AMENDED AND RESTATED

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

FRANKLIN VENTURE, LLC

Dated as of September 30, 2009

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FRANKLIN VENTURE, LLC
AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT (as the same may be amended or modified from time to time in accordance with the terms hereof, this "**Agreement**"), is made and effective as of September 30, 2009 (the "**Closing Date**"), by and among the Federal Deposit Insurance Corporation ("**FDIC**"), in its capacity as receiver for Franklin Bank, S.S.B. ("**Failed Bank**"), RCS Franklin Venture LLC, a Delaware limited liability company (the "**Private Owner**"), and Franklin Venture, LLC, a Delaware limited liability company (the "**Company**"). For purposes of this Agreement, references to the "**Receiver**" shall be a reference to the FDIC, in its capacity as receiver of Failed Bank; references to the "Initial Member" shall be a reference to the FDIC, in its capacity as a Member of the Company, together with any successor of the FDIC or any transferee of the Interest held by the FDIC); references to the "**Secured Party**" shall be a reference to the FDIC, in its capacity as the secured party under Section 5.3 hereunder and under the Reimbursement and Security Agreement; and references to the "**Managing Member**" shall be a reference to Private Owner (or a successor Member) in its capacity as the manager of the Company.

WHEREAS, on November 7, 2008, the FDIC was appointed Receiver for Failed Bank;

WHEREAS, on September 18, 2009, Receiver formed the Company as a Delaware limited liability company for the purpose of acquiring the Loans and carrying on the Business;

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

WHEREAS, in connection with the transactions contemplated by the Contribution Agreement, Receiver was admitted as the "Initial Member" of the Company and received an Interest in the Company representing a one hundred percent (100%) Percentage Interest pursuant to the terms of that certain Limited Liability Company Operating Agreement dated as of September 18, 2009 by and between Receiver and the Company (the "**Original LLC Operating Agreement**");

WHEREAS, following closing of the transactions contemplated by the Contribution Agreement and the execution of the Original LLC Operating Agreement, Initial Member agreed, pursuant to the terms of that certain Limited Liability Company Interest Sale and Assignment Agreement dated of even date herewith (the "**LLC Interest Sale Agreement**"), to sell to Private

Owner, effective as of the Closing Date, an Interest representing a fifty percent (50%) Percentage Interest in exchange for the Bid Amount;

WHEREAS, at the closing under the LLC Interest Sale Agreement, Residential Credit Solutions, Inc., as the sole member of Private Owner, will execute and deliver a guaranty in favor of the Initial Member guaranteeing the obligations of the Private Owner hereunder (the "**Sponsor Guaranty**");

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

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

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

ARTICLE I
Certain Definitions

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

ARTICLE II
Organization of the Company

2.1 Formation; Continuation and Admission of Members.

(a) On September 18, 2009, the Receiver caused the Certificate of Formation of the Company, in the form attached as Exhibit A hereto (the "**Certificate**"), to be filed in the office of the Secretary of State of the State of Delaware. The Certificate shall not be amended except to change the registered agent or office of the Company.

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

(c) The Initial Member previously was, and the Private Owner hereby agrees to be, and is, admitted as a Member of the Company such that, as of the Closing Date, the Initial Member and the Private Owner are the sole Members of the Company. Until the Company is dissolved pursuant to Section 9.1, the Company shall at all times have two Members.

2.2 Name.

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

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

2.3 Organizational Contributions and Related Actions.

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

(i) made a Capital Contribution to the Company in the form of certain Loans with a fair market value equal to $128,430,000 (the "**Initial Member Capital Contribution**") in exchange for the issuance by the Company to the Initial Member of an Interest representing a one hundred percent (100%) Percentage Interest; and

(ii) sold and assigned to the Company, and the Company purchased and assumed from Initial Member, Loans (other than that portion of the Loans comprising the Initial Member Capital Contribution in accordance with Section 2.3(a)(i) above) in exchange for the Purchase Money Note.

(b) Contemporaneously with the execution of this Agreement, pursuant to the terms of the LLC Interest Sale Agreement, the Private Owner is acquiring from the Initial Member an Interest representing a fifty percent (50%) Percentage Interest for an aggregate purchase price equal to the Bid Amount, subject to adjustment in accordance with Section 2.3 of the Contribution Agreement.

(c) Upon the consummation of the transactions contemplated in Sections 2.3(a) and (b), the Members, collectively, shall own one hundred percent (100%) of the issued and outstanding Interests, and each such Member shall have a fifty percent (50%) Percentage Interest.

2.4 Registered Office; Chief Executive Office. The Company shall maintain a registered office and registered agent in Delaware to the extent required by the Act, which office and agent shall be as determined by the Managing Member from time to time and which shall be set forth in the Certificate. Initially (and until otherwise determined by the Managing Member), the registered office in Delaware shall be, and the name and address of the Company's registered agent in Delaware shall be, as specified in the Certificate as originally filed, which may be amended by the Managing Member from time to time as necessary to correctly reflect the name and address of the Company's registered agent. The chief executive office of the Company shall be located at 4282 North Freeway, Fort Worth, Texas, 76137, or such other place as shall be determined by the Managing Member from time to time.

2.5 Purpose; Duration.

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

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

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

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

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

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

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

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

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

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

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

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

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

(x) use separate stationery, invoices and checks;

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

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

(b) Neither any Member nor the Managing Member shall cause or permit a Dissolution Event or an Insolvency Event to occur with respect to the Company to which the Initial Member and, so long as the Purchase Money Note is outstanding, the Secured Party, has not provided its written consent, and neither any Member nor the Managing Member shall, without the written consent of the Initial Member and the Secured Party, cause or permit the Company to:

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

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

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

(iv) incur, create or assume any Debt other than the Purchase Money Note, any Working Capital Advance or as otherwise expressly permitted hereby or by the Ancillary Documents;

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

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

(vi) to the fullest extent permitted by Law, the Company shall not consolidate or merge with or into any other Person, convert into any other type of Person or convey or transfer its properties and assets substantially as an entirety to any entity, transfer its ownership interests, or engage in any dissolution or liquidation, except in each case to the extent such activities are expressly permitted pursuant to any provision of this Agreement or the Ancillary Documents (and subject to obtaining any approvals required hereunder or thereunder, as applicable); or

(vii) except as contemplated or permitted by this Agreement or the Servicing Agreement, form, acquire or hold any Subsidiary other than an Ownership Entity or form any trust for the purpose of holding Loans for the benefit of the Company.

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

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

ARTICLE III
Management and Operations of the Company

3.1 Management of the Company's Affairs.

(a) The management of the Company shall be vested exclusively in the Person appointed from time-to-time hereunder as the "manager" of the Company (the "**Managing Member**"). Effective as of the Closing Date, the Private Owner is hereby appointed as Managing Member. Subject to the terms and conditions of this Agreement, the Managing Member shall have full and exclusive power and discretion to, and shall, manage the business and affairs of the Company in accordance with this Agreement. The Managing Member shall not resign as manager, may not assign or delegate its responsibilities as manager to any other Person, and shall serve as manager until such time as (i) the Private Owner's Interest is Disposed of in accordance with the terms of this Agreement and the transferee is admitted as a Member

and successor to the Private Owner, in which case the transferee Member (or its designee) shall, effective upon such Disposition, be appointed as the "Managing Member" of the Company, (ii) the Private Owner is removed as manager by the Initial Member and replaced in accordance with Section 3.2 below; or (iii) the Company is dissolved in accordance with the terms of this Agreement. In the event that a successor manager is appointed in accordance with the terms of this Agreement, all references in this Agreement to the Managing Member, in its capacity as manager of the Company, shall be deemed to be references to the successor manager so appointed. The Managing Member shall devote such time to the affairs of the Company as is necessary to manage the Company as set forth in this Agreement. Private Owner (and any successor or transferee of Private Owner) hereby expressly acknowledges that, as it relates to its role as the Managing Member, this Agreement constitutes a personal services contract between Private Owner and the Company. Nothing in this Section 3.1 eliminates, limits or otherwise modifies any of the express terms of this Agreement or any liability, obligation or covenant of any Person hereunder.

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

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

(i) the identity of Members;

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

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

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

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

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

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

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

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

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

3.2 Removal of Managing Member. Upon an Event of Default, the Secured Party or, at the direction of the Secured Party, the Initial Member, may remove Private Owner as the Managing Member and appoint a successor manager in the sole discretion of the Secured Party or Initial Member, as applicable; provided however, that this remedy shall be exercised only in connection with an exercise of remedies under Section 5.3 of this Agreement. In either case, such successor manager shall succeed to all rights and obligations of the Managing Member hereunder. In the event that Private Owner is so removed, and a successor manager is appointed, (a) all references in this Agreement to the Managing Member, in its capacity as manager of the Company, shall be deemed to be references to the successor manager so appointed by the Initial Member, and (b) the successor Managing Member shall be entitled to be paid the Management Fee in accordance with the terms of the Custodial Agreement.

3.3 Employees and Services. After the Closing Date, the Managing Member shall cause to be made available to the Company, from time to time, employees, facilities and support services in a manner and to an extent reasonably required for it to fulfill its duties and obligations as Managing Member and for the day-to-day operation of the Business, including the Managing Member's employees, facilities and support services. If necessary to meet the foregoing requirements, the Managing Member shall enter into contractual arrangements to secure employees, facilities and support services from third parties (including its Affiliates); provided, however, that the Managing Member shall at all times provide for the servicing of the Loans through a Servicer under contract with the Managing Member in accordance with Article XII and

the safekeeping of the Notes and other Loan Documents by a Custodian under contract with the Company in accordance with the provisions of Section 3.7 below. Notwithstanding anything to the contrary contained in this Section 3.3, no employees of the Managing Member or any third party (including any Affiliate) shall be deemed to be employees of the Company, any contractual relationships entered into by the Managing Member to provide employees, facilities or support services to the Company shall be relationships between the third parties (or Affiliates) and the Managing Member (and not the Company) and shall not relieve the Managing Member of its obligations or any liability hereunder, and no expenses incurred to secure or maintain employees, facilities or support services shall be an expense of the Company unless the same is expressly reimbursable by the Company pursuant to the provisions of Article XII below or is otherwise expressly set forth in this Agreement or in the Ancillary Documents to be an expense of the Company.

