each Distribution Date pursuant to Section 5.1 of the Custodial and Paying Agency Agreement, (i) with respect to the initial Distribution Date, equal to 1.00 percent (1.00%) *multiplied by* the Unpaid Principal Balance of the Loans calculated as of the Closing Date *multiplied by* the number of days in the initial Due Period *divided by* three hundred sixty (360), and (ii) with respect to each subsequent Distribution

Date, equal to one-twelfth (1/12th) of 1.00 percent (1.00%) *multiplied by* the Unpaid Principal Balance of the Loans calculated as of the first day of the Due Period with respect to such Distribution Date.

"**Managing Member**" shall mean, initially, the Private Owner, in its capacity as "manager" of the Company, and thereafter shall mean any successor manager appointed in accordance with this Agreement.

"**Member**" shall mean (i) prior to the Closing Date, the Initial Member, and (ii) following the Closing Date, each of the Initial Member and the Private Owner, in each case including any successor or permitted assign thereof.

"**Member Schedule**" shall mean the schedule attached hereto (and hereby incorporated in this Agreement) as Annex II, as amended, restated, supplemented or otherwise modified from time to time.

"**Monthly Adjusted Annualized Yield**" is equal to 1.8769 percent. The Monthly Adjusted Annualized Yield is derived as follows: $(1 + \text{Annualized Yield Threshold})^{1/12} - 1$ or $(1 + 0.25)^{1/12} - 1$, where the Annualized Yield Threshold is 25%.

"**Monthly Report**" shall mean a report in electronic format in the form set forth in Exhibit B hereto, which report shall be prepared and distributed by the Managing Member in accordance with Section 7.4(b).

"**Mortgage Assignment**" shall have the meaning given in the Contribution Agreement.

"**Net Income and Net Loss**" shall mean, for each Fiscal Year or other period, the taxable income or loss of the Company, or particular items thereof, determined in accordance with the accounting method used by the Company for federal income tax purposes with the following adjustments: (a) all items of income, gain, loss, deduction or expense specially allocated pursuant to this Agreement (including pursuant to Sections 6.2(b)(i) through (iv)) shall not be taken into account in computing such taxable income or loss; (b) any income of the Company that is exempt from federal income taxation and not otherwise taken into account in computing the taxable income of the Company shall be added to such taxable income or loss; (c) if the Book Value of any asset differs from its adjusted tax basis for federal income tax purposes, any gain or loss resulting from a disposition of such asset shall be calculated with reference to such Book Value; (d) upon an adjustment to the Book Value of any asset pursuant to the definition of Book Value, the amount of the adjustment shall be included as gain or loss in computing such Net Income or Net Loss; (e) if the Book Value of any asset differs from its adjusted tax basis for federal income tax purposes, the amount of depreciation, amortization or cost recovery deductions with respect to such asset for purposes of determining Net Income or Net Loss shall be an amount which bears the same ratio to such Book Value as the federal income tax depreciation, amortization or other cost recovery deductions bears to such adjusted tax basis (provided that if the federal income tax depreciation, amortization or other cost recovery deduction is zero, the Managing Member may use any reasonable method for purposes of determining depreciation, amortization or other cost recovery deductions in calculating Net

Income or Net Loss); and (f) except for items in (a) above, any expenditures of the Company not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition, shall be treated as deductible items.

"**NI**" shall mean Northwest Investments, LLC, a Delaware limited liability company, and any successor thereto.

"**NI LLC Agreement**" shall mean the Amended and Restated Limited Liability Company Agreement of NI, dated October 16, 2009, among the Starwood Member, the TPG Member and the other parties named therein, without giving effect to any amendment or modification thereto except as otherwise agreed to in writing by the Initial Member.

"**Note**" shall have the meaning given in the Contribution Agreement.

"**Omitted Distributions**" shall have the meaning given in Section 8.5.

"**Original LLC Operating Agreement**" shall have the meaning given in the recitals.

"**Ownership Entity**" shall mean a Single Purpose Entity that is a Subsidiary of the Company, whether contributed by the Initial Member on the Closing Date or formed or acquired by the Company thereafter; provided, that, with respect to any entity transferred to the Company on the Closing Date pursuant to the Contribution Agreement that is not a Single Purpose Entity as of such date, any such entity shall be deemed to be an Ownership Entity; provided, further, that, the Company and the Managing Member shall take all necessary and appropriate actions to cause such entity to become a Single Purpose Entity as promptly as possible after the Closing.

"**Paying Agent**" shall mean have the meaning set forth in Section 3.7.

"**Percentage Interest**" shall mean, with respect to the Interest held by the Initial Member prior to the Closing Date, one hundred percent (100%) and, with respect to the Interests held by the Initial Member and Private Owner on and after the Closing Date, as set forth in Section 6.6(b)(ii).

"**Permitted Disposition**" shall have the meaning given in Section 8.1.

"**Permitted Investments**" shall mean any one or more of the following obligations or securities having at the time of purchase, or at such other time as may be specified, the required ratings, if any, provided for in this definition:

(a) direct obligations of, or guaranteed as to timely payment of principal and interest by, the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America (for the avoidance of doubt this clause (a) shall include any debt guaranteed by the FDIC in its corporate capacity);

(b) demand and time deposits in or certificates of deposit of, or bankers' acceptances issued by, any bank or trust company, savings and loan association or savings bank, provided that, in the case of obligations that are not fully FDIC-insured deposits, the commercial paper and/or long-term unsecured debt obligations of such depository institution or trust company (or in the case of the principal depository institution in a holding company system, the commercial paper or long-term unsecured debt obligations of such holding company) have an Acceptable Investment Rating;

(c) general obligations of or obligations guaranteed by any state of the United States or the District of Columbia receiving ratings of not less than the highest rating of each Rating Agency rating such obligations;

(d) mutual funds in which investments are limited to the obligations referred to in clauses (a), (b) or (c) of this definition; and

(e) with the prior written consent of the Initial Member, any other demand, money market or time deposit or other obligation, security or investment.

