

SERVICING AGREEMENT

by and between

COLFIN 2011 ADC FUNDING, LLC

and

COLONY AMC 2011 ADC, LLC

Dated as of January 26, 2011

TABLE OF CONTENTS

		<u>Page</u>
ARTICLE I	DEFINITIONS AND CONSTRUCTION.....	1
Section 1.1	Definitions.....	1
Section 1.2	Construction.....	3
ARTICLE II	SERVICING OBLIGATIONS OF THE SERVICER.....	3
Section 2.1	Appointment and Acceptance as Servicer	3
Section 2.2	Limited Power of Attorney	3
Section 2.3	Servicing Fee	4
Section 2.4	Servicing Standard.....	4
Section 2.5	Collection Account.	4
Section 2.6	Working Capital Reserve Account.	5
Section 2.7	[Reserved].....	6
Section 2.8	Escrow Accounts	6
Section 2.9	Other Accounts	6
Section 2.10	Maintenance of Insurance Policies; Errors and Omissions and Fidelity Coverage.....	6
Section 2.11	Funding of Working Capital Expenses; Permitted Vertical Completion Expenses.....	7
Section 2.12	Expenses	8
Section 2.13	Insured or Guaranteed Assets	8
Section 2.14	Registration with MERS.....	9
ARTICLE III	DEFAULTS; ACQUISITION OF COLLATERAL.....	10
Section 3.1	Delinquency Control.....	10
Section 3.2	Discretion of the Servicer in Responding to Defaults of Borrower.....	10
Section 3.3	Acquisition of Acquired Property.....	10
Section 3.4	Administration of Acquired REO Properties.....	11
ARTICLE IV	SUBSERVICING	13
Section 4.1	Retention of Subservicer.....	13
Section 4.2	Subservicing Agreement Requirements.....	13
Section 4.3	Servicer Liable for Subservicers.....	15
Section 4.4	Manager Approval Required.....	16
Section 4.5	Regulation AB Requirements	16
ARTICLE V	REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SERVICER	16
Section 5.1	Representations and Warranties.....	16
Section 5.2	Reporting, Books and Records and Compliance Covenants	17
Section 5.3	Audits.....	20
Section 5.4	No Liens.....	21
Section 5.5	Servicer's Duty to Advise; Delivery of Certain Notices	21
Section 5.6	Notice of Breach or Change of Control.....	22

Section 5.7	Copies of Documents	22
Section 5.8	Financial Information.....	22
ARTICLE VI	MANAGER CONSENT	22
Section 6.1	Actions Requiring Manager Consent.....	22
Section 6.2	Amendments, Modification and Waivers	24
ARTICLE VII	DEFAULTS; TERMINATION; TERMINATION WITHOUT CAUSE.....	24
Section 7.1	Defaults	24
Section 7.2	Termination with Cause	25
Section 7.3	Termination without Cause.....	27
Section 7.4	Effective Termination Date.....	27
Section 7.5	Accounting.....	27
ARTICLE VIII	INDEPENDENCE OF PARTIES; INDEMNIFICATION.....	28
Section 8.1	Independence of Parties	28
Section 8.2	Indemnification	28
Section 8.3	Procedure for Indemnification	28
Section 8.4	Pre-Effective Date Liabilities	29
ARTICLE IX	NOTICES.....	29
ARTICLE X	GOVERNING LAW; JURISDICTION	30
Section 10.1	Governing Law	30
Section 10.2	Jurisdiction; Venue and Service.....	31
Section 10.3	Waiver of Jury Trial.....	33
ARTICLE XI	MISCELLANEOUS	33
Section 11.1	No Assignment by Servicer; No Transfer of Ownership Interests in Servicing Rights.....	33
Section 11.2	Legal Fees	34
Section 11.3	Entire Agreement	34
Section 11.4	Counterparts; Facsimile Signatures	34
Section 11.5	Headings	34
Section 11.6	Compliance with Law	34
Section 11.7	Severability	34
Section 11.8	Third Party Beneficiaries	35
Section 11.9	Protection of Confidential Information.....	35
Section 11.10	Time of Essence	36
Section 11.11	No Presumption	36
Section 11.12	No Right of Setoff.....	36
Section 11.13	Release of Initial Member and Others	36
Section 11.14	Delegation by Manager.....	37

SCHEDULES AND EXHIBITS

Exhibits

Exhibit A

Asset Schedule

Exhibit B

Form of Electronic Tracking Agreement

Schedules

Schedule 1

List of Failed Financial Institutions

Schedule 2

Fee Schedule

Schedule 3

Servicing Obligations

Schedule 4

Reimbursement of Servicer Advances

Schedule 5

Form of Electronic Report on the Assets and Collateral

Schedule 6

Termination Without Cause

Schedule 7

Borrower-Business Relationship Business Plans and Consolidated Business Plans

SERVICING AGREEMENT

THIS SERVICING AGREEMENT (as the same shall be amended or supplemented, this “**Agreement**”) is made and entered into as of the 26th day of January 2011 (the “**Effective Date**”), by and between ColFin 2011 ADC Funding, LLC, a Delaware limited liability company (including its successors and assigns, the “**Manager**”), and Colony AMC 2011 ADC, LLC a Delaware limited liability company (including those of its successors and assigns as are expressly permitted pursuant to this Agreement, the “**Servicer**”).

RECITALS

WHEREAS, RAD/CADC Venture 2010-2, LLC (the “**Company**”) owns the Assets (as defined more particularly in the Agreement of Common Definitions) described on the Asset Schedule attached hereto as Exhibit A (the “**Asset Schedule**”);

WHEREAS, the Manager is the “**Manager**” of the Company with the authority and responsibility to service and manage the Assets and related Collateral pursuant to the LLC Operating Agreement;

WHEREAS, the Manager desires to delegate to the Servicer the Manager’s responsibilities under the LLC Operating Agreement and other Transaction Documents with respect to the corresponding obligations of Servicer under this Agreement; and

WHEREAS, the Manager and the Servicer desire that the Servicer service and administer the Assets and Collateral on behalf of the Company and the Manager 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 Manager and the Servicer hereby agree as follows:

ARTICLE I **DEFINITIONS AND CONSTRUCTION**

Section 1.1 Definitions. For purposes of this Agreement, (a) terms used herein, to the extent the same are defined in the Agreement of Common Definitions and not otherwise defined herein, shall have the respective meanings and definitions given in such Agreement of Common Definitions, and (b) the following terms shall have the meanings and definitions hereinafter respectively set forth.

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

“**Agreement of Common Definitions**” shall mean the Agreement of Common Definitions – RAD/CADC Venture 2010-2 Structured Transaction – Agreement of Common Definitions, dated as of the date hereof, by and among the Initial Member, the Company, the

Private Owner, the Purchase Money Note Guarantor, the Collateral Agent, the Custodian/Paying Agent and the Servicer.

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

“**Business Plan Schedule**” shall have the meaning given in Section 5.2(h).

“**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.

“**Electronic Report**” shall have the meaning given in Section 5.2(e).

“**Electronic Tracking Agreement**” shall mean an agreement substantially in the form of Exhibit B.

“**Fee Schedule**” shall mean Schedule 2, as the same may be amended from time to time by the Manager and the Servicer without the consent of the Required Consenting Parties.

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

“**Indemnified Parties**” shall have the meaning given in Section 8.2.

“**Manager**” shall have the meaning given in the preamble of this Agreement.

“**Other Accounts**” shall have the meaning given in Section 2.9.

“**Pre-Existing Liabilities**” shall have the meaning given in Section 8.4.

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

“**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 Manager, provided, however, that, in any case, if such day is not a Business Day, the Specified Date shall be the immediately preceding Business Day.

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

Section 1.2 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.

ARTICLE II

SERVICING OBLIGATIONS OF THE SERVICER

Section 2.1 Appointment and Acceptance as Servicer. Effective as of the date hereof (and, with respect to each Asset or Group of Assets, as of the applicable Servicing Transfer Date with respect thereto), the Manager appoints the Servicer to service, administer, manage and dispose of the Assets and the Collateral on behalf of and as an agent of the Manager.

Section 2.2 Limited Power of Attorney. The Manager hereby grants to the Servicer a limited power of attorney to execute all documents on its behalf (including as the “Manager” of the Company, in turn acting on behalf of the Company) 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 Manager 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 Manager, or (ii) termination of this Agreement pursuant to ARTICLE VII.

Section 2.3 Servicing Fee. As consideration for servicing the Assets and the Collateral, the Manager 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 Assets and Collateral as are set forth on Schedule 3, as the same may be amended from time to time by the Manager 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 Assets (and related Asset Documents), (iii) in accordance with the terms of this Agreement (including this ARTICLE II), (iv) in accordance with all applicable Laws, (v) subject to Section 5.7, in accordance with the requirements of the LLC Operating Agreement, the Custodial and Paying Agency Agreement and the other Transaction 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, provided that, with respect to each Asset and related Collateral, in the absence of a customary and usual standard of practice, the Servicer shall comply with the applicable Fannie Mae Guidelines, if any, with respect to similar loans or properties in similar situations (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 Manager or any Subservicer or any of their respective Affiliates may have to any Borrower, Obligor or other obligor or any of their respective Affiliates, including any other banking or lending relationship and any other relationship described in Section 5.1(h), (b) the Company's, the Manager's, the Servicer's or any Subservicer's obligation to make disbursements and advances with respect to the Assets and the Collateral, (c) any relationship that the Servicer or any Subservicer may have to each other or to the Company, the Manager or any of their respective Affiliates, or any relationship that any of their respective Affiliates may have to the Company, the Manager 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 Asset Proceeds on a daily basis (without deduction or setoff as provided in Section 11.12 hereof) within two (2) 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 Asset Proceeds, amounts released from the Working Capital Reserve Account, the proceeds of Excess Working Capital Advances and Discretionary Funding Advances and other funds expressly permitted to be deposited into the Collection Account pursuant to the Custodial and Paying Agency Agreement) to be commingled in the Collection Account.

(b) Except as otherwise directed by the Manager, 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 (including the additional terms and conditions set forth in the Servicing Obligations) for purposes of payment of applicable Working Capital Expenses (including the making of applicable Funding Draws); 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 Manager, 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 Paying Agent.

Section 2.6 Working Capital Reserve Account.

(a) Pursuant to the LLC Operating Agreement and the Custodial and Paying Agency Agreement, the Company has established the Working Capital Reserve Account to be maintained with the Paying Agent, and the Initial Member and the Private Owner have funded the Working Capital Reserve into the Working Capital Reserve Account in an initial amount of the WCR Account Deposit for purposes of funding Working Capital Expenses and Permitted Vertical Completion Expenses of the Company in accordance with the LLC Operating Agreement and the Custodial and Paying Agency Agreement. Except as otherwise directed by the Manager, the Servicer shall not cause funds from any other source (other than interest or earnings on the Working Capital Reserve) to be commingled in the Working Capital Reserve Account (it being understood that deposits into such Working Capital Reserve Account shall be made only pursuant to the Custodial and Paying Agency Agreement and the LLC Operating Agreement).

(b) Except as otherwise directed by the Manager, any and all amounts on deposit in the Working Capital Reserve Account (including interest and earnings thereon) shall be disbursed strictly in accordance with this Agreement (including the additional terms and conditions set forth in the Servicing Obligations).

(c) The Working Capital Reserve Account (and all funds therein) will be subject to an account control agreement among the Company, the Collateral Agent and the Paying Agent.

Section 2.7 [Reserved]

Section 2.8 Escrow Accounts. Except as otherwise directed by the Manager, the Servicer shall establish and maintain one or more Escrow Accounts, each of which shall be held in trust for the benefit of the Company and the Collateral Agent for amounts deposited or required to be deposited therein by the applicable Borrower. Except as otherwise directed by the Manager, the Servicer shall deposit into the applicable Escrow Account on a daily basis, within two (2) Business Days of receipt, 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 Asset Documents. The Servicer shall pay to the Borrowers interest on funds in Escrow Accounts to the extent required by Law or the applicable Asset Documents.

Section 2.9 Other Accounts. At the direction of the Manager, the Servicer shall establish and maintain such other Eligible Accounts as may be directed by the Manager, each of which shall be held in trust for the benefit of the Company and the Collateral Agent, and shall be funded and disbursed only in accordance with such instructions as are provided by the Manager (“**Other Accounts**”).

Section 2.10 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 Property) as required under the Reimbursement, Security and Guaranty Agreement and the LLC Operating Agreement, including, whether or not so required (but in all events subject to the requirements in LLC Operating Agreement and, for so long as the same remains in effect, the Reimbursement, Security and Guaranty Agreement), insurance from an insurer reasonably acceptable to the Manager for each Asset with respect to which the Borrower has failed to maintain required insurance, fire, hurricane, flood and hazard insurance with extended coverage as is customary in the area in which the Collateral is located and in such amounts and with such deductibles as, from time to time, is directed by the Manager.

(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 Manager shall be notified immediately upon the reduction of or potential reduction of 50% of the limits. The Manager may require that the 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 the effective date of the policy 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 per claim and \$10,000,000 in the aggregate, covering employee theft, forgery and alteration, wire/funds transfer, computer fraud and client coverage. Such coverage shall insure all employees or any other persons authorized by Servicer or Subservicer to handle any funds, money, documents or papers relating to any Asset, and shall protect the Servicer or Subservicer, as applicable, against losses arising out of theft, embezzlement, fraud, misplacement, and other similar causes. The Manager and the Company shall each be named as a loss payee with respect to claims arising out of Assets handled under this Agreement or any applicable Servicing Agreement or Subservicing 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 Manager and the Company shall each be named as additional insured. The policy shall include a waiver of subrogation in favor of the Manager and the Company.

(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. The policy shall include a waiver of subrogation in favor of the Manager and the Company.

(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. Certificates shall show each of the Manager and the Company as certificate holder, or as otherwise designated by the language in clauses (i)-(vii) above.