3.4 Restrictions on Managing Member. Notwithstanding the delegation of authority to the Managing Member, the Managing Member shall in no event do any act or take any action in contravention of any Law, nor shall it take any of the following actions on behalf of, or with respect to, the Company without the prior written approval of the Initial Member and the Secured Party, which approval may be withheld or conditioned in the Initial Member's and Secured Party's sole and absolute discretion:

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

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

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

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

(v) taking any action to conduct a Bulk Sale during the 24 month period commencing on the date of this Agreement;

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

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

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

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

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

(xi) selling any Loan, Collateral or Acquired Collateral (or any portion thereof) in a transaction that provides for any recourse against FDIC, in any capacity, or against the Interest held by the Initial Member;

(xii) disbursing funds from the Collection Account other than in accordance with the provisions of this Agreement and the Custodial and Paying Agency Agreement;

(xiii) ceasing to be, or causing or permitting the Company to cease being, a member in good standing of MERS;

(xiv) other than capitalizing accrued and unpaid interest, other amounts permitted to be capitalized pursuant to the Loan Modification Program, and Servicing Expenses, advancing additional funds that would increase the Unpaid Principal Balance;

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

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

3.5 Related Party Agreements. Neither the Company nor any of its Subsidiaries shall enter into any current or future contract, agreement, commitment, arrangement or transaction (including any agreement to sell Company Property, incur any Debt or become bound by any Guarantee of any obligations) with or pay any fee to any Affiliate of the Company or of the Private Owner or the Managing Member (a "**Related Party Agreement**"), except as may otherwise be expressly provided herein or in any Ancillary Document.

3.6 Real Property. The Company shall not take title in its own name to any Acquired Collateral consisting of real property, and any ownership of any such Acquired Collateral shall be governed by Section 12.15 and the relevant terms of the Servicing Agreement.

3.7 Custodian and Paying Agent. The Managing Member shall cause the Company to retain and enter into and, at all times, be a party to written custodial agreement with a document custodian (the "**Custodian**") that is a Qualified Custodian and selected by the Initial Member, and such Custodian shall at all times have custody and possession of the Notes and other Custodial Documents. The Managing Member shall also cause the Company to retain and enter into and, at all times, be a party to written paying agency agreement with a paying agent selected

by the Initial Member (the "**Paying Agent**"), which Paying Agent shall receive and distribute Loan Proceeds in accordance with the applicable paying agency agreement. Except as contemplated by Section 13.6(b) below, the Custodian and the Paying Agent shall be the same, and the custodial and paying agency functions shall be performed on the terms set forth in a Custodial and Paying Agency Agreement that is acceptable to the Initial Member and the Secured Party. At no time shall the Managing Member permit the Company to have more than one Custodian or one Paying Agent. The fees and expenses paid to the Custodian and Paying Agent shall be no more than market rates and the Custodian and Paying Agent shall be terminable by the Company or by the Secured Party upon a minimum notice period not to exceed thirty (30) days, without cause under the Custodial and Paying Agency Agreement. In the event that the Managing Member removes, or causes the Company (or any Servicer) to remove, any Notes or other Custodial Documents from the possession of the Custodian (which shall be done only in accordance with the relevant Custodial and Paying Agency Agreement), (i) any loss or destruction of or damage to such Notes or Custodial Documents shall be the liability of the Managing Member (who, along with the relevant Servicer(s), shall be responsible for safeguarding such Notes and Custodial Documents), and (ii) such Notes shall be returned to the Custodian within the time provided under the applicable Uniform Commercial Code to maintain the Secured Party's perfection of its security interest therein by possession. If any Notes or other Custodial Documents are removed in connection with the modification or restructuring of a Loan, the modified or restructured Notes and other Custodial Documents removed in connection therewith shall be returned to the Custodian as soon as possible following the completion of the restructuring or modification (and, in any event, in accordance with clause (ii) of the immediately preceding sentence). The Managing Member shall ensure that the Initial Member receives a copy of each demand, notice or other communication given under the Custodial and Paying Agency Agreement at the time that such notice or other communication is given thereunder. The Managing Member shall indemnify and hold harmless the Initial Member and the other Persons referred to in Section 4.14 of the Contribution Agreement from and against the claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and other remedies with respect to which Initial Member and the other Persons referred to therein were released in accordance with Section 4.14 of the Contribution Agreement.

3.8 Relationships with Borrowers, etc. The Managing Member shall not, at any time, (a) be an Affiliate of or a partner or joint venturer with any Borrower, (b) be an agent of any Borrower, or allow any Borrower to be an agent of the Managing Member or the Company, or (c) except as is otherwise contemplated by its ownership of the Loans and its right to hold Acquired Collateral, have any interest whatsoever in any Borrower, Guarantor or other obligor with respect to any Loan or any of the Collateral.

3.9 No Conflicting Obligations. The Managing Member shall not, at any time, enter into or become a party to any agreement that would conflict with the terms of this Agreement.

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

3.11 No Bankruptcy Filing. The Managing Member shall not cause or permit the Company to: (a) file a voluntary petition for bankruptcy, (b) file a petition or answer seeking any

reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law, (c) make an assignment for the benefit of creditors, (d) seek, consent or acquiesce in the appointment of a trustee, receiver or liquidator or of all or any substantial part of its properties, (e) file an answer or other pleading admitting or failing to contest the material allegations of (i) a petition filed against it in any proceeding described in clause (a) through (d), or (ii) any order adjudging it a bankrupt or insolvent or for relief against it in any bankruptcy or Insolvency Proceeding, or (f) allow itself to become unable to pay its obligations as they become due.

3.12 No Liens. The Managing Member shall not cause or permit the Company to place, or permit (voluntarily or involuntarily) any Lien to be placed, on any of the assets of the Company (other than the security interest granted to the Secured Party under the Reimbursement and Security Agreement), and shall not take any action to interfere with the rights of Secured Party as a secured party with respect to the Company assets pledged as security under the Reimbursement and Security Agreement or under Section 5.3 of this Agreement.

3.13 MERS. The Managing Member shall, and shall cause the Company and each Servicer to, become a member of Mortgage Electronic Registration Services, Incorporated ("**MERS**") on or before the initial Servicing Transfer Date, and maintain itself as a MERS member in good standing (including paying all dues and other fees required to maintain its membership and complying with MERS policies and procedures). The Managing Member shall provide Initial Member with such reports from the MERS® System as Initial Member, from time to time, may request, including to allow Initial Member to verify the Persons identified on the MERS® System as having any interest in any of the Loans and to confirm that the Loans required to be registered on the MERS® System are so registered. Without limiting the foregoing, upon the request of Initial Member, the Managing Member shall 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 Loans registered on the MERS® System and provide the results to Initial Member and, if requested by Initial Member, shall cause MERS to change the information in such fields, to the extent MERS will do so in accordance with its policies and procedures and otherwise consistent with this Agreement and the Servicing Agreement, to reflect its instructions.

3.14 Power of Attorney. In the event the Company fails to promptly satisfy its obligations under Section 3.1 or Section 3.2 of the Contribution Agreement as it relates to the transfer and/or recording of any of the Transfer Documents or any other relevant matter set forth therein, the Company hereby grants a limited power of attorney to the Initial Member for the purposes of executing all relevant Transfer Documents and other documents as may be reasonably necessary to satisfy the transfer and recording obligations of the Company under Section 3.1 and Section 3.2 of the Contribution Agreement. Managing Member agrees to cause the Company to comply with its obligations under Section 3.1 and Section 4.15 of the Contribution Agreement with respect to preparing and furnishing special warranty deeds for the Initial Member's approval and execution in order to convey the real property subject to any such contract to the Company. All such title curative work, if required, shall be at the Managing Member's sole cost and expense. The Managing Member shall indemnify and hold harmless the Initial Member from and against the claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and other remedies with respect to

which Initial Member was released in accordance with Section 3.1(d) of the Contribution Agreement.

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

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

4.2 Interests.

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

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

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

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

(e) Interests Uncertificated. No certificates shall be issued evidencing the Interests.

4.3 Filings; Duty of Members to Cooperate. The Managing Member shall promptly cause to be executed, delivered, filed, recorded or published, as appropriate, and the Members will, as requested by the Managing Member from time to time but at the sole expense of the Managing Member, execute and deliver, (a) all certificates, documents and other instruments that the Managing Member deems necessary or appropriate to form, qualify or continue the existence or qualification of the Company as a limited liability company in the State of Delaware or as a

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

4.4 Certain Restrictions and Requirements.

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

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

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

4.5 Liability of Members. Neither any Member nor any of its Affiliates, any officer, director, stockholder, member, manager, employee, agent or assign of any Member or any of its Affiliates, but in all events excluding the Managing Member (collectively, the "**Related Persons**"), shall be liable, responsible or accountable, whether directly or indirectly, in contract or tort or otherwise, to the Company or any other Person in which the Company has a direct or indirect interest or any Member (or any Affiliate thereof) for any Damages asserted against, suffered or incurred by the Company or any Person in which the Company has a direct or indirect interest or any Member (or any of their respective Affiliates) arising out of, relating to or in connection with any act or failure to act pursuant to this Agreement or otherwise with respect to:

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

(b) the offer and sale of Interests in the Company; and

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

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

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

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

ARTICLE V
Capital Contributions; Working Capital Advances

5.1 Capital Contributions; Working Capital Advances.

(a) Members' Contribution. Pursuant to the Contribution Agreement, the Initial Member made a Capital Contribution to the Company in an amount equal to the Initial Member Capital Contribution in exchange for an Interest representing a one hundred percent (100%) Percentage Interest. In connection with the LLC Interest Sale Agreement, Private Owner acquired from the Initial Member an Interest representing a fifty percent (50%) Percentage Interest in exchange for the Bid Amount. After giving effect to the foregoing transactions, the respective Capital Accounts of the Initial Member and the Private Owner as of the Closing Date are as set forth in the Member Schedule.

