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EXECUTION VERSION

SERVICING AGREEMENT

by and between

CCV MANAGING MEMBER, LLC

and

TRIMONT REAL ESTATE ADVISORS, INC.

Dated as of October 16, 2009

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND CONSTRUCTION	1
Section 1.1 <u>Definitions</u>	1
ARTICLE II SERVICING OBLIGATIONS OF THE SERVICER.....	11
Section 2.1 <u>Appointment and Acceptance as Servicer</u>	11
Section 2.2 <u>Limited Power of Attorney</u>	11
Section 2.3 <u>Servicing Fee</u>	11
Section 2.4 <u>Servicing Standard</u>	11
Section 2.5 <u>Collection Account</u>	12
Section 2.6 <u>Escrow Accounts</u>	12
Section 2.7 <u>Other Accounts</u>	13
Section 2.8 <u>Maintenance of Insurance Policies; Errors and Omissions and Fidelity Coverage</u>	13
Section 2.9 <u>Expenses</u>	14
Section 2.10 <u>Insured or Guaranteed Loans</u>	15
ARTICLE III LOAN DEFAULTS; ACQUISITION OF COLLATERAL	15
Section 3.1 <u>Delinquency Control</u>	15
Section 3.2 <u>Discretion of the Servicer in Responding to Defaults of Borrower</u>	15
Section 3.3 <u>Acquisition of Acquired Collateral</u>	15
ARTICLE IV SUBSERVICING	16
Section 4.1 <u>Retention of Subservicer</u>	16
Section 4.2 <u>Subservicing Agreement Requirements</u>	16
Section 4.3 <u>Servicer Liable for Subservicers</u>	18
Section 4.4 <u>Managing Member Approval Required</u>	19
Section 4.5 <u>Regulation AB Requirements</u>	19
ARTICLE V REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SERVICER	19
Section 5.1 <u>Representations and Warranties</u>	19
Section 5.2 <u>Reporting, Books and Records and Compliance Covenants</u>	20
Section 5.3 <u>Audits</u>	23
Section 5.4 <u>No Liens</u>	23
Section 5.5 <u>Servicer's Duty to Advise; Delivery of Certain Notices</u>	24
Section 5.6 <u>Notice of Breach</u>	24
Section 5.7 <u>Advances</u>	25
Section 5.8 <u>Financial Information</u>	25
ARTICLE VI MANAGING MEMBER CONSENT	25
Section 6.1 <u>Actions Requiring Managing Member Consent</u>	25
Section 6.2 <u>Amendments, Modification and Waivers</u>	27

Section 6.3	<u>Consents Considered Obtained Through Approved Business Plan</u>	27
ARTICLE VII	DEFAULTS; TERMINATION; TERMINATION WITHOUT CAUSE	27
Section 7.1	<u>Defaults</u>	27
Section 7.2	<u>Termination with Cause</u>	28
Section 7.3	<u>Termination without Cause</u>	29
Section 7.4	<u>Effective Date</u>	29
Section 7.5	<u>Accounting</u>	30
ARTICLE VIII	INDEPENDENCE OF PARTIES; INDEMNIFICATION	30
Section 8.1	<u>Independence of Parties</u>	30
Section 8.2	<u>Indemnification</u>	30
Section 8.3	<u>Procedure for Indemnification</u>	31
Section 8.4	<u>Pre-Effective Date Liabilities</u>	31
ARTICLE IX	NOTICES	32
ARTICLE X	GOVERNING LAW; JURISDICTION	34
Section 10.1	<u>Governing Law</u>	34
Section 10.2	<u>Jurisdiction; Venue and Service</u>	34
Section 10.3	<u>Waiver of Jury Trial</u>	36
ARTICLE XI	MISCELLANEOUS	36
Section 11.1	<u>No Assignment by Servicer; No Transfer of Ownership Interests in Servicing Rights</u>	36
Section 11.2	<u>Legal Fees</u>	37
Section 11.3	<u>Entire Agreement</u>	37
Section 11.4	<u>Counterparts; Facsimile Signatures</u>	37
Section 11.5	<u>Headings</u>	37
Section 11.6	<u>Construction</u>	38
Section 11.7	<u>Compliance with Law</u>	38
Section 11.8	<u>Severability</u>	38
Section 11.9	<u>Third Party Beneficiaries</u>	39
Section 11.10	<u>Protection of Confidential Information</u>	39
Section 11.11	<u>Time of Essence</u>	40
Section 11.12	<u>No Presumption</u>	40
Section 11.13	<u>No Right of Setoff</u>	40
Section 11.14	<u>Release of Initial Member and Others</u>	40

SCHEDULES AND EXHIBITS

Exhibits

Exhibit A

Loan Schedule

Schedules

Schedule 1

Fee Schedule

Schedule 2

Servicing Obligations

Schedule 3

Reimbursement of Servicer Advances

Schedule 4

Form of Electronic Report on the Loans and Collateral

Schedule 5

Termination Without Cause

SERVICING AGREEMENT

THIS SERVICING AGREEMENT (as the same shall be amended or supplemented, this "**Agreement**") is made and entered into as of the 16th day of October, 2009 (the "**Effective Date**"), by and between CCV MANAGING MEMBER, LLC, a Delaware limited liability company (including its successors and assigns), the "**Managing Member**", and TRIMONT REAL ESTATE ADVISORS, INC., a Georgia corporation (including those of its successors and assigns as are expressly permitted pursuant to this Agreement, the "**Servicer**").

RECITALS

WHEREAS, Corus Construction Venture, LLC (the "**Company**") owns the Loans (as defined below) described on the Loan Schedule attached hereto as Exhibit A (the "**Loan Schedule**");

WHEREAS, the Managing Member is the managing member of the Company and is obligated to manage the Loans and related Collateral (as defined below) pursuant to that certain Amended and Restated Limited Liability Company Operating Agreement dated as of the Effective Date (the "**LLC Operating Agreement**"), by and between the Company, the Managing Member and the Federal Deposit Insurance Corporation, as receiver ("**Receiver**") for Corus Bank, N.A., including its successors and assigns (the "**Initial Member**"); and

WHEREAS, the Managing Member and the Servicer desire that the Servicer service and administer the Loans and Collateral on behalf of the Company and the Managing Member in a manner that is, at all times, consistent with the requirements of this Agreement.

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

ARTICLE I **DEFINITIONS AND CONSTRUCTION**

Section 1.1 **Definitions.** For purposes of this Agreement, the following terms shall have the meanings and definitions hereinafter respectively set forth.

"**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.

"**Acquired Collateral**" shall mean Collateral to which title is or, prior to the Effective Date was, 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, in any such case in accordance with the Loan Documents and this Agreement; (ii) the equity interests in the Ownership Entities and (iii) the assets held directly or indirectly by the Ownership Entities.

“Advance Facility” shall mean that certain Advance Facility Agreement dated as of the Effective Date between the Company, as borrower, the lenders party thereto, and Receiver, as the Administrative Agent (the Receiver in such capacity, together with its successors and assigns, **“Advance Facility Agent”**).

“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 Note Guarantor, the Advance Facility Agent, the initial Lender under the Advance Facility or the Collateral Agent shall be deemed to be an Affiliate of the Company or of any Affiliate of the Company. For the purposes of this definition, the term **“control”** (including the phrases **“controlled by”** and **“under common control with”**) when used with respect to any specified Person means 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.

“Agreement” shall have the meaning given in the preamble.

“Ancillary Documents” shall have the meaning given in the LLC Operating Agreement.

“Approved Business Plan” shall have the meaning given in the Advance Facility.

“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 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) 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 Day” shall mean any day except a Saturday, Sunday or other day on which commercial banks in New York, New York, Atlanta, Georgia or United States federal government offices are required or authorized by Law to close.

“Change of Control” shall mean the acquisition by any Person (other than Ernest Joseph Davis, John Charles or Jessie Gregory Winchester) of more than 50% of the total outstanding common equity or other voting interests of the Servicer.

“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, 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 Agent” shall mean the Receiver, as the Collateral Agent under the Security Agreement, and any successor Collateral Agent thereunder.

“Collateral Document” shall mean any pledge agreement, security agreement, personal or corporate guaranty, deed of trust, 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 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 any Acquired Collateral.

“Collection Account” shall mean the Collection Account established by the Company pursuant to the Custodial and Paying Agency Agreement.

“Contribution Agreement” shall mean the Loan Contribution and Sale Agreement dated as of the Effective Date between the Initial Member and the Company.

“Company” shall have the meaning given in the recitals of this Agreement.

“Custodial and Paying Agency Agreement” shall have the meaning given in the LLC Operating Agreement.

“Custodian” shall mean Wells Fargo Bank, N.A., or any successor thereto.

“Debtor Relief Laws” shall mean Title 11 of the United States Code (11 U.S.C. §§101, et seq.), and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” shall have the meaning given in Section 7.1.

“Effective Date” shall have the meaning given in the preamble of this Agreement.

“Eligible Account” shall mean one or more segregated trust or custodial account or accounts established and maintained with an Eligible Institution, each of which shall be entitled for the benefit of the Company and the Collateral Agent as required by Article II.

“Eligible Institution” shall mean a Person that is not an Affiliate of the Managing Member and that is a federally insured depository institution that is well capitalized; provided that an Affiliate of the Managing Member may be deemed to be an Eligible Institution if the Initial Member, the Note Guarantor and the Advance Facility Agent provide a written consent

(which may be withheld in each such person's sole and absolute discretion), which consent may be withdrawn upon written notification to the Managing Member, in which case such Affiliate of the Managing Member shall no longer constitute an Eligible Institution as of the receipt of such notice and any accounts maintained pursuant to this Agreement at such institution shall be moved to an Eligible Institution within three (3) Business Days after the receipt of such notice.

"Electronic Report" shall have the meaning given in Section 5.2(e).

"Environmental Hazard" shall have the meaning given to such term in the Security Agreement.

"Escrow Account" shall have the meaning given in Section 2.6.

"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.

"Excess Working Capital Advance" shall have the meaning given in the Advance Facility.

"Excluded Expenses" shall mean fees, costs, expenses or indemnified amounts that:

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

(b) are not incurred in accordance with the Servicing Standard;

(c) are paid to any Affiliate of the Managing Member or the Company, or any Affiliate of the Servicer or any Subservicer, except that Excluded Expenses shall not include (i) 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 the 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 arrangement was contemplated by an Approved Business Plan, and (ii) any other payments to such Affiliates expressly permitted pursuant to this Agreement;

(d) are incurred to pay 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 or sales commissions) are approved in advance by the Initial Member, the Note Guarantor and the Advance Facility Agent or (y) in connection with the marketing or sale of any Acquired Collateral (including any REO Property) or any portion thereof on an individual basis;

(e) are incurred to pay 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 Servicer or any Subservicer as a result of the Servicer's or any Subservicer's failure to service any Loan or Collateral properly in accordance with the applicable Loan Documents, this 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;

(f) are incurred to pay any interest on any amounts paid by any Person with respect to any Servicing Expenses or Pre-Approved Charges (as such term is defined in the Contribution Agreement);

(g) constitute or are incurred to pay any overhead or administrative costs incurred by the Servicer or Subservicer or any other Person (including any expenses incurred to comply with Section 5.2); or

(h) are incurred to pay any servicing, management or similar fees paid to any Subservicer or any other Person, except that Excluded Expenses shall not include (subject to clause (c) above) any fees paid to any property managers of any REO Properties.