"**Permitted Transferee**" shall have the meaning given in the NI LLC Agreement.

"**Person**" shall mean any individual, corporation, partnership (general or limited), limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, estate, unincorporated organization, governmental or regulatory body or other entity.

"**Plan Asset Regulation**" shall have the meaning given in Section 10.1(r).

"**Pre-Approved Charges**" shall have the meaning given in the Contribution Agreement.

"**Previously Approved Matters**" shall have the meaning given in Section 2.7.

"**Prior Servicer**" shall have the meaning given in Section 12.1(b).

"**Priority of Payments**" shall have the meaning given in the Custodial and Paying Agency Agreement.

"**Private Owner**" shall have the meaning given in the preamble.

"**Property**" shall mean any property contributed to, acquired by or otherwise owned by the Company, including, without limitation, any real or personal, tangible or intangible property, including but not limited to any legal or equitable interest in such property, ownership interests in entities owning real or personal property, and money.

"**Purchase Money Notes**" shall have the meaning given in the recitals.

"**Purchase Money Notes Guaranty**" shall have the meaning given in the recitals.

"**Purchase Money Note Guarantor**" shall have the meaning given in the recitals.

"**Purchase Price**" shall have the meaning given in the LLC Interest Sale Agreement.

"**Qualified Custodian**" shall mean any Person that (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 Custodian under the Custodial and Paying Agency Agreement, (iii) is qualified and licensed to do business in each such jurisdiction 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 the ability of the Custodian to perform its obligations under the Custodial and Paying Agency Agreement, (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 Loan Documents and other Custodial Documents as required by the Custodial and Paying Agency Agreement, (vii) is not an Affiliate of the Company or the Servicer, and (viii) is acceptable to and approved by the Initial Member (such approval not to be unreasonably withheld, delayed or conditioned).

"**Qualified Servicer**" shall mean any Person that (i) is properly licensed and qualified to conduct business in each jurisdiction in which such licenses and qualifications to conduct business are necessary for the servicing of the Loans and management of the Collateral and the Acquired Collateral, (ii) has the management capacity and experience to service Loans of the type held by the Company, especially performing and non-performing construction loans secured by multi-family residential properties or commercial properties, as applicable, including the number and types of loans serviced, and the ability to track, process and post payments, and to furnish tax reports to borrowers, to monitor construction and to approve and disburse construction draws and (iii) either (x) has an Acceptable Rating or (y) is acceptable to and approved by the Initial Member in its sole discretion.

"**Qualified Transferee**" shall have the meaning given in Section 10.1.

"**Rating Agencies**" shall mean each of Moody's Investors Service, Inc., Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., Fitch IBCA, Inc. and such other rating agencies as are nationally recognized.

"**Receiver**" shall have the meaning given in the preamble.

"**Reimbursement, Security and Guaranty Agreement**" shall mean that certain Reimbursement, Security and Guaranty Agreement dated as of the date hereof by and between the Company, the Lender and the Purchase Money Note Guarantor.

"**Related Agreement**" shall mean (i) any agreement, document or instrument (other than the Note and Collateral Documents) relating to or evidencing any obligation to pay or securing any Loan (including any equipment lease, letter of credit, bankers' acceptance, draft, system confirmation of transaction, loan history, affidavit, general collection information, and

correspondence and comments relating to any obligation), (ii) any agreement relating to the ownership, operation, management, sale or leasing of real property or rights in or to any real property (including leases, property or asset management agreements, brokerage agreements, servicer contracts, and concession agreements, license agreements or other agreements granting rights of occupancy or use) related specifically only to the Collateral or Acquired Collateral or any of them and (iii) any collection or contingency fee, and tax and other service agreements (including those referred to in Section 4.2 of the Loan Contribution Agreement) that are specific to the Loans (or any of them) and that are assignable.

"**Related Party**" shall mean with respect to any Person, any party related to such Person in the manner delineated in 26 U.S.C.A. § 267(b) and the regulations promulgated thereunder, as such law and regulations may be amended from time to time.

"**Related Party Agreement**" shall have the meaning given in Section 3.5.

"**Related Persons**" shall have the meaning given in Section 4.5.

"**REO Property**" shall have the meaning given in the Contribution Agreement.

"**Return Threshold**" shall have the meaning given in Section 6.6(b)(iv).

"**Return Threshold Event**" shall have the meaning given in Section 6.6(b)(iii).

"**Secured Assets**" shall have the meaning given in Section 3.14.

"**Securities Act**" shall mean Securities Act of 1933, as amended.

"**Servicer**" shall mean have the meaning given in Section 12.3(a).

"**Servicing Agreement**" shall mean, initially, the Servicing Agreement dated as of the date hereof, by and between the Managing Member and TriMont Real Estate Advisors, Inc. and thereafter any replacement agreement entered into between the Managing Member and the Person designated as the Servicer therein, which servicing agreement shall satisfy the requirements of Section 12.1(b) and shall be acceptable to the Initial Member in all respects.