(b) From and after the Closing Date, the Members shall have no obligation to make any additional Capital Contributions to the Company; provided, however, that the Managing Member shall be obligated to make Working Capital Advances to the Company in accordance with the definition thereof. Without in any way limiting the foregoing, the Managing Member shall make Working Capital Advances to the Company, and shall cause the proceeds thereof to be deposited in the Collection Account, to the extent necessary to ensure that the amount transferred from the Collection Account to the Distribution Account with respect to a

Due Period in accordance with the Custodial and Paying Agency Agreement will be sufficient to permit the Paying Agent to distribute from the Distribution Account all distributions identified in the relevant Distribution Date Report for such Due Period. No Working Capital Advance shall accrue any interest thereon. If and to the extent any portion of a Working Capital Advance is used to fund amounts that are reimbursable to the Managing Member hereunder or under the Custodial and Paying Agency Agreement, the reimbursable portion of such Working Capital Advance shall be repaid, in accordance with the Custodial and Paying Agency Agreement, prior to the Company making any other distributions to Members with respect to their Interests pursuant to Section 6.6. Working Capital Advances shall be used by the Company solely for working capital purposes and all Working Capital Advances, together with a detailed statement of the sources and uses thereof (which shall be broken out by the reimbursable and unreimbursable portions thereof), shall be reflected in the Monthly Report with respect to the calendar month during which the relevant Working Capital Advance was made.

(c) Obligation Following Removal or Replacement of Managing Member. In the event the Private Owner is removed as the Managing Member pursuant to Section 3.2 above or Section 5.2 below and/or the equity of the Private Owner is transferred to a third party pursuant to Section 5.3 or Section 8.1, such third party, as the successor Managing Member, shall be obligated to make all Working Capital Advances required hereunder.

5.2 Defaults.

(a) In the event the Managing Member fails to make a required Working Capital Advance in accordance with Section 5.1 above, and such failure constitutes an Event of Default, in addition to all other remedies available hereunder or under the Ancillary Documents upon such an Event of Default, the Secured Party shall be entitled to direct the Initial Member to (or, if the Purchase Money Note is no longer outstanding, the Initial Member shall be entitled to) (i) remove the Private Owner as the Managing Member, (ii) foreclose on the Interest held by the Private Owner under Section 5.3 and transfer such Interest to a third party, and (iii) designate the transferee Member as the Managing Member hereunder.

(b) The provisions of this Section 5.2 are intended to comply with the provisions of Section 18-502(c) of the Act. The Members each acknowledge that (i) the Working Capital Advances are critical to the Company's business, (ii) the interest of the Company may be at risk by reason of the failure of the Managing Member to make a required Working Capital Advance, (iii) the extent of the risk and the damage and loss to the Company resulting from such default by the Managing Member is impossible to foresee or predict at this time, but such risk, damage and loss could imperil the Company's assets, and (iv) in view of the serious consequences that could arise from the Managing Member's default in making required Working Capital Advance, the provisions of this Section 5.2 and Section 5.3 below relating to such a default are reasonable.

5.3 Security Interest. This Agreement shall constitute a security agreement under applicable Law and, in furtherance thereof the Company shall be deemed to have granted, and does hereby grant, to the Initial Member a first priority security interest in the Secured Assets for the benefit of Initial Member and its assignees as security for the Private Owner's and the Managing Member's obligations under this Agreement, including the Managing Member's

obligation to make Working Capital Advances under Section 5.2 of this Agreement. For purposes of this Agreement, the term **"Secured Assets"** shall mean (i) the Interest held by Private Owner, and (ii) all rights to distributions thereon.

The Private Owner hereby authorizes the filing by Initial Member of such financing statements in such jurisdictions as Initial Member deems appropriate (in its sole and absolute discretion) with respect to the Secured Assets. The Private Owner shall deliver to Initial Member an assignment and assumption agreement with respect to the Interest held by it, in form and substance satisfactory to the Initial Member, endorsed in blank, and executed by the Private Owner. Initial Member may cause the assignment and assumption agreement to be dated and executed by the assignee in order to effect the assignment of the Interest held by the Private Owner at any time if an Event of Default occurs and is continuing. Initial Member's election to exercise any remedy under this Section 5.3 shall in no way limit Initial Member's rights under the Sponsor Guaranty.

5.4 No Reliance by Parties Extending Credit. Without limitation of the generality of Section 13.4 hereof, the provisions of Section 5.2 are hereby expressly stated not to be for the benefit of any Person (including any Person now or hereafter extending credit to the Company), other than the Members, the Company and the Secured Party, and it is the intent of the Members, the Company and the Secured Party that reliance on the provisions of Section 5.2 by any such Person other than the Members, the Company and the Secured Party should be deemed unreasonable for purposes of Section 18-502(b) of the Act.

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

6.1 Capital Accounts. A Capital Account shall be established and maintained for each Member to which shall be credited the Capital Contributions made by such Member and such Member's allocable share of Net Income (and items thereof), and from which shall be deducted distributions to such Member of cash or other Property and such Member's allocable share of Net Loss (and items thereof). As to the Private Owner, the initial Capital Account shall correspond to that portion of the Capital Account of the Initial Member that is attributable to the Interest acquired by the Private Owner pursuant to the LLC Interest Sale Agreement. A Member's Capital Account also shall be adjusted for items specially allocated to such Member under this Article VI. The Capital Accounts of the Members generally shall be adjusted and maintained in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv); provided, however, that such adjustments to, and maintenance of, the Capital Accounts shall not adversely affect the manner in which distributions are to be made to the Members under Section 6.6.

6.2 Allocations to Capital Accounts. Allocation of Net Income and Net Loss shall be made as provided in this Article VI. Except as otherwise provided in this Article VI, Net Income and Net Loss shall be allocated among the Members as follows:

(a) Net Income. For each Fiscal Year, Net Income shall be allocated among the Members as necessary to cause the Capital Account balance of each Member to equal the sum of (i) the amount that would be distributed to such Member pursuant to Section 6.6 with respect to such Fiscal Year if the Company applied and distributed all Distributable Cash for

such Fiscal Year, plus (ii) the amount that would be distributed to such Member pursuant to Section 9.2 if the Company sold all of its remaining assets for their then Fair Market Value and applied and distributed the net proceeds therefrom to the Members pursuant to Section 9.2.

(b) Net Loss. For each Fiscal Year, Net Loss shall be allocated among the Members, *first*, as necessary to cause the Capital Account balance of each Member to equal the sum of (i) the amount that would be distributed to such Member pursuant to Section 6.6 with respect to such Fiscal Year if the Company applied and distributed all Distributable Cash for such Fiscal Year, plus (ii) the amount that would be distributed to such Member pursuant to Section 9.2 if the Company sold all of its remaining assets for their then Fair Market Value, and applied and distributed the net proceeds therefrom to the Members pursuant to Section 9.2; and, *second*, after giving effect to the allocations made pursuant to the preceding provision, in accordance with the Members' respective Percentage Interests.

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

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

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

(iii) *Qualified Income Offset.* In the event any Member, for any reason, whether expected or not, has an Adjusted Capital Account Deficit, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, such Adjusted Capital Account Deficit as quickly as possible,

provided that an allocation pursuant to this Section 6.2(c)(iii) shall be made only if and to the extent that such Member would have such Adjusted Capital Account Deficit after all other allocations provided for in Section 6.2 have been tentatively made as if this Section 6.2(c)(iii) were not in this Agreement. This Section 6.2(c)(iii) is intended to comply with the "qualified income offset" provisions in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

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

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

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

(d) Transfer of or Change in Interests. The Managing Member is authorized to adopt any convention or combination of conventions likely to be upheld for federal income tax purposes regarding the allocation of items of Company income, gain, loss, deduction and expense with respect to a transferred Interest. A transferee of an Interest in the Company shall succeed to the Capital Account of the transferor Member to the extent it relates to the transferred Interest.

6.3 Tax Allocations.

(a) General Rules. Except as otherwise provided in Section 6.3(b), for each Fiscal Year, items of Company income, gain, loss, deduction and expense shall be allocated, for federal, state and local income tax purposes among the Members in the same manner as the Net

Income (and items thereof) or Net Loss (and items thereof) of which such items are components were allocated pursuant to Section 6.2.

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

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

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

6.4 Determinations by Managing Member. All matters concerning the computation of Capital Accounts, the allocation of items of Company income, gain, loss, deduction and expense and the adoption of any accounting procedures not expressly provided for by the terms of this Agreement shall be determined by the Managing Member in good faith, following consultation with the Initial Member. Following such consultation, such determinations shall be final and conclusive as to all the Members. Without in any way limiting the scope of the foregoing, if and to the extent that, for income tax purposes, any contribution to or distribution by the Company or any payment by any Member or by the Company is recharacterized, the Managing Member may, in good faith following consultation with the Initial Member, specially allocate items of Company income, gain, loss, deduction or expense and/or make correlative adjustments to the Capital Accounts of the Members in a manner so that the net amount of income, gain, loss, deduction and expense realized by each relevant party (after taking into account such special allocations) and the net Capital Account balances of the Members (after taking into account such special allocations and adjustments) shall, as nearly as possible, achieve the fundamental purpose of Sections 6.2(a) and 6.2(b), such that the Capital Account balances correspond to the amounts distributable to the Members, as if such recharacterization had not occurred.