“Failed Bank” shall mean Corus Bank, N.A.

“Fannie Mae” shall mean the Federal National Mortgage Association of the United States or any successor thereto.

“Fee Schedule” shall mean Schedule 1, as the same may be amended from time to time by the Managing Member and the Servicer without the consent of the Note Guarantor, the Advance Facility Agent or the Initial Member.

“FDIC” shall mean the Federal Deposit Insurance Corporation, in any capacity.

“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.

“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 given in Section 8.2.

“Initial Member” shall have the meaning given in the recitals of this Agreement.

“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 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 is not vacated or stayed, or if such appointment is stayed, at least sixty (60) days have passed following the expiration of such stay if such appointment is not 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 any other Debtor Relief Law.

“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 Managing Member.

“LLC Operating Agreement” shall have the meaning given in the recitals of this Agreement.

Corus - Servicing Agreement

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

“Lien” shall mean any mortgage, deed of trust, deed to secure debt, trust deed, pledge, 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 and any other lien, claim or encumbrance of any nature whatsoever.

“Loan” shall mean any loan, loan participation, Ownership Entity or Acquired Collateral listed on the Loan Schedule, and any loan into which any asset listed on the Loan Schedule is refinanced or modified, including all rights, powers or Liens of the Company in or under the Collateral and the Collateral Documents and in and to Acquired Collateral (including all Ownership Entities and REO Property held by any Ownership Entity).

“Loan Documents” shall mean all documents, agreements, certificates, instruments and other writings (including all Collateral Documents) now or hereafter executed by or delivered or caused to be delivered by any Borrower, any Guarantor or any other obligor evidencing, creating, guaranteeing or securing, or otherwise executed or delivered in respect of, all or any part of a Loan or any Acquired Collateral or evidencing any transaction contemplated thereby, and all Modifications thereto.

“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) 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.

“Loan Schedule” shall have the meaning given in the recitals of this Agreement.

“Managing Member” shall have the meaning given in the preamble.

“Modification” shall mean any extension, renewal, substitution, replacement, supplement, amendment or modification of any agreement, certificate, document, instrument or other writing, whether or not contemplated in the original agreement, document or instrument.

“Note” shall mean each note or promissory note, lost instrument affidavit, loan agreement, shared credit, co-lending or loan participation agreement, intercreditor agreement, reimbursement agreement, any other evidence of indebtedness of any kind, or any other agreement, document or instrument evidencing a Loan, and all Modifications to the foregoing.

“Note Guarantor” shall mean the FDIC, in its corporate capacity, as Purchase Money Note Guarantor under the Purchase Money Notes Guaranty (as such terms are defined in the LLC Operating Agreement).

“Other Accounts” shall have the meaning given in Section 2.7.

“Ownership Entity” shall mean any direct wholly-owned subsidiary of the Company satisfying the requirements of an “Ownership Entity” as such term is defined in the LLC Operating Agreement, whether contributed by the Initial Member to the Company on the Effective Date or formed or acquired by the Company thereafter.

“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.

“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, 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 Managing Member in its sole discretion (it being understood that the Managing Member will not be permitted to consent unless the Initial Member also consents).

“Receiver” shall have the meaning given in the recitals of this Agreement.

“Regulation AB” shall mean the regulations at 17 C.F.R. §§229.1100, et seq., as the same may be amended from time to time.

“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.

“REO Property” shall mean real property and related personal property to which title is acquired by or on behalf of the Company, 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, in any such case, whether before or after the Effective Date.

“Security Agreement” shall mean the Reimbursement, Security and Guaranty Agreement dated as of the Effective Date among the FDIC, acting in its corporate capacity, and as Receiver, as Collateral Agent and as Advance Facility Agent, the Company and the guarantors party thereto.

“Servicer” shall have the meaning given in the preamble.

“Servicer Advances” shall mean advances made by or on behalf of the Servicer to fund Servicing Expenses.

“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 each 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 of the LLC Operating Agreement, 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 (as defined in the LLC Operating Agreement) in accordance with the LLC Operating Agreement and the Ancillary Documents and allege, as the basis for such claims, any act or omission of the Company (or the Managing Member under the LLC Operating Agreement or the Servicer hereunder) 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 under the LLC Operating Agreement or the Servicer hereunder) or if decided against the Company (or the Managing Member under the LLC Operating Agreement or the Servicer hereunder) 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 the LLC Operating Agreement, expenses incurred in accordance with Section 4.5(c) of the Contribution Agreement and expenses incurred in connection with any litigation (including any bankruptcy action) included in the Obligations (as defined in the Contribution Agreement) 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 Security Agreement), including mortgage recording taxes, and the costs associated with the additional documentation required pursuant to Section 8.11 of the Security Agreement, in each case pursuant to Section 8.11 of the Security Agreement; provided, however, that Servicing Expenses shall not include (A) any Excluded Expenses or (B) costs of construction or any other costs or expenses to be funded using the proceeds of the Term Loans under the Advance Facility.

“**Servicing Fee**” shall have the meaning given in Section 2.3.

“**Servicing Obligations**” shall have the meaning given in Section 2.4.

“**Servicing Standard**” shall have the meaning given in Section 2.4.

“**Site Assessment**” shall have the meaning given in Section 3.3.

“**Specified Date**” shall mean the 10th day of each month, or such other day as is agreed to by the Servicer and the Managing Member, provided, however, that, in any case, if such day is not a Business Day, the Specified Date shall be the immediately preceding Business Day.

“**Subservicer**” shall have the meaning given in Section 4.1.

“**Subservicing Agreement**” shall have the meaning given in Section 4.2.

“**Term Loans**” shall have the meaning given in the Advance Facility.

“**Termination Notice**” shall mean any written notice of termination required pursuant to Article VII.

“**Uniform Commercial Code**” shall mean the Uniform Commercial Code as in effect in any applicable jurisdiction, as amended from time to time.

“**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 (as defined in the LLC Operating Agreement) (and any related Acquired Collateral), the Unpaid Principal Balance of such Loan Participation shall include only the Company’s allocable share thereof in accordance with the applicable Loan Participation Agreement (as defined in the LLC Operating Agreement);

(ii) with respect to any Acquired Collateral that has been included among the Loans on the Effective 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 Effective Date to its Adjusted Unpaid Principal Balance (as defined in the LLC Interest Sale Agreement), 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; and

(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.

“Working Capital Loans” shall have the meaning given in the Advance Facility.

ARTICLE II

SERVICING OBLIGATIONS OF THE SERVICER

Section 2.1 **Appointment and Acceptance as Servicer.** Effective as of the date hereof, the Managing Member appoints the Servicer to service, administer, manage and dispose of the Loans and the Collateral on behalf of and as an agent of the Managing Member.

Section 2.2 **Limited Power of Attorney.** The Managing Member hereby grants to the Servicer a limited power of attorney to execute all documents on its behalf in accordance with the Servicing Standard set forth below and as may be necessary to effectuate the Servicer’s obligations under this Agreement until such time as the Managing Member revokes said limited power of attorney. Revocation of the limited power of attorney shall take effect upon: (i) the receipt by the Servicer of written notice thereof from or on behalf of the Managing Member, or (ii) termination of this Agreement pursuant to **Article VII**.

Section 2.3 **Servicing Fee.** As consideration for servicing the Loans and the Collateral, the Managing Member shall pay the Servicer a servicing fee in the amount and at such times as are set forth on the Fee Schedule (the **“Servicing Fee”**).

Section 2.4 **Servicing Standard.** The Servicer shall take such actions and perform such duties in connection with the servicing, administration, management and disposition of the Loans and Collateral as are set forth on **Schedule 2**, as the same may be amended from time to time by the Managing Member and the Servicer (the **“Servicing Obligations”**). The Servicer shall perform its Servicing Obligations (i) in the best interests and for the benefit of the Company, (ii) in accordance with the terms of the Loans (and related Loan Documents), (iii) in accordance with the terms of this Agreement (including this **Article II**), (iv) in accordance with all applicable Law, (v) in accordance with the requirements of the LLC Operating Agreement, the Advance Facility and the other Ancillary Documents, and (vi) 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 requirements in clauses (i) through (vi) collectively, the "**Servicing Standard**"). In addition, the Servicer shall perform its Servicing Obligations without regard to (a) any relationship that the Servicer, the Company, the Managing Member or any 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, (b) the Company's, the Managing Member's, the Servicer's or any Subservicer's obligation to make disbursements and advances with respect to the Loans and the Collateral, (c) 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 any Subservicing Agreement), and (d) the Servicer's or any Subservicer's right to receive compensation (including the Servicing Fee) for its services under this Agreement or any Subservicing Agreement.

Section 2.5 Collection Account.

(a) The Servicer shall deposit into the Collection Account all Loan Proceeds on a daily basis (without deduction or setoff as provided in Section 11.13 hereof) within two Business Days after receipt thereof by the Servicer. The Servicer shall not cause funds from any other source (other than interest or earnings on the Loan Proceeds and the proceeds of Working Capital Loans pursuant to the terms of the Advance Facility) to be commingled in the Collection Account.

(b) Except as otherwise directed by the Managing Member, any and all amounts on deposit in (or that are required to have been deposited into) the Collection Account (including interest and earnings thereon) shall be disbursed strictly in accordance with this Agreement; provided, however, that if the Servicer or any Subservicer erroneously deposits any amounts into the Collection Account, it may withdraw such erroneously deposited amount.

(c) Except as otherwise directed by the Managing Member, any and all amounts required to be remitted by the Servicer to the Collection Account under this Agreement shall be remitted by wire transfer, in immediately available funds.

(d) The Collection Account (and all funds therein) will be subject to an account control agreement among the Company, the Collateral Agent and the Custodian.

Section 2.6 Escrow Accounts. Except as otherwise directed by the Managing Member, the Servicer shall establish and maintain one or more Eligible Accounts, each of which shall be held in trust for the benefit of the Company and the Collateral Agent (each, an "**Escrow Account**"), which term shall include all so-called "lockbox" accounts maintained under the Loan

Documents and any other accounts maintained by the Company under the Loan Documents for amounts deposited or required to be deposited therein by the applicable Borrower). Except as otherwise directed by the Managing Member, the Servicer shall deposit into the applicable Escrow Account on a daily basis all collections from the Borrowers for the payment of taxes, assessments, hazard insurance premiums, and comparable items for the account of the Borrowers, and all other amounts required to be deposited in such Escrow Account pursuant to the applicable Loan Documents. The Servicer shall pay to the Borrowers interest on funds in Escrow Accounts to the extent required by Law or the applicable Loan Documents.

Section 2.7 Other Accounts. At the direction of the Managing Member, the Servicer shall establish and maintain such other Eligible Accounts as may be directed by the Managing Member, each of which shall be held in trust for the benefit of the Company and the Collateral Account, and shall be funded and disbursed only in accordance with such instructions as are provided by the Managing Member ("Other Accounts").