"**Servicing Expenses**" shall mean all customary and reasonable out-of-pocket fees, costs, expenses and indemnified amounts incurred in connection with servicing the Loans and the Acquired Collateral, including (i) any and all out-of-pocket fees, costs, expenses and indemnified amounts which a Borrower is obligated to pay to any Person or to reimburse to the lender, in either case, pursuant to the applicable Note or any other Loan Documents, including Escrow Advances, (ii) any and all reasonable out-of-pocket expenses necessary to protect or preserve the value of the Collateral or the priority of the Liens and security interests created by the Loan Documents relating thereto, including taxes, insurance premiums (including forced place insurance premiums), payment of ground rent, the costs of prevention of waste, repairs and maintenance, foreclosure expenses and legal fees and expenses relating to foreclosure or other litigation with respect to the Loans, (iii) any and all direct expenses related to the preservation, operation, management, leasing, and sale of the Acquired Collateral (including real estate

brokerage fees), (iv) subject to Section 4.6, to the extent not covered by any of clauses (i) through (iii), legal fees and expenses (including judgments, settlements and reasonable attorneys fees) incurred by the Company in its defense of claims asserted against the Company that relate to one or more Loans or the conduct of the Business in accordance with this Agreement and the Ancillary Documents, and allege, as the basis for such claims, any act or omission of the Company (or the Managing Member or the Servicer) but only if (x) such claims are decided and there are final non appealable orders or judgments (unless the Initial Member has agreed in writing that no appeal needs to be taken) in favor of the Company (or the Managing Member or the Servicer) or if decided against the Company (or the Managing Member or the Servicer) without any finding of bad faith, gross negligence or willful misconduct on the part of any of the foregoing or (y) there is entered into a final settlement of any such claim with the prior written consent of the Initial Member, (v) subject to Section 4.6 of this Agreement, (x) expenses incurred in accordance with Section 4.5(c) of the Contribution Agreement and (y) expenses incurred in connection with any litigation (including any bankruptcy action) included in the Obligations and assumed pursuant to Section 4.5(a) or (b) or Section 4.6 of the Contribution Agreement, and (vi) the costs of preparing, negotiating and recording any REO Mortgage (as defined in the Reimbursement, Security and Guaranty Agreement, including mortgage recording taxes) and the costs associated with the additional documentation required pursuant to Section 8.11 of the Reimbursement, Security and Guaranty Agreement, in each case pursuant to Section 8.11 of the Reimbursement, Security and Guaranty Agreement; provided, however, that Servicing Expenses shall not include any (A) Excluded Expenses or (B) costs of construction or any other costs or expenses to be funded using the proceeds of Term Loans under the Advance Facility.

"**Servicing Obligations**" shall mean have the meaning given in Section 12.1.

"**Servicing Standard**" shall have the meaning given in Section 12.1.

"**Single Purpose Entity**" shall mean:

(A) with respect to an Ownership Entity, a corporation or limited liability company that (i) is organized under the laws of any state of the United States or the District of Columbia, (ii) the equity of which is uncertificated, (iii) has no material assets other than Acquired Collateral, (iv) is not engaged in any business operations except in connection with the Acquired Collateral and conducted pursuant to terms of this Agreement and the Ancillary Documents, (v) does or causes to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises, (vi) at all times holds itself out to the public as a legal entity separate from any other Person (including any Affiliate), (vii) except as expressly contemplated by this Agreement, or the Ancillary Documents, does not commingle its assets with assets of any other Person, (viii) conducts its business in its own name and strictly complies with all organizational formalities to maintain its separate existence, (ix) maintains an arm's length relationship with any Affiliate upon terms that are commercially reasonable and on terms no less favorable to it than could be obtained in a comparable arm's length transaction with an unrelated Person, (x) has no Debt other than as expressly permitted by the Ancillary Documents and (xi) except as otherwise consented to in writing by the Initial Member, is a pass-through entity for tax purposes;

(B) with respect to the Company, a limited liability company that (i) is organized under the laws of Delaware, (ii) the equity of which is uncertificated, (iii) has no material assets other than the Loans, including Collateral and Ownership Entities, and its rights, title and interest in, to, and under this Agreement and the Ancillary Documents, (iv) is not engaged in any significant business operations except in connection with the Loans, including the Collateral and Ownership Entities and conducted in accordance with the terms of this Agreement and the Ancillary Documents, (v) does or causes to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises, (vi) at all times holds itself out to the public as a legal entity separate from any other Person (including any Affiliate), (vii) except as expressly contemplated by this Agreement or by any other Ancillary Documents, does not commingle its assets with assets of any other Person, (viii) conducts its business in its own name and strictly complies with all organizational formalities to maintain its separate existence, (ix) maintains an arm's length relationship with any Affiliate upon terms that are commercially reasonable and on terms no less favorable to it than could be obtained in a comparable arm's length transaction with an unrelated Person other than as expressly provided by this Agreement and the Ancillary Documents, (x) has no Debt other than as provided in this Agreement and the Ancillary Documents and (xi) except as otherwise consented to in writing by the Initial Member, is a pass-through entity for tax purposes; and

(C) with respect to the Managing Member (or any Qualified Transferee thereof), a corporation or limited liability company that (i) is organized under the laws of any state of the United States or the District of Columbia, (ii) the equity of which is uncertificated, (iii) has no material assets other than its rights, title and interest in, to, and under this Agreement and the Ancillary Documents, (iv) is not engaged in any significant business operations except in connection with the performance of its obligations under this Agreement and the Ancillary Documents, (v) does or causes to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises, (vi) at all times holds itself out to the public as a legal entity separate from any other Person (including any Affiliate), (vii) except as expressly contemplated by this Agreement or the Ancillary Documents, does not commingle its assets with assets of any other Person, (viii) conducts its business in its own name and strictly complies with all organizational formalities to maintain its separate existence, (ix) maintains an arm's length relationship with any Affiliate upon terms that are commercially reasonable and on terms no less favorable to it than could be obtained in a comparable arm's length transaction with an unrelated Person other than as otherwise expressly provided by this Agreement and the Ancillary Documents, (x) has no Debt and (xi) except as otherwise consented to in writing by the Initial Member, is a pass-through entity for tax purposes.