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

6.6 Distributions.

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

(b) Ordinary Distributions.

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

(ii) *Distributions of Distributable Cash.* Distributions of Distributable Cash shall be made to the Members in accordance with their respective Percentage Interests.

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

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

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

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

ARTICLE VII
Accounting, Reporting and Taxation

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

7.2 Maintenance of Books and Records.

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

(b) Retention of Books and Records. The Managing Member shall cause all such books and records to be maintained and retained until the date that is the later of ten (10) years after the Closing Date or three (3) years after the date on which the Final Distribution is made. All such books and records shall be available during such period for inspection by the

Initial Member or its representatives (including any Governmental Authority) and agents at the Company's chief executive office referred to in Section 2.4 at all reasonable times during business hours on any Business Day (or, in the case of any such inspection after the term hereof, at such other location as is provided by notice to the Initial Member), in each instance upon two (2) Business Days' prior notice to the Managing Member. Upon request by Initial Member, the Managing Member, at the sole cost and expense of the Initial Member, shall promptly send copies (the number of copies of which shall be reasonable) of such books and records to the Initial Member or its designee. The Managing Member shall provide the Initial Member with reasonable advance notice of the Managing Member's intention to destroy or dispose of any documents or files relating to the Loans and, upon the request of the Initial Member, shall allow Initial Member, at its own expense, to recover the same (or copies thereof) from the Company.

7.3 Financial Statements.

(a) Annual Financial Statements. As soon as practicable following, but no later than ninety (90) days immediately after, the end of each Fiscal Year, the Managing Member shall prepare and deliver to Initial Member and the Secured Party an audited balance sheet of the Company as at the end of such Fiscal Year, and audited statements of operations and cash flow of the Company for such Fiscal Year, each prepared in accordance with GAAP and accompanied by the Accountants' report thereon, which shall be certified in the customary manner by the Accountants. Notwithstanding the foregoing, the first such audited financial statements shall be due no later than ninety (90) days immediately after the end of the 2010 Fiscal Year, and the audited statements of operations and cash flow of the Company included therein shall be prepared with respect to the period commencing on the Closing Date and ending on the last day of the 2010 Fiscal Year.

(b) Quarterly Financial Information. As soon as practicable following, but no later than forty-five (45) days immediately after, the end of each quarter of each Fiscal Year (other than the last quarter of such Fiscal Year), the Managing Member shall prepare and deliver to Initial Member and the Secured Party an unaudited balance sheet of the Company as at the end of such calendar quarter, and unaudited statements of operations and cash flow of the Company for such calendar quarter, each prepared in accordance with GAAP. Notwithstanding the foregoing, as soon as practicable following, but no later than ninety (90) days immediately after, the end of the 2009 Fiscal Year, the Managing Member shall prepare and deliver to Initial Member and the Secured Party an unaudited balance sheet of the Company as at the end of the last calendar quarter of the 2009 Fiscal Year, and unaudited statements of operations and cash flow of the Company for such calendar quarter, each prepared in accordance with GAAP.

7.4 Additional Reporting and Notice Requirements.

(a) Managing Member's Duty to Initial Member and Secured Party; Delivery of Certain Notices. In addition to such other reports and access to books, records and reports as are required to be provided under this Agreement, the Managing Member shall cause to be delivered to the Initial Member and the Secured Party such information as is specified in Exhibit B (in addition to the Monthly Report) and such other information relating to the Loans, the Collateral, the Company, the Servicers and any Subservicers as Initial Member or the Secured Party may reasonably request from time to time and, in any case, shall ensure that Initial Member

and the Secured Party are promptly advised, in writing, of any matter of which the Managing Member, any Servicer or any Subservicer becomes aware relating to the Loans, the Collateral, the Collection Account, any Liquidity Reserve Account, or any Borrower or Guarantor that materially and adversely affects the interests of Initial Member hereunder or of the Secured Party under the Reimbursement and Security Agreement. Without limiting the generality of the foregoing, the Managing Member shall cause to be delivered to Initial Member and the Secured Party information indicating any possible Environmental Hazards with respect to any Collateral. To the extent Initial Member or the Secured Party requests information which is dependent upon obtaining such information from a Borrower, Guarantor or other third party, the Managing Member shall cause to be made commercially reasonable efforts to obtain such information but it shall not be a breach by the Managing Member of this Agreement if the Managing Member fails to cause such information to be provided to Initial Member and the Secured Party because a Borrower, Guarantor or other Person has failed to provide such information after such efforts have been made.

(b) Monthly Reports. For each Due Period, the Managing Member shall provide to the Paying Agent, the Initial Member and the Secured Party: (i) the Monthly Report with respect to the relevant Due Period, and (ii) the related Distribution Date Report with respect to such Due Period, which report shall specify the amounts and recipients of all funds to be distributed by the Paying Agent on the relevant Distribution Date. The Managing Member shall provide the Monthly Report and related Distribution Date Report to the Paying Agent, the Initial Member and the Secured Party: (x) with respect to any Due Period prior to and including the Due Period in which the last Servicing Transfer Date occurs, on the date that is two (2) Business Days prior to the applicable Distribution Date, and (y) with respect to any Due Period commencing after the Due Period in which the last Servicing Transfer Date occurs, on or prior to the fifteenth (15th) day of the month immediately following the applicable Determination Date (or if the fifteenth (15th) day is not a Business Day, then the first Business Day thereafter). Following receipt by the Paying Agent of the Monthly Report and the Distribution Date Report with respect to a given Due Period, the Paying Agent shall prepare and deliver the Custodian and Paying Agent Report with respect to such Due Period in accordance with the terms of the Custodial and Paying Agency Agreement. Each of the Monthly Report and the Distribution Date Report shall be certified by the chief financial officer (or an equivalent officer) of the Managing Member. The Monthly Report shall also include a certification of the Managing Member that all withdrawals by the Managing Member from the Collection Account during such Due Period were made in accordance with the terms of this Agreement and the Custodial and Paying Agency Agreement. For purposes of this Section 7.4(b), if, for any period prior to the last Servicing Transfer Date, an Existing Servicer fails to report to the Initial Member or the Managing Member, as applicable, on a timely basis to permit the inclusion of the data from such Existing Servicer in the reports described above, such fact shall be disclosed in such reports and the omitted data shall be included in the applicable reports for the following period.

(c) Annual Compliance Certificates. The Managing Member shall, and shall cause each Servicer and Subservicer to, deliver to Initial Member and Secured Party, on or before March 15 of each year, commencing in the year 2010, an officer's certificate stating, as to the signer thereof, that (i) a review of such party's activities during the preceding calendar year (or portion thereof) and of its performance under this Agreement (or, as applicable, the Servicing

Agreement or any Subservicing Agreement) has been made under such officer's supervision, and (ii) to the best of such officer's knowledge and belief, based on such review, such party has fulfilled all of its obligations under this Agreement (or, as applicable, the Servicing Agreement or Subservicing Agreement) in all material respects throughout such year or portion thereof or, if there has been a failure to fulfill any such obligation in any material respect, specifying each such failure and the nature and status thereof. In the event a Servicer or any Subservicer was terminated, resigned or otherwise performed in such capacity for only part of a year, such party shall provide an officer's certificate pursuant to this Section 7.4(c) with respect to such portion of the year.

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

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

of or during the continuance of an Event of Default shall in all cases be borne by the Managing Member.

7.5 Designation of Tax Matters Member; Certain Tax Matters.

(a) The Managing Member is hereby designated as the "**Tax Matters Member**" under Section 6231(a)(7) of the Code and under other similar Laws of other relevant jurisdictions, to manage, in consultation with the Initial Member, administrative tax proceedings conducted at the Company level by the Internal Revenue Service or other tax authorities with respect to Company matters. Each Member expressly consents to such designation and agrees that, upon the request of the Tax Matters Member, it will execute, acknowledge, deliver, file and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent. The Tax Matters Member is specifically directed and authorized to take whatever steps the Tax Matters Member in its sole and absolute discretion deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the Internal Revenue Service (or other tax authorities) and taking such other action as may from time to time be required under the Code, Treasury Regulations or other Laws. The Tax Matters Member shall have the authority, following consultation with the Initial Member, to make any tax elections on behalf of the Company permitted to be made, including the election pursuant to Section 754, under any section of the Code or the Treasury Regulations promulgated thereunder or under other Laws. In the event the Company may be deemed to be a "small partnership" as described in Section 6231(a)(1)(B), each Member consents to the Company's electing to be treated as a partnership to which the provisions of Code Section 6221 et. seq. apply (thereby electing to have Code Section 6231(a)(1)(B)(i) not apply).

(b) Notwithstanding anything to the contrary contained in this Agreement, in no event shall (i) a Member divide or transfer the Interest held by it in a manner that would result in the Company falling outside of the scope of the "safe harbor" under Treasury Regulations Section 1.7704-1(h)(1) relating to "publicly traded partnerships"; (ii) the Purchase Money Note (or any successor note(s)) be reconstituted into debt instruments that provide for repayment of principal of one or more classes of such debt instruments prior to repayment of principal of another class thereof (i.e., so-called "time-tranching"), or (iii) the Purchase Money Note (or any substitute note(s)) be contributed to a trust or other entity through which time-tranching is effectuated.