Section 2.8 Maintenance of Insurance Policies; Errors and Omissions and Fidelity Coverage.

(a) The Servicer and each Subservicer shall cause insurance coverage to be maintained for the Collateral (including any Acquired Collateral) as required under the Advance Facility and the Security Agreement.

(b) 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 the Managing Member.
- (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 Section 2.8(b)(i)-(vii) above.

(c) Copies of fidelity bonds and insurance policies required to be maintained pursuant to this Section 2.8 shall be made available to the Managing Member, the Note Guarantor, the Advance Facility Agent, the Initial Member and their respective representatives upon request.

Section 2.9 Expenses. Except as otherwise directed by the Managing Member, the Servicer shall use its reasonable best efforts to recover from Borrowers and Guarantors all amounts of Servicing Expenses that are advanced as Servicer Advances by the Servicer to the extent that the Borrowers and Guarantors are responsible for such Servicing Expenses under the Loan Documents. All such amounts not recovered from Borrowers or Guarantors and all other Servicer Advances shall be reimbursed only in accordance with the terms set forth on Schedule 3, as the same may be amended from time to time by the Managing Member (without the consent of the Initial Member) and the Servicer. In no event may any Servicer Advances be deductible from or netted against any Loan Proceeds. In the event the Servicer is reimbursed for any amount that does not qualify as a Servicing Expense, the Servicer shall be obligated to refund such amounts to the Company on the Specified Date immediately following the Servicer's

receipt of notice from the Managing Member requesting the same. No Servicer Advances shall bear interest chargeable in any way to the Company or deductible from any Loan Proceeds.

Section 2.10 Insured or Guaranteed Loans. If any Loans being serviced pursuant to this Agreement are insured or guaranteed by any Governmental Authority, the Servicer acknowledges and agrees that, if the Managing Member so directs pursuant to the Servicing Obligations with respect to such Loans, it shall take any and all actions as may be necessary to insure that such insurance or guarantees remain in full force and effect. The Servicer acknowledges and agrees that, upon assumption of the Servicing Obligations with respect to the Loans pursuant to this Agreement, it agrees to fulfill all of the Company's obligations under the contracts of insurance or guaranty.

ARTICLE III

LOAN DEFAULTS; ACQUISITION OF COLLATERAL

Section 3.1 Delinquency Control. Except as otherwise directed by the Managing Member, the Servicer shall maintain a collection department that substantially complies with the Servicing Standard and protects the Company's interests in the Loans and the Collateral in accordance with the Servicing Standard.

Section 3.2 Discretion of the Servicer in Responding to Defaults of Borrower. 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 Obligations of the Servicer and such direction as the Managing Member may otherwise provide that is consistent with the Servicer's compliance with the Servicing Standard, the Servicer, with the consent of the Managing Member, shall cause to be determined the response to such default and course of action with respect to such default, including (a) 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, (b) the declaration and recording of a notice of such default and the acceleration of the maturity of the Loan, (c) the institution of proceedings to foreclose the Loan Documents, Collateral or Acquired Collateral securing the Loan pursuant to the power of sale contained therein or through a judicial action, (d) the institution of proceedings against any Guarantor, (e) the acceptance of a deed in lieu of foreclosure, (f) 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 (g) the institution or continuation of proceedings to obtain a deficiency judgment against such Borrower or any Guarantor and the collection of such judgment. Notwithstanding anything to the contrary contained herein, the Servicer shall not, in connection with any such default or otherwise, take (or refrain from taking) any action if the taking (or refraining from taking) of such action is inconsistent with the terms of the Advance Facility, the LLC Operating Agreement or any other Ancillary Documents or any applicable Approved Business Plans without the prior written consent of the Managing Member.

Section 3.3 Acquisition of Acquired Collateral. Any acquisition of Collateral shall conform with the terms and conditions of this Agreement (including the Servicing Obligations of the Servicer). With respect to any Loan as to which the Servicer has received actual notice of, or has actual knowledge of, any Environmental Hazard with respect to the

related Collateral, the Servicer shall immediately provide written notice of same to the Managing Member. In addition, if the Managing Member so directs, prior to the acquisition of title to any Collateral, the Servicer shall cause to be commissioned with respect to such Collateral (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. Except as is otherwise directed by the Managing Member, the Servicer or any Subservicer shall not acquire or otherwise cause the Company or any subsidiary or other entity in which the Company owns any interest to acquire all or any portion of any Collateral having any actual or threatened Environmental Hazard by foreclosure, deed in lieu of foreclosure, power of sale or sale pursuant to the Uniform Commercial Code or otherwise. 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 by and held in the name of an Ownership Entity; provided, however, that for any Collateral which becomes Acquired Collateral after the Effective Date and 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.

ARTICLE IV **SUBSERVICING**

Section 4.1 Retention of Subservicer. The Servicer may engage or retain one or more subservicers, including Affiliates of the Managing Member or of the Servicer (individually and collectively, "Subservicer"), as it may deem necessary and appropriate, provided that any Subservicer meets the requirements set forth in the definition of Qualified Servicer.

Section 4.2 Subservicing Agreement Requirements. Any subservicing agreement with any Subservicer ("Subservicing Agreement") shall, among other things:

- (a) provide for the servicing of the Loans and management of the Collateral by the Subservicer in accordance with the Servicing Standard and the other terms of this Agreement and the LLC Operating Agreement;
- (b) be terminable upon no more than thirty (30) days prior notice in the event of any Default under this Agreement or any default under the Subservicing Agreement as set forth in Section 4.2(m) below;
- (c) provide that the Servicer as well as the Managing Member and the Initial Member shall each be entitled to exercise termination rights thereunder;

(d) provide that the Subservicer and the Servicer acknowledge that the Subservicing Agreement constitutes a personal services agreement between the Servicer and the Subservicer;

(e) provide that each of the Initial Member and the Managing Member is a third party beneficiary under the Subservicing Agreement for all purposes and is entitled to enforce the Subservicing Agreement, and that each of the Note Guarantor the Advance Facility Agent and the Company is a third party beneficiary thereunder to the extent of any rights expressly granted to such Person under the Subservicing Agreement and is entitled to enforce the Subservicing Agreement with respect to such rights;

(f) provide that (i) upon notice from the Initial Member or the Managing Member of the occurrence of any Event of Default (as defined in the LLC Operating Agreement) under the LLC Operating Agreement and removal of the Managing Member, the Initial Member may exercise all of the rights of the Managing Member under this Agreement and cause the termination or assignment to any other Person of the same, without penalty or payment of any fee and that (ii) upon the occurrence of any Default under this Agreement, each of the Managing Member and the Initial Member may exercise all of the rights of the Servicer under the Subservicing Agreement and cause the termination or assignment of the Subservicing Agreement to any other Person, without penalty or payment of any fee;

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

(h) provide that all Loan Proceeds are to be deposited into the Collection Account on a daily basis (without reduction or setoff as provided in Section 11.13 hereof) within two Business Days after receipt thereof and that under no circumstances are any 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 into the Collection Account;

(i) provide that the Subservicer shall not sell, transfer or assign its rights under the Subservicing Agreement with the Servicer and that any prohibited transaction shall be void *ab initio*;

(j) provide that the Subservicer consents to the immediate termination of the Subservicer pursuant to Section 7.2 of this Agreement;

- (k) provide that there shall be no right of setoff on the part of the Subservicer,
- (l) provide for such other matters as are necessary or appropriate to ensure that the Subservicer is obligated to comply with the Servicing Obligations of the Servicer hereunder in the conduct of such matters as are delegated to the Subservicer,
- (m) (i) contain default provisions that relate to the actions of the Subservicer that correspond to the provisions of Sections 7.1(a), (b), (c), (d), (e), (f), (g) and (h) of this Agreement, and (ii) provide that each of the Managing Member and the Initial Member has the right (x) to terminate the Subservicing Agreement by providing written notice upon the occurrence of any such default, without any cure period other than as may be provided for in such default provisions under such Subservicing Agreement (which cure periods shall be no longer than the cure provisions in the corresponding provisions of Section 7.1 of this Agreement), and upon the occurrence of any Default under this Agreement, and (y) otherwise to enforce the rights of the Servicer under the Subservicing Agreement;
- (n) provide that (i) the Subservicer consents to its immediate termination under the Subservicing Agreement upon a Default under Section 7.1(b) of this Agreement and upon the occurrence of any Insolvency Event with respect to the Subservicer or any of its Related Parties, and (ii) the occurrence of any Insolvency Event with respect to the Subservicer or any of its Related Parties constitutes a default under the Subservicing Agreement;
- (o) provide a full release and discharge of the Initial Member, the FDIC, the Failed Bank and any predecessor-in-interest thereof, any Ownership Entities existing as of the Effective Date, and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors and assigns and Affiliates (but excluding, in all cases, the Managing Member), 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 Subservicer 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 prior to the Effective Date by the Initial Member, the FDIC, the Failed Bank or its predecessors-in-interest or any Ownership Entities existing as of the Effective Date (other than due to gross negligence, violation of law or willful misconduct of the Initial Member, the FDIC, the Failed Bank or its predecessors-in-interest or any Ownership Entities existing as of the Effective Date); and
- (p) not conflict with the Servicing Standard or any other terms or provisions of this Agreement, the LLC Operating Agreement or the Advance Facility or any of the other Ancillary Documents insofar as such other terms or provisions apply to the Subservicer or the Servicing Obligations. Nothing contained in any Subservicing Agreement shall alter any obligation of the Servicer under this Agreement or the Managing Member under the LLC Operating Agreement and, in the event of any inconsistency between the Subservicing Agreement and the terms of either this Agreement or the LLC Operating Agreement, the terms of this Agreement or the LLC Operating Agreement, as applicable, shall apply.

Section 4.3 Servicer Liable for Subservicers. Notwithstanding anything to the contrary contained herein, the use of any Subservicer shall not release the Servicer from any of

Conus - Servicing Agreement

its Servicing Obligations or other obligations under this Agreement, and the Servicer shall remain responsible and liable for all acts and omissions of each Subservicer as fully as if such acts and omissions were those of the Servicer. All actions of any Subservicer performed pursuant to the Subservicing Agreement with the Servicer shall be performed as an agent of the Servicer. No Subservicer shall be paid any fees or indemnified out of any Loan Proceeds, it being understood that all fees and related costs and liabilities of retaining any Subservicers shall be the sole responsibility of the Servicer.

Section 4.4 Managing Member Approval Required. Each Subservicing Agreement and all amendments and modifications thereto and the selection of the Subservicer, regardless of whether the Subservicer is an Affiliate of the Servicer, shall be subject to the prior written approval of the Managing Member (which approval shall not be unreasonably withheld, delayed or conditioned so long as the provisions required under Section 4.2 are not modified or deleted). A copy of all Subservicing Agreements, as executed and delivered and all amendments thereto, shall be provided to the Managing Member.