The Servicer shall provide (or shall cause each Subservicer to provide) each Required Consenting Party and the Manager with certificates evidencing all such policies on the Effective Date (and, with respect to each Asset, the applicable Servicing Transfer Date with respect thereto) and each anniversary of the Closing Date thereafter, and otherwise upon request of such Required Consenting Party or the Manager. Copies of fidelity bonds and insurance policies required to be maintained pursuant to this Section 2.10 shall be made available to the Manager, the Required Consenting Parties or their respective representatives on the Effective Date (and, with respect to each Asset, on or before the applicable Servicing Transfer Date with respect thereto), and shall otherwise be made available to the Manager, any of the Required Consenting Parties and their respective representatives upon request.

Section 2.11 Funding of Working Capital Expenses; Permitted Vertical Completion Expenses. To the extent set forth in, and subject to the terms of, this Agreement (including the

Servicing Obligations), the Servicer shall, on behalf of the Manager, in turn acting on behalf of the Company (and from Company funds made available by the Manager), pay applicable Working Capital Expenses and Permitted Vertical Completion Expenses (including making applicable Funding Draws and Permitted Vertical Development Funding Draws, it being understood that the Servicing Obligations may set forth rights and limitations of the Servicer with respect to applicable decisions and rights of the Manager in connection with the making of Funding Draws and Permitted Vertical Development Funding Draws); provided that the payment of the same is consistent with the applicable terms and conditions in the Custodial and Paying Agency Agreement and, subject to Section 5.7, the applicable terms and conditions in the LLC Operating Agreement and the other Transaction Documents. Servicer acknowledges that (a) subject to the Custodial and Paying Agency Agreement (and any permitted transfer or release of funds as provided therein), the Working Capital Reserve shall be used exclusively for funding of Working Capital Expenses (including the making of Funding Draws with respect to specified Assets) and Permitted Vertical Completion Expenses (including the making of Permitted Vertical Development Funding Draws with respect to specified Loans); (b) proceeds of Discretionary Funding Advances shall be used exclusively for paying Permitted Vertical Completion Expenses with respect to specified Assets (and in no event may Discretionary Funding Advances be used for payment of any Working Capital Expenses), to the extent funds are not otherwise available in the Collection Account and the Working Capital Reserve Account balance is less than the Working Capital Reserve Floor; and (c) proceeds of Excess Working Capital Advances shall be used exclusively for (i) payment of Working Capital Expenses to the extent that funds are not otherwise available in the Collection Account, and the Working Capital Reserve Account balance is less than the Working Capital Reserve Floor, and (ii) funding the Defeasance Account by such amount as may be required to cure a Purchase Money Note Trigger Event to the extent funds are not otherwise available in the Collection Account (and in no event may Excess Working Capital Advances be used for funding Permitted Vertical Completion Expenses or for such other purposes as are expressly prohibited pursuant to the LLC Operating Agreement).

Section 2.12 Expenses. Except as otherwise directed by the Manager, the Servicer shall use its reasonable best efforts to recover from Borrowers and Obligors all amounts of Servicing Expenses that are advanced by the Servicer (as permitted or required pursuant to the Servicing Obligations) as Servicer Advances to the extent that the Borrowers and Obligors are responsible for such Servicing Expenses under the Asset Documents. All such amounts not recovered from Borrowers or Obligors and all other Servicer Advances shall be reimbursed only in accordance with the terms set forth on Schedule 4, as the same may be amended from time to time by the Manager (without the consent of the Initial Member) and the Servicer. In no event may any Servicer Advances be deducted from or netted against any Asset 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 amount to the Manager, or, if so directed by the Manager, directly to the Company (to the Collection Account) on the Specified Date immediately following the Servicer's receipt of notice from the Manager requesting the same. No Servicer Advances shall bear interest chargeable in any way to the Company or deductible from any Asset Proceeds.

Section 2.13 Insured or Guaranteed Assets. If any Assets being serviced pursuant to this Agreement are insured or guaranteed by any Governmental Authority, the Servicer

acknowledges and agrees that, if the Manager so directs pursuant to the Servicing Obligations with respect to such Assets, 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 Assets pursuant to this Agreement, it agrees to fulfill all of the Company's obligations under the contracts of insurance or guaranty.

Section 2.14 Registration with MERS. In the event that any of the Assets are (or are required by the Servicing Obligations to be) registered on the MERS® System, the Servicer shall, or shall cause its designee (which shall be a MERS Member (defined below)) to, maintain (or register, as applicable) such Asset on the MERS® System and execute and deliver on behalf of the Company (including, as applicable, on behalf of the Manager, in turn on behalf of the Company) any and all instruments of assignment and other comparable instruments with respect to such assignment or re-recording of a mortgage securing a Loan in the name of MERS®, solely as nominee for the Company and its successors and assigns. A "MERS Member" shall be a MERS member as determined by MERS and in good standing, and for purposes of this Agreement, such MERS Member designee shall be SitusServ L.P., a Texas limited partnership, until Manager shall designate another MERS Member. With respect to each Asset that is registered on the MERS® System and so long as the Manager is not a member of MERS, (A) the MERS Member designee of Servicer shall be designated as the "servicer" and the 100002 Org Id shall be designated as the "investor" with respect to such Asset, and, if applicable, the Manager may cause or permit an applicable Subservicer to be designated as the "subservicer" with respect to such Asset (provided, that, at the option of the Manager in accordance with the LLC Operating Agreement and so long as each applicable designee is and remains a MERS member in good standing, (1) the Company may be designated as the "investor" with respect to any such Asset, and (2) the Manager may be designated as the "servicer" with respect to any such Asset, in which case the Servicer shall be designated as the "subservicer" with respect thereto), and (B) no other Person shall be identified on the MERS® System as having any interest in such Asset unless otherwise consented to by the Manager (or required pursuant to the Electronic Tracking Agreement). Except as otherwise directed by the Manager (in connection with a voluntary removal by the Manager of any Asset from the MERS® System pursuant to Section 12.3(g) of the LLC Operating Agreement), all Assets registered on the MERS® System shall remain registered on the MERS® System unless default, foreclosure or similar legal or MERS® requirements dictate otherwise. The Servicer shall provide, or cause the MERS Member designee to provide, the Manager and the Initial Member with such reports from the MERS® System as the Manager or the Initial Member, from time to time, may request, including to allow the Manager and the Initial Member to verify the Persons identified on the MERS® System as having any interest in any of the Assets and to confirm that the Assets required to be registered on the MERS® System are so registered. For so long as any Assets remain registered with MERS, the same shall be subject to an Electronic Tracking Agreement in the form of Exhibit B, and, to the extent any such Assets are so registered with MERS as of the Closing Date, the MERS Member designee, together with the Manager, the Collateral Agent and the Initial Member, shall execute such Electronic Tracking Agreement on the Closing Date and deliver the same to MERS. Without limiting the foregoing, upon the request of the Manager or the Initial Member, the Servicer shall cause, or cause the MERS Member designee to cause, MERS to run a query with respect to any and all specified fields on the MERS® System with respect to any or all of the Assets registered on the MERS® System and provide the results to the Manager and

the Initial Member and, if requested by the Manager or the Initial Member (and subject to any applicable provisions of the Electronic Tracking Agreement), shall cause MERS to change the information in such fields, to the extent MERS will do so in accordance with its policies and procedures, to reflect its instructions.

ARTICLE III

DEFAULTS; ACQUISITION OF COLLATERAL

Section 3.1 Delinquency Control. Except as otherwise directed by the Manager, the Servicer shall maintain a collection department that complies with the Servicing Standard and protects the Company's interests in the Assets 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 Asset Documents, but subject to the other terms and conditions of this Agreement, including the Servicing Obligations of the Servicer and such direction as the Manager may otherwise provide that is consistent with the Servicer's compliance with the Servicing Standard, the Servicer, with the consent of the Manager, shall determine the response to such default and the 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 Asset 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 Asset Documents, Collateral or Acquired Property securing the Loan pursuant to the power of sale contained therein or through a judicial action or appoint a receiver, (d) the institution of proceedings against any Obligor, (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 UCC sale, and (g) the institution or continuation of proceedings to obtain a deficiency judgment against such Borrower or any Obligor and the collection of such judgment. Notwithstanding anything to the contrary contained herein, but subject to Section 5.7, 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 LLC Operating Agreement or any other Transaction Documents without the prior written consent of the Manager.

Section 3.3 Acquisition of Acquired Property. 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 Asset 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 Manager. In addition, if the Manager 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 Manager or

any Affiliate of the Servicer or any Subservicer. Except as is otherwise directed by the Manager, 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 UCC 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 UCC, or otherwise, title to such Acquired Property shall be taken by and held in the name of an Ownership Entity; provided, however, that for any Collateral which becomes Acquired Property after the Servicing Transfer Date relating thereto 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.

Section 3.4 Administration of Acquired REO Properties. In addition to any other terms and conditions set forth herein, in connection with any Acquired REO Properties, the Servicer shall, in each case subject to applicable instructions from the Manager and the Servicing Obligations, comply with the following terms and conditions:

(a) The Servicer shall cause the applicable Ownership Entity to maintain insurance in compliance with applicable requirements herein and in the LLC Operating Agreement.

(b) The Servicer shall cause the applicable Ownership Entity to (i) perform the obligations that such Ownership Entity is required to perform under the leases to which it is a party in all material respects and (ii) enforce, in accordance with commercially reasonable practices for properties similar to the applicable Acquired REO Property, the material obligations to be performed by the tenants under such leases.

(c) The Servicer shall not permit any Ownership Entity to initiate or consent to any zoning reclassification of any portion of the Acquired REO Property owned by such Ownership Entity, or use or permit the use of any portion of an Acquired REO Property in any manner that could result in such use (taking into account any applicable variance obtained in accordance with the Servicing Standard) becoming a non-conforming use under any zoning ordinance or any other applicable land use Law, rule or regulation, without the prior consent of the Manager and the Required Consenting Parties.

(d) The Servicer shall not permit any Ownership Entity to suffer, permit or initiate the joint assessment of Acquired REO Property (i) with any other real property constituting a Tax lot separate from such Acquired REO Property, and (ii) with any portion of an Acquired REO Property which may be deemed to constitute personal property, or any other procedure whereby the Lien of any Taxes which may be levied against such personal property shall be assessed or levied or charged to such Acquired REO Property.

(e) From and after the completion of any buildings or other improvements at an Acquired REO Property, the Servicer shall cause the applicable Ownership Entity to maintain such Acquired REO Property in a good and safe condition and repair (subject to such alterations as the Manager may from time to time determine to be appropriate in accordance with the

Servicing Standard and applicable requirements herein and in the other Transaction Documents) and in accordance with applicable Law.

(f) All property managers with respect to any Acquired REO Property shall, in their respective property management agreements or by separate agreement, subordinate their rights under such agreements (including their right to receive management fees) to the rights and interest of the Collateral Agent under the applicable REO Mortgage.

(g) With respect to any Acquired REO Property that is leased under a ground or other lease, the Servicer shall cause the applicable Ownership Entity to (i) pay all rents and other sums required to be paid by the tenant under and pursuant to the provisions of the applicable ground lease as and when such rent or other charge is payable, and (ii) diligently and timely perform and observe all of the terms, covenants and conditions binding on the tenant under the ground lease. The Servicer shall not permit the applicable Ownership Entity to subordinate or consent to the subordination of any ground lease to any mortgage, lease or other interest on or in the ground lessor's interest in the applicable Acquired REO Property without the prior consent of the Manager and the Collateral Agent unless such subordination is required under the provisions of such ground lease.

(h) In the event the Manager elects to cause the Company to fund any permitted construction with respect to Acquired REO Property, then the Servicer shall cause each Ownership Entity to pursue with diligence the construction of the Acquired REO Property owned by such Ownership Entity (i) in accordance with the construction, construction management (if any) and all other material contracts relating to such construction, and all requirements of Law, all restrictions, covenants and easements affecting such Acquired REO Property, and all applicable governmental approvals, (ii) in the case of any Substantially Complete Vertical Development, in substantial compliance with the plans and specifications therefor as in existence on the Closing Date and as thereafter modified by the Manager in its business judgment exercised in accordance with the LLC Operating Agreement and the other Transaction Documents, (iii) in a good and workmanlike manner and free of defects, (iv) in a manner such that such Acquired REO Property remains free from any Liens, claims or assessments (actual or contingent) for any material, labor or other item furnished in connection therewith, and (v) in conformance with all other applicable requirements set forth herein and in the other Transaction Documents.

(i) Notwithstanding any other provision of this Section 3.4 to the contrary, (i) in operating, managing, leasing or disposing of any Acquired REO Property, the Servicer shall act in the best interests of the Company, and the Members and creditors of the Company (including the FDIC in its various capacities) and in accordance with the Servicing Standard, and (ii) without relieving the Servicer of any obligation elsewhere in this Agreement, and subject to any applicable Servicing Obligations, the Servicer shall not be required to act in accordance with a specific provision of this Section 3.4 if such action is (A) not in the best interests of Company and the Members and creditors of the Company (including the FDIC in its various capacities), as determined by the Servicer in the exercise of its reasonable discretion, or (B) not in accordance with the Servicing Standard.

(j) The Servicer shall furnish to the Manager, the Collateral Agent and the Initial Member such reports regarding the construction, leasing and sales efforts of or relating to

the Acquired REO Property as the Manager, the Collateral Agent and the Initial Member shall reasonably request.