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

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

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

ARTICLE VIII
Restrictions on Disposition of Interests

8.1 Limitations on Disposition of Interests. Except as otherwise provided in this Article VIII (but subject at all times to Section 7.5(b)(i)), the Private Owner shall not, directly or indirectly, Dispose of or permit to be Disposed of, all or any part of its Interest or any of its rights or interests under this Agreement unless (a) (i) the transferee is a Qualified Transferee and (ii) it first obtains the prior written consent of the Secured Party and the Initial Member, or (b) such Disposition is done by or at the direction of the Initial Member and the Secured Party pursuant to Section 5.3. In addition, the Private Owner shall not Dispose of less than all of its Interest. Transfers satisfying the foregoing criteria are hereinafter referred to as "**Permitted Dispositions**."

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

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

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

(b) The transferee in a Permitted Disposition shall deliver to the Company, with a copy to the Initial Member and the Secured Party, an agreement, in form and substance reasonably satisfactory to the Initial Member and the Secured Party, by which such transferee shall (i) agree to become a party to and be bound by this Agreement as the "Private Owner," agree to be appointed as the "Managing Member," and without limitation of the generality of the foregoing, agree to be bound by the other terms of Section 8.4 hereof, (ii) assume and agree to perform when due all of the obligations of the Private Owner and Managing Member under this Agreement (including without limitation the obligation of the Managing Member to make

Working Capital Contributions under Section 5.1), and (iii) represent and warrant that it complies with the requirements set forth in Article X.

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

8.4 Effect of Permitted Dispositions.

(a) Upon consummation of any Permitted Disposition:

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

(ii) the transferred Interest shall continue to be subject to all the provisions of this Agreement, including without limitation Section 5.1 and the remainder of this Article VIII, and the transferee Member shall have the same status as the Private Owner had at the time of consummation of such Permitted Disposition and, without limiting the generality of the foregoing, any outstanding breach, misrepresentation, violation or default (with respect to this Agreement or any Ancillary Document) by any direct or indirect predecessor to the transferee as the Member, or by any Affiliate of any such predecessor Member, shall be deemed to constitute an outstanding breach, misrepresentation, violation or default as the case may be, by the transferee Member;

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

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

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

(ii) result in the termination of, relieve the Private Owner (or any of its Affiliates) of, or otherwise affect, any of the obligations or liabilities of the Private Owner, in any capacity, or its Affiliates under, any Related Party

Agreement (such Related Party Agreements to continue in effect in accordance with their respective terms), except to the extent expressly provided in such Related Party Agreement; or

(iii) dissolve the Company.

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

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

8.7 Transfers By Initial Member. Notwithstanding anything to the contrary contained in this Agreement, except as provided by applicable Law or Section 7.5(b)(i) (and, for so long as the Purchase Money Note is outstanding, subject to the consent of the Secured Party), there shall be no restriction on the Initial Member's ability to transfer the Interest held by it, and the Private Owner shall have no right to purchase or right-of-first-refusal in connection with any such sale; provided, however, that in the event the Initial Member determines to sell the Interest held by it through an auction process, the Private Owner shall be entitled to participate in such auction on the same terms that apply generally to other participants in the auction.

8.8 Resignation; Dissolution.

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

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

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

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

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

ARTICLE IX
Dissolution and Winding-Up of the Company

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

(a) the agreement by all Members and, so long as the Purchase Money Note is outstanding, the Secured Party, to dissolve the Company;

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

(c) without limitation of clause (i) above, a Dissolution Event or an Insolvency Event occurs with respect to the Managing Member or a Person that Controls the Managing Member; or

(d) exercise of the Clean-Up Call in accordance with Section 12.17.

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

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

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

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

(i) first, to creditors, but excluding Members who are creditors, other than the Initial Member (to the extent it continues to hold the Purchase Money Note), to the extent otherwise permitted by Law (and, to the extent permitted, in accordance with the Priority of Payments), in satisfaction of liabilities of the Company (whether by payment or the making of reasonable provision for payment thereof);

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

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

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

(d) Upon dissolution, the Managing Member, may, with the consent of all Members, (i) liquidate all or a portion of the Company assets and apply the proceeds of such liquidation in the manner set forth in Section 9.2(c) and/or (ii) hire independent appraisers to appraise the value of Company assets not sold or otherwise disposed of or determine the Fair Market Value of such assets, and allocate any unrealized gain or loss determined by such appraisal to the Members' respective Capital Accounts as though the properties in question had been sold on the date of distribution and, after giving effect to any such adjustment, distribute said assets in the manner set forth in Section 9.2(c), provided that the Managing Member shall in good faith attempt to liquidate sufficient Company assets to satisfy in cash the debts and

liabilities described in Section 9.2. If a Member shall, upon the advice of counsel, determine that there is a reasonable likelihood that any distribution in kind of an asset would cause such Member to be in violation of any Law, such Member and the Managing Member shall each use its best efforts to make alternative arrangements for the sale or transfer into an escrow account of any such distribution on mutually agreeable terms.

ARTICLE X
Qualified Transferees

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

(a) Organization; Good Standing; Licenses. Such Member (i) is a Single Purpose Entity duly organized, validly existing and in good standing under the Laws of the state of its organization, (ii) has qualified or will qualify to do business as a foreign corporation, partnership or other entity and will remain so qualified, and is and will remain in good standing, in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary and in which failure to so qualify would have a material adverse effect upon such Member or its ability to perform its obligations hereunder, (iii) has full power to own its property, to carry on its business as presently conducted, and to enter into and perform its obligations under this Agreement, (iv) has all licenses or other governmental approvals necessary to perform its obligations hereunder; and (v) has a net worth calculated in accordance with GAAP of not less than $5,000,000.

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

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

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

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

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

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

(h) Knowledge and Experience. Such Member, either by itself or through its advisers and principals, has such knowledge and experience in the origination, servicing, sale and/or purchase of performing and non-performing or distressed loans, including loans secured by residential properties, as well as financial and business matters, as to enable such Member to utilize the information made available to it with respect to the Interest acquired by it and the Loans to evaluate the merits and risks of a purchase of the Interest acquired by it and, indirectly, the Loans, and to make an informed decision with respect thereto.

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

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

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

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

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

(n) Resales in Compliance with Law. Such Member will not (i) offer, pledge, sell or otherwise dispose of the Interest (or any interest therein) or any Loan (or any interest therein or evidence thereof) to, or (ii) solicit any offer to buy or accept a transfer, pledge or other disposition of the Interest (or any interest therein) or any Loan (or any interest therein or evidence thereof) from, or (iii) otherwise approach or negotiate with respect to the Interest (or any interest therein) or any Loan (or any interest therein or evidence thereof) with, any person or entity in any manner, or take any other action, that would (A) not comply with Article VIII, or (B) render the transfer to such Member of the Interest or any interest in any Loan a violation of any Law relating to the issuance, regulation, registration or disposition of securities, nor will it so act, nor will it authorize any person or entity to so act, in any manner with respect to the Interest (or any interest therein) or any Loan (or interest therein or evidence thereof).

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

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

(q) Embargoed Person. Such Member certifies, represents and warrants that (a) no consideration that such Member or any of its Affiliates contributes hereunder or under the Ancillary Documents in connection with any transaction regarding any assets will have been derived from or related to any activity that is deemed criminal under United States law; (ii) neither it nor any of its Affiliates or Direct Owners is an Embargoed Person; (iii) neither it nor any of its Affiliates or Direct Owners engages in any dealings or transactions, or is "otherwise associated with" (as defined in 31 CFR 594.316), any Embargoed Person; and (iv) if and to the extent such Member or any of its Affiliates are required by law to maintain an anti-money laundering compliance program under applicable anti-money laundering laws and regulations, including without limitation, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)) such compliance programs are currently being maintained. For purposes of the foregoing certifications, representations and warranties, such certifications, representations and warranties shall be based upon a due inquiry and investigation; provided, however, that for purposes of determining whether any of the same with respect to indirect ownership are true, the undersigned shall not be required to make an investigation into the ownership of publicly-traded securities (including securities of open-end investment companies registered under the Investment Company Act of 1940, as amended) or the ownership of assets by a collective investment fund that holds assets for employee benefit plans or retirement arrangements.

ARTICLE XI
Managing Member Liability

11.1 Liability of Managing Member.

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

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

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

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

(e) The limitations and exculpation afforded by each provision of this Section 11.1 are cumulative and not exclusive. Nothing in this Section 11.1 is intended, or shall be

deemed, to permit conduct that would otherwise constitute misappropriation of a trade secret of the Company under applicable Law or conduct that, even disregarding the terms hereof otherwise would be actionable by the Company or the Members.

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

ARTICLE XII
Servicing of Loans

12.1 Servicing.

(a) Appointment and Acceptance as Servicer. Effective as of the Closing Date, but subject to Section 3.3 of the Contribution Agreement (with which the Managing Member agrees to comply), the Managing Member is hereby appointed (and hereby accepts the appointment as) servicer for the Loans and any Collateral. Until such time as the Company is dissolved and liquidated pursuant to Article IX, the Managing Member shall be responsible for servicing, administering, managing and disposing of the Loans and the Collateral in accordance with the standards (collectively, the "**Servicing Standard**") set forth in Section 12.2 (such obligations referred to collectively herein as the "**Servicing Obligations**") and the other provisions of this Article XII, including the provisions of Section 12.3 (which require that servicing be performed through one or more Qualified Servicers). Without in any way limiting the foregoing, but subject to Section 3.3 of the Contribution Agreement, the Managing Member shall cause the Loans (including, for all purposes under this Article XII, the related Collateral) to be serviced as follows: (a) such Loan shall, except as provided in the immediately following subsection (b), be serviced by the Servicer(s) appointed in accordance with Section 12.3 below, and (b) following the replacement of Servicer as a result of an Event of Default, the Loans shall be serviced by the Servicer appointed by the Initial Member in accordance with Section 12.4 below. All servicing of Loans following the relevant Service Transfer Date shall be performed in accordance with the terms of the Contribution Agreement and the relevant Servicing Agreement and shall be subject to Section 12.1(b) below.