Section 4.5 Regulation AB Requirements. The Servicer shall use commercially reasonable efforts to confirm, where applicable, that each 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 Servicer at the Subservicer'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.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SERVICER

Section 5.1 Representations and Warranties. The Servicer hereby makes the following representations and warranties as of the date hereof:

(a) The Servicer (i) is a corporation, duly organized, validly existing and in good standing under the laws of the State of Georgia, (ii) has qualified or will qualify to transact business as a foreign entity and will remain so qualified, in the state or states and other jurisdictions where the Loans or the nature of the Servicer's activities under this Agreement makes such qualification necessary; (iii) has all licenses and other governmental approvals necessary to carry on its business as now being conducted and to perform its obligations hereunder; and (iv) has established and shall maintain its principal place of business in the United States.

(b) The Servicer has all requisite power, authority and legal right to service each Loan, and to execute, deliver and perform, and to enter into and consummate the transactions contemplated by, this Agreement, and this Agreement has been duly authorized by all requisite corporate action on the part of the Servicer.

(c) This Agreement and all agreements contemplated hereby to which the Servicer is or will be a party constitute the valid, legal, binding and enforceable obligations of the Servicer, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally, and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law); and all requisite corporate action has been taken by the Servicer to make this Agreement and all agreements contemplated hereby to which the Servicer is or will be a party valid and binding upon the Servicer in accordance with their terms and conditions.

(d) The Persons executing this Agreement on behalf of the Servicer are duly authorized to do so.

(e) The execution and delivery of this Agreement by the Servicer, the servicing of the Loans and the Collateral under this Agreement, the consummation of any other of the transactions contemplated by this Agreement, and the fulfillment of or compliance with the terms hereof are in the ordinary course of business of the Servicer and will not (i) result in a breach of any term or provision of the articles or charter or bylaws or other organizational documents of the Servicer; (ii) conflict with, result in a breach, violation or acceleration of, or result in a default (or an event which, with notice or lapse of time, or both, would constitute a default) under the terms of any agreement or other instrument to which the Servicer is a party or by which it may be bound; or (iii) constitute a violation of any Law applicable to the Servicer, and the Servicer is not in breach or violation of any agreement or instrument, or in violation of any Law of any Governmental Authority having jurisdiction over it which breach or violation may impair the Servicer's ability to perform or meet any of its obligations under this Agreement.

(f) No litigation is pending or, to Servicer's knowledge, threatened, against the Servicer that would prohibit the Servicer from entering into this Agreement or is likely to materially and adversely affect either the ability of the Servicer to perform its obligations under this Agreement or the financial condition of the Servicer.

(g) Any consent, approval, authorization or order of any Governmental Authority required for the execution, delivery and performance by the Servicer of or compliance by the Servicer with this Agreement or the consummation of the transactions contemplated by this Agreement has been obtained and is effective.

(h) Neither the Servicer nor any Subservicer or their respective Affiliates shall, at any time, (i) be a partner or joint venturer with any Borrower, (ii) be an agent of any Borrower, or allow any Borrower to be an agent of the Servicer or any Subservicer, or (iii) have any interest whatsoever in any Borrower, Guarantor or other obligor with respect to any Loan or any of the Collateral.

(i) The Servicer is, and all times so long as this Agreement is in effect shall remain, a Qualified Servicer.

Section 5.2 Reporting, Books and Records and Compliance Covenants. The Servicer covenants to the Managing Member as follows:

(a) The Servicer shall be responsible for submitting all Internal Revenue Service information returns related to the Loans for all applicable periods commencing with the Effective Date. Information returns include reports on Forms 1098 and 1099 and any other reports required by Law. The Servicer shall be responsible for submitting all information returns required under applicable Law of any foreign Governmental Authority, to the extent such are required to be filed by the Company under such Law, relating to the Loans, for the calendar or tax year in which the Effective Date falls and thereafter.

(b) The Servicer shall cause to be kept and maintained (including records transferred by the Managing Member to the Servicer), at all times, at the Servicer's principal place of business, a complete and accurate set of files, books and records regarding the Loans and the Collateral, and the Company's interests in the Loans and the Collateral, including records relating to the Collection Account, the Escrow Accounts and any Other Accounts maintained in connection with the Loans and Servicer Advances and the disbursement of the Loan Proceeds. The books of account shall be maintained in a manner that provides sufficient assurance that: (a) transactions are executed in accordance with the general or specific authorization of the Managing Member consistent with the provisions of the LLC Operating 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 the LLC Operating Agreement and as required by Law; (ii) permit preparation of the Company's financial statements in accordance with GAAP and the LLC Operating Agreement and the provisions of the reports required to be provided thereunder; and (iii) maintain accountability for the Company's assets.

(c) The Servicer 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 Effective Date of this Agreement and three (3) years after the date on which the final Loan Proceeds are distributed to the Company, which date shall be established by notice to the Servicer from the Managing Member. All such books and records shall be available during such period for inspection by the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member (and their respective representatives, including any applicable Governmental Authority) at all reasonable times during business hours on any Business Days (or, in the case of any such inspection after the term hereof, at such other location as is provided by notice to the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member, as applicable), in each instance upon not less than two (2) Business Days' prior notice to the Servicer. Upon request by the Managing Member, the Servicer, at the sole cost and expense of the Managing Member, shall promptly send copies (the number of copies of which shall be reasonable) of such books and records to the Managing Member. The Servicer shall provide the Managing Member with reasonable advance notice of the Servicer's intention to destroy or dispose of any documents or files relating to the Loans and, upon the request of the Managing Member, shall allow the Managing Member, at its own expense, to recover the same from the Servicer. The Servicer shall also maintain complete and accurate records reflecting the status of taxes, ground rents and other recurring charges which could become a Lien on any Collateral.

(d) The covenants set forth in Section 5.2(b) and (c) above to maintain a complete and accurate set of records shall encompass all files in the Servicer'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 Servicer's (and any Subservicer's) internal memoranda pertaining to the Loans and the Collateral.

(e) The Servicer shall cause to be furnished to the Managing Member, each month on the Specified Date, commencing the first month following the Effective Date, a monthly Electronic Report on the Loans and Collateral containing such information and substantially in the form set forth on Schedule 4 as the same may be amended from time to time by the Managing Member (without the consent of the Initial Member) and the Servicer (the "**Electronic Report**"). The Electronic Report shall include, but not be limited to, the information required for the Managing Member to prepare, in accordance with the LLC Operating Agreement, the "Distribution Date Report" and the "Monthly Report" (each as defined in the LLC Operating Agreement), and such other reports and information as the Managing Member shall reasonably require, to the extent such information is reasonably available to the Servicer. Notwithstanding the above, until the ninetieth (90th) day following the Closing Date, the applicable Electronic Reports may exclude certain of the information otherwise required to be included therein if and to the extent the Initial Member is obligated to provide such information (or other information that is a prerequisite to the Servicer being able to provide such information) to the Servicer and the Managing Member pursuant to the interim servicing and asset management support obligation set forth in Section 4.1 of the Contribution Agreement and the Initial Member fails to timely deliver such information to the Servicer and the Managing Member.

(f) The Servicer shall deliver, and shall cause each Subservicer to deliver, to the Managing Member, on or before March 10th of each year, or such other day as the Managing Member and the Servicer may agree, 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, 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, any 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 any Subservicer was terminated, resigned or otherwise performed in such capacity for only part of a year, such party shall provide such annual compliance certificate with respect to such portion of the year.

(g) On or before March 10th of each year, or such other day as the Managing Member and the Servicer agree, commencing in the year 2010, the Servicer shall, and shall cause each Subservicer to, each at its own expense or the expense of the Managing Member, 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 Servicer (or Subservicer's) 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.

Section 5.3 Audits. Until the later of the date that is ten (10) years after the Effective Date and the date that is three (3) years after the date on which the final Loan Proceeds are distributed to the Company, which date shall be established by notice to the Servicer from the Managing Member, the Servicer shall, and shall cause each Subservicer to, (a) provide the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member and their respective representatives (including any Governmental Authority), during normal business hours and on reasonable notice, with access to and the right to review 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 Other Accounts or any matters relating to this Agreement or the rights or obligations hereunder, (b) permit such representatives to make copies of and extracts from the same, (c) allow the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member to cause such books to be audited by accountants selected by the Managing Member, the Note Guarantor, the Advance Facility Agent or the Initial Member, as applicable, and (d) allow the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member to discuss the Servicer's and Subservicer's affairs, finances and accounts, as they relate to the Loans, the Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, and any Other Accounts or any other matters relating to this Agreement or the rights or obligations hereunder, with its officers, directors, employees, accountants (and by this provision the Servicer hereby authorizes such accountants to discuss such affairs, finances and accounts with such representatives), Subservicers, and attorneys. Any expense incurred by the Managing Member, the Note Guarantor, the Advance Facility Agent or the Initial Member and any reasonable out-of-pocket expense incurred by the Servicer in connection with the exercise by the Managing Member, the Note Guarantor, the Advance Facility Agent or the Initial Member of its rights in this Section 5.3 shall be borne by the Managing Member, the Note Guarantor, the Advance Facility Agent or the Initial Member, as applicable; provided, however, that any expense incident to the exercise by Managing Member, the Note Guarantor, the Advance Facility Agent or the Initial Member of their respective rights pursuant to this Section 5.3 as a result of or during the continuance of an Default by the Servicer hereunder shall in all cases be borne by the Servicer.

Section 5.4 No Liens. The Servicer shall not 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 the 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 Security Agreement, and shall not take any action to interfere with the Collateral Agent's rights as a secured party with respect to the Loans, the Collateral and the Loan Proceeds.

Section 5.5 Servicer's Duty to Advise; Delivery of Certain Notices. In addition to such other reports and access to records and reports as are required to be provided to the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member hereunder, the Servicer shall cause to be delivered to the Managing Member, such information relating to the Loans, the Collateral, the Servicer and any Subservicer as the Managing Member, may reasonably request from time to time and, in any case, shall ensure that the Managing Member is promptly advised, in writing, of any matter of which the Servicer or Subservicer becomes aware relating to the Loans, any of the Collateral, the Collection Account, the Escrow Accounts, any accounts created under the Advance Facility, any Other Accounts or any Borrower or Guarantor that materially and adversely affects the interests of the Company, the Note Guarantor, the Advance Facility Agent or the Initial Member. Without limiting the generality of the foregoing, the Servicer shall immediately notify the Managing Member of (i) any claim, threatened claim or litigation against the Servicer, the Managing Member or the Initial Member arising out of or with respect to any Loan, (ii) any material notice from any Governmental Authority relating to any Collateral, (iii) any occurrence which could reasonably be expected to result in cost overruns beyond those contemplated to be funded under the Advance Facility, (iv) in the case of any construction loan, any construction delays which would reasonably be expected to cause milestones in the Approved Construction Schedule (as defined in the Advance Facility) not to be met, or (v) any other occurrence which would reasonably be expected to materially hamper, prevent or interfere with the effectuation of the then-applicable Approved Business Plan. In addition, the Servicer shall cause to be delivered to the Managing Member information indicating any possible Environmental Hazard with respect to any Collateral. Further, the Servicer shall cause to be furnished to the Managing Member, each month on the Specified Date, commencing the first month following the Effective Date and together with the Electronic Report, a report with respect to each Loan and Collateral (i) containing a summary of the progress made, to the extent applicable, in the construction, marketing and leasing of the applicable project since the last such report, (ii) in the case of any Loan, describing the remedial efforts or enforcement actions, if any, being undertaken by the Servicer with respect to the applicable Loan, (iii) describing the status of the activities contemplated by the Approved Business Plan (which, among other things, identifies any facts or circumstances which are reasonably likely to hamper, interfere with, prevent or postpone effectuation of the applicable Approved Business Plan), (iv) to the extent applicable, containing an itemized statement of costs and expenses remaining to be paid in order to complete construction of the applicable project (including capitalized interest, real estate taxes and other soft costs) and a comparison of such costs and expenses with those in the Approved Budget, (v) to the extent requested by the Managing Member, any materials delivered by the Borrower to the Company or the Servicer pursuant to the applicable Loan Documents not theretofore delivered to the Managing Member (including, without limitation, copies of all plans and specifications, construction budgets and construction schedules, construction contracts, architect's agreements, leasing and brokerage agreements, management agreements (and modifications to each of the foregoing) and materials delivered by the applicable Borrower in connection with each request for an advance under the related Loan and (vi) such other information as the Managing Member reasonably requests.