"**Starwood Member**" shall have the meaning given in the definition of "Change of Control".

"**Subservicers**" shall have the meaning given in Section 12.3(a).

"**Subservicing Agreement**" shall have the meaning given in Section 12.3(a).

"**Subsidiary**" shall mean, with respect to any specified Person, each of (i) any other Person not less than a majority of the overall economic equity in which is owned, directly

or indirectly through one of more intermediaries, by such specified Person, and (ii) without limitation of clause (i), any other Person who or which, directly or indirectly through one or more intermediaries, is Controlled by such specified Person (it being understood that with respect to each of clauses (i) and (ii) that a pledge for collateral security purposes of an equity interest in a Person shall not be deemed to affect the ownership of such equity interest by the pledgor or the Control of such Person so long as such pledgor continues to be entitled, in all material respects, to all the voting power and all the income with respect to such equity interest).

"**Successor**" shall mean, (i) with respect to Member, any future Member which is a direct or indirect transferee (whether by Permitted Disposition, merger, consolidation or otherwise) of the Interest of such Member; (ii) with respect to any former Member, the current Member which is the direct or indirect transferee (whether by Permitted Disposition, merger, consolidation or otherwise) of the Interest of such former Member and (iii) with respect to Initial Member, any Person that is a direct or indirect transferee (whether by Disposition, merger, consolidation or otherwise) of any of Initial Member's rights or interests under this Agreement or any other Ancillary Document.

"**Tax**" shall mean any federal, state, county, local, or foreign tax, charge, fee, levy, duty, or other assessment, including any income, gross receipts, transfer, recording, capital, withholding, property, ad valorem, or other tax or governmental fee of any kind whatsoever, imposed or required to be withheld by any governmental authority having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, including any interest, penalties and additions imposed thereon or with respect thereto.

"**Tax Matters Member**" shall have the meaning given in Section 7.5.

"**Term Loan**" shall have the meaning given in the Advance Facility.

"**Third Party Claim**" shall have the meaning given in Section 4.6(a)

"**Threshold Increase Amount**" as of any Distribution Date shall be equal to the product of (a) the Return Threshold as of the preceding Distribution Date (or, in the case of the first Distribution Date, the Closing Date) and (b) the Monthly Adjusted Annualized Yield.

"**TPG Member**" shall have the meaning given in the definition of "Change of Control".

"**Transfer Documents**" shall have the meaning given in the Contribution Agreement.

"**Treasury Regulations**" shall mean the regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code, as amended, and all references to sections of the Treasury Regulations shall include any corresponding provision or provisions of succeeding, substitute, proposed or final Treasury Regulations.

"**Unpaid Principal Balance**" shall mean, at any time, (a) when used in connection with multiple Loans, an amount equal to the aggregate then outstanding principal balance of such Loans, and (b) when used with respect to a single Loan, an amount equal to the then outstanding principal balance of such Loan; provided, however, that:

(i) with respect to any Loan Participation (and any related Acquired Collateral), the Unpaid Principal Balance of such Loan Participation shall include only the Initial Member's allocable share thereof in accordance with the applicable Loan Participation Agreement;

(ii) with respect to any Acquired Collateral that is included among the Loans on the Closing Date, the Unpaid Principal Balance of such Acquired Collateral shall initially be the amount set forth on the Cut-Off Date Loan Schedule (as defined in the LLC Interest Sale Agreement), adjusted as of the Closing Date to its Adjusted Unpaid Principal Balance, and thereafter determined in the same manner as all other Acquired Collateral;

(iii) in the case of a Loan for which some or all of the related Collateral has been converted to Acquired Collateral (including REO Property), until such time as the Acquired Collateral (or any portion thereof) is liquidated, the unpaid principal balance of such Loan shall be deemed to equal the amount of the unpaid principal balance of such Loan (adjusted pro rata for debt forgiveness or retained indebtedness) at the time at which such Loan was converted to Acquired Collateral, less the net proceeds of any sales of any portions of the Acquired Collateral effective after such conversion.

(iv) the Unpaid Principal Balance with respect to any Acquired Collateral will be increased by the amount of (A) any Term Loan applied with respect thereto in accordance with the Advance Facility, (B) any Servicing Expenses capitalized thereto in accordance with applicable Law to the extent that capitalizing such Servicing Expenses would have been permitted under the applicable Loan Documents prior to the conversion of the Loan to the Acquired Collateral and (C) Excess Working Capital Advances used for the purposes for which the proceeds of Term Loans may be used under the Advance Facility.

"**Unreimbursable Expense**" shall have the meaning given in Section 4.6(e).

"**USA PATRIOT Act**" has the meaning given in Section 10.1(q).

"**Working Capital Loans**" has the meaning given in the Advance Facility.

"**$**" shall mean lawful currency of the United States of America.