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

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

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

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

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

(v) provide that the Company, the Initial Member, the Secured Party and, in the case of any Subservicing Agreement, the Managing Member, is a third party beneficiary thereunder and entitled to enforce the Servicing or Subservicing Agreement, as applicable;

(vi) provide that, upon the occurrence of any Event of Default, Initial Member or the Secured Party (or, in the case of any Subservicing Agreement, the Managing Member) may exercise all of the rights of the Managing Member (or, in the case of a Subservicing Agreement, the Servicer) thereunder and cause the termination or assignment of the same to any other Person, without penalty or payment of any fee;

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

(viii) provide that all Loan Proceeds are to be deposited into the Collection Account on a daily basis (without reduction or setoff) within two Business Days of receipt and that under no circumstances are funds, other than

Loan Proceeds and interest and earnings thereon, to be deposited into the Collection Account;

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

(x) provide that all of the Loans shall be registered on the MERS® System (where applicable) unless default, foreclosure or similar legal or MERS requirements dictate otherwise;

(xi) provide that (A) the Servicer or Subservicer consents to the immediate termination of the Servicer or Subservicer, as applicable, upon the occurrence of a termination event under the Servicing or Subservicing Agreement, as applicable, and upon the occurrence of any Insolvency Event with respect to the Servicer or Subservicer or any of their respective Affiliates, as applicable, and (B) the occurrence of any Insolvency Event with respect to the Servicer or Subservicer or any Affiliate thereof constitutes a default under the Servicing or Subservicing Agreement, as applicable;

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

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

(xiv) provide a full release and discharge of Receiver, the Company, the Existing Servicers and any predecessor servicer, and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors, assigns and Affiliates (but excluding, in all cases, the Managing Member) (collectively, the "**Prior Servicers**"), from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and remedies of whatever kind or nature that the Servicer had, has or might have in the future, whether known or unknown, which are related in any manner whatsoever to the servicing of the Loans by the Prior Servicers prior to the applicable Servicing Transfer Date(s) (other than due to gross negligence or willful misconduct of such Prior Servicer); and

(xv) not conflict with the terms and provisions of this Agreement or the Ancillary Documents insofar as the terms and provisions apply to the Servicer or the Servicing Obligations. Nothing contained in any Servicing Agreement or any Subservicing Agreement shall alter any obligation of the Managing Member under this Agreement and, in the event of any inconsistency between the

Servicing Agreement (or any Subservicing Agreement) and the terms of this Agreement, the terms of this Agreement shall control.

12.2 Servicing Standard. The Managing Member shall perform the Servicing Obligations: (i) in the best interests and for the benefit of the Company and the Secured Party, (ii) in accordance with the terms of the Loans (and related Loan Documents), (iii) in accordance with the terms of this Agreement, (iv) in accordance with all applicable Law, (v) in compliance with the Loan Modification Program and, to the extent applicable, the Guidelines, (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 in the absence of a customary and usual standard of practice, the Managing Member shall, and shall cause each Servicer and Subservicer to, comply with the Fannie Mae Guidelines applicable to similar loans and properties in similar situations. The Managing Member shall cause its Servicing Obligations with respect to the Loans and the Collateral to be performed without regard to (w) any relationship that the Company, the Managing Member, or any Servicer or Subservicer, or any of their respective Affiliates may have to any Borrower, Guarantor or other obligor, or any of their respective Affiliates, including any other banking or lending relationship, (x) the Company's, the Managing Member's, or any Servicer's or Subservicer's, obligation to make disbursements and advances with respect to the Loans and Collateral, (y) any relationship that the Servicer or any Subservicer may have to each other or to the Company, the Managing Member or any of their respective Affiliates, or any relationship that any of their respective Affiliates may have to the Company, the Managing Member or any of their respective Affiliates (other than the contractual relationship evidenced by this Agreement or the Servicing Agreement or any Subservicing Agreement), and (z) the Managing Member's, or any Servicer's or Subservicer's, right to receive compensation (including the Management Fee) for its services under this Agreement, the Servicing Agreement or any Subservicing Agreement. Without limiting the generality of the foregoing, the Managing Member's Servicing Obligations hereunder shall include the following:

(a) discharging in a timely manner each and every obligation which the Loan Documents provide is to be performed by the lender thereunder, on its own behalf and on behalf of the Company, the Initial Member and the Secured Party;

(b) incurring costs (including Servicing Expenses) in accordance with the provisions of the Loan Documents;

(c) causing to be maintained for the Collateral (including any Acquired Collateral) with respect to each Loan 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 the Managing Member may, in the exercise of its reasonable discretion, determine are prudent;

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

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

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

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

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

12.3 Servicing of Loans.

(a) Appointment of Servicers. Effective as of the Closing Date, the Managing Member shall enter into one or more Servicing Agreements to provide for the servicing and administration and management of the Loans and Collateral by one or more Qualified Servicers (each, a "**Servicer**"). Each Servicer, at all times during which it acts as Servicer, shall continue to satisfy the definition of Qualified Servicer. Except for the period between the Cut-Off Date and the Servicing Transfer Date with respect to a given Loan, during which time such Loan shall be serviced pursuant to the interim servicing obligations in the Contribution Agreement, each Loan shall at all times be serviced (and any Collateral managed) by or through at least one Servicer (including any subservicers engaged by the Servicer ("**Subservicers**") as permitted hereunder) and the performance of all day-to-day Servicing Obligations of the Managing Member shall be conducted by or through one or more Servicers (including any Subservicers permitted hereunder). Subject to the other terms and conditions of this Agreement, any Servicer may be an Affiliate of the Managing Member. Each Servicer may engage or retain one or more Subservicers, including Affiliates of the Managing Member, to perform certain of its duties under the Servicing Agreement, as it may deem necessary and appropriate, by entering into a subservicing agreement with each such Subservicer ("**Subservicing Agreement**"), provided that any Subservicer meets (and at all times continues to meet) the requirements set forth in clause (i) of the definition of Qualified Servicer and, to the extent applicable to the services to be performed by such Subservicer, clauses (ii) and (iii) of the definition of Qualified Servicer. The costs and fees of the Servicers (and any Subservicers) shall be borne exclusively by the Managing Member (it being understood that Managing Member will receive the Management Fee in accordance with Section 12.5 hereof). Under no circumstances shall the Managing Member transfer, or permit to be transferred, to any Servicer any ownership interest in the servicing to the Loans or any right to transfer or sell the servicing to the Loans (other than in connection with the sale of any Loan), and no Servicer shall be permitted to assign, pledge or

otherwise transfer or purport to assign, pledge or otherwise transfer any interest in the servicing to the Loans (other than in connection with the sale of any Loan), and any purported assignment, pledge or other transfer in violation of this provision shall be void *ab initio* and of no effect.

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

(c) Copies of Servicing and Subservicing Agreements. Copies of all fully executed Servicing Agreements and Subservicing Agreements, including all supplements and amendments thereto, shall be provided to Initial Member and the Secured Party.

(d) Regulation AB Requirements. The Managing Member shall ensure that each Servicer (and any Subservicer) (i) has in place policies and procedures to comply with the provisions of Section 1122(d)(1)(i) through (iv) of Regulation AB, and (ii) complies with the provisions of Sections 1122(d)(2)(i) through (vii), 1122(d)(3)(i) through (iv), and 1122(d)(4)(i) through (xv) 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).

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

(f) Fidelity Bond; E&O Insurance. The Servicer and each Subservicer shall at all times maintain in effect a blanket fidelity bond and an errors and omissions insurance policy affording, in each case, coverage with respect to all officers, directors, employees and other Persons acting on behalf of the Servicer or the Subservicer, as applicable, and covering errors and omissions in the performance of the Servicer's, or the Subservicer's, as applicable, obligations under this Agreement, the Servicing Agreement and any Subservicing Agreement. The errors and omissions insurance policy and the fidelity bond shall be, at all times, in such form and amount that would meet the requirements, as amended from time to time, of Fannie Mae if Fannie Mae were the purchaser of the Loans. Copies of fidelity bonds and insurance policies required to be maintained pursuant to this Section 12.3(f) shall be made available to the Initial Member or its representatives upon request.

12.4 Removal of Servicer.

(a) Removal of Servicer. Subject at all times to the terms of the Servicing Agreement, upon the occurrence of an Event of Default, in addition to any other rights it may have pursuant to this Agreement, any Ancillary Document or applicable Law (including the

Uniform Commercial Code), whether at law or in equity and whether pursuant to statute or regulation or otherwise, the Secured Party or, at the Secured Party's direction, the Initial Member shall have the right to take, at the Managing Member's expense, one or more of the following actions: (i) upon notice in writing to the Managing Member (effective at such time as is specified in such notice), to act on behalf of the Managing Member to terminate the existing Servicer (and any Subservicers) and to cause the Managing Member to enter into a new Servicing Agreement with a servicer (a "successor Servicer") selected by Initial Member (in its sole and absolute discretion), and (ii) upon notice in writing to the Managing Member (effective at such time as is specified in such notice), to terminate the Managing Member's rights as servicer pursuant to this Agreement and, in such case, (A) to terminate the Servicer and select (in its sole and absolute discretion), and enter into a Servicing Agreement with, a successor Servicer, such Servicing Agreement to be between Initial Member and the successor Servicer chosen by Initial Member, or (B) to retain the existing Servicer and to enter into a new Servicing Agreement between Initial Member and the Servicer (or to effect an assignment of the existing Servicing Agreement from the Managing Member to Initial Member). Initial Member shall have no obligation to assume any obligations or liabilities of the Managing Member under or in connection with any Servicing Agreement. Managing Member hereby consents to the immediate termination of the Servicer upon the occurrence of any Event of Default.