ARTICLE IV SUBSERVICING

Section 4.1 Retention of Subservicer. The Servicer may engage or retain one or more Subservicers, including Affiliates of the Manager or of the Servicer, 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 shall, among other things:

(a) provide for the servicing of the Assets 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) subject to Section 4.2(m) and Section 4.2(n) with respect to immediate termination, be terminable upon no more than thirty (30) days prior notice in the event of any Event of Default (as defined in the LLC Operating Agreement), any Default under this Agreement or any default under the Subservicing Agreement;

(c) provide that the Servicer as well as the Manager 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 Manager 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 FDIC, the Purchase Money Note Guarantor 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 such Subservicing Agreement shall include rights in favor of the FDIC, the Purchase Money Note Guarantor and the Company that are equivalent to the rights granted to such Persons hereunder) and is entitled to enforce the Subservicing Agreement with respect to such rights; and further provide that in no event shall any amendment or waiver to any such Subservicing Agreement limit or affect any rights of any such third party beneficiary thereunder without the express written consent of such third party beneficiary;

(f) provide that (i) upon removal of the Manager as the “Manager” pursuant to the LLC Operating Agreement and/or notice from the Initial Member or the Manager of the occurrence of any Event of Default under the LLC Operating Agreement, the Initial Member (and any successor “Manager” under the LLC Operating Agreement) may exercise all of the rights of the Manager under this Agreement and such Subservicing Agreement and further cause the termination or assignment to any other Person of this Agreement (and, in the event of any

such termination or assignment of this Agreement, the termination or assignment of any Subservicing Agreement), without penalty or payment of any fee, and (ii) upon the occurrence of any Default under this Agreement or an event described in clauses (ii), (iii) or (iv) of Section 7.2(a) hereof, each of the Manager (or applicable successor “Manager” under the LLC Operating Agreement) and the Initial Member may exercise all of the rights of (A) the Manager under this Agreement and cause the termination or assignment of this Agreement to any other Person, without penalty or payment of any fee, and (B) 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 Initial Member, the Manager, the Purchase Money Note Guarantor and the Company (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 Initial Member’s, the Manager’s, the Purchase Money Note Guarantor’s and the Company’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 Assets, the Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, any Other Accounts established or maintained pursuant to this Agreement or the Subservicing Agreement, accounts established or maintained pursuant to the Custodial and Paying Agency Agreement, or any matters relating to this Agreement or the Subservicing Agreement or the rights or obligations thereunder;

(h) provide that all Asset Proceeds are to be deposited into the Collection Account on a daily basis (without reduction or setoff as provided in Section 11.12 hereof) within two (2) Business Days of receipt and that under no circumstances are any funds, other than Asset Proceeds and interest and earnings thereon and amounts released from the Working Capital Reserve Account, the proceeds of Excess Working Capital Advances and Discretionary Funding Advances, 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 sale, transfer or assignment shall be void *ab initio*;

(j) provide that the Subservicer consents to the immediate termination of the Subservicer pursuant to Section 7.2 and Section 7.3 of this Agreement;

(k) provide that there shall be no right of setoff on the part of the Subservicer against the Asset Proceeds (or the Company);

(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 Section 7.1(a), (b), (c), (d), (e), (f), (g), (h), and (i) of this Agreement, and (ii) provide that each of the Manager and the Initial Member has the right (x) to immediately terminate the Subservicing Agreement by providing written notice upon the

occurrence of any such default or an event described in clauses (ii), (iii) or (iv) of Section 7.2(a) hereof, 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 (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 the occurrence of any of (x) a Default under Section 7.1(b), Section 7.1(b) or Section 7.1(c) of this Agreement, or (y) an 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 Prior Servicers from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and remedies of whatever kind or nature that the 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 Assets by the Prior Servicers prior to the applicable Servicing Transfer Date (other than due to gross negligence, violation of law or willful misconduct of such Prior Servicer);

(p) provide that, to the extent required under Section 2.14 hereof (or Section 12.3(g) of the LLC Operating Agreement), all Assets registered on the MERS® System shall remain registered unless default, foreclosure or similar legal or MERS requirements dictate otherwise or unless otherwise directed by the Manager;

(q) provide that no Subservicer, nor any Affiliate thereof may at any time, without the prior written approval of the Manager and the Initial Member, (i) be or become an Affiliate of or a partner or joint venturer with any Borrower or Obligor, (ii) be or become an agent of any Borrower or Obligor, or allow any Borrower or Obligor to be an agent of such Subservicer or of any Affiliate thereof, or (iii) have any interest whatsoever in any Borrower or Obligor or other obligor with respect to any Asset or any of the Collateral and shall immediately notify the Manager and the Initial Member upon becoming aware of such occurrence; and

(r) not conflict with the Servicing Standard or any other terms or provisions of this Agreement, the LLC Operating Agreement, the Custodial and Paying Agency Agreement or any of the other Transaction 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 Manager 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 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 Asset 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 Manager Approval Required. Each Subservicing Agreement and all 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 Manager (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 Manager and, upon request of any Required Consenting Party, to such Required Consenting Party.

Section 4.5 Regulation AB Requirements. The Servicer shall use commercially reasonable efforts to maintain in place, and to confirm, where applicable, that each Subservicer has in place, policies and procedures to comply with the relevant servicing criteria provisions of Section 1122(d)(1) of Regulation AB that are applicable and relate to the servicing being conducted under this Agreement, including for purposes of preparation and delivery of the annual reports (including the independent accountant report) required pursuant to Section 5.2(g) below; provided that the following Regulation AB criteria shall not be deemed relevant to the servicing being conducted under this Agreement: Section 1122(d)(1)(iii) regarding backup servicer requirements; Sections 1122(d)(3)(i-iv) regarding paying agent requirements; and Section 1122(d)(4)(xv) regarding external credit enhancement.

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 limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, (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 Assets 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 Asset, 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 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 limited liability company 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 Assets 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 the 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) None of the Servicer, any Subservicer or their respective Affiliates shall, at any time, without the prior written approval of the Manager and the Initial Member, (i) be an Affiliate of or a partner or joint venturer with any Borrower or Obligor, (ii) be an agent of any Borrower or Obligor, or allow any Borrower or Obligor to be an agent of the Servicer or any Subservicer or any such Affiliate of either, or (iii) have any interest whatsoever in any Borrower or Obligor or other obligor with respect to any Asset 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 Manager as follows:

(a) The Servicer shall be responsible for submitting all Internal Revenue Service information returns related to each Asset for all applicable periods commencing with the

Servicing Transfer Date with respect thereto (or, if later, 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 Assets, for the calendar or tax year in which the Effective Date falls and thereafter.

(b) The Servicer shall cause to be kept and maintained, at all times, at the Servicer's principal place of business, a complete and accurate set of files, books and records (including records transferred by the Manager to the Servicer) regarding the Assets and the Collateral, and the Company's and the relevant secured parties' interests in the Assets and the Collateral, including records relating to the Collection Account, the Working Capital Reserve Account, the Escrow Accounts, any Other Accounts maintained in connection with the Assets, the Servicer Advances, Funding Draws and other Working Capital Expenses and collection and remittance of Asset Proceeds. The books of account shall be maintained in a manner that provides sufficient assurance that: (i) transactions of the Company are executed in accordance with the general or specific authorization of the Manager consistent with the provisions of the LLC Operating Agreement; and (ii) transactions of the Company are recorded in such form and manner as will: (A) 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; (B) 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 (C) 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 Closing Date and three (3) years after the date on which the Final Distribution is made, which date shall be established by notice to the Servicer from the Manager. All such books and records shall be available during such period for inspection by the Manager, the FDIC, the Purchase Money Note Guarantor 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 Manager, the FDIC, the Purchase Money Note Guarantor 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 Manager, the Servicer, at the sole cost and expense of the Manager, shall promptly send copies (the number of copies of which shall be reasonable) of such books and records to the Manager. The Servicer shall provide the Manager with reasonable advance notice of the Servicer's intention to destroy or dispose of any documents or files relating to the Assets and, upon the request of the Manager, shall allow the Manager, 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 Assets 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 Assets and the Collateral, all documentation relating to items of income and expense pertaining to the Assets and the Collateral, and all of the Servicer's (and any Subservicer's) internal memoranda pertaining to the Assets and the Collateral.

(e) The Servicer shall cause to be furnished to the Manager, each month on the Specified Date, commencing with March 2011 (or such other date as may be set forth in the Servicing Obligations), a monthly electronic report on the Assets and Collateral containing such information and substantially in the form set forth on Schedule 5 as the same may be amended from time to time by the Manager (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 Manager to prepare, in accordance with the LLC Operating Agreement, the Distribution Date Report and the Monthly Report, and such other reports and information as the Manager shall reasonably require, to the extent such information is reasonably available to the Servicer. Notwithstanding the above, with respect to any period prior to the applicable Servicing Transfer 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 Manager pursuant to the interim servicing and asset management support obligation set forth in Section 3.3 of the Contribution Agreement and the Initial Member fails to timely deliver such information to the Servicer and the Manager.

(f) The Servicer shall deliver, and shall cause each Subservicer to deliver, to the Manager and each Required Consenting Party, on or before March 10th of each year, or such other day as the Manager and the Servicer may agree, commencing in the year 2012, an annual officer's certificate stating, as to the signer thereof, that (i) a review of such party's activities during the preceding Fiscal Year (or other applicable period as set forth below in this Section 5.2(f)) 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 other applicable period as set forth below in this Section 5.2(f)), 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. The first such officer's certificate shall, with respect to any Asset, shall cover the period commencing on the Servicing Transfer Date and continuing through the end of the 2011 Fiscal Year. In the event the Servicer or any Subservicer has been terminated, resigned or otherwise performed in such capacity for only part of a year (or other applicable period, as the case may be, with respect to the period commencing, with respect to any Asset, on the Servicing Transfer Date through the end of the 2011 Fiscal Year), such party shall provide an officer's certificate pursuant to this Section 5.2 with respect to such portion of the year (or other applicable period).

(g) On or before March 10th of each year, or such other day as the Manager and the Servicer agree, commencing in the year 2012, the Servicer shall, and shall cause each applicable Subservicer to, provide to the Manager and each Required Consenting Party (and/or to such other Person as the Manager may direct) the annual reports (including the independent accountant report) for the prior Fiscal Year (or other applicable period as set forth below)

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) with respect to the relevant servicing criteria provisions of Section 1122(d)(1) of Regulation AB that are applicable to the servicing being conducted under this Agreement pursuant to Section 4.5 above. The first such reports shall cover the period commencing on the Effective Date (and for each Asset, covering the period from the applicable Servicing Transfer Date) and continuing through the end of the 2011 Fiscal Year.

(h) In connection with the Manager's obligations under the LLC Operating Agreement to prepare, review and periodically update Borrower-Business Relationship Business Plans and Consolidated Business Plans, the Servicer shall prepare and deliver to the Manager, and thereafter periodically update, such Borrower-Business Relationship Business Plans and Consolidated Business Plans, or relevant portions thereof or information to be included therein, in each case to the extent set forth and required pursuant to Schedule 7 hereto as the same may be amended from time to time by the Manager and the Servicer without the consent of the Initial Member (the "**Business Plan Schedule**"). Upon reasonable notice by any Required Consenting Party or the Manager, the Servicer shall make its personnel who are familiar with the Borrower-Business Relationship Business Plans and Consolidated Business Plans (or relevant portions thereof) available during normal business hours for the purposes of discussing such Borrower-Business Relationship Business Plans and Consolidated Business Plans with representatives of such Required Consenting Party and/or the Manager and responding to questions therefrom.

Section 5.3 Audits. Until the later of the date that is ten (10) years after the Closing Date and the date that is three (3) years after the Final Distribution, which date shall be established by notice to the Servicer from the Manager, the Servicer shall, and shall cause each Subservicer to, (a) provide the Manager, the Purchase Money Note Guarantor 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 Assets or any Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, the Working Capital Reserve Account, any Other Accounts or accounts or disbursements under the Custodial and Paying Agency Agreement, distributions under the LLC Operating Agreement or any matters relating to this Agreement or the rights or obligations hereunder or under the other Transaction Documents, in each case to the extent such books of account, reports or records are maintained or required to be maintained by the Servicer under the Transaction Documents, (b) permit such representatives to make copies of and extracts from the same, (c) allow the Manager, the Purchase Money Note Guarantor and the Initial Member to cause such books to be audited by accountants selected by the Manager, the Purchase Money Note Guarantor or the Initial Member, as applicable, and (d) allow the representatives of the Manager, the Purchase Money Note Guarantor and the Initial Member to discuss any Servicer's and any Subservicer's affairs, finances and accounts, as they relate to the Assets, the Collateral, the Servicing Obligations, the Collection Account, the Escrow Accounts, the Working Capital Reserve Account, and any Other Accounts or any other matters relating to this Agreement, the other Transaction Documents, or the rights or obligations hereunder and thereunder, with any such Servicer's and any such Subservicer's officers, directors, employees, attorneys and accountants (and by this provision the Servicer hereby authorizes such accountants to discuss such affairs, finances and accounts with such representatives). Any expense incurred by the Manager, the Purchase Money Note Guarantor or

the Initial Member and any reasonable out-of-pocket expense incurred by the Servicer in connection with the exercise by the Manager, the Purchase Money Note Guarantor or the Initial Member of its rights in this Section 5.3 shall be borne by the Manager, the Purchase Money Note Guarantor or the Initial Member, as applicable (and in all events subject to any obligation of the Manager to bear such expenses of the Purchase Money Note Guarantor or the Initial Member pursuant to the LLC Operating Agreement); provided, however, that any expense incident to the exercise by the Manager, the Purchase Money Note Guarantor or the Initial Member of their respective rights pursuant to this Section 5.3 as a result of or during the continuance of a Default by the Servicer hereunder shall in all cases be borne by the Servicer.