Section 5.6 Notice of Breach. The Servicer shall immediately notify the Managing Member of any failure or anticipated failure on its part to observe and perform any

warranty, representation, covenant or agreement required to be observed and performed by it as the Servicer.

Section 5.7 Advances. Copies of the Advance Facility, the LLC Operating Agreement and the other Ancillary Documents (or portions thereof) as are necessary for the Servicer to be familiar with in order to perform its obligations hereunder have been delivered to the Servicer by the Managing Member, and the Servicer acknowledges receipt thereof. Further, the Managing Member shall provide the Servicer with copies of all Approved Business Plans, as and when approved by the Managing Member and the Advance Facility Agent in accordance with the Advance Facility, as shall be necessary in order for the Servicer to fulfill its obligations hereunder. The Servicer acknowledges that it will review, as and when received from the Managing Member, such copies of the Approved Business Plans, and agrees that the Servicer shall not make any advance under any Loan on behalf of the Company unless (i) such advance is consistent with the applicable Approved Business Plan, (ii) the Company is entitled to a corresponding Advance Loan under the Advance Facility and (iii) it has received the funds required and the consent of the Managing Member to make the advance.

Section 5.8 Financial Information. The Servicer will submit to the Company (i) within forty-five (45) days after the end of each of its fiscal quarters, commencing on the Effective Date, and (ii) within ninety (90) days after the end of each of its fiscal years, commencing on the Effective Date, a letter certified by an officer of the Servicer that details certain agreed upon financial trends and ratios. The Company shall keep confidential and shall not divulge to any party, without the Servicer's prior written consent, all financial information of the Servicer received by the Company.

ARTICLE VI

MANAGING MEMBER CONSENT

Section 6.1 Actions Requiring Managing Member Consent. Notwithstanding anything to the contrary contained in this Agreement, the Servicer shall not cause or permit to be taken any of the following actions without the prior written consent of the Managing Member (which, other than with respect to clause (g) below, will require the Managing Member to obtain the consent of the Initial Member but which consent shall be deemed to have been obtained if the proposed action has been fully described in the applicable Approved Business Plan), which consent may be withheld or conditioned in the sole and absolute discretion of the Managing Member:

(a) a Bulk Sale occurring during the 36-month period commencing on the Effective Date;

(b) the payment of fees to, the sale or other transfer (including through foreclosure or by deed in lieu thereof) of any Loan or Collateral or Acquired Collateral (or any portion thereof) to, or any other transaction with (whether or not at usual and customary rates), any Affiliate of the Company, the Managing Member, the Servicer, any Affiliate of the Servicer, any Subservicer, or any Affiliate of any Subservicer;

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

(d) the sale of any Loan or Collateral or Acquired Collateral (or any portion thereof) that provides for any recourse against the Company or the FDIC in any capacity, or against the interest in the Company held by the Initial Member or any share of the Loan Proceeds allocable to the Initial Member; provided, however, that this clause (d) 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;

(e) any disbursement of any funds in the Collection Account, the accounts created under the Advance Facility or any Other Accounts, or funds disbursed from the Advance Facility other than in accordance with the provisions of this Agreement, the LLC Operating Agreement, the Advance Facility, the Custodial and Paying Agency Agreement and the Security Agreement;

(f) 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 the Loan to Acquired Collateral, permitted under the applicable Loan Documents;

(g) in connection with its servicing and administration of any Loan and management of the Collateral or Acquired Collateral, (i) approving (x) any material modification or amendment to, or cancellation or termination of, any Loan Documents, or (y) plans and specifications, construction budgets or construction schedules with respect to the projects which are the subject of such Loan (or material modifications to any of such items, including any change orders) (provided that for purposes of this clause (i)(y), the Managing Member's prior consent shall not be required for modifications that may be made without the Advance Facility Agent's consent under the applicable Approved Business Plan), (ii) waiving or forbearing from exercising any of the lender's rights under, or any conditions precedent to the funding of any advances under, such Loan; (iii) forgiving or reducing or forbearing from collecting any indebtedness; (iv) releasing any parties liable for the payment of the Loan or the performance of any other obligation relating thereto; (v) granting any consent under any Loan Documents (including, without limitation, with respect to any proposed transfers of any Collateral or transfers, pledges or changes in management of any direct or indirect interests in any Borrower, proposed alterations, proposed settlements of insurance claims, condemnation claims or deficiencies or proposed applications of insurance proceeds or condemnation awards); (vi) consenting to any agreement in any Insolvency Proceeding relating to any Loan, any Borrower, any Guarantor, any other obligor with respect to a Loan, or any Collateral, including voting for a plan of reorganization; (vii) subordinating the liens of the Loan Document; (viii) amending or waiving any provision of any intercreditor agreement or making any decisions with respect to the Loans under any intercreditor agreement; or (ix) taking any other action regarding such Loan,

Collateral or Acquired Collateral that requires the consent of the Advance Facility Agent; unless, in each case, such item or action is provided for under the then-applicable Approved Business Plan and is not prohibited under the Advance Facility, the LLC Operating Agreement or the other Ancillary Documents or otherwise inconsistent with the Servicing Standard; or

(h) reimbursement for any expense or cost incurred (or paid) to any Affiliate of the Company, any Affiliate of the Servicer or any Affiliate of any Subservicer.

Section 6.2 Amendments, Modification and Waivers. No provision of this Agreement may be amended, modified or waived except in writing executed by the Managing Member and the Servicer, and each such amendment and modification shall be subject to the prior written consent of the Initial Member, except for those provisions that may be amended by the express terms hereof without the Initial Member's consent.

Section 6.3 Consents Considered Obtained Through Approved Business Plan. Notwithstanding any other provision of this Agreement, the Managing Member shall be considered to have obtained the Initial Member's consent to an act or action if such act or action has been described in all material respects in any Approved Business Plan.

ARTICLE VII

DEFAULTS; TERMINATION; TERMINATION WITHOUT CAUSE

Section 7.1 Defaults. A default ("**Default**") means the occurrence of:

(a) any failure by the Servicer to remit to the Company or deposit in the Collection Account, the Escrow Accounts, any accounts created under the Advance Facility or any Other Accounts any amount required to be so remitted or deposited under the terms of (i) this Agreement or (ii) the Advance Facility or the LLC Operating Agreement; or

(b) any Insolvency Event (without any cure period other than as may be provided for in the definition of Insolvency Event) with respect to the Servicer or any of its Related Parties, or any Subservicer or any of its Related Parties; or

(c) any failure by the Servicer to duly perform its obligations in (i) Section 5.2(e), which failure continues unremedied for a period of five (5) days, or such other period as the Managing Member and the Servicer agree, after the date on which written notice of such failure, requiring the same to be remedied, shall have been given by the Managing Member to the Servicer, or (ii) Section 5.2(f) or 5.2(g), which failure continues unremedied for a period of twenty-five (25) days, or such other period as the Managing Member and the Servicer agree, after the date on which written notice of such failure, requiring the same to be remedied, shall have been given by the Managing Member to the Servicer; or

(d) any failure by the Servicer at any time (i) to comply with its obligation to be a Qualified Servicer and to renew or maintain any permit or license necessary to carry out its responsibilities under this Agreement in compliance with Law, (ii) to have an Acceptable Rating or (iii) to cause each Subservicer to meet the applicable characteristics of a Qualified Servicer as required under Section 4.1 and to renew or maintain any permit or license necessary to carry out

its responsibilities under any Subservicing Agreement, which, in the case of either (i) or (ii), 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 to the Servicer; or

(e) any failure by the Servicer to cause any Subservicer to comply with the terms of its Subservicing Agreement with the Servicer, the occurrence of a default or material breach by any Subservicer under its Subservicing Agreement or the failure by the Servicer to replace any Subservicer upon the occurrence of any such event in accordance with the terms governing material breach or default under the applicable Subservicing Agreement; or

(f) any other failure (other than those specified in any of Sections 7.1(a) through (e)) by the Servicer to duly observe or perform any other covenants or agreements on the part of the Servicer contained in this Agreement or to perform any Servicing Obligation in compliance with the Servicing Standard, and such failure continues unremedied for a period of thirty (30) days, or such other period as the Managing Member and the Servicer agree, after the date on which written notice of such failure shall have been given by the Managing Member to the Servicer; provided, however, that in the case of a failure that cannot be cured within thirty (30) days (or such other period as the Managing Member and the Servicer agree) with the exercise of reasonable diligence, the cure period shall be extended for an additional thirty (30) days if the Servicer can demonstrate to the reasonable satisfaction of the Managing Member that the Servicer is diligently pursuing remedial action; or

(g) the occurrence of any “Event of Default,” as defined in the LLC Operating Agreement; or

(h) the occurrence of any “Event of Default,” as defined in the Security Agreement or the Advance Facility.

Section 7.2 Termination with Cause.

(a) Upon the occurrence of a Default pursuant to this Agreement, in each case, without any cure period other than as may be provided for in Section 7.1 above, the Managing Member or the Initial Member, in addition to any other rights the Managing Member or the Initial Member may have at law (including under the Uniform Commercial Code) or equity, including injunctive relief, specific performance or otherwise, may (i) terminate this Agreement by providing a Termination Notice to the Servicer, (ii) terminate the Subservicing Agreements by providing a written termination notice to the Servicer and the Subservicers, and (iii) otherwise enforce this Agreement, in any case, without penalty or payment of any fee.

(b) The Servicer hereby consents to its immediate and automatic termination under this Agreement upon a Default under Section 7.1(b) of this Agreement.