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

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

(d) Cooperation To Facilitate Transfer. In the event a Servicer or Subservicer is terminated pursuant to the provisions of this Article XII, the Managing Member shall, and shall cause any Servicer (and any Subservicer) to, provide the Initial Member and any successor Servicer in a timely manner with all documents, records and data (including electronic documents, records and data) requested by the Initial Member or any successor Servicer to enable it and any successor Servicer to assume the responsibilities as servicer under this Agreement, and to cooperate with the Initial Member in effecting the termination of any Servicer (or Subservicer) or the Managing Member's rights as servicer under this Agreement, including

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

(e) Power of Attorney. The Company hereby irrevocably constitutes and appoints the Initial Member and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact for the purposes of this Agreement and allowing the Initial Member to perfect, preserve the validity, perfection and priority of, and enforce any Lien granted by this Agreement and, after the occurrence and during the continuance of any Event of Default, to exercise its rights, remedies and powers and privileges under this Agreement. This appointment as attorney-in-fact is irrevocable and coupled with an interest until this Agreement is terminated and the security interests created hereby are released. Without limiting the generality of the foregoing, but subject at all times to the rights of the Secured Party hereunder and under the Reimbursement and Security Agreement, the Initial Member shall be entitled under this Section 12.4(e) to do any of the following if an Event of Default has occurred and is continuing: (i) ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of any or all of the Loans; (ii) file any claims or take any action or proceeding in any court of law or equity that the Initial Member may reasonably deem necessary or advisable for the collection of all or any part of the Loans, defend any suit, action or proceeding brought against the Company with respect to any Loan, and settle, compromise or adjust any such suit, action or proceeding; (iii) execute, in connection with any sale or disposition of the Loans, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to all or any part of the Loans; (iv) enforce the rights of the Company under any provision of any Servicing Agreement to the extent permitted thereunder and under the terms of this Agreement; (v) pay or discharge taxes and Liens levied or placed on the Loans; (vi) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Loans as fully and completely as though the Initial Member were the absolute owner thereof for all purposes; and (vii) do, at the Initial Member's option and the Company's expense, at any time and from time to time, all acts and things that the Initial Member reasonably deems necessary to protect, preserve, or realize upon the Loans and the Initial Member's security interests in any Secured Assets and to effect the intent of this Agreement, all as fully and effectively as the Company might do. Anything in this Section 12.4(e) to the contrary notwithstanding, the Initial Member agrees that it shall not

exercise any right under the power of attorney provided for in this Section 12.4(e) unless an Event of Default shall have occurred and be continuing.

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

12.5 Management Fee. For periods prior to November 1, 2009, the Company shall, at the times and in the manner set forth in the Custodial and Paying Agency Agreement, pay to the Initial Member the Management Fee with respect to such period; provided, however, that the Management Fee payable with respect to a period shall be net of amounts that were deducted by Existing Servicers from the Loan Proceeds during the relevant period. For each calendar month from and after November 1, 2009, the Company shall, at the times and in the manner set forth in the Custodial and Paying Agency Agreement, pay to the Managing Member the Management Fee accrued with respect to such calendar month; provided, however, that the Management Fee payable with respect to a calendar month shall be net of amounts that were deducted by Existing Servicers, Servicers or Subservicers from the Loan Proceeds during the relevant calendar month. From and after November 1, 2009, the Managing Member shall be solely responsible for the payment of all fees of Existing Servicers, and all fees and costs (other than Servicing Expenses) of the Servicer and Subservicers. In the event the Managing Member is removed and replaced by the Initial Member in accordance with Section 3.2 above, the Managing Member so removed shall, at the time and in the manner set forth in the Custodial and Paying Agency Agreement, be entitled to receive the Management Fee accrued through the date of removal, and thereafter the Management Fee shall be payable to such successor Managing Member.

12.6 Servicing Expenses. From and after the Closing Date, but subject at all times to Section 3.3 of the Contribution Agreement, the Managing Member shall cause all Servicing Expenses to be funded and paid in accordance with the Loan Documents and the terms of this Agreement, to the extent not paid by the Borrower or any Guarantor; provided however, that with respect to Servicing Expenses required under the Loan Documents to be paid relating to a particular Loan, the Managing Member shall advance such amount only if and to the extent the Managing Member determines, at the time the advance is to be made, in its discretion exercised in accordance with the Servicing Standard, that such amount, when combined with all previous Servicing Expenses for such Loan, will ultimately be recoverable from the Loan Proceeds from such Loan (including from the related Collateral). The Managing Member shall cause the Servicer to use its reasonable best efforts to recover from Borrowers and Guarantors all Servicing Expenses that are Servicer Advances. All such Servicing Expenses not recovered from Borrowers or Guarantors and all other Servicer Advances shall be reimbursed only in accordance with the terms set forth in the applicable the Servicing Agreement, as the same may be amended from time to time in accordance with the terms thereof. In the event the Servicer is reimbursed for any expense that is not, or cannot be documented as, a Servicer Advance, in the reasonable

determination of the Managing Member, Managing Member shall cause the Servicer to refund such amounts to the Company in accordance with the Servicing Agreement. No Servicer Advances shall bear interest chargeable in any way to the Company or deductible from any Loan Proceeds.

12.7 Use of Loan Proceeds.

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

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

(i) any expenses or costs that are not incurred in accordance with the Servicing Standard or the Fannie Mae Guidelines;

(ii) any expenses or costs that are paid to any Affiliate of the Managing Member, or any Affiliate of the Servicer or any Subservicer, except as is otherwise expressly permitted pursuant to this Agreement;

(iii) any expenses incurred by the Managing Member, the Company or any Servicer to become a member of the MERS Systems or to maintain itself as a member in good standing;

(iv) any fees or other compensation to or expenses of financial advisers, except to the extent the same are incurred as brokers' fees or sales commissions incurred to market or sell the Loans or any Acquired Collateral in a Bulk Sale, the terms of which Bulk Sale (including the financial adviser's or broker's fees) are approved in advance by the Initial Member and the Secured Party);

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

(vi) any interest on any Servicing Expenses;

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

(viii) any cost incurred by the Servicer or any other Person to comply with the Loan Modification Program; or

(ix) any servicing, management or similar fees paid to the Servicer, any Subservicer or any other Person, including but not limited to interim servicing fees paid pursuant to Section 3.3 of the Contribution Agreement.

12.8 Delinquent Real Property Taxes. The Initial Member shall be liable for and shall pay real property taxes with respect to the Collateral if and to the extent such taxes (i) are delinquent as of the Cut-Off Date and (ii) remain delinquent and are paid by the Company. The amounts due by the Initial Member pursuant to this Section 12.8 may be deducted from amounts to be distributed to Initial Member pursuant to Section 6.6, but shall be accounted for and reported separately by the Company (in such form as Initial Member may reasonably request) in the monthly reports required pursuant to Section 7.4(b). Amounts paid by the Initial Member pursuant to this Section 12.8 (including any such amounts as are deducted from distributions to the Initial Member pursuant to Section 6.6) shall not be reimbursable by the Company.

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

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

12.11 Liquidity Reserves; Liquidity Reserve Account. The Managing Member, in its discretion, may establish on behalf of the Company a liquidity reserve (the "**Liquidity Reserve**") from which to fund amounts in accordance with the Custodial and Paying Agency Agreement. If the Managing Member elects to establish a Liquidity Reserve it shall establish a segregated account to hold amounts allocated to the Liquidity Reserve (the "**Liquidity Reserve Account**") on behalf of the Company. The Liquidity Reserve Account shall be held in trust by the Paying Agent for the benefit of the Secured Party and the Company and shall be established and maintained for the sole purpose of holding and distributing the Liquidity Reserve funds in accordance with the Custodial and Paying Agency Agreement. The Liquidity Reserve Account

(and all funds therein) shall be subject to the security interest granted to the Secured Party under the Reimbursement and Security Agreement and to the Account Control Agreement under the Custodial and Paying Agency Agreement.

12.12 Recovery of Expenses; Interest. The Managing Member shall, and shall cause the Servicer to, use commercially reasonable efforts to recover from Borrowers and Guarantors those Servicing Expenses which such Borrowers or Guarantors are obligated to pay. No Servicing Expenses shall bear interest chargeable in any way to the Company or the Initial Member.

12.13 Certain Servicing and Loan Administration Decisions.

(a) Subject to the terms and conditions of this Agreement (including the Servicing Standard), the Managing Member shall have full power and authority, acting alone or through any Servicer or Subservicer, to cause to be done any and all things in connection with the servicing and administration of the Loans that the Managing Member may deem necessary or desirable, and cause to be made all servicing decisions in its reasonable discretion, including the actions specifically enumerated in the Servicing Agreement. Upon the occurrence of an event of default under any of the Loan Documents, but subject to the other terms and conditions of this Agreement (including the Servicing Obligations of the Managing Member), the Managing Member shall cause to be determined the response to such default and course of action with respect to such default, including (i) the selection of attorneys to be used in connection with any action, whether judicial or otherwise, to protect the respective interests of the Company and Secured Party in the Loan and the Collateral, (ii) the declaration and recording of a notice of such default and the acceleration of the maturity of the Loan, (iii) the institution of proceedings to foreclose the Loan Documents securing the Loan pursuant to the power of sale contained therein or through a judicial action, (iv) the institution of proceedings against any Guarantor, (v) the acceptance of a deed in lieu of foreclosure, (vi) the purchase of the real property Collateral at a foreclosure sale or trustee's sale or the purchase of the personal property Collateral at a Uniform Commercial Code sale, and (vii) the institution or continuation of proceedings to obtain a deficiency judgment against such Borrower or any Guarantor.

(b) The Managing Member shall cause the Company and the Servicer to comply with the Loan Modification Program and, to the extent applicable, the Guidelines.