Annex II

Member Schedule

Member	Percentage Interests
Federal Deposit Insurance Corporation	60%
CCV Managing Member, LLC	40%

EXHIBIT A

CERTIFICATE OF FORMATION
OF
CORUS CONSTRUCTION VENTURE, LLC

Pursuant to and in accordance with the provisions of Section 18-201 of the Delaware Limited Liability Company Act, the undersigned hereby certifies that:

FIRST, the name of the limited liability company is Corus Construction Venture, LLC (the "**Company**").

SECOND, the address of the registered office of the Company in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent at such address is The Corporation Trust Company.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation of the Company on this ___ day of October, 2009.

By: _____
Name:
Title: Authorized Person

EXHIBIT B

INFORMATION; FORM OF MONTHLY REPORT

(Attached)

THIS REPORT OR SIMILAR REPORT TO BE PROVIDED FOR EACH ASSET MONTHLY. ASSET DETAILS AND DOLLAR AMOUNTS SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY

b6

Property Summary

Project Name	[redacted]
Loan Number	[redacted]
Property Type	[redacted]
Project Description	[redacted]

Unfunded Amounts

Original Commitment	[redacted]
Unfunded	[redacted]
Interest Reserve	[redacted]
Authorized Overage	[redacted]

Original Collateral

# of Units	[redacted]
Size (square footage)	[redacted]
Budgeted Sales Price	[redacted]

Units Sold

# of Units	[redacted]
Size (square footage)	[redacted]
Contract Price	[redacted]

Units Closed

# of Units	0	0%
Size (square footage)	0	0%
Net Proceeds	$ -	0%

Remaining Collateral

# of Units	[redacted]
Size (square footage)	[redacted]

Current Business Plan

Summary	XXXXXXXX
Expected Net Proceeds	
Condo Closings	$ -
Bulk Sale	$ -

Construction

Summary	XXXXXXXX							
% Complete	[redacted]							
	Original Budget		Change Orders	Current Budget	Paid To Date	Retainange	Balance to Compl	%age complete
Acquisition costs	$ [redacted]							
Hard Costs Budget	$ [redacted]							
Soft Costs Budget	$ [redacted]							
Total Budget	$ [redacted]		$ [redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

CUSTODIAN AND PAYING AGENT REPORT

DISTRIBUTION REPORT

Net Funds Available before Working Capital Advances	-
+ Current period Working Capital Advances	-
TOTAL FUNDS FOR DISTRIBUTION	-
Distributions:	
To Custodian and Payment Agent:	
Custodian and Paying Agent Fee	-
To Verification Contractor	
Verification Contractor Fee	-
To Advance Facility Agent	
Indemnification/reimbursement amounts due	-
To Collateral Agent	
Indemnification/reimbursement amounts due	-
To Advance Lender:	
Principal on Working Capital Loans	-
Interest on Working Capital Loans	-
Total on Working Capital Loans	-
Principal on Term Loans	-
Interest on Term Loans	-
Total on Term Loans	-
To Note Guarantor:	
Indemnification/reimbursement amounts due	
Reimbursement of Guarantee Payments	-
Interest (only if Purchase Money Trigger Event has occurred)	-
Total to Note Guarantor	-
To Defeasance Account	-
To Advance Lender	
Balance due to Advance Lender Escrow Account	-
To Managing Member:	
Reimbursement of Excess Working Capital Advances	-
Management Fee	-
Distribution on Equity	-
Total to Managing Member	-
To Initial Member:	
Management Fee	-
Indemnification/reimbursement amounts due	-
Distribution on Equity	-
Total to Initial Member	-
TOTAL DISTRIBUTIONS	-

Cashflow and Distribution Report -

[Month]

MANAGEMENT FEE CALCULATION

UPB, beginning of Due Period	-
Times Management Fee rate	1.00%
Divided by 12	12
Management Fee - gross	-
Less indemnification/reimbursement payments due to:	
Initial Member	-
Purchase Money Note Guarantor	-
Advance Facility Agent	-
Collateral Agent	-
Total payable from Management Fee	-
Management Fee due to Managing Member	-

If sum of these amounts exceeds total Management Fee for the month, allocate pro rata in proportion to amts due.

COLLECTION ACCOUNT

	Total	Interest Proceeds	Principal Proceeds
Principal Collections	-		-
Loan Sale Proceeds (including Excess Proceeds, if any)	-		-
REO Liquidation Proceeds (including Excess Proceeds)	-		
Interest Collections (gross)	-	-	
Servicing Expenses Recovered	-	-	
Other Collections (fee income, net rental income, etc.)	-	-	
Less: Servicing Expenses Paid	-	-	-
Less: Pre-Approved Charges Paid	-	-	-
Net Collection Account Proceeds	-	-	-

These items payable 1st from Interest Proceeds, then Principal.