Section 5.4 No Liens. The Servicer (i) shall not place or voluntarily permit any Lien to be placed on any of the Assets, the Collateral, the Asset Documents or the Asset Proceeds, except, in the case of the Collateral, (x) as permitted under the Asset Documents where the applicable Borrower is not in default thereunder and (y) as permitted by the terms of the Reimbursement, Security and Guaranty Agreement, and (ii) shall not take any action to interfere with the Collateral Agent's rights as a secured party with respect to the Assets, the Collateral and the Asset 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 Manager or any Required Consenting Party hereunder, the Servicer shall cause to be delivered to the Manager such information relating to the Assets, the Collateral, the Servicer and any Subservicer as the Manager may reasonably request from time to time and, in any case, shall ensure that the Manager is promptly advised, in writing, of any matter of which the Servicer or Subservicer becomes aware relating to the Assets, any of the Collateral, the Collection Account, the Escrow Accounts, the Working Capital Reserve Account, any accounts created under the Custodial and Paying Agency Agreement, any Other Accounts, or any Borrower or Obligor that materially and adversely affects the interests of the Company or any Required Consenting Party. Without limiting the generality of the foregoing, the Servicer shall immediately notify the Manager of (i) any claim, threatened claim or litigation against the Servicer, the Company, the Manager or the Initial Member arising out of or with respect to any Asset, (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 with respect to any Loan or Acquired Property for which Funding Draws or Permitted Vertical Development Funding Draws have been, or are contemplated to be, made, or (iv) any other occurrence which would reasonably be expected to materially hamper, prevent or interfere with the effectuation of any then-applicable Borrower-Business Relationship Business Plans or Consolidated Business Plans. In addition, the Servicer shall cause to be delivered to the Manager information indicating any possible Environmental Hazard with respect to any Collateral. Further, the Servicer shall cause to be furnished to the Manager, 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 Asset and Collateral (A) 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, (B) in the case of any Asset, describing the remedial efforts or enforcement actions, if any, being undertaken by the Servicer with respect to the applicable Asset, (C) describing the status of the activities contemplated by the Borrower-Business Relationship Business Plans and the Consolidated Business Plans (which, among other things, identifies any facts or circumstances which are

reasonably likely to hamper, interfere with, prevent or postpone effectuation of the applicable Business Plans), (D) 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), (E) to the extent requested by the Manager, any materials delivered by the Borrower to the Company or the Servicer pursuant to the applicable Asset Documents not theretofore delivered to the Manager (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 (F) such other information as the Manager reasonably requests.

Section 5.6 Notice of Breach or Change of Control. The Servicer shall immediately notify the Manager of (i) 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, and (ii) any Change of Control with respect to the Servicer.

Section 5.7 Copies of Documents. Copies of the LLC Operating Agreement and the other Transaction Documents (or portions thereof) as Manager has determined to be necessary for the Servicer to be familiar with in order to perform its obligations hereunder have been delivered to the Servicer by the Manager, and the Servicer acknowledges receipt thereof. The Manager may from time to time deliver to the Servicer such Modifications or additional Transaction Documents (or portions of any thereof) as Manager may determine to be so necessary for the continued performance by Servicer of its obligations hereunder. All references herein to the Servicer's obligations with respect to such LLC Operating Agreement and other Transaction Documents shall, as between the Manager and the Servicer (and without limitation of obligations of the Manager, or the rights of the Initial Member or the Purchase Money Note Guarantor under this Agreement, the LLC Operating Agreement or the other Transaction Documents), be deemed to refer to the LLC Operating Agreement and other Transaction Documents (or portions thereof) as have been, or from time to time are, delivered to the Servicer.

Section 5.8 Financial Information. The Servicer shall submit to the Company, with copies thereof to be delivered by the Servicer to each Required Consenting Party (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 relating to the Servicer (and/or such other financial information as the Manager or such Required Consenting Party may reasonably request from time to time).

ARTICLE VI

MANAGER CONSENT

Section 6.1 Actions Requiring Manager 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 Manager (which may require the Manager to obtain the written consent of the Required Consenting Parties), which consent may be withheld or conditioned in the sole and absolute discretion of the Manager:

(a) conducting Bulk Sales except as expressly permitted in the Servicing Obligations (and in all events subject to the limitations set forth in the LLC Operating Agreement);

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

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

(e) any disbursement of any funds in the Collection Account (including any such funds made available through Discretionary Funding Advances or Excess Working Capital Advances), the Working Capital Reserve Account, the accounts created under the Custodial and Paying Agency Agreement or any Other Accounts other than in accordance with the provisions of this Agreement, the LLC Operating Agreement, the Reimbursement, Security and Guaranty Agreement and the Custodial and Paying Agency Agreement;

(f) advancing additional funds that would increase the Unpaid Principal Balance of any Asset other than (i) Funding Draws, (ii) Permitted Vertical Completion Expenses, or (iii) Servicing Expenses to the extent that capitalizing such Servicing Expenses is or would have been, prior to the conversion of the Loan to Acquired Property, in each case as permitted under the applicable Asset Documents;

(g) in connection with its servicing and administration of any Asset and management of the Collateral or Acquired Property, (i) approving (x) any material modification or amendment to, or cancellation or termination of, any Asset Documents, or (y) plans and specifications, construction budgets or construction schedules with respect to the projects which are the subject of such Asset (or material modifications to any of such items, including any change orders); (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 Asset or the performance of any other obligation relating thereto; (v) granting any consent under any Asset 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 Asset, any Borrower or any Obligor with respect to an Asset, or any Collateral, including voting for a plan of reorganization; (vii) subordinating the liens of any Asset Document; (viii) amending or waiving any provision of any intercreditor agreement or making any decisions with

respect to the Assets under any intercreditor agreement; or (ix) taking any other action regarding such Asset, Collateral or Acquired Property that is prohibited under the LLC Operating Agreement or the other Transaction 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 Manager 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. In no event shall any such amendment or waiver limit or affect the rights of the FDIC (as a third party beneficiary hereunder as specified in Section 11.8) without the express written consent of the FDIC.

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, the Working Capital Reserve Account, any accounts created under the Custodial and Paying Agency Agreement or any Other Accounts any amount required to be so remitted or deposited under the terms of (i) this Agreement, (ii) the Custodial and Paying Agency Agreement, or (iii) 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) (i) with respect to the Servicer or any of its Related Parties, or (ii) with respect to any Subservicer or any of its Related Parties; provided, that any such Insolvency Event under this clause (ii) (that is not otherwise an Insolvency Event under clause (i) hereof) shall not be a Default hereunder (but shall in all events be a default under the applicable Subservicing Agreement) so long as the Servicer shall have fully replaced such affected Subservicer within thirty (30) days after the occurrence of such Insolvency Event; 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 Manager 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 Manager to the Servicer, or (ii) Section 5.2(f) or Section 5.2(g), which failure continues unremedied for a period of twenty-five (25) days, or such other period as the Manager 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 Manager to the Servicer; or

(d) any failure by the Servicer at any time (i) to be a Qualified Servicer or 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 otherwise be approved by the Initial Member 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), (ii) or (iii), 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 Manager or the Initial 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 Section 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 Manager, with the consent of the Initial Member, and the Servicer agree, after the date on which written notice of such failure shall have been given by the Manager or the Initial 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 Manager, with the consent of the Initial 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 Manager and the Initial Member that the Servicer is diligently pursuing remedial action; and provided, further, that, with respect to any such failure under this Section 7.1(f) that relates exclusively to obligations included in any applicable Schedule hereto that can be amended or otherwise modified without the consent of the Initial Member, then no such consent of the Initial Member shall be required with respect to an applicable cure period hereunder so long as such failure hereunder is not, or would not result in, a failure by the Manager to comply with its obligations under the LLC Operating Agreement and the other Transaction Documents; or

(g) [reserved];

(h) [reserved];

(i) the occurrence of any Restricted Servicer Change of Control.

Section 7.2 Termination with Cause.

(a) Upon (i) 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 (ii) the occurrence of any “Event of Default” as defined in the LLC Operating Agreement, (iii) the failure by the Servicer to perform its obligations in Section 11.9; provided, that in the event of such failure the Servicer is due to the failure of any Subservicer to comply with the provisions of Section 11.9, then it shall not be an Event of Default (but shall in all events be a default under the applicable Subservicing Agreement) so long as Servicer shall have replaced such Subservicer within thirty (30) days after the occurrence of such Subservicer’s failure to comply with Servicer’s obligations under Section 11.9, or (iv) receipt by the Manager or the Servicer of notice

from the Collateral Agent that an “Event of Default” as defined in the Reimbursement, Security and Guaranty Agreement has occurred and is continuing, the Manager (including, if applicable, any successor “Manager” pursuant to the LLC Operating Agreement), the Initial Member, and the Purchase Money Note Guarantor, in addition to any other rights the Manager, the Initial Member or the Purchase Money Note Guarantor may have at law (including under the UCC) or equity, including injunctive relief, specific performance or otherwise, may (i) immediately terminate this Agreement by providing a Termination Notice to the Servicer, (ii) immediately terminate the Subservicing Agreements by providing a written termination notice to the Servicer and the applicable Subservicers, and (iii) otherwise enforce this Agreement, in any case, without penalty or payment of any fee.

(b) In addition to the rights set forth above in Section 7.2(a), (i) upon the removal of the Manager as the “Manager” pursuant to the LLC Operating Agreement and/or notice from the Initial Member or the Manager of the occurrence of any Event of Default (as defined in the LLC Operating Agreement) under the LLC Operating Agreement, the Initial Member (or any successor “Manager” to the Manager under the LLC Operating Agreement) may exercise all of the rights of the Manager under this Agreement and further cause the termination or assignment of this Agreement from the Manager to any other Person, without penalty or payment of any fee, and (ii) upon the occurrence of any Default under this Agreement or an event described in clauses (ii), (iii) or (iv) of Section 7.2(a) hereof, each of the Manager (or applicable successor “Manager” to the Manager under the LLC Operating Agreement) and the Initial Member may exercise all of the rights of (A) the Manager under this Agreement and cause the termination or assignment of this Agreement to any other Person, without penalty or payment of any fee, and (B) 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.

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

(d) Upon a default or failure of the Manager to perform its obligations under this Agreement in a material manner, including but not limited to, the failure of the Manager 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 Manager, with a copy to each Required Consenting Party. The Termination Notice shall set forth with specificity the nature of the default or failure to perform of the Manager and provide the Manager 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 Manager with a copy to each Required Consenting Party, which second Termination Notice shall be prominently labeled as the “Second Termination Notice”. Such second Termination Notice shall confirm to the Manager 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 Manager and each Required Consenting Party, 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 Manager 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 6 as the same may be amended from time to time by the Manager (without the Initial Member's consent) and the Servicer.

(b) The Servicer may, at any time after the first anniversary of the Effective Date, without cause, terminate this Agreement. No termination of this Agreement by the Servicer shall be effective unless the Servicer delivers to the Manager, with a copy to each Required Consenting Party, a Termination Notice, which for the purpose of this Section 7.3(b) shall be a notice of the 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 in an orderly manner. Servicer shall cooperate fully and completely with the transition of the Servicing Obligations to a successor Servicer, to be designated by the Manager, 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 any Borrowers.

Section 7.4 Effective Termination 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 Assets or otherwise, shall pass to and be vested in the Manager or the successor servicer designated by the Manager in the case of termination by the Manager or as designated solely by the Initial Member (or any successor "Manager" under the LLC Operating Agreement) in the case of termination by the Initial Member (or such successor "Manager" under the LLC Operating Agreement). The Servicer agrees to cooperate with the Manager, the Initial Member, any successor "Manager" under the Operating Agreement 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 Manager or its designee (or, if applicable, pursuant to such instructions as may be provided by the Initial Member or any successor "Manager" pursuant to the LLC Operating Agreement) 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 Assets will henceforth be serviced by the Manager (or applicable successor “Manager” under the LLC Operating Agreement) or any applicable successor Servicer designated by the Manager (or any successor “Manager” under the LLC Operating Agreement) or the Initial Member as the case may be, and transfer its duties as the Servicer to the Manager (or successor “Manager” under the LLC Operating Agreement) or such successor Servicer.

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 Manager and the Servicer.

Section 8.2 **Indemnification.** The Servicer agrees to indemnify, defend and hold harmless the Company, the Manager, the Purchase Money Note Guarantor and the Initial Member and each of their respective Affiliates, directors, officers, employees and agents and each of their respective successors and assigns (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 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, (iii) any act taken by the Servicer purportedly pursuant to a power of attorney granted by the Manager which act results in a claim related to the unlawful use of such power of attorney, or (iv) any failure by the Servicer or any Subservicer to discharge obligations on any Collateral relating to taxes, ground rents or other such recurring charges generally accepted by the mortgage servicing industry, which would become a Lien on the Collateral. The Servicer shall immediately notify the Indemnified Party if a claim is made in connection with the Servicer’s responsibilities under this Agreement (including the Servicer’s responsibilities in connection with the Assets and Collateral under this Agreement), assume (with prior consent of the 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 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 Asset Proceeds. The Servicer shall follow any reasonable written instructions received from the Indemnified Party in connection with such claims, it being understood that the 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 in writing thereof in sufficient time for the Servicer to respond to such claim. Except to the extent that the Servicer is prejudiced thereby, the failure of the Indemnified Party to promptly notify the Servicer 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 Servicer 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 Servicer fails, in the reasonable judgment of the Indemnified Party, to vigorously defend or pursue or attempt to settle such claim, the Manager shall have the right to assume the conduct, defense or settlement thereof, provided that the Manager shall obtain the prior written approval of the Indemnified Party before ceasing to defend against any claim or entering into any settlement, adjustment or compromise of such claim involving injunctive or similar equitable relief being imposed upon any Indemnified Party or any of its Affiliates. After notice from the Servicer to the Manager of its election to assume the defense, conduct or settlement thereof, the Servicer will not be liable to the Manager for any legal or other expenses consequently incurred by the Manager in connection with the defense, conduct or settlement thereof.

Section 8.4 Pre-Effective Date Liabilities. Notwithstanding anything to the contrary herein, but without limitation of the release set forth in Section 11.13, it is understood and agreed that the Servicer shall not be liable to the Manager for any liabilities or obligations attributable to an act, omission or circumstances of the Initial Member, the FDIC, the Failed Banks and the Company that occurred or existed prior to the Effective Date or, with respect to any particular Asset, the Servicing Transfer Date applicable thereto (the “**Pre-Existing Liabilities**”). In the event there is asserted against the Company, the Manager, the Servicer or any Subservicer any claim or action with respect to any such Pre-Existing Liabilities, the Servicer or Subservicer, as applicable, shall notify the Manager and the Initial Member of such claim or action in accordance with ARTICLE IX. Except as provided otherwise in Section 8.2 and 8.3 above (in the event that such claim or action is subject to the indemnification obligations of Servicer pursuant to Section 8.1 above), the Manager shall have the right to control and assume the defense of the Company, the Manager, the Servicer and the Subservicer with respect to such claim or action at the Manager’s expense. The Servicer shall be reimbursed by the Manager in connection with the foregoing only to the extent of and in accordance with the terms set forth on Schedule 4, as the same may be amended from time to time by the Manager (without the consent of the Initial Member) and the Servicer.