(c) Upon a default or failure of the Managing Member to perform its obligations under this Agreement in a material manner, including but not limited to, the failure of the Managing Member to pay to the Servicer the Servicing Fee in a full and timely manner, the Servicer, in addition to any other rights it may have pursuant to this Agreement, at law or in

equity, may terminate this Agreement by providing a Termination Notice to the Managing Member, with a copy to the Note Guarantor, the Advance Facility Agent and the Initial Member. The Termination Notice shall set forth with specificity the nature of the default or failure to perform of the Managing Member and provide the Managing Member with no less than thirty (30) days to cure any such default or failure to perform. In the event that the default or failure to perform is not cured within thirty (30) days after the date of delivery of the Termination Notice, the Servicer shall provide a second Termination Notice to the Managing Member with a copy to the Note Guarantor, the Advance Facility Agent and the Initial Member, which second Termination Notice shall be prominently labeled as the "Second Termination Notice". Such Second Termination Notice shall confirm to the Managing Member that the Servicer shall continue to perform the Servicing Obligations under this Agreement until the earlier to occur of (i) ninety (90) days after the delivery of the Second Termination Notice to the Managing Member, the Note Guarantor, the Advance Facility Agent and the Initial Member, and (ii) the transfer of the Servicing Obligations to a successor Servicer. The duty of the Servicer to continue to perform the Servicing Obligations as provided in the Second Termination Notice is contingent upon the timely and full payment of the Servicing Fee to the Servicer during such period. The Servicer shall cooperate fully and completely with the transition of the Servicing Obligations to a successor Servicer in order to assure an orderly transfer.

Section 7.3 Termination without Cause. (a) The Managing Member may, without cause, terminate this Agreement, upon providing a Termination Notice to the Servicer, but only as and in accordance with the provisions set forth on Schedule 5 as the same may be amended from time to time by the Managing Member (without the Initial Member's consent) and the Servicer.

(b) The Servicer may, at any time after the first anniversary of the Effective Date and thereafter, without cause, terminate this Agreement. No termination of this Agreement by Servicer shall be effective unless the Servicer delivers to the Managing Member, with a copy to the Note Guarantor, Advance Facility Agent and the Initial Member, a Termination Notice, which for the purpose of this Section 7.3(b) shall be a notice of Servicer's intent to terminate this Agreement. Such Termination Notice shall be provided at least sixty (60) days prior to any date specified by the Servicer as the date of termination of the Servicer's Obligations under this Agreement. Notwithstanding the foregoing, such Termination Notice shall not be effective unless the Termination Notice contains confirmation of the intent and obligation of the Servicer to continue to perform its Servicing Obligations until the earlier of (i) ninety (90) days after the Termination Notice is given and (ii) such other date on which the Servicing Obligations are transferred to a successor Servicer, to be designated by the Managing Member, in an orderly manner. Servicer shall cooperate fully and completely with the transition of the Servicing Obligations to a successor Servicer in order to assure an orderly transfer. The Servicer issuing the Termination Notice shall be liable for all costs associated with the transfer of Servicing Obligations to the successor Servicer, including but not limited to the costs of transporting the servicing files and the provision of any notices to Borrowers.

Section 7.4 Effective Date. Termination as specified in this Article VII shall be effective at such time as is specified in the Termination Notice. In the event of such termination, all authority and power of the Servicer under this Agreement, whether with respect

to the Loans or otherwise, shall pass to and be vested in the Managing Member or the successor servicer designated by the Managing Member in the case of termination by the Managing Member or as designated by solely by the Initial Member in the case of termination by the Initial Member. The Servicer agrees to cooperate with the Managing Member and any successor servicer with respect to the timely and orderly transition of its obligations under this Agreement. The Servicer shall be liable for all obligations of the Servicer that have accrued under this Agreement or at Law prior to such termination.

Section 7.5 Accounting. Upon termination of this Agreement as set forth herein, the Servicer shall account for and turn over to the Managing Member or its designee funds collected under the terms of this Agreement. The Servicer shall provide written notice in conformance with all applicable Law to the Borrowers to indicate that their Loans will henceforth be serviced by the Managing Members, and transfer its duties as the Servicer to the Managing Member.

ARTICLE VIII

INDEPENDENCE OF PARTIES; INDEMNIFICATION

Section 8.1 Independence of Parties. The Servicer shall have the status of, and act as, an independent contractor. Nothing herein contained shall be construed to create a partnership or joint venture or any similar relationship between the Managing Member and the Servicer.

Section 8.2 Indemnification. (a) The Servicer agrees to indemnify, defend and hold harmless the Company, the Managing Member, the Note Guarantor, the Advance Facility Agent, the Initial Member and each of their respective Affiliates, directors, officers, employees and agents and each of their respective successors and assigns (the "**Company Indemnified Parties**") from and against any and all claims, demands, suits, actions, proceedings, assessments, losses, costs, expenses (including attorneys' fees), damages and liabilities of any kind or nature whatsoever directly or indirectly resulting from or arising out of or related to (i) any inaccuracy in any of the Servicer's warranties or representations contained in this Agreement, (ii) any failure by the Servicer to observe or perform any or all of the Servicer's covenants, agreements or warranties contained in this Agreement and (iii) any act taken by the Servicer purportedly pursuant to a power of attorney granted by the Managing Member which act results in a claim related to the unlawful use of such power of attorney. The Servicer shall immediately notify the Company Indemnified Party if a claim is made with respect to this Agreement or any Loans or Collateral, assume (with prior consent of the Company Indemnified Party) the defense of any such claim and pay all expenses in connection therewith, including attorneys' fees, and promptly pay, discharge and satisfy any judgment or decree which may be entered against it or any Company Indemnified Party in respect of such claim. No expenses incurred by the Servicer or any Subservicer in connection with its obligations under this Section 8.2 shall constitute Servicing Expenses or otherwise be deducted from or reimbursed out of Loan Proceeds. The Servicer shall follow any reasonable written instructions received from the Company Indemnified Party in connection with such claims, it being understood that the Company Indemnified Party shall have no duty to monitor or give instructions with respect to such claims.

(b) The Managing Member agrees to indemnify, defend and hold harmless the Servicer and its Affiliates, directors, officers, employees and agents and its successors and assigns (the “**Servicer Indemnified Parties**”, and together with the Company Indemnified Parties, the “**Indemnified Parties**”) from and against any and all claims, demands, suits, actions, proceedings, assessments, losses, costs, expenses (including attorneys’ fees), damages and liabilities of any kind or nature whatsoever directly or indirectly resulting from or arising out of or related to (i) any failure by the Managing Member or Company to consent to consent to any act of the Servicer where such consent is required pursuant to the terms of this Agreement and (ii) any act or omissions of the Servicer in accordance the written direction the Managing Member (other than, in each case, due to gross negligence, violation of law or willful misconduct of the Servicer). The Managing Member shall immediately notify the Servicer Indemnified Party if a claim is made with respect to this Agreement or any Loans or Collateral, assume (with prior consent of the Servicer Indemnified Party) the defense of any such claim and pay all expenses in connection therewith, including attorneys’ fees, and promptly pay, discharge and satisfy any judgment or decree which may be entered against it or any Servicer Indemnified Party in respect of such claim. The Managing Member shall follow any reasonable written instructions received from the Servicer Indemnified Party in connection with such claims, it being understood that the Servicer Indemnified Party shall have no duty to monitor or give instructions with respect to such claims.

Section 8.3 Procedure for Indemnification. Promptly upon receipt of written notice of any claim in respect of which indemnity may be sought pursuant to the terms of this Agreement, the Indemnified Party will use its best efforts to notify the Servicer or Managing Member, as applicable (the “Indemnifying Party”) in writing thereof in sufficient time for the Indemnifying Party to respond to such claim. Except to the extent that the Indemnifying Party is prejudiced thereby, the failure of the Indemnified Party to promptly notify the Indemnifying Party of any such claim shall not relieve the Servicer from any liability which it may have to the Indemnified Party in connection therewith. If any claim shall be asserted or commenced against the Indemnified Party, the Indemnifying Party will be entitled to participate therein, and to the extent it may wish to assume the defense, conduct or settlement thereof, it shall be entitled to do so with counsel reasonably satisfactory to the Indemnified Party; provided, however, that in the event the Indemnifying Party fails, in the reasonable judgment of the Indemnified Party, vigorously to defend or pursue or attempt to settle such claim, the Indemnified Member shall have the right to assume the conduct, defense or settlement thereof. After notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense, conduct or settlement thereof, the Indemnifying Party will not be liable to the Indemnified Party for any legal or other expenses consequently incurred by the Indemnified Party in connection with the defense, conduct or settlement thereof.

Section 8.4 Pre-Effective Date Liabilities. Notwithstanding anything to the contrary herein, it is understood and agreed that the Servicer shall not be liable for any liabilities or obligations attributable to an act, omission or circumstances of the Initial Member, the FDIC, the Failed Bank and the Company that occurred or existed prior to the Effective Date.

ARTICLE IX
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 a nationally recognized courier service, when signed for (or refused) by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; and (C) if delivered by electronic mail, when delivered. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

If to the Managing Member: CCV Managing Member, LLC
 c/o Northwest Investments, LLC
 591 West Putnam Avenue
 Greenwich, CT 06830
 Attention: Marcos Alvarado
 Email: malvarado@starwood.com

with a copy to: Skadden, Arps, Slate Meagher & Flom LLP
 Four Times Square
 New York, NY 10036
 Attention: William Rubenstein
 Email: william.rubenstein@skadden.com

If to the Initial Member or
the Advance Facility Agent:

 Timothy A. Kruse
 Senior Capital Markets Specialist
 Federal Deposit Insurance Corporation
 550 17th Street, N.W.
 Room F-7026
 Washington, D.C. 20429
 Email: TKruse@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, Virginia 22226
 Attention: David Gearin
 Email: DGearin@fdic.gov

and
George C. Alexander
Manager, Capital Markets & Resolutions
Federal Deposit Insurance Corporation
Room F-7008
550 17th Street, N.W.
Washington, D.C. 20429
Galexander@fdic.gov

and
Thomas Raburn
Federal Deposit Insurance Corporation
TRaburn@fdic.gov

and
Robert W. McComis
Senior Capital Markets Specialist
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Room F-7036
Washington, D.C. 20429
RMccomis@fdic.gov

If to the Note Guarantor:
Bret D. Edwards
Director, Division of Finance
c/o Federal Deposit Insurance Corporation
3501 Fairfax Drive (Room E-7056)
Attention: Bret D. Edwards
Arlington, VA 22226
Bedwards@fdic.gov

with a copy to:
David Gearin
Senior Counsel
FDIC Legal Division
Litigation and Resolutions Branch, Receivership Section
Special Issues Unit
3501 Fairfax Drive (Room E-7056)
Arlington, VA 22226
Dgearin@fdic.gov

If to the Servicer:
TriMont Real Estate Advisors, Inc.
3424 Peachtree Road NE, Suite 2200
Atlanta, GA 30326
Attention: David Wahl
Email: dwahl@trimontrea.com

with a copy to:
Kilpatrick Stockton LLP

Corus - Servicing Agreement

1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Attention: Richard W. White
Email: Rwhite@kilpatrickstockton.com

ARTICLE X **GOVERNING LAW; JURISDICTION**

Section 10.1 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW, BUT IF FEDERAL LAW DOES NOT PROVIDE A RULE OF DECISION, IT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Nothing in this Agreement shall require any unlawful action or inaction by any party hereto.