CALCULATION OF REQUIRED WORKING CAPITAL ADVANCE

Net Collection Account Proceeds	-
Less fees payable:	
Custodian and Paying Agent Fees	-
Verification Contractor Fees	-
Management Fee	-
Funds Available after fees payable	-
Working Capital Advance (total above, if negative)	-

ALLOCATION OF PROCEEDS

Calculation of amount payable for items in Section 5.1 - Custodial and Paying Agency Agreement	Total Allocation	Interest Proceeds	Principal Proceeds, Excluding Excess Proceeds	Excess Proceeds
Net Proceeds from Collection Account	-	-	-	-
Working Capital Advance	-	-	-	-
Total Funds Available	-	-	-	-
Part I - Items payable first from Interest Proceeds, then				
5.1(a) **from Principal Proceeds**				
(i) Custodian and Paying Agent Fees	-	-	-	-
(ii) Verification Contractor Fees	-	-	-	-
(iii) Management Fee (see allocation of fee at top of page)	-	-	-	-
(iv) Advance Facility Interest Payments	-	-	-	-
Subtotal, Section 5.1(a)(i) - (iv)	-	-	-	-
Remaining Proceeds	-	-	-	-
5.1(b) **Part II Allocation**				
(ii) Principal pymt-Working Capital Loans under Adv Facility	-	-	-	
(iii) Principal payment on Term Loans under Advance Facility	-	-	-	
(iv) Reimbursement amts due Purchase Money Note Guarantor	-	-	-	
(v) Deposit to Defeasance Accounts	-	-	-	-
(vi) Reimbursement-Excess Working Capital Advances	-	-	-	-
(vii) Deposit to Advance Lender Escrow Account	-	-	-	-
Subtotal, Items 5.1(b)(ii) - 5.1(b)(vii)	-	-	-	-
Available for Distribution to Members	-	-	-	-
Distribution to Initial Member (60%/70%)	-			
Distribution to Managing Member (40%/30%)	-			
Total Distribution to Members	-			

These items payable first from Interest Proceeds, then from Principal Proceeds including Excess Proceeds as needed.

Apply Excess Proceeds to Advance Facility ONLY if Defeasance Accts are fully funded

Advance Facility

Monthly Roll Forward

[Month]

Advance Facility Monthly Roll	Unfunded Commitments	Interim Term Loans	Authorized Overages	Working Capital Advances (1)	Total
Cumulative Draws, beginning of month	0.00				0.00
Authorized Draw, current month					0.00
Cumulative Draws, end of month	0.00		0.00	0.00	0.00
Cumulative Repayments, beginning of month					0.00
Repayments, current month	0.00				0.00
Cumulative Repayments, end of month	0.00		0.00	0.00	0.00
Cumulative balance, current month-end	0.00		0.00	0.00	0.00
Maximum Authorized Advance	(2)		250,000,000.00	150,000,000.00	

LIBOR Determination Date	[2 Bus. Days prior to beg of calendar month]			
1-Mo. LIBOR				
Margin in Interim Term Loans	3.0000%			
Interest rate for month				
Interest Calculation:				
Loan Balance	$ -	$ -	$ -	
Interest rate				
Number of Days				
Interest Payment Due	$ -	$ -	$ -	$ -

(1) Working Capital Advances may be required to pay (a) the Asset Management Fee, (b) the Custodian/Paying Agent fees and exponses, (c) the Verification Contractor fees and expenses, (d) Servicing Expenses and (e) Pre-Approved Charges (collectively the "LLC Expenses")

(2) Prior to business plan approval $350,000,000. After business plan approval, the aggregate amount set forth in the business plans

Purchase Money Notes and Defeasance Accounts

Monthly Roll Forward

[Month]

Purchase Money Note Monthly Roll	Note Balance Beginning of Month	Payment from Defeasance Account	Payment from Note Guarantor	Note Balance End of Month
Term A Purchase Money Note	-	-	-	-
Term B Purchase Money Note	-	-	-	-
Term C Purchase Money Note	-	-	-	-
Total				

Defeasance Account Monthly Rollforward

(+)	Balance, beginning of month	-
(+)	Additions from Cash Flow	-
(+)	Investment Income	-
(-)	Release to Purchase Money Note	-
Defeasance Account balance, end of month		

Note Guarantor Payments

(+)	Balance, beginning of month	
(+)	Draws, current month	
(-)	Repayments, current month	
Balance, end of month		

Cumulative Payments to reimburse Note Guarantor

	Cumulative Payments, beginning of month	
(+)	Payments, current month	
Cumulative Payments, end of month		

Purchase Money Note Trigger Event

A Purchase Money Note Trigger Event will be deemed to have occurred if, as of any of the dates defined below, (a) the total amounts deposited into the Defeasance Accounts and any amounts paid to the Note Guarantor to reimburse draws under the FDIC Guarantee divided by (b) the original aggregate principal amount of the Purchase Money Notes as of the LLC Closing Date is less than:

- 5 Years from the LLC Closing Date:	25%
- 6 Years from the LLC Closing Date:	40%
- 7 Years from the LLC Closing Date:	60%
- 8 Years from the LLC Closing Date:	75%
- 9 Years from the LLC Closing Date:	90%

Monthly Loan & REO Rollforward Report

[Month]

Loans	# ASSETS	AMOUNT
Beginning pool balance (UPB)	**0**	-
(+) Commitments funded	0	-
(-) Payments received		-
(-) Payoffs	0	-
(-) UPB, transfers to REO	0	-
(-) Loss on sale and principal forgiveness		-
Ending pool balance		

REO		
Beginning UPB of REO properties	**0**	-
(+) UPB on REO transfers in	0	-
(+) Capitalized post-acquisition costs		-
(-) Net liquidation proceeds	0	-
(-) Recoveries		-
(+/-) Realized Gain (Losses)		-
Ending UPB of REO properties		

Advance and Escrow Accounts -

Monthly Roll Forward

[Month]

	Borrower T&I Escrow Account	Borrower Construction Escrow Acct	Total Escrow Accounts	(1) Servicer Advances
Balance, beginning of month	-	-	-	-
Borrower deposits	-	-	-	-
Payments/Advances	-	-	-	-
Advance Recoveries	-	-	-	-
Interest paid to borrowers	-	-	-	-
Balance, end of month	-	-	-	-
	(2)	(2)		(2)

(1) These may be broken out into additional fields at the discretion of the Managing Member/Servicer, such as breaking out the Corporate (Protective) Advances from other types of advances such as foreclosure costs.