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 given by certified or registered mail, postage prepaid, by delivery by hand or by nationally recognized courier service, or by electronic mail (followed up by a hard copy delivered through an alternate manner permitted under this ARTICLE IX), in each case mailed or delivered to the applicable address or electronic mail address specified in, or in the manner provided, in this ARTICLE IX below. All such notices, requests, demands and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt (or refusal thereof) by the relevant party hereto and (ii) (A) if delivered by hand or by nationally recognized courier service, when signed for (or refused) by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; and (C) if delivered by electronic mail (which form of delivery is subject to the provisions of this paragraph), when delivered and capable of being accessed from the recipient’s office computer, provided that any notice, request, demand or other communication that is received other than during regular business hours of the recipient shall be deemed to have been

given at the opening of business on the next business day of the recipient. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder. From time to time, any party may designate a new address for purposes of notice to it hereunder by notice to such effect to the other parties hereto in the manner set forth in this ARTICLE IX.

If to the Manager:

ColFin 2011 ADC Funding, LLC
2450 Broadway, 6th Floor
Santa Monica, CA 90404
Attention: Paul A. Fuhrman
Email: [REDACTED]

with a copy to:

Colony Capital, LLC
660 Madison Avenue
New York, NY 10065
Attention: Ronald M. Sanders
Email: [REDACTED]

If to the Initial Member, the
Collateral Agent or the Purchase
Money Note Guarantor:

Assistant Director, Structured Transactions
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7014)
Washington, D.C. 20429-0002
Attention: Ralph Malami
Email: RMalami@fdic.gov

with a copy to:

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

ARTICLE X

GOVERNING LAW; JURISDICTION

Section 10.1 Governing Law. EACH PARTY TO THIS AGREEMENT AGREES AND ELECTS THAT, IN ACCORDANCE WITH SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE 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, AND EACH PARTY TO THIS AGREEMENT UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO

ASSERT THAT THE LAWS OF ANY OTHER JURISDICTION GOVERN THIS AGREEMENT. Nothing in this Agreement shall require any unlawful action or inaction by any party 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 any 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 Manager 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 other Transaction Document in only either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the 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 Manager and the Servicer. Any of the 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. In connection with the Sale of an Asset, the Servicer shall, at the direction of the Manager, transfer, sell or assign its rights hereunder to service such Asset. 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 Assets or any right to transfer or sell the servicing to the Assets (other than in connection with the sale of any Asset), 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 Assets (other than in connection with

the sale of any Asset). 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.

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 Manager 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 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 11.7 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 11.7 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 11.8 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 Purchase Money Note Guarantor and the FDIC 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; provided, that, with respect to each Person (other than the Initial Member) that is a Required Consenting Party, at such time when such Person ceases to be a Required Consenting Party (and subject to any rights of such Required Consenting Party that, by their terms or nature, survive such date), such Person shall cease to have any of the specified rights set forth herein with respect to consents/approvals, the exercise of remedies following a Default or an event described in clauses (ii), (iii) or (iv) of Section 7.1(a) hereof and receipt of reports and other information with respect to the continued operation of the Business, in each case, (i) to the extent relating exclusively to the period following such date on which such Person so ceases to be a Required Consenting Party, and (ii) with respect to the Purchase Money Note Guarantor, except as to any rights or remedies relating to (or the exercise or non-exercise of which rights or remedies would affect) the Defeasance Account or the repayment of any Guaranteed Purchase Money Note (in the case of the Purchase Money Note Guarantor) in accordance with the terms hereof and of the other Transaction Documents, as determined by the Purchase Money Note Guarantor, in its sole discretion. Notwithstanding the foregoing, none of the Purchase Money Note Guarantor, the FDIC, the Company and the Initial Member shall have any obligation to undertake any of the duties of the Manager hereunder and or have any liability whatsoever to the Servicer, any Subservicer or any other party related to this Agreement. There shall be no other third party beneficiaries.

Section 11.9 Protection of Confidential Information. The Servicer shall keep confidential (and shall cause any Subservicer to keep confidential) and shall not divulge (and shall cause any Subservicer to not divulge) to any party, without the Manager's prior written consent, any information pertaining to the LLC Operating Agreement, the Assets or any Borrower or Obligor or the Collateral, except as required pursuant to this Agreement and except to the extent that it is necessary and appropriate for the Servicer or a Subservicer, as applicable, 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 shall, and shall cause all Subservicers to, use all reasonable efforts to maintain confidentiality and shall (unless otherwise prohibited by law), and shall cause all Subservicers to (unless such Subservicers are otherwise prohibited by law), notify the Manager, the Initial Member, and the Purchase Money Note Guarantor within one (1) Business Day after its knowledge of such legally required disclosure so that the Manager, the Initial Member and/or the Purchase Money Note Guarantor] may seek an appropriate protective order and/or direct the Manager to waive the Servicer's or Subservicer's, as the case may be, 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 and any applicable Subservicer may make such required disclosure if, in the written opinion of Servicer's outside counsel (which opinion shall be provided to the Manager, the Initial Member and the Purchase Money Note Guarantor prior to disclosure pursuant to this Section 11.9), failure to make such disclosure would subject the Servicer or the Subservicer, as the case may be, to liability for contempt, censure or other legal penalty or liability.

Section 11.10 Time of Essence. Time is hereby declared to be of the essence of this Agreement and of every part hereof.

Section 11.11 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 11.12 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 Asset Proceeds (or the Company).

Section 11.13 Release of Initial Member and Others. The Servicer hereby releases and discharges each Prior Servicer 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 Assets or Collateral prior to the applicable Servicing Transfer Date by the Prior Servicers, in each case other than for acts or omissions constituting gross negligence, violation of law or willful misconduct of such Prior Servicer.


Section 11.14 Delegation by Manager. The Manager hereby delegates to the Servicer the Manager's responsibilities under the LLC Operating Agreement and other Transaction Documents which correspond to the duties and obligations of the Servicer under this Agreement. As the Manager has delegated to the Servicer its corresponding duties and responsibilities, to the extent any action or inaction by the Servicer under this Agreement requires the consent or direction of the Manager, such action or inaction by the Servicer shall be deemed to have occurred with the approval or at the direction of the Manager.

[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.


MANAGER:

COLFIN 2011 ADC FUNDING, LLC, a
Delaware limited liability company

By: 
Name: Mark M. Hedstrom
Title: Vice President

SERVICER:

COLONY AMC 2011 ADC, LLC, a Delaware
limited liability company 

By: 
Name: Mark M. Hedstrom
Title: Vice President

[SIGNATURE PAGE TO SERVICING AGREEMENT]

EXHIBIT A
ASSET SCHEDULE

[Attached]

EXHIBIT B

FORM OF ELECTRONIC TRACKING AGREEMENT

RADC/CADC VENTURE 2010-2 Structured Transaction

ELECTRONIC TRACKING AGREEMENT

by and among

FEDERAL DEPOSIT INSURANCE CORPORATION,

COLFIN 2011 ADC FUNDING, LLC,

SITUSSERV L.P.,

MERSCORP, INC.,

and

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

Dated as of January 26, 2011

ELECTRONIC TRACKING AGREEMENT

THIS ELECTRONIC TRACKING AGREEMENT (this “**Agreement**”) is made and entered into as of January 26, 2011, by and among (a) ColFin 2011 ADC Funding, LLC, a Delaware limited liability company (the “**Manager**”); (b) SitusServ L.P., a Texas limited partnership (for purposes of this Agreement, the “**Servicer**”); (c) MERSCORP, Inc. (the “**Electronic Agent**”); (d) Mortgage Electronic Registration Systems, Inc. (“**MERS**”); (e) the Federal Deposit Insurance Corporation (in any capacity, the “**FDIC**”), as receiver (“**Receiver**”) for various failed financial institutions (including its successors and assigns thereto), as initial member pursuant to the LLC Operating Agreement referred to below (the “**Initial Member**”); and (f) the FDIC, as Receiver, as collateral agent pursuant to the Reimbursement, Security and Guaranty referred to below (including its successors and assigns thereto) (the “**Collateral Agent**”).

WHEREAS, the Manager and Colony AMC 2011 ADC LLC, a Delaware limited liability company (the “**Master Servicer**”) have entered into that certain Servicing Agreement, dated as of January 26, 2011 (the “**Servicing Agreement**”), pursuant to which, among other things, the Master Servicer is responsible for servicing the Mortgage Loans and the Master Servicer has delegated certain responsibilities under the Servicing Agreement to the Servicer; and

WHEREAS, pursuant to the Amended and Restated Limited Liability Company Operating Agreement of RAD/CADC Venture 2010-2, LLC (the “**Company**”), dated as of January 26, 2011 (the “**LLC Operating Agreement**”), the Initial Member has the right to replace the Manager and to control the actions of the Company with respect to the Mortgage Loans (as defined below); and

WHEREAS, pursuant to the Reimbursement, Security and Guaranty Agreement dated as of January 26, 2011 (the “**Reimbursement, Security and Guaranty Agreement**”), by and among the Company, the Collateral Agent, the Initial Member, the FDIC acting in its corporate capacity and the guarantors party thereto, the Company has pledged the Mortgage Loans to the Secured Parties defined therein and such Secured Parties will have a first priority security interest in the Mortgage Loans; and

WHEREAS, the Manager and each Rights Holder (as defined below) desire to continue to have the Mortgage Loans registered on the MERS® System (defined below) such that the mortgage of record under each Mortgage (defined below) shall be identified as MERS.

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

1. **Definitions.** For purposes of this Agreement, certain terms used in this Agreement shall have the meaning and definitions set forth in that certain Agreement of Common Definitions dated of even date herewith among the Initial Member, the Company and others. In addition, for purposes of this Agreement, the following terms shall have the meanings and definitions hereinafter respectively set forth.

“**Affected Loans**” shall have the meaning assigned to such term in Section 4(b).

“**Agreement**” shall have the meaning assigned to such term in the preamble.

“Assignment of Mortgage” shall mean, with respect to any Mortgage, an assignment of the Mortgage, notice of transfer or equivalent instrument in recordable form, sufficient under the laws of the jurisdiction wherein the related mortgaged property is located to effect the assignment of the Mortgage upon recordation.

“Collateral Agent” shall have the meaning given in the preamble.

“Collateral Agent Notice” shall have the meaning given in Section 4(i).

“Company” shall have the meaning given in the recitals.

“Electronic Agent” shall have the meaning given in the preamble.

“Event of Default” shall mean any Default as defined in the Servicing Agreement or an “Event of Default” as defined in the LLC Operating Agreement or an “Event of Default” as defined in the Reimbursement, Security and Guaranty Agreement.

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

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

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

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

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

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

“MERS Designated Mortgage Loan” shall have the meaning given in Section 3.

“MERS Procedures Manual” shall mean the MERS Procedures Manual attached as Exhibit B hereto, as it may be amended from time to time.

“MERS® System” shall mean the Electronic Agent’s mortgage electronic registry system, as more particularly described in the MERS Procedures Manual.

“Mortgage” shall mean a lien, mortgage or deed of trust securing a Mortgage Note.

“Mortgage Loan” shall mean each mortgage loan held by the Company that is, as of the date hereof, registered on the MERS® System.

“Mortgage Note” shall mean a promissory note or other evidence of indebtedness of the obligor thereunder, representing a Mortgage Loan, and secured by the related Mortgage.

“Notice of Default” shall mean a notice from any Rights Holder that an Event of Default has occurred and is continuing, substantially in the form of Exhibit C hereto.

“**Opinion of Counsel**” shall mean a written opinion of counsel in form and substance reasonably acceptable to each Rights Holder.

“**Person**” shall mean any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

“**Receiver**” shall have the meaning given in the preamble.

“**Reimbursement, Security and Guaranty Agreement**” shall have the meaning given in the recitals.

“**Rights Holder**” shall mean the Initial Member and the Collateral Agent; provided, that (a) rights of the Initial Member as Rights Holder shall be junior and subordinate to the rights of the Collateral Agent in such capacity to the extent set forth in Section 4(i) below; and (b) upon delivery by Collateral Agent of the Collateral Agent Notice pursuant to Section 4(i) below, the Collateral Agent shall cease, on a going forward basis (and without termination of any indemnity rights or rights with respect to any period prior to delivery of such Collateral Agent Notice), to be a Rights Holder hereunder.

“**Servicing Agreement**” shall have the meaning given in the recitals.

“**Secured Parties**” shall mean collectively, the Collateral Agent, each co-agent or sub-agent appointed by the Collateral Agent from time to time pursuant to the Reimbursement, Security and Guaranty Agreement and the FDIC acting in its corporate capacity as Purchase Money Note Guarantor under the Reimbursement, Security and Guaranty Agreement.

“**Senior Rights Holder**” shall mean (a) the Collateral Agent, for so long as it is a Rights Holder, and (b) thereafter, the Initial Member.

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

“**Subservicer**” shall mean any subservicers engaged by the Master Servicer as permitted under the LLC Operating Agreement.

2. Appointment of the Electronic Agent.

(a) Each Rights Holder and the Manager, by execution and delivery of this Agreement, each does hereby appoint MERSCORP, Inc. as the Electronic Agent, subject to the terms of this Agreement, to perform the obligations set forth herein.

(b) MERSCORP, Inc., by execution and delivery of this Agreement, does hereby (i) agree with each Rights Holder and the Manager, subject to the terms of this Agreement, to perform the services set forth herein, and (ii) accepts its appointment as the Electronic Agent.