Section 10.2 Jurisdiction; Venue and Service. Each of the parties hereto, for itself and each of its Affiliates, hereby irrevocably and unconditionally:

(a) (i) agrees that any suit, action or proceeding instituted against it by any other party with respect to this Agreement may be instituted, and that any suit, action or proceeding instituted by it against any other party with respect to this Agreement shall be instituted, only in the Supreme Court of the State of New York, County of New York, or the U.S. District Court for the Southern District of New York, as the party instituting such suit, action or proceeding may choose (and appellate courts from any of the foregoing), (ii) consents and submits, for itself and its property, to the jurisdiction of such courts for the purpose of any such suit, action or proceeding instituted against it by any other party and (iii) agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law;

(b) agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 10.2(a) 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 Article IX (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 10.2(b) shall affect the ability of any party to be served process in any other manner permitted by Law;

(c) (i) waives any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any court specified in Section 10.2(a), (ii) waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum and (iii) agrees not to plead or claim either of the foregoing; and

(d) agrees that nothing contained in this Section 10.2 shall be binding upon or construed to constitute consent to jurisdiction by the Failed Bank or the FDIC, in any capacity, or constitute a limitation on any removal rights the FDIC, in any capacity, may have.

Notwithstanding the above, if at any time the Initial Member shall replace the Managing Member hereunder pursuant to the terms of the LLC Operating Agreement, the terms of this Section 10.2 shall be restated as follows:

“The Servicer, on behalf of itself and its Affiliates, hereby irrevocably and unconditionally:

(a) (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 FDIC, in any capacity, arising out of, relating to, or in connection with this Agreement, and waives any right to:

(A) remove or transfer such suit, action or proceeding to any court or dispute-resolution forum other than the court in which the FDIC, in any capacity, files the action, suit or proceeding without the consent of the FDIC;

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

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

(ii) consents to the jurisdiction of the Supreme Court of the State of New York, County of New York, for any suit, action or proceeding against it or any of its Affiliates commenced by the FDIC, in any capacity, arising out of, relating to, or in connection with this Agreement, and waives any right to:

(A) remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC;

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

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

(iii) agrees to bring any suit, action or proceeding against the FDIC, in any capacity, arising out of, relating to, or in connection with this Agreement, the LLC Operating Agreement or any Ancillary Document in only either the United States District Court for the

Corus - Servicing Agreement

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 FDIC, 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 FDIC; 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 10.2(a)(iii), to bring that suit, action or proceeding in only the Supreme Court of the State of New York, County of New York, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC.

(b) The Servicer, 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 10.2(a) may be enforced in any court of competent jurisdiction.

(c) Subject to the provisions of Section 10.2(d), the Servicer, on behalf of itself and its Affiliates, and the FDIC hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 10.2(a) or Section 10.2(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 Article IX (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 10.2(c) shall affect the right of any party to serve process in any other manner permitted by law.

(d) Nothing in this Section 10.2 shall constitute consent to jurisdiction in any court by the FDIC, other than as expressly provided in Section 10.2(a)(iii) and Section 10.2(a)(iv), or in any way limit the FDIC's right to remove, transfer, seek to dismiss, or otherwise respond to any suit, action, or proceeding against it in any forum."

Section 10.3 Waiver of Jury Trial. EACH OF THE PARTIES HERETO, FOR ITSELF AND EACH OF 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 AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

ARTICLE XI **MISCELLANEOUS**

Section 11.1 No Assignment by Servicer; No Transfer of Ownership Interests in Servicing Rights.

(a) The Servicer hereby acknowledges that this Agreement constitutes a personal services agreement between the Managing Member and the Servicer. Any of the

Corus - Servicing Agreement

following shall constitute an assignment for all purposes of this Agreement: (a) any merger, consolidation or dissolution involving the Servicer or (b) any transfer or all or substantially all of the assets of the Servicer, notwithstanding whether any of the foregoing transactions occur at one time or in the aggregate over a period of time. The Servicer shall not assign any rights or obligations hereunder to any other Person other than as is expressly provided in this Agreement. Any purported sale, sub-participation or assignment or delegation in violation of this Section 11.1(a) shall be void *ab initio* and of no force or effect whatsoever.

(b) Under no circumstances shall the Servicer (i) transfer to any Subservicer or any other Person any ownership interest in the servicing of the Loans or any right to transfer or sell the servicing to the Loans (other than in connection with the sale of any Loan), or (ii) assign, pledge or otherwise transfer or purport to assign, pledge or otherwise transfer any interest to any Subservicer or other Person in the servicing of the Loans (other than in connection with the sale of any Loan). Any purported assignment, pledge, delegation or other transfer in violation of this Section 11.1(b) shall be void *ab initio* and of no force or effect whatsoever.

(c) The Servicer hereby acknowledges and agrees that the provisions of this Section 11.1 also prohibit a Change of Control. Any Change of Control in violation of this Section 11.1(c) shall be void *ab initio* and of no force or effect whatsoever.

Section 11.2 Legal Fees. No party to this Agreement shall be responsible for the payment of the legal fees or expenses incurred by the other party hereto in connection with the negotiation and execution of this Agreement or any subsequent modifications or supplements hereto.

Section 11.3 Entire Agreement. This Agreement contains the entire agreement between the Managing Member and the Servicer and supersedes any and all other prior agreements, whether oral or written, with respect to the subject matter hereof.

Section 11.4 Counterparts; Facsimile Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same agreement. This Agreement and any amendments hereto, to the extent signed and delivered by facsimile or other electronic means, shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No signatory to this Agreement shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature or agreement was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation or enforceability of a contract and each such Person forever waives any such defense.

Section 11.5 Headings. Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof. All Section and paragraph references contained herein shall refer to Sections and paragraphs in this Agreement unless otherwise specified.

Section 11.6 Construction. This Agreement shall be construed and interpreted in accordance with the following:

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

(b) The term “or” is not exclusive.

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

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

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

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

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

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

Section 11.7 Compliance with Law. Except as otherwise specifically provided herein, each party to this Agreement shall, at its own cost and expense, obey and comply with all applicable Laws, as they may pertain to such party’s performance of its obligations hereunder.

Section 11.8 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 11.8 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 10.1.

Section 11.9 Third Party Beneficiaries. The Initial Member shall be and is hereby designated as a third party beneficiary under this Agreement, and, as such, the Initial Member is entitled to enforce this Agreement as if the Initial Member were a party hereto. The Company, the Note Guarantor and the Advance Facility Agent shall be and are hereby designated as third party beneficiaries under this Agreement with respect to those provisions of this Agreement which expressly grant rights to such Persons, and, as such, each is entitled to enforce such provisions of this Agreement as if such Person were a party hereto. Notwithstanding the foregoing, neither the Note Guarantor, the Advance Facility Agent, the Company nor the Initial Member shall have any obligation to undertake any of the duties of the Managing Member hereunder and shall have no liability whatsoever to the Servicer, any Subservicer or any other party related to this Agreement. There shall be no other third party beneficiaries. The rights of the Note Guarantor and the Advance Facility Agent as third party beneficiaries hereunder shall terminate at such time as the Note Guarantor or the Advance Facility Agent, as applicable, notifies the Servicer that the reimbursement obligations in favor of the Note Guarantor under the Security Agreement or the Company's obligations under the Advance Facility, as the case may be, have been paid in full, but shall be reinstated in the event that the relevant party notifies the Servicer that such obligations have been reinstated in accordance with its terms.

Section 11.10 Protection of Confidential Information. The Servicer shall keep confidential and shall not divulge to any party, without the Managing Member's prior written consent, any information pertaining to the LLC Operating Agreement, the Loans or any Borrower or the Collateral thereunder, except as required pursuant to this Agreement and except to the extent that it is necessary and appropriate for the Servicer to do so in working with legal counsel, auditors, taxing authorities, regulatory authorities or any other Governmental Authority or in accordance with the Servicing Standard; *provided, that*, to the extent that disclosure should

be required by law, rule, regulation (including any securities listing requirements or the requirements of any self-regulatory organization), subpoena, or in connection with any legal or regulatory proceeding (including in connection with or pursuant to any action, suit, subpoena, arbitration or other dispute resolution process or other legal proceedings, whether civil or criminal, and including before any court or administrative or legislative body), the Servicer will use all reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by law) notify the Managing Member and the Initial Member, the Advance Facility Agent and the Note Guarantor within one (1) Business Day after its knowledge of such legally required disclosure so that the Managing Member, the Initial Member, the Advance Facility Agent and/or the Note Guarantor may seek an appropriate protective order and/or direct the Managing Member to waive the Servicer's compliance with this Agreement. Notice shall be by telephone, by email and in writing. In the absence of a protective order or waiver, the Servicer may make such required disclosure if, in the written opinion of its outside counsel (which opinion shall be provided to the Managing Member, the Initial Member, the Advance Facility Agent and the Note Guarantor prior to disclosure pursuant to this Section 11.10), failure to make such disclosure would subject the Servicer to liability for contempt, censure or other legal penalty or liability.

Section 11.11 Time of Essence. Time is hereby declared to be of the essence of this Agreement and of every part hereof.

Section 11.12 No Presumption. This Agreement shall be construed fairly as to each party hereto and if at any time any such term or condition is desired or required to be interpreted or construed, no consideration shall be given to the issue of who actually prepared, drafted or requested any term or condition of this Agreement or any agreement or instrument subject hereto.

Section 11.13 No Right of Setoff. The Servicer hereby waives any and all rights it may otherwise have (whether by contract or operation of Law or otherwise) to any setoff, offset, counterclaim or deduction (or to assert any claim for any setoff, offset counterclaim or deduction) against the Loan Proceeds.


Section 11.14 Release of Initial Member and Others. The Servicer hereby releases and discharges the Initial Member, the FDIC, the Failed Bank and its predecessors-in-interest, any of the Ownership Entities existing as of the Effective Date and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors and assigns and Affiliates (but excluding, in all cases, the Managing Member), 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 or Collateral prior to the Effective Date by the Initial Member, the Failed Bank or its predecessors-in-interest, the FDIC or any Person acting on behalf of the Initial Member, the FDIC, the Failed Bank or its predecessors-in-interest or any of the Ownership Entities existing as of the Effective Date (other than for acts or omissions constituting gross negligence, violation of law or willful misconduct).

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

MANAGING MEMBER:

CCV MANAGING MEMBER, LLC

By: 
Name: Marcos Alvarado
Title: Interim Co-President

SERVICER:

TRIMONT REAL ESTATE ADVISORS, INC.

By: _____
Name: Ernest J. Davis
Title: Managing Director

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

MANAGING MEMBER:

CCV MANAGING MEMBER, LLC

By: _____

Name:

Title:

SERVICER:

TRIMONT REAL ESTATE ADVISORS, INC.