(2) Loan servicing system should include fields to capture and report balances in each category and the totals shown above should agree to the asset-level detail tapes provided by the Managing Member/Servicer as of each month-end.

Excess Proceeds Report

[Month]

Loan Number	UPB	(A) Price Paid for Managing Member Interest in Loan	(B) Advances under Advance Facility	(A) + (B) = (C) Total	(D) Net Proceeds	(D) - (C) = (E) Excess	(F) * 75% Excess Proceeds

Delinquency report-

(Month)

Delinquency by Bucket & Default Classification

	Current		1-30 days		31-60 days		61-90 days		91-180 days		181-360 days	
	Loan Count (#)	UPB ($)	Loan Count (#)	UPB ($)	Loan Count (#)	UPB ($)	Loan Count (#)	UPB ($)	Loan Count (#)	UPB ($)	Loan Count (#)	UPB ($)
Total	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Return Threshold Tracking Report -

[Month]

PART A - Aggregate Distributions Test

Cumulative Equity Distributions to Managing Member, beginning of month	-
+ Current month distributions to Managing Member	-
- Asset management Fees	-
- Repayments of Excess Working Capital Advances	-
= Cumulative Equity distributions to Managing Member, end of month	-
CASH CONSIDERATION PAID BY MANAGING MEMBER TO INITIAL MEMBER *2	-
Amount Remaining to Return Threshold Event (Part A)	-

PART B - Calculation of IRR Return Threshold

IRR Return Threshold as of the preceding Distribution Date	-
+ IRR Threshold Increase Amount (2.5324% per month)	-
- Current month distribution to Managing Member	-
=IRR Return Threshold as of the current Distribution Date	- *

* The IRR Return Threshold can never be less than zero.

The Return Threshold Event shall occur if the results of Part A and Part B are both zero.

Loan Datafields (highlighted fields are not necessary for LLC's)
Instructions to be provided to LLC if submitting text files - excel files are preferred

Field #	Field Name	Description	Type	Width	Format
1	Borrower ID	Primary key identifier for the borrowing entity. This is the number used to uniquely identify the borrower, which may be the same as the CIF number. **This field must be populated.**	A/N	34	
2	Short Name	Obligor's abbreviated name. Individuals in order of last name, first name, middle initial. Businesses use truncated name. **This field must be populated.**	A/N	30	
3	Long Name	Obligor's full legal name. Format s/b first name, middle initial and last name. For businesses, use full legal name. **This field must be populated.**	A/N	40	
4	Address line 1	Borrower street address	A/N	40	
5	Address line 2	Borrower street address	A/N	40	
6	City	City in which the primary borrower has its main or head office.	A/N	40	
7	State	Post Office state code in which the primary borrower has its main or head office	A/N	2	
8	Zip Code	Zip code for the primary borrower's main or head office	A/N	9	
9	Address line 1	Property address where collateral is located	A/N	40	
10	Address line 2	Property address where collateral is located	A/N	40	
11	City	City in which the collateral is located	A/N	40	
12	State	Post Office state code in which collateral is located	A/N	2	
13	Zip Code	Zip code in which the collateral is located	A/N	9	
14	Taxpayer ID	Nine-digit code issued by the US Government (TIN). Individuals use social security number.	A/N	9	
15	Relationship Name	Unique identifying name associating related borrowers. The group name is associated with a unique group ID or relationship number. Do not enter CIF numbers here.	A/N	40	
16	Relationship ID	Unique ID used to identify a group of related borrowers.	A/N	34	
17	Note number	Primary key identifier for each note. **This field must be populated.**	A/N	34	
18	Total Commitment	The total amount of the commitment	N	15	9(12).99
19	Balance outstanding	Current outstanding principal balance of the note. **This field must be populated.** *In rare instances where the customer has overpaid the note and the bank is carrying a credit balance in this field, you may report the number as a negative balance with a minus sign in the first character position to the left of the highest-order digit. For instance, a credit balance of a negative $3,456.95 should be reported as -3456.95*	N	15	9(12).99
20	Undisbursed Commitment availability	Report the unused portions of commitments to make or purchase extensions of credit in the form of loans, participations, lease financing receivables or similar transactions. Include loan proceeds the bank is obligated to advance, such as loan draws, construction progress payments, seasonal advances under prearranged lines of credit, revolving credit facilities or similar transactions. Include the unused proceeds of commitments for which the bank has charged a commitment fee or otherwise has a legally binding commitment. This will many times be the unused portion of lines of credit, or the unfunded balance on a standby line of credit.	N	15	9(12).99
21	Origination Date	Date the loan was originated	D	8	YYYYMM
22	Last renewal date	The date the note was last renewed.	D	8	YYYYMM
23	Maturity Date	The date when full payment on the note is contractually due	D	8	YYYYMM
24	Last extension date	The date the note's maturity was last extended.	N	3	999
25	Number of renewals	The number of times the note has been renewed.	N	3	999
26	Number of extensions	The number of times the note's maturity date has been extended.	A/N	40	
27	Note purpose	Description of what the proceeds will be used for.	A/N	10	
28	Collateral Code	The code associated with the collateral type te g. commercial real estate, 1-4 family mortgages, UCC filings, marketable securities, etc.).	N	7	0.999999
29	Interest Rate	The contractual rate of interest currently applied to this note.	A/N	20	
30	Interest Rate Index	Interest rate base index used when the note's rate varies with an index.	N	7	9.99999
31	Interest Rate Spread	The interest rate variance from the index rate charged on this note. Express in terms of a percentage. For example the premium of a note written a Prime + 2.25% would be expressed as 0.02250. *If the interest rate is determined by deducting from the index (i.e., prime minus 2.25%), then report the spread in this field as negative. The entry left of the decimal point should either be a space or a zero if this field is positive, or a minus sign if it is not. An example would be - .02250*	N	15	9(12).99
32	Interest earned not collected	Total amount of interest accrued and not yet received on a note/credit facility. *In the case of pre-paid interest (borrower has paid ahead), report the data in this field with a minus sign in the first character position to the left of the highest-order digit. For instance, a pre-paid balance of $3,456.95 should be reported as -3456.95*	N	15	9(12).99
33	Charge off amount	Amount of principal charged off this note.	N	15	9(12).99
34	Specific Reserve	Amount of specific reserve for loan losses on this note, which is not available to offset losses on any other loan.	A/N	40	
35	Guarantor	Name of the entity/person that guarantees the note. With multiple guarantors, give the primary one.	N	5	99999
36	Days Past Due	The number of days the note is past due on the date this report is produced. *If the customer has paid ahead and the bank's system reflects this as a negative past due in this field, report the data in this field with a minus sign in the first character position to the left of the highest-order digit. For instance, a note that's paid ahead 30 days would be reported as -30*	D	8	YYYYMM
37	Interest paid-to date	The date to which interest payments are current.	Logic	1	Y/N
38	Nonaccrual	Indicator if the note has been placed on nonaccrual	A/N	20	
39	Type	The type of loan as defined by the vendor or user. For example Comm'l. RE, CRE TL, RC	A/N	1	P/S
40	Participation indicator	Indicator if the loan was purchased or sold. Enter a 'P' if it was purchased, 'S' if all or a portion is sold.	N	15	9(12).99
41	Amount Sold	The current balance of the amount sold	N	15	9(12).99
42	Participation Sold	The original amount of this note that was sold	A/N	50	
43	Collateral description	The narrative description of the collateral.			