3. Designation of MERS as Mortgagee of Record; Designation of Investor and Servicer of Record in MERS.

The Manager represents, warrants and covenants that (a) it has designated or shall designate MERS as, and has taken or will take such action as is necessary to cause MERS to be, the mortgagee of record, as nominee for the Company, with respect to the Mortgage Loans in accordance with the MERS Procedures Manual and (b) it has designated or will promptly designate 1000002 (Org Id.) as the “investor” and the Servicer as the “servicer” in the MERS® System for each such Mortgage Loan (each Mortgage Loan so designated is a “**MERS Designated Mortgage Loan**”) and the Collateral Agent or the Initial Member as the “interim funder” on the MERS® System with respect to each MERS Designated Mortgage Loan, and, if applicable pursuant to the LLC Operating Agreement, will designate any Subservicer retained under the Servicing Agreement as the “subservicer”; provided, that upon the Company becoming a member of MERS in good standing, the Manager shall cause the Company to be identified in the “investor” field on the MERS® System; provided further, the Manager may, pursuant to the terms of the LLC Operating Agreement designate itself as the “servicer” with respect to any such MERS Designated Mortgage Loan, in which case the Servicer shall be designated as the “subservicer” with respect thereto; provided, further, however, no other Person shall be identified on the MERS® System as having any interest in such MERS Designated Mortgage Loan unless otherwise consented to by the Collateral Agent or required pursuant to this Agreement, and (c) upon receipt of the Collateral Agent Notice will promptly designate the Initial Member as the “interim funder” on the MERS® System with respect to each MERS Designated Mortgage Loan.

4. Obligations of the Electronic Agent; Rights of Collateral Agent Superior to Initial Member.

(a) The Electronic Agent shall ensure that MERS, as the mortgagee of record under each MERS Designated Mortgage Loan, shall promptly forward all properly identified notices MERS receives in such capacity to the person or persons identified in the MERS® System as the servicer as well as, if a subservicer is identified in the MERS® System, the subservicer for such MERS Designated Mortgage Loan.

(b) Upon receipt of a Notice of Default, in the form of Exhibit C, from a Rights Holder in which such Rights Holder shall identify the MERS Designated Mortgage Loans with respect to which the Manager’s right to act as servicer or undisclosed investor’s or the Company’s right to act as investor, or the Servicer’s right to act as servicer, or subservicer, as applicable thereof has been terminated by such Rights Holder (the “**Affected Loans**”), the Electronic Agent shall modify the applicable investor fields, servicer fields and/or subservicer fields to reflect the investor, servicer and/or subservicer on the MERS® System as such Rights Holder or such Rights Holder’s designate with respect to such Affected Loans. Following such Notice of Default, the Electronic Agent shall follow the instructions of each Rights Holder with respect to the Affected Loans, without further consent of the Manager or the Servicer (and, in the case of instructions by the Collateral Agent, without further consent of the Initial Member), and shall deliver to each Rights Holder any documents and/or information (to the extent such documents or information are in the possession or control of the Electronic Agent) with respect to the Affected Loans requested by such Rights Holder.

(c) Upon the Senior Rights Holder's request and instructions, and at the Manager's sole cost and expense, the Electronic Agent shall deliver to such Rights Holder or its designee an Assignment of Mortgage from MERS, in blank, in recordable form but unrecorded with respect to each Affected Loan; provided, however, that the Electronic Agent shall not be required to comply with the foregoing unless the costs of doing so shall be paid by the Servicer, the Manager or a third party.

(d) The Electronic Agent shall promptly notify each Rights Holder and the Manager if it has actual knowledge that any mortgage, pledge, lien, security interest or other charge or encumbrance exists with respect to any of the Mortgage Loans. Upon the reasonable request of a Rights Holder or the Manager, the Electronic Agent shall review the "investor" and "interim funder" fields and shall notify such Rights Holder if any Person other than the Company is identified in the "investor" field or if any Person is identified in the "interim funder" field.

(e) In the event that (i) any Rights Holder, the Company, the Manager, the Servicer, the Electronic Agent or MERS shall be served by a third party with any type of levy, attachment, writ or court order with respect to any MERS Designated Mortgage Loan or (ii) a third party shall institute any court proceeding by which any MERS Designated Mortgage Loan shall be required to be delivered otherwise than in accordance with the provisions of this Agreement, the Electronic Agent shall promptly deliver or cause to be delivered to the other parties to this Agreement copies of all court papers, orders, documents and other materials concerning such proceedings.

(f) Upon the request of any Rights Holder, the Electronic Agent shall run a query with respect to any and all specified fields with respect to any or all of the MERS Designated Mortgage Loans and, if requested by the Senior Rights Holder, shall change the information in the "interim funder" field in accordance with the Senior Rights Holder's instructions.

(g) MERS, as mortgagee of record for the MERS Designated Mortgage Loans, shall take all such actions as may be required by a mortgagee in connection with servicing the MERS Designated Mortgage Loans at the request of the applicable servicer identified on the MERS® System, including, but not limited to, executing and/or recording, any modification, waiver, subordination agreement, instrument of satisfaction or cancellation, partial or full release, discharge or any other comparable instruments, at the sole cost and expense of the Manager.

(h) MERS shall cause certain officers or other representatives of each Rights Holder to be appointed as agents of MERS with respect to the MERS Designated Mortgage Loans, with the power to wield all of the powers specified in the form of power of attorney used to appoint such agent, substantially in the form attached hereto as Exhibit D.

(i) Until such time as MERS and the Electronic Agent receive notice from the Collateral Agent that all obligations under the Reimbursement, Security and Guaranty Agreement have been paid and performed in full (the "**Collateral Agent Notice**"), (i) all rights of the Collateral Agent as a Rights Holder hereunder shall be senior and superior to all rights of the Initial Member, as a Rights Holder hereunder, including without limitation the right to assign Mortgage Loans, change the "interim funder" field, instruct MERS, deliver a Notice of Default, permit MERS or the Electronic Agent to assign this Agreement or resign hereunder, remove

MERS or the Electronic Agent under this Agreement, or terminate this Agreement, and (ii) in the event of any conflicting instructions from the Collateral Agent and the Initial Member, the instructions from the Collateral Agent shall govern and control.

5. Access to Information.

Upon any Rights Holder's request, the Electronic Agent shall furnish to such Rights Holder or its respective auditors information in its possession with respect to the MERS Designated Mortgage Loans and shall permit them to inspect the Electronic Agent's and MERS' records relating to the MERS Designated Mortgage Loans at all reasonable times during regular business hours.

6. Representations of the Electronic Agent and MERS.

The Electronic Agent and MERS hereby represent and warrant as of the date hereof that:

(a) each of the Electronic Agent and MERS has the corporate power and authority and the legal right to execute and deliver, and to perform its obligations under this Agreement, and has taken all necessary corporate action to authorize its execution, delivery and performance of this Agreement;

(b) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority and no consent of any other Person is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement;

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

(d) the Electronic Agent and MERS will maintain at all times insurance policies for fidelity and errors and omissions in amounts of at least three million dollars (\$3,000,000) and five million dollars (\$5,000,000) respectively, and a certificate and policy of the insurer shall be furnished to each Rights Holder upon request and shall contain a statement of the insurer that such insurance will not be terminated prior to thirty (30) days' written notice to each Rights Holder.

7. Covenants of MERS.

(a) MERS shall (i) not incur any indebtedness other than in the ordinary course of its business, (ii) not engage in any dissolution, liquidation, consolidation, merger or sale of assets, (iii) not engage in any business activity in which it is not currently engaged, (iv) not take any action that might cause MERS to become insolvent, (v) not form, or cause to be formed, any subsidiaries, (vi) maintain books and records separate from any other Person, (vii) maintain its bank accounts separate from any other Person, (viii) not commingle its assets with those of any other Person and hold all of its assets in its own name, (ix) conduct its own business in its own

name, (x) pay its own liabilities and expenses only out of its own funds, (xi) observe all corporate formalities, (xii) enter into transactions with affiliates only if each such transaction is intrinsically fair, commercially reasonable, and on the same terms as would be available in an arm's length transaction with a Person that is not an affiliate, (xiii) pay the salaries of its own employees from its own funds, (xiv) maintain a sufficient number of employees in light of its contemplated business operations, (xv) not guarantee or become obligated for the debts of any other Person, (xvi) not hold out its credit as being available to satisfy the obligation of any other Person, (xvii) not acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate, (xviii) not make loans to any other Person or buy or hold evidence of indebtedness issued by any other Person (except for cash and investment-grade securities), (xix) allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of any affiliate, (xx) use separate stationery, invoices, and checks bearing its own name, (xxi) not pledge its assets for the benefit of any other Person, (xxii) hold itself out as a separate identity, (xxiii) correct any known misunderstanding regarding its separate identity and not identify itself as a division of any other Person, and (xxiv) maintain adequate capital in light of its contemplated business operations.

(b) MERS agrees that in no event shall MERS' status as mortgagee of record with respect to any MERS Designated Mortgage Loan confer upon MERS any rights or obligations as an owner of any MERS Designated Mortgage Loan or the servicing rights related thereto, and MERS will not exercise such rights unless directed to do so by Senior Rights Holder.

8. Covenants of the Manager and the Servicer.

(a) The Servicer represents that it is and covenants that it will remain a member of MERS in good standing. The Manager covenants that if it causes the Company to be designated as the "investor" with respect to any MERS Designated Mortgage Loan as provided in Section 3, it shall cause the Company to become a member of MERS in good standing and remain a member of MERS in good standing so long it is designated as the "investor" with respect to such MERS Designated Mortgage Loans.

(b) Each of the Manager and the Servicer hereby covenants and agrees with each Rights Holder and each other that, with respect to each MERS Designated Mortgage Loan, it will not identify any party except the Company or the Servicer in the "investor" field and will not identify any party except the Collateral Agent or Initial Member, as applicable, in accordance with Section 3, in the "interim funder" field on the MERS® System; provided, that upon the Company becoming a member of MERS in good standing, the Manager shall cause the Company to be identified in the "investor" field on the MERS® System.

(c) The Manager or the Servicer will provide each Rights Holder with MERS Identification Numbers for each MERS Designated Mortgage Loan.

9. No Adverse Interest of the Electronic Agent or MERS.

By execution of this Agreement, the Electronic Agent and MERS each represents and warrants that it currently holds, and during the existence of this Agreement shall hold, no adverse

interest, by way of security or otherwise, in any MERS Designated Mortgage Loan. The MERS Designated Mortgage Loans shall not be subject to any security interest, lien or right to set-off by the Electronic Agent, MERS, or any third party claiming through the Electronic Agent or MERS, and neither the Electronic Agent nor MERS shall pledge, encumber, hypothecate, transfer, dispose of, or otherwise grant any third party interest in, the MERS Designated Mortgage Loans.

10. Indemnification of the Rights Holder.

The Electronic Agent agrees to indemnify and hold each Rights Holder and its designees harmless against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements, including reasonable attorneys' fees, that such Rights Holder may sustain arising out of any breach by the Electronic Agent of this Agreement, the Electronic Agent's negligence, bad faith or willful misconduct, its failure to comply with any Rights Holder's instructions hereunder (for which appropriate evidence of any applicable written consent of the Senior Rights Holder to such instructions shall have been delivered to the Electronic Agent) or to the extent caused by delays or failures arising out of the inability of such Rights Holder or the Electronic Agent to access information on the MERS® System. The foregoing indemnification shall survive any termination or assignment of this Agreement.

11. Reliance of the Electronic Agent.

(a) In the absence of bad faith on the part of the Electronic Agent, the Electronic Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any request, instruction, certificate or other document furnished to the Electronic Agent, reasonably believed by the Electronic Agent to be genuine and to have been signed or presented by the proper party or parties and conforming to the requirements of this Agreement.

(b) Notwithstanding any contrary information which may be delivered to the Electronic Agent by the Manager or the Servicer, the Electronic Agent may conclusively rely on any information or Notice of Default delivered by any Rights Holder, and the Manager and the Servicer shall indemnify and hold the Electronic Agent harmless for any and all claims asserted against it for any actions taken in good faith by the Electronic Agent in connection with the delivery of such information or Notice of Default.

12. Fees.

It is understood that the Electronic Agent or its successor will charge such fees and expenses for its services hereunder as set forth in a separate agreement between the Electronic Agent and the Manager. The Electronic Agent shall give prompt written notice of any disciplinary action instituted with respect to the Manager's failure to pay any fees required in connection with its use of the MERS® System, and will give written notice to each Rights Holder at least thirty (30) days prior to any revocation of the Servicer's membership and, if applicable in accordance with Section 3, the Company's membership, in the MERS® System.

13. Resignation of the Electronic Agent; Termination.

(a) Each Rights Holder has entered into this Agreement with the Electronic Agent and MERS in reliance upon the independent status of the Electronic Agent and MERS, and the representations as to the adequacy of their facilities, personnel, records and procedures, its integrity, reputation and financial standing, and the continuance thereof. Neither the Electronic Agent nor MERS shall assign this Agreement or the responsibilities hereunder or delegate their rights or duties hereunder (except as expressly disclosed in writing to, and approved by, each Rights Holder) or any portion hereof or sell or otherwise dispose of all or substantially all of its property or assets without providing each Rights Holder with at least sixty (60) days' prior written notice thereof.

(b) Neither the Electronic Agent nor MERS shall resign from the obligations and duties hereby imposed on them except by mutual consent of the Electronic Agent, MERS and each Rights Holder, or upon the determination that the duties of the Electronic Agent and MERS hereunder are no longer permissible under applicable law and such incapacity cannot be cured by the Electronic Agent and MERS. Any such determination permitting the resignation of the Electronic Agent and MERS shall be evidenced by an Opinion of Counsel to such effect delivered to each Rights Holder, which Opinion of Counsel shall be in form and substance acceptable to each Rights Holder. No such resignation shall become effective until the Electronic Agent and MERS have delivered to the Senior Rights Holder all of the Assignments of Mortgage, in blank, in recordable form but unrecorded for each MERS Designated Mortgage Loan identified by the Senior Rights Holder.

14. Removal of the Electronic Agent.

(a) The Senior Rights Holder or the Manager, with or without cause with respect to the performance of the Electronic Agent under this Agreement, may remove and discharge the Electronic Agent and MERS from the performance of its duties under this Agreement with respect to some or all of the MERS Designated Mortgage Loans by written notice from the Senior Rights Holder or the Manager, as applicable, to the other parties hereto.