By:  _____

Name: Ernest J. Davis

Title: Managing Director

EXHIBIT A
LOAN SCHEDULE

[attached]

SCHEDULE 1

FEE SCHEDULE

[attached]

SCHEDULE 2

SERVICING OBLIGATIONS

[attached]

Schedule 2: Servicing Obligations

Primary Asset Management of Performing Loans includes the following:

- Establish and maintain appropriate borrower and other relationships
- Monitor and enforce document compliance including borrower / sponsor / guarantor reporting, collateral covenant compliance and financial reporting compliance
- Perform draw review and administration for loans funded by client as well as review draws funded by third party lenders
- Review of annual budgets and business plans with submission of an approval memo to client based on lender approval rights from loan documents
- Review operating statements including analysis of revenue, expenses, net operating income, net cash flow, debt service coverage ratios and occupancy. Monitor performance through comparison of Actual versus Budget and Underwriting with inquiries about discrepancies
- Analyze Major Leases for basic terms and economic viability. Coordinate lender approval on lender decision rights as appropriate
- Provide quarterly valuation analysis and risk management reporting which includes a valuation model, cash flow analysis, market study and asset status commentary in a customized format
- Perform annual property inspections, or more frequently if required, and provide monthly summaries on the performance of the property
- Provide access to database and create customized asset level and portfolio level reporting as agreed to (please see commentary in the fees section related to this point)
- Primary Asset Management for Construction Loans will also include:
 - Review project budget to monitor that the project is progressing on time, on budget and lien free
 - Perform draw review and administration (for both client loan and third party loans) prior to making recommendation for funding including confirming satisfaction of all conditions precedent to draw including receipt of title updates, consultant reports, and appropriate lien waivers, review and verify draw package and invoices, review budget reallocations, costs spent to date, and remaining funds available, on a line by line basis, are sufficient to cover remaining project costs
 - Perform site inspections within 90 days of closing or acquisition and then every 3 months thereafter or as otherwise mutually agreed upon
- Primary Asset Management for Residential / Commercial Sellout Loans will also include:
 - Provide customized tracking of sales activity and velocity by unit type, size, view and price points
 - Prepare detailed sales activity reports
 - Monitor compliance of borrowers with loan documentation to ensure proper distribution of net sales proceeds to the lender(s)
 - Coordinate collateral releases of condominium units/parcels
 - Address HOA and commercial association issues

Special Asset Management of Non-Performing Loans and REO includes the following:

All items normally performed under Primary Asset Management and also the following:

- Complete a review of the deal including identifying potential enforcement rights and remedies, summarizing intercreditor agreements to ensure compliance, reviewing guarantees to assess borrower's potential liability, analyzing historic loan payments and cash usages from property, and working with counsel on documents to preserve lenders rights including pre-negotiation agreement, default letter, non-waiver letter, etc
- Draft an Asset Resolution Plan by completing a valuation of the asset and project cash flows to the note holder, performing scenario analysis of potential exit strategies and recommendation, completing analysis of borrower, principals, historic track record, financial condition, etc
- Implement approved workout plan through negotiation of any settlement or modifications with the borrower, managing counsel in the preparation of forbearance agreements or modifications, managing approved remedy enforcement action including foreclosure or pursuit of guarantors, developing strategies to deal with assets in bankruptcy, identifying loan sale opportunities and handling loan sale process
- Address construction issues, if any
- For assets that become REO, scope of services would include the following:
 - Create Business Plan and Exit Strategy based on assessment of asset's highest and best use, current on-site staffing and market conditions
 - Install new property management, leasing, marketing and construction teams, including negotiation of appropriate agreements
 - Resolve any accounts payable matters
 - Coordinate government or related items including issues related to liens, entitlements, permits, code compliance, ADA, eminent domain issues, etc
 - Initiate RFP process and select broker
 - Manage asset disposition including pre-marketing, market outreach, negotiation period, due diligence / inspection period and closing

Loan Servicing and Treasury include the following:

- Boarding of positions onto loan servicing system and maintaining transaction histories
- Update billings records and generate borrower statements / invoices, verifying amounts charged
- Process requests such as payoff quotes, prepayment calculations, loan histories, etc
- Monitor collection of all required monetary payments and disburse in accordance with documents. Ensure that loan payments are processed in a timely manner for the correct amounts
- Monitor loan cash flows along with the payment and compliance of real estate taxes, insurance, ground lease and other type payments
- Administer escrow and reserve accounts as required under the loan documents
- Provide Cash Remittance Reporting including reconciliation of client's funds and client's balance sheets
- Manage loan and collateral documentation including storage in electronic library utilizing Documentum

- Oversee banking related activity including cash handling of portfolio receipts and disbursements, providing external / internal customer service and establishing / maintaining portfolio bank accounts
- Perform reconciliation, cash balancing and cash management including verification and proof of cash related activities, verification of system activity against cash activity and portfolio cash flow projections

SCHEDULE 3

REIMBURSEMENT OF SERVICER ADVANCES

[attached]

Schedule 3: Reimbursement of Servicer Advances

1. The Managing Member will maintain an account controlled by the Servicer in the amount of two million dollars (\$2,000,000) (the "**Servicer Account**") to be utilized by the Servicer to fund Servicer Advances necessary to pay Servicing Expenses required to protect the Loans and Collateral from time to time when there are no other funds on hand with Servicer available to pay such expenses. Such account will be replenished by the Managing Member on a monthly basis 2 business days after the Distribution Date, or more frequently if agreed to by Servicer and Managing Member. Any withdraws made from the Servicer Account that are not spent on Servicing Expenses or that are spent on Excluded Expenses will be refunded to the Company by the Servicer. The Company shall be entitled to the proceeds of any funds deposited in the Servicer Account, including interest.

2. The Managing Member shall reimburse the Servicer for any of the following expenses of the Servicer for which funds from the Servicer Account were not used: (a) Servicer Advances used to pay Servicer Expenses, (b) all reasonable out-of-pocket fees, expenses and other costs for property inspections, requested and approved by Managing Member, other than an initial inspection and an annual inspection (including travel, hotel and meals), market study reports, legal reviews, environmental assessment and database services approved by Managing Member in writing prior to Servicer performing such services and (c) all costs (including travel and accommodation-related expenses) incurred by the Servicer before the Closing Date in connection with its due diligence and other preparation for assuming the Servicing Obligations hereunder. If Servicer's obligations under this Agreement require it to incur any other out-of-pocket expenses not described above and for which Servicer will seek reimbursement, Servicer shall obtain written approval from Managing Member prior to incurring such expenses, which may be withheld in the Managing Member's sole discretion. All fees, costs or expenses to be reimbursed to Servicer pursuant to this Agreement shall be supported by delivery to Managing Member by Servicer of documentation (including invoices and other receipts) of such fees, costs and expenses in reasonable detail. Reimbursable Expenses will be submitted monthly and will payable by Managing Member on the Servicing Fee Distribution Date for the related Due Period. The Managing Member shall not reimburse the Servicer for any Excluded Expenses.

SCHEDULE 4

FORM OF ELECTRONIC REPORT ON THE LOANS AND COLLATERAL

[attached]

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	-	} If sum of these amounts exceeds total Management Fee for the month, allocate pro rata in proportion to amts due.
Purchase Money Note Guarantor	-	
Advance Facility Agent	-	
Collateral Agent	-	
Total payable from Management Fee	-	
Management Fee due to Managing Member	-	

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	-	-	-	} These items payable 1st from Interest Proceeds, then Principal.
Less: Pre-Approved Charges Paid	-	-	-	
Net Collection Account Proceeds	-	-	-	

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					} These items payable first from Interest Proceeds, then from Principal Proceeds including Excess Proceeds as needed.
(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	-	-	-	-	} Apply Excess Proceeds to Advance Facility ONLY if Defeasance Accts are fully funded
(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	-	-	-	-	

Advance Facility

**Monthly Roll Forward
[Month]**

	Unfunded Commitments	Interim Term Loans	Authorized Overages	Working Capital Advances (1)	Total
Advance Facility Monthly Roll					
Cumulative Draws, beginning of month	0.00				0.00
Authorized Draw, current month					0.00
Cumulative Repayments, beginning of month					0.00
Repayments, current month	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 expenses, (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]*

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

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 <u>Account</u>	Borrower Construction <u>Escrow Acct</u>	Total Escrow <u>Accounts</u>	(1) Servicer <u>Advances</u>
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)	(D)	(D) - (C) = (E)	(F) * 75%
				Total	Net Proceeds	Excess	Excess Proceeds

*

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	Default
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 w/h 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. <i>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.</i>	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.	D	8	YYYYMM
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.	N	3	999
27	Note purpose	Description of what the proceeds will be used for.	A/N	40	
28	Collateral Code	The code associated with the collateral type (e.g. commercial real estate, 1-4 family mortgages, UCC filings, marketable securities, etc.)	A/N	10	
29	Interest Rate	The contractual rate of interest currently applied to this note.	N	7	0.999999
30	Interest Rate Index	Interest rate base index used when the note's rate varies with an index	A/N	20	
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. <i>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 -0.2250.</i>	N	7	9.99999
32	Interest earned not collected	Total amount of interest accrued and not yet received on a note/credit facility. <i>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.</i>	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.	N	15	9(12)99
35	Guarantor	Name of the entity/person that guarantees the note. With multiple guarantors, give the primary one.	A/N	40	
36	Days Past Due	The number of days the note is past due on the date this report is produced. <i>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.</i>	N	5	99999
37	Interest paid-to date	The date to which interest payments are current	D	8	YYYYMM
38	Nonaccrual	Indicator if the note has been placed on nonaccrual.	Logic	1	Y/N
39	Type	The type of loan as defined by the vendor or user. For example Comm'l. RE, CRE, I/L, RC.	A/N	20	
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	A/N	1	P/S
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	N	15	9(12)99
43	Collateral description	The narrative description of the collateral.	A/N	50	

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
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. <i>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.</i>	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

SCHEDULE 5

TERMINATION WITHOUT CAUSE

[attached]

Schedule 5: Termination Without Cause

Managing Member may terminate the Agreement without cause by providing Servicer written Termination Notice one hundred and twenty (120) days prior to the date of termination. Managing Member agrees to promptly pay Servicer all unpaid fees and expenses incurred under this Agreement prior to the date of transfer to a replacement servicer and any administrative fees and costs incurred by Servicer in transferring to a replacement servicer or incurred by Servicer hereunder prior to the transfer of servicing. No termination without cause by Servicer shall become effective until a replacement servicer shall have assumed the Servicer's responsibilities and obligations hereunder, provided however that if the Managing Member has not selected a replacement servicer within one hundred and twenty (120) days of written notice from Servicer of its desire to terminate this Agreement without cause, then Servicer may resign effective on the earlier of (i) the one hundred and twenty-first (121st) day following such notice. The Servicer upon the effectiveness of its termination or resignation will immediately provide the Managing Member with all books and records that the Servicer has maintained with respect to a Mortgage Loan, including without limitation all Loan Documents then in the Servicer's possession. For the purposes of this Schedule 5, the Managing Member may be a successor Servicer if it has developed the capacity to perform the Servicing Obligations set forth in this Agreement and if it obtains the appropriate licenses in all fifty (50) states (which it is under no obligation to do so otherwise).