Loan Datafields (highlighted fields are not necessary for LLC's)
Instructions to be provided to LLC if submitting text files - excel files are preferred

Field #	Field Name	Description	Type	Width	Format
44	Next due date	The date the next payment, principal or interest, is due. For delinquent loans, this will be in the past.	D	8	YYYYMM
45	Payment frequency	How often payments are contractually required (monthly, quarterly, annually, bullet, etc.)	A/N	10	
46	Variable Rate	Indicator if note's interest rate is adjustable, floating, or variable.	Logic	1	Y/N
47	Periodic Interest Rate Cap	The maximum change allowed to the interest rate at each re-pricing opportunity.	N	7	0.999999
48	Interest Rate Reset Interval	The time between periodic reset dates for variable or adjustable rate loans expressed in days. For instance, a note that adjusts weekly would have a "7" in this field, variable-rate notes adjusting monthly a "30" and so on.	N	4	9999
49	Lifetime Interest Rate	The maximum rate the note can reach over its contractual term.	N	7	0.999999
50	Troubled Debt Restructured	Indicator if the note is considered to be a troubled debt restructure.	Logic	1	Y/N
51	Amortizing/Non-amortizing status	Indicate if the note is amortizing with a 'Y'. Indicator should be an "N" for notes where payments have been suspended.	Logic	1	Y/N
52	Payment amount	Amount of regularly scheduled payment.	N	15	9(12).99
53	Last Payment Date	Date the last payment was made.	D	8	YYYYMM
54	Capitalized Interest	The amount of interest added to the note's principal balance.	N	15	9(12).99
55	Number of payments in contract	The contractual number of payments required by the note.	N	3	999
56	Collateral Value	The dollar value the bank ascribes to all collateral securing this note.	N	15	9(12).99
57	Collateral Valuation/ Appraisal Date	Date collateral was last appraised or valued.	D	8	YYYYMM DD
58	Lien Status	The priority lien held by this bank (e.g., 1st lien, 2nd lien, etc.)	A/N	20	
59	T&I Escrow Balance	The amount currently held in escrow for payment to third parties for taxes and insurance. *In the case of a negative escrow balance, report the data in this field with a minus sign in the first character position to the left of the highest-order digit. For instance, an escrow of a negative $3,456.95 should be reported as -3456.95.*	N	15	9(12).99
60	Borrower Construction Escrow	The amount currently held in escrow for construction costs.	N	15	9(12).99
61	Servicer Advances	The amount paid by the servicer for protective advances that are reimbursable by the borrower or guarantor.	N	15	9(12).99
62	Co-maker\Joint-maker	The name of the co-maker(s) or joint maker(s) whose signature(s) appears on the promissory note or loan agreement. Identify first one where there are multiple co-makers.	A/N	40	
63	Late Charges	Late charges currently due and unpaid.	N	15	9(12).99

REO Report

(Month)

						Cumulative			Current Month		Non-Completed Expenses									
Loan#	Foreclosure Date	Description	Collateral Type	Address	UPB at Foreclosure	Post-Acquisition Costs Capitalized	Cash Receipts Applied to Principal	Current UPB	Post-Acquisition Costs Capitalized	Cash Receipts Applied to Principal	Current Month	Cumulative	Listing Date	Est Sale Date	Appraisal Amount	Original List Price	Current List Price	Broker Name	Comments
TOTAL																			