(b) In the event of termination of this Agreement, at Manager's sole cost and expense (except for termination pursuant to delivery of a Notice of Default or termination by the Electronic Agent pursuant to Section 16) the Electronic Agent shall follow the instructions of Senior Rights Holder for the disposition of the documents in its possession pursuant to this Agreement, and deliver to Senior Rights Holder an Assignment of Mortgage, in blank, in recordable form but unrecorded for each MERS Designated Mortgage Loan identified by Senior Rights Holder. Notwithstanding the foregoing, in the event that Senior Rights Holder or the Manager terminates this Agreement with respect to some, but not all, of the MERS Designated Mortgage Loans, this Agreement shall remain in full force and effect with respect to any MERS Designated Mortgage Loans for which this Agreement is not terminated hereunder. Notwithstanding any termination of this Agreement, the provisions of Section 10 shall survive any termination.

15. Notices.

All written communications hereunder shall be delivered, by overnight courier, to the Electronic Agent and/or the Rights Holder and/or the Manager and/or the Servicer as indicated on the signature page hereto, or at such other address as designated by such party in a written notice to the other parties. All such communications shall be deemed to have been duly given upon receipt (or refusal thereof), in each case given or addressed as aforesaid.

16. Term of Agreement.

(a) This Agreement shall continue to be in effect until terminated by the Manager or Senior Rights Holder in accordance with Section 14(a) or the Electronic Agent sending written notice to the other parties of this Agreement at least thirty (30) days prior to said termination.

(b) Upon the termination of this Agreement by the Electronic Agent or the termination of this Agreement by Senior Rights Holder for cause as provided in Section 14(a), the Electronic Agent shall, at the Electronic Agent's sole cost and expense, execute and deliver to Senior Rights Holder or its designee an Assignment of Mortgage with respect to each MERS Designated Mortgage Loan identified by Senior Rights Holder, in blank, in recordable form but unrecorded. In the event that this Agreement is terminated by the Manager or Senior Rights Holder without cause as provided in Section 14(a), the duties of the Electronic Agent in the preceding sentence shall be at the sole cost and expense of the Manager. In addition, Senior Rights Holder and the Electronic Agent may, at the sole option of Senior Rights Holder, and the Manager and the Electronic Agent may, at the sole option of Manager, enter into a separate agreement which shall be mutually acceptable to the respective parties with respect to any or all of the MERS Designated Mortgage Loans with respect to which this Agreement is terminated.

17. Authorizations.

Any of the persons whose signatures and titles appear on Exhibit A hereto are authorized, acting singly, to act for the Rights Holder, the Manager, the Servicer, the Electronic Agent or MERS, as the case may be, under this Agreement. The parties may change the information on Exhibit A hereto from time to time but each of the parties shall be entitled to rely conclusively on the then current Exhibit A until receipt of a superseding exhibit.

18. Amendments.

This Agreement may be amended from time to time only by written agreement signed by each Rights Holder, the Manager, the Servicer, the Electronic Agent and MERS.

19. Severability.

If any provision of this Agreement is declared invalid by any court of competent jurisdiction, such invalidity shall not affect any other provision, and this Agreement shall be enforced to the fullest extent required by law.

20. Binding Effect.

This Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and assigns.

21. Governing Law.

THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY THE LAW OF THE COMMONWEALTH OF VIRGINIA.

EACH RIGHTS HOLDER (OTHER THAN THE FDIC IN ANY OTHER CAPACITY), THE MANAGER, THE SERVICER, THE ELECTRONIC AGENT AND MERS EACH IRREVOCABLY AGREES THAT ANY ACTION OR PROCEEDING ARISING OUT OF OR IN ANY MANNER RELATING TO THIS AGREEMENT MAY BE BROUGHT IN ANY COURT OF THE COMMONWEALTH OF VIRGINIA, OR IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, AND BY THE EXECUTION AND DELIVERY OF THIS AGREEMENT EXPRESSLY AND IRREVOCABLY ASSENT AND SUBMIT TO THE NONEXCLUSIVE JURISDICTION OF ANY SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING.

22. Waiver of Jury Trial.

EACH OF THE RIGHTS HOLDERS, THE MANAGER, THE SERVICER, THE ELECTRONIC AGENT AND MERS EACH IRREVOCABLY AGREES TO WAIVE ITS RIGHT TO A JURY TRIAL IN ANY ACTION OR PROCEEDING AGAINST IT ARISING OUT OF, OR RELATED IN ANY MANNER TO, THIS AGREEMENT OR ANY RELATED AGREEMENT.

23. Execution.

This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, together, shall constitute one and the same agreement.

24. Cumulative Rights.

The rights, powers and remedies of the Electronic Agent, MERS, each Rights Holder, the Manager and the Servicer under this Agreement shall be in addition to all rights, powers and remedies given to the Electronic Agent, MERS, the Manager, the Servicer and such Rights Holder by virtue of any statute or rule of law, or any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised successively or concurrently without impairing such Rights Holder's rights in the Mortgage Loans.

25. Status of Electronic Agent.

Nothing herein contained shall be deemed or construed to create a partnership or joint venture between the parties hereto, and the services of the Electronic Agent and MERS shall be

rendered as independent contractors for the Rights Holders, the Manager and the Servicer. Other than the obligations of the Electronic Agent and MERS expressly set forth herein, the Electronic Agent and MERS shall have no power or authority to act as agent for any Rights Holder, the Manager or the Servicer pursuant to any grant of authority made under or pursuant to this Agreement.

IN WITNESS WHEREOF, each Rights Holder, the Manager, the Servicer, the Electronic Agent and MERS have duly executed this Agreement as of the date first above written.

FEDERAL DEPOSIT INSURANCE CORPORATION, as receiver for various failed financial institutions, as Initial Member

By: _____
Name: Heidi Silverberg
Title: Attorney-in-Fact

FEDERAL DEPOSIT INSURANCE CORPORATION, as receiver for various failed financial institutions, as Collateral Agent

By: _____
Name: Heidi Silverberg
Title: Attorney-in-Fact

Address for Notices:

Assistant Director, Structured Transactions
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7014)
Washington, D.C. 20429-0002
Attention: Ralph Malami
Email Address: RMalami@fdic.gov

with a copy to:

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

COLFIN 2011 ADC FUNDING, LLC, a
Delaware limited liability company,
as the Manager

By: _____

Name: Mark M. Hedstrom

Title: Vice President

Address for Notices:

2450 Broadway, 6th Floor
Santa Monica, California 90404

Attention: Paul A. Fuhrman

E-mail Address: [REDACTED]

with a copy to:

Colony Capital, LLC

660 Madison Avenue

New York, New York 10065

Attention: Ronald M. Sanders

E-mail Address: [REDACTED]

SitusServ L.P., a Texas limited partnership, as
the Servicer

By: _____

Name:

Title:

Address for Notices:

MERSCORP, INC.,
as Electronic Agent

By: _____
Name:
Title:

Address for Notices:

1818 Library Street
Suite 300
Reston, VA 20190
Attention:

**MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,**
as MERS

By: _____
Name:
Title:

Address for Notices:

1818 Library Street
Suite 300
Reston, VA 20190
Attention:

EXHIBIT A

LIST OF AUTHORIZED PERSONS

RIGHTS HOLDER AUTHORIZATIONS:

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for the Collateral Agent as Rights Holder under this Agreement:

By: _____	By: _____	By: _____
Name: <u>Ralph A. Malami</u>	Name: <u>J. M. Elliott</u>	Name: <u>Heidi Silverberg</u>
Title: <u>Attorney-in-Fact</u>	Title: <u>Attorney-in-Fact</u>	Title: <u>Attorney-in-Fact</u>

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for the Initial Member as Rights Holder under this Agreement; provided, however that the authority of such persons is junior and subordinate to the person authorizes to act for the Collateral Agent as Rights Holder listed above, until such time as MERS and the Electronic Agent receive the Collateral Agent Notice (as defined in this Agreement).

By: _____	By: _____	By: _____
Name: <u>Ralph A. Malami</u>	Name: <u>J. M. Elliott</u>	Name: <u>Heidi Silverberg</u>
Title: <u>Attorney-in-Fact</u>	Title: <u>Attorney-in-Fact</u>	Title: <u>Attorney-in-Fact</u>

MANAGER AUTHORIZATIONS:

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for the Manager under this Agreement:

By: _____	By: _____	By: _____
Name: <u>Paul Fuhrman</u>	Name: <u>Ronald Sanders</u>	Name: <u>Edward Dailey</u>
Title: _____	Title: _____	Title: _____
By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Title: _____	Title: _____	Title: _____

SERVICER AUTHORIZATIONS:

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for the Servicer under this Agreement:

By: _____	By: _____	By: _____
Name: <u>Paul Fuhrman</u>	Name: <u>Ronald Sanders</u>	Name: <u>Edward Dailey</u>
Title: _____	Title: _____	Title: _____
By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Title: _____	Title: _____	Title: _____

ELECTRONIC AGENT AUTHORIZATIONS:

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for the Electronic Agent under this Agreement:

By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Title: _____	Title: _____	Title: _____

MERS AUTHORIZATIONS:

Any of the persons whose signatures and titles appear below, or attached hereto, are authorized, acting singly, to act for MERS under this Agreement:

By: _____	By: _____	By: _____
Name: _____	Name: _____	Name: _____
Title: _____	Title: _____	Title: _____

EXHIBIT B

MERS PROCEDURES MANUAL

The MERS Procedures Manual shall be found on the MERS website at: <http://www.mersinc.org>

EXHIBIT C

NOTICE OF DEFAULT

Attention: _____

MERSCORP, Inc.
1818 Library Street, Suite 300
Reston, VA 20190

Ladies and Gentlemen:

Please be advised that this Notice of Default is being issued pursuant to Section 4(b) of that certain Electronic Tracking Agreement (the “**Electronic Tracking Agreement**”), dated as of January 26, 2011, by and among (a) ColFin 2011 ADC Funding, LLC, a Delaware limited liability company (the “**Manager**”), (b) SitusServ, L.P., a Texas limited partnership (the “**Servicer**”), (c) MERSCORP, Inc. (the “**Electronic Agent**”), (d) Mortgage Electronic Registration Systems, Inc. (“**MERS**”), (e) the Federal Deposit Insurance Corporation (in any capacity, the “**FDIC**”), as Receiver (“**Receiver**”) for various failed financial institutions (including its successors and assigns thereto), as Initial Member, and (f) the FDIC, as Receiver, as Collateral Agent pursuant to the Reimbursement, Security and Guaranty Agreement (including its successors and assigns thereto). The Affected Loans are listed on the attached Schedule I (including the mortgage identification numbers). Accordingly, the Electronic Agent shall not accept instructions from the Manager, the Servicer or any party other than the undersigned Rights Holder (and, as applicable, any other Rights Holder) with respect to such Mortgage Loans, until otherwise notified by the undersigned Rights Holder.

Any terms used herein and not otherwise defined shall have such meaning specified in the Electronic Tracking Agreement.

By: _____
Title: _____

Schedule I

AFFECTED LOANS

EXHIBIT D

FORM OF MERS LIMITED POWER OF ATTORNEY

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a Delaware corporation (“**MERS**”) and a wholly owned subsidiary of MERSCORP, Inc., a Delaware corporation (“**MERSCORP**”), hereby appoints the attached list of persons in Schedule A as Attorneys-in-Fact (“**Agents**”) for MERS for the limited purpose of executing documents and taking certain other actions as set forth below for those certain loans (the “**MERS Designated Mortgage Loans**”) secured by mortgages or deeds of trusts held by MERS as mortgagee or beneficiary in a nominee capacity pursuant to that certain Electronic Tracking Agreement dated as of January 26, 2011 (the “**Agreement**”) among ColFin 2011 ADC Funding, LLC, SitusServ, L.P., a Texas limited partnership, L.P., MERS, MERSCORP and the Federal Deposit Insurance Corporation (in any capacity, the “**FDIC**”), as receiver (“**Receiver**”) for various failed financial institutions listed or otherwise referenced on Schedule B (including its successors and assigns thereto), as initial member pursuant to the LLC Operating Agreement referred to in the Agreement (the “**Initial Member**”), and as collateral agent pursuant to the Reimbursement, Security and Guaranty Agreement referred to in the Agreement (including its successors and assigns thereto) (the “**Collateral Agent**”), in each case as Rights Holder (“**Rights Holder**”).

Limited Power of Attorney Actions:

- (1) release the lien of any MERS Designated Mortgage Loan registered on the MERS® System that is shown to be registered to the Receiver;
- (2) assign the lien of any MERS Designated Mortgage Loan naming MERS as the mortgagee when the Receiver is also the current promissory note-holder, or if the MERS Designated Mortgage Loan is registered on the MERS® System, is shown to be registered to the Receiver;
- (3) execute any and all documents necessary to foreclose (or post-foreclosure, to sell to another entity) any property securing any MERS Designated Mortgage Loan registered on the MERS® System that is shown to be registered to the Receiver, including but not limited to (a) substitution of trustee on Deeds of Trust, (b) Trustee’s Deeds upon sale on behalf of MERS, (c) Affidavits of Non-military Status, (d) Affidavits of Judgment, (e) Affidavits of Debt, (f) quitclaim deeds, (g) Affidavits regarding lost promissory notes, and (h) endorsements of promissory notes to VA or HUD on behalf of MERS as a required part of the claims process;
- (4) take any and all actions and execute all documents necessary to protect the interest of the Receiver, the beneficial owner of the MERS Designated Mortgage Loans, or MERS, in any bankruptcy proceeding regarding a MERS Designated Mortgage Loan registered on the MERS® System that is shown to be registered to the Receiver, including but not limited to: (a) executing Proofs of Claim and Affidavits of Movant under 11 U.S.C. Sec. 501-502, Bankruptcy Rule 3001-3003, and applicable local bankruptcy rules, (b) entering a Notice of Appearance, (c) voting for a trustee of the estate of the debtor, (d) voting for a committee of

creditors, (e) attending the meeting of creditors of the debtor, or any adjournment thereof, and voting on behalf of the Receiver, the beneficial owner of the MERS Designated Mortgage Loans, or MERS, on any question that may be lawfully submitted before creditors in such a meeting, (f) completing, executing, and returning a ballot accepting or rejecting a plan, and (g) executing reaffirmation agreements;

(5) take any and all actions and execute all documents necessary to refinance, subordinate, amend, or modify any and all MERS Designated Mortgage Loans registered on the MERS® System that is shown to be registered to the Receiver; and

(6) endorse checks made payable to Mortgage Electronic Registration Systems, Inc., to the Receiver that are received by the Receiver for payment on any MERS Designated Mortgage Loan registered on the MERS® System that is shown to be registered to the Receiver.

For purposes of clarification, references herein to any MERS Designated Mortgage Loan shown to be registered to the Receiver shall be deemed to include, without limitation, any such MERS Designated Mortgage Loan for which the Receiver, in any capacity, is designated in the MERS® System as the “servicer”, “investor”, “interim funder” or “warehouse/gestation lender”.

Agent(s) shall have full power and authority to act on behalf of MERS in these limited matters. This power and authority shall authorize Agent(s) to exercise all of MERS legal rights and powers, including all rights and powers that MERS may acquire in the future with regard to the MERS Designated Mortgage Loans.

This Limited Power of Attorney shall be construed narrowly as a limited power of attorney. The description of specific powers above is intended to limit or restrict the powers granted in this Limited Power of Attorney.

This Limited Power of Attorney shall become effective immediately upon execution and shall expire (i) upon the termination or earlier repudiation (by the Receiver under 12 U.S.C. § 1821(e)) of the Agreement, and (ii) as to any Agent(s), at such time as such Agent is no longer an employee or agent of the FDIC. This Limited Power of Attorney may be revoked by MERS and/or MERSCORP by providing written notice to Agent(s), but only at a time after all of the MERS Designated Mortgage Loans have been transferred by MERS to the Receiver or a third party or parties designated by the Receiver.

Dated: January __, 2011.

Mortgage Electronic Registration Systems, Inc.,
a Delaware Corporation

By: _____

Name: _____

Title: _____

SCHEDULE A

Federal Deposit Insurance Corporation, in its separate capacities as Receiver, as Initial Member, and in its corporate capacity as the Collateral Agent, in each case as Rights Holder

List of Agents for Mortgage Electronic Registration Systems, Inc.

Ralph A. Malami
Ronald Sommers
William P. Stewart
Heidi Silverberg
James M. Elliott

SCHEDULE I

RADC/CADC Venture 2010-2

List of Various Failed Financial Institutions

<u>Bank Name</u>	<u>City</u>	<u>State</u>	<u>Fund</u>	<u>Closing Date</u>
Security Bank of Bibb County (SRES)	Macon	GA	10085	7/24/2009
Desert Hills Bank	Phoenix	AZ	10205	3/26/2010
Irwin Union Bank & Trust Company	Columbus	IN	10120	9/18/2009
Irwin Union Bank F.S.B.	Columbus	IN	10121	9/18/2009
Warren Bank	Warren	MI	10125	10/02/2009
Hillcrest Bank of Florida	Naples	FL	10131	10/23/2009
Republic Federal Bank, N.A.	Miami	FL	10158	12/11/2009
Citizens State Bank	New Baltimore	MI	10162	12/18/2009
Rockbridge Commercial Bank	Atlanta	GA	10164	12/18/2009
Barnes Banking Company	Kaysville	UT	10171	1/15/2010
Florida Community Bank	Immokalee	FL	10181	1/29/2010
Centennial Bank	Ogden	UT	10193	3/05/2010
Citizens Bank & Trust Company of Chicago	Chicago	IL	10220	4/23/2010
The Bank of Bonifay	Bonifay	FL	10234	5/07/2010
Arcola Homestead Savings Bank	Arcola	IL	10246	6/04/2010
AmTrust Bank	Cleveland	OH	10155	12/4/2009
Independent Bankers' Bank	Springfield	IL	10166	12/18/2009
Bank of Leeton	Leeton	MO	10174	1/22/2010
CF Bancorp (Citizens First)	Port Huron	MI	10226	4/30/2010

ACKNOWLEDGMENT

STATE OF VIRGINIA

§

COUNTY OF FAIRFAX

§

§

This instrument was acknowledged before me on the ___ day of by January, a duly authorized representative of Mortgage Electronic Registration Systems, Inc., a Delaware corporation, on behalf of said corporation.

Notary Public, State of Virginia

SCHEDULE I

RAD/CADC Venture 2010-2

List of Various Failed Financial Institutions

<u>Bank Name</u>	<u>City</u>	<u>State</u>	<u>Fund</u>	<u>Closing Date</u>
Security Bank of Bibb County (SRES)	Macon	GA	10085	7/24/2009
Desert Hills Bank	Phoenix	AZ	10205	3/26/2010
Irwin Union Bank & Trust Company	Columbus	IN	10120	9/18/2009
Irwin Union Bank F.S.B.	Columbus	IN	10121	9/18/2009
Warren Bank	Warren	MI	10125	10/02/2009
Hillcrest Bank of Florida	Naples	FL	10131	10/23/2009
Republic Federal Bank, N.A.	Miami	FL	10158	12/11/2009
Citizens State Bank	New Baltimore	MI	10162	12/18/2009
Rockbridge Commercial Bank	Atlanta	GA	10164	12/18/2009
Barnes Banking Company	Kaysville	UT	10171	1/15/2010
Florida Community Bank	Immokalee	FL	10181	1/29/2010
Centennial Bank	Ogden	UT	10193	3/05/2010
Citizens Bank & Trust Company of Chicago	Chicago	IL	10220	4/23/2010
The Bank of Bonifay	Bonifay	FL	10234	5/07/2010
Arcola Homestead Savings Bank	Arcola	IL	10246	6/04/2010
AmTrust Bank	Cleveland	OH	10155	12/4/2009
Independent Bankers' Bank	Springfield	IL	10166	12/18/2009
Bank of Leeton	Leeton	MO	10174	1/22/2010
CF Bancorp (Citizens First)	Port Huron	MI	10226	4/30/2010

SCHEDULE 3

SERVICING OBLIGATIONS

The parties to the Agreement to which this Schedule 3 is attached hereby agree as follows:

The obligations of the Servicer under the Agreement shall be servicing obligations described in Article II of the Agreement and those described in the matrix below. The parties agree that any other servicing obligations not expressly described in Article II of the Agreement or listed below shall be deemed to be retained by the Manager/Private Owner.

<i>NO.</i>	<i>DESCRIPTION OF SERVICE TO BE PERFORMED</i>	<i>Primary Servicing (Situs to Perform)</i>	<i>Special Servicing (Colony AMC 2011ADC to perform)</i>
A.	Inspections of Mortgaged Property. Servicer to inspect the properties securing the Loans, and perform or cause to be performed such environmental audits, structural inspections, appraisals, title searches as well as other reviews or inspections as may be necessary or appropriate to develop the Business Plans.		X
B	Collections and Payment. Situs to use commercially reasonable efforts (i) to collect payments of principal, interest and other amounts owed by the Borrowers and Guarantors with respect to the Loans, (ii) to obtain all financial information, reports, statements or other information with respect to the Loans which are required to be delivered pursuant to any documents relating to the Loans, (iii) to maintain insurance on the mortgaged property securing the Loans to the extent required, (iv) to use commercially reasonable efforts to fully enforce and cause each Borrower under each Loan to comply with all payment, insurance, escrow deposit and other requirements of the Loan, and (v) to perform all related record keeping and other activities typically performed by those retained to perform similar services.	X	

<i>NO.</i>	<i>DESCRIPTION OF SERVICE TO BE PERFORMED</i>	<i>Primary Servicing (Situs to Perform)</i>	<i>Special Servicing (Colony AMC 2011 ADC to perform)</i>
C	Borrower Meetings. Situs to use commercially reasonable efforts to contact and interview the Borrower and all active principals of the Borrower and each Guarantor (which may be done telephonically) with respect to each Loan within 7 days after any late payment or any default, to determine the financial condition of such Borrower and any Guarantors, the economic viability of the related mortgaged property and the Borrower's intentions with respect to repayment of the Loan and the repair and maintenance of the mortgaged property. Situs agrees to work with the Servicer to obtain a pre-negotiation agreement [on a form approved by the Servicer] from Borrower and any such Guarantors if negotiations on any modifications, forbearances and DPOs are contemplated prior to a Loan becoming a Special Servicing loan; thereafter, such responsibility shall be solely the Servicer's.	X	
D(i)	Defaulted Loans (Notification). Immediately upon learning of the occurrence of any material default under any Loan (including, without limitation, any payment default or any default entitling the lender under the Loan to accelerate the indebtedness outstanding under the Loan), Situs shall inform the Servicer in writing.	X	
D(ii)	Defaulted Loans (Development of Resolution Strategy). Within a reasonable amount of time after being informed of a material default under a Loan, the Servicer, shall propose in writing an updated Business Plan incorporating its recommendation regarding engagement of legal counsel, enforcement of rights and remedies, workout strategy and any other actions necessary to the ultimate resolution of the Loan, and, the Servicer shall determine a resolution strategy which shall be incorporated into the updated Business Plan.		X

E	<p>Modifications, Waivers and Consents. Unless specifically and expressly approved by the Servicer in writing, Situs shall not (i) agree to or enter into any modification, amendment, extension, renewal, restructuring, forbearance or other agreement with respect to a Loan, (ii) waive any material right of the Company or the Servicer with respect to a Loan, under any Loan document or otherwise, (iii) respond to any material request by any Borrower or Guarantor for any consent pursuant to any Loan document, or (iv) sell or dispose of a Loan or any underlying Collateral.</p>	X	
F	<p>Foreclosure; Transactions in Lieu of Foreclosure. Servicer, shall cause or conduct any foreclosure sale of any property securing a Loan, or cause, conduct or agree to any transaction transferring any property in lieu of foreclosure including all of the material terms and conditions of such foreclosure sale or transaction in lieu of foreclosure (including without limitation the sale date, sale terms and bidding strategy with respect to any foreclosure sale). Situs shall track foreclosures (or transactions in lieu thereof) and all expenses arising or associated therewith based upon information provided by the Servicer.</p>		X
G	<p>Limitation on Actions. Notwithstanding anything in this Agreement to the contrary, Situs shall not take, and shall ensure that any subcontractor and/or subservicer does not take, any action or series of actions prior to foreclosure with respect to any property securing any Loan that would cause the Servicer or the Company or its direct or indirect owners (i) to become liable under any applicable environmental laws, (ii) to be considered to be a “mortgagee in possession” of such property, or (iii) to be considered to be an “owner” or “operator” of such property within the meaning of CERCLA or any comparable federal, state or local law, or a “discharger” or “responsible party” thereunder.</p>	X	
NO.	DESCRIPTION OF SERVICE TO BE PERFORMED	Primary Servicing (Situs to Perform)	Special Servicing (Colony AMC 2011 ADC to perform)

H(i)	<p>Claims by Borrowers (Notification). Situs shall immediately notify the Servicer if a claim is made by any Borrower, Guarantor or any third party with respect to any Loan.</p>	X	
H(ii)	<p>Claims by Borrowers (Defense). Servicer shall arrange for and supervise the defense of any claim made by any Borrower, Guarantor or third party.</p>		X
I	<p>Transfer of Servicing. In coordination with the Servicer, Situs shall assist in the transfer to or management of the Loans and other related assets, including, without limitation, the following, except as reasonably determined by the Servicer to be unnecessary and undesirable, and except as separately contracted for the Servicer: (i) preparing and sending notices to Borrowers and other relevant persons (including participants, insurance companies, tenants, the Internal Revenue Service and similar state authorities, real estate taxing authorities and other applicable governmental agencies), (ii) preparing and sending notices to any existing asset Servicers or subcontractors, and (iii) assisting in the physical transfer of files and facilitate the electronic transfer of all servicing and asset management data and files to or from Servicer's electronic systems. .</p>	X	
J	<p>Notification. Situs shall promptly notify the Servicer of any event, circumstance, correspondence or other communication or occurrence of which it receives knowledge which affects in any material way any Loan or related asset (including, without limitation, any default under any Loan documents or any casualty to or condemnation of any real property or any property securing any Loan) or the ability to perform its obligations hereunder.</p>	X	

<i>NO.</i>	<i>DESCRIPTION OF SERVICE TO BE PERFORMED</i>	<i>Primary Servicing (Situs to Perform)</i>	<i>Special Servicing (Colony AMC 2011 ADC to perform)</i>
K	Transfer and Disposition. Servicer shall take such steps as are reasonably necessary to transfer or dispose of all or part of the interest in any Loan or related asset in the manner specified in the Servicer's sole and absolute discretion. Disposition services shall include the receipt, review, analysis and negotiation of offers, and the closing of sales.		X
L	Electronic Access. Situs will provide the Servicer limited view access to basic loan servicing data from Servicer's loan servicing system which will include the ability to download and print.	X	
M	Registration with MERS. Situs shall perform all obligations described in Section 2.13 of the Agreement.	X	

SCHEDULE 3

SCHEDULE 4

REIMBURSEMENT OF SERVICER ADVANCES

A. Reimbursable Expenses. Notwithstanding anything to the contrary set forth herein, Servicer shall have no obligation to make Servicing Advances. Any Servicing Advances made by Servicer which are not recoverable from Borrowers and Obligors shall only be subject to reimbursement by Manager if made in compliance with this Agreement. To the extent Servicer complies with the terms of this Agreement with respect to such expenditures, Manager shall reimburse Servicer promptly for the amounts so paid, and in no event later than 30 days after receipt by Manager of written notice from Servicer of such expenditure (accompanied by proper documentation).

SCHEDULE 4

SCHEDULE 5

[Reserved]

SCHEDULE 6

TERMINATION WITHOUT CAUSE

Manager may not terminate this Agreement without cause.

SCHEDULE 6

SCHEDULE 7

ASSET LEVEL BUSINESS PLANS AND CONSOLIDATED BUSINESS PLANS

Servicer shall prepare, deliver and update the Business Plans and Consolidated Business Plans, pursuant to Section 7.7 of the Amended and Restated Limited Liability Company Operating Agreement and Section 5.2(h) of the Servicing Agreement.

SCHEDULE 7