12.14 Management and Disposition of Collateral. Subject to the other terms and conditions of this Agreement (including the Servicing Standard), the Managing Member shall have full power and authority, acting alone or through any Servicer and any Subservicer, to cause to be done any and all things in connection with the Company's management of any Collateral or Acquired Collateral, that the Managing Member may deem necessary or desirable, and cause to be made all asset management decisions in its reasonable discretion, including the items specifically enumerated in the Servicing Agreement.

12.15 Acquisition of Collateral.

(a) If title to any Collateral that constitutes real property is to be acquired by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform

Commercial Code, or otherwise, title to such Acquired Collateral shall be taken and held in the name of an Ownership Entity; provided, however, that for any Collateral with respect to which there exists any Environmental Hazard, the Ownership Entity that holds such Collateral may hold title only to the relevant Collateral with respect to which the Environmental Hazard exists.

(b) Nothing in this Article XII or anything else in this Agreement shall be deemed to affirmatively require the Managing Member to cause the Company to acquire all or any portion of any Collateral with respect to which there exists any Environmental Hazard. Prior to acquisition of title to any Collateral (whether by foreclosure, deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, or otherwise), the Managing Member shall cause to be commissioned with respect to such Collateral either (i) a Transaction Screen Process consistent with ASTM Standard E 1528-06, by an environmental professional or (ii) such other site inspections and assessments 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 reimbursable as if it were a Servicing Expense as long as the costs for such Site Assessment were not paid to any Affiliate of the Managing Member, or any Affiliate of the Servicer or any Subservicer.

(c) The Company or its wholly-owned subsidiary or Affiliate shall be the sole managing member of any Ownership Entity. No certificates shall be issued evidencing any membership interests in any Ownership Entity. The purposes of the Ownership Entity shall be to hold the Acquired Collateral pending sale, to complete construction of such Collateral and to operate the Collateral as efficiently as possible in order to minimize financial loss to the Company, the Receiver and the FDIC and to sell the Acquired Collateral as promptly as practicable in a way designed to minimize financial loss to the Company, the Receiver and the FDIC. Notwithstanding anything to the contrary contained herein, the Ownership Entity shall be a pass-through entity with no entity-level income tax obligations.

12.16 Releases of Collateral. Subject to the provisions of the Contribution Agreement, the Managing Member is authorized to cause the release or assignment of any Lien granted to or held by the Company on any Collateral upon payment of any Loan in full and satisfaction in full of all of the secured obligations with respect to a Loan, upon receipt of a discounted payoff as payment in full of a Loan, or upon a sale of the Loan to any Person.

12.17 Clean-Up Call Rights.

(a) If, and only if, all amounts owing under the Purchase Money Note have paid in full, and all reimbursement obligations to the FDIC under the Reimbursement and Security Agreement have been satisfied in full, the Initial Member shall have the right, exercisable in its sole and absolute discretion, to require the liquidation and sale, for cash consideration, of any remaining Loans and Acquired Collateral held by the Company or any Ownership Entity (the "**Clean-Up Call**") at any time after the tenth (10th) anniversary of the Closing Date.

(b) In order to exercise its rights under this Section 12.17, Initial Member shall give notice in writing to the Managing Member, setting forth the date by which the

remaining Loans and Acquired Collateral are to be liquidated by the Company, which date shall be no less than 150 calendar days after the date of such notice.

(c) The Managing Member shall proceed expeditiously to cause to be commenced the liquidation of the remaining Loans and Acquired Collateral by means of sealed bid sales to Persons other than Affiliates of the Company, the Servicer or any Subservicer, or Affiliates of the Servicer or any Subservicer. The selection of any financial adviser or other Person, broker or sales agent retained for the liquidation of the remaining Loans and Acquired Collateral pursuant to this Section 12.17 shall be subject to the prior approval of Initial Member, such approval not to be unreasonably withheld, delayed or conditioned as long as the fees to be charged by such financial adviser or other Person, broker or sales agent are reasonable. In the event the remaining Loans and Acquired Collateral are not liquidated by the date specified in the notice provided by Initial Member pursuant to Section 12.17(b), Initial Member shall be entitled to liquidate the remaining Loans and Acquired Collateral in its discretion and Managing Member shall, and shall cause the Company to, cooperate and assist with such liquidation to the extent reasonably requested by Initial Member. In the event the Managing Member or any Affiliate thereof desires to bid to acquire the remaining Loans and Acquired Collateral, then Initial Member shall be entitled to liquidate the remaining Loans and Acquired Collateral in its discretion. In the event Initial Member undertakes to liquidate the remaining Loans and Acquired Collateral pursuant to this Section 12.17(c), all costs and expenses incurred by it shall be deducted from the Loan Proceeds and retained by Initial Member and the remaining Loan Proceeds shall be distributed in accordance with Section 9.2.

ARTICLE XIII
Miscellaneous

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

13.2 Entire Agreement. This Agreement, together with the Annexes and Exhibits hereto and the Ancillary Documents (and any other agreements expressly contemplated hereby or thereby), constitutes the entire agreement and understanding, and supersedes all other prior agreements and understandings, both written and oral, between the Members or their respective Affiliates or any of them and the Company with respect to the subject matter hereof. The Members acknowledge that certain agreements or other instruments are being (or were) executed by the Company, the Members and/or Affiliates of the Members simultaneously or otherwise in connection with the execution of this Agreement and that notwithstanding anything to the contrary contained in the foregoing sentence of this Section 13.2, such agreements shall be effective and binding on the parties thereto in accordance with the terms thereof.

13.3 Governing Law; Jurisdiction. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT

MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. In the event of a direct conflict between the provisions of this Agreement and any mandatory, non-waivable provision of the Act, such provision of the Act shall control to the extent necessary to eliminate such direct conflict. Nothing in this Agreement shall require any unlawful action or inaction by any Person.

13.4 Third Party Beneficiaries. For so long as the Purchase Money Note is outstanding, Secured Party is hereby constituted an express third party beneficiary of this Agreement. Subject to Section 11.1, (i) this Agreement is for the benefit solely of, and shall inure solely to the benefit of, the Members and the Company and the Secured Party, and (ii) this Agreement is not enforceable by any Person (including any creditor of the Company or of any Member) other than the Members, the Company and the Secured Party.

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

13.6 Waivers and Amendments.

(a) This Agreement may be amended or modified, and the terms hereof may be waived, only by a written instrument signed by all Members and the Secured Party. Except where a specific period for action or inaction is provided herein, no failure on the part of the Members or the Secured Party to exercise, and no delay on the part of the Members or the Secured Party in exercising, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of the Members or the Secured Party of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) Notwithstanding anything to contrary contained elsewhere in this Agreement (including without limitation the foregoing Section 13.6(a)) or in any Ancillary Document (but subject at all times to Sections 7.5(b)(ii) and (iii)), in order to facilitate the possible restructuring and sale of the Purchase Money Note, the FDIC, without the consent of the Private Owner or the Company, may at any time replace the Purchase Money Note with one or more substitute notes and make related revisions to this Agreement and the Ancillary Documents; provided however, that such modifications shall not adversely affect the amount and timing of distributions from cash flow to the Private Owner or materially and adversely affect the other rights and obligations of the Private Owner hereunder or thereunder. Prior to effecting any changes, amendments or modifications pursuant to the immediately preceding sentence, the FDIC shall notify Private Owner of any such contemplated changes, amendments or modifications, and Private Owner agrees that it will cooperate in good faith with the FDIC in effecting all such changes, amendments or modifications.

13.7 Notices. All notices, requests, demands, and other communications required or permitted to be given or delivered under or by reason of the provisions of this Agreement shall

be in writing and shall be given by certified or registered mail, postage prepaid, or, delivered by hand or by nationally recognized air courier service, directed to the address of such Person set forth below:

If to the Company, to:

Franklin Venture, LLC
4282 North Freeway
Fort Worth, Texas 76137
Attention: Dennis G. Stowe
Tel: (817) 321-6001

With a copy to:

K&L Gates LLP
1601 K Street, N.W.
Washington, D.C. 20006
Attention: Phillip J. Kardis, II
Tel: (202) 778-9401

If to the Initial Member, to:

Senior Capital Markets Specialist
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7026)
Washington, D.C. 20429-0002
Attention: Timothy A. Kruse
Tel: (202) 898-6832

With a copy to:

Senior Counsel
FDIC Legal Division
Litigation and Resolutions Branch, Receivership Section
Special Issues Unit
3501 Fairfax Drive (Room E-7056)
Arlington, VA 22226
Attention: David Gearin
Tel: (703) 562-2430

If to the Private Owner, to:

RCS Franklin Venture LLC
4282 North Freeway
Fort Worth, Texas 76137
Attention: Dennis G. Stowe
Tel: (817) 321-6001

With a copy to:

K&L Gates LLP
1601 K Street, N.W.
Washington, D.C. 20006
Attention: Phillip J. Kardis, II
Tel: (202) 778-9401

Any such notice shall become effective when received (or receipt is refused) by the addressee, provided that any notice or communication that is received (or refused) 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. From time to time, any Person may designate a new address for purposes of notice hereunder by notice to such effect to the other Persons identified above.

13.8 Counterparts; Facsimile Signatures.

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

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

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

13.10 Construction.

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

(b) References to Persons Exclusive. References to "Affiliates" or "Subsidiaries" of a specified Person refer to, and include, only other Persons which from time to time constitute "Affiliates" or "Subsidiaries," as the case may be, of such specified Person, and do not include, at any particular time, other Persons that may have been, but at such time have

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

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

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

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

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

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

(h) Use of "Including." The words "include" and "including" and words of similar import when used in this Agreement are not limiting and shall be construed to be followed by the words "without limitation," whether or not they are in fact followed by such words.

(i) Use of "During." The word "during" when used in this Agreement with respect to a period of time shall be construed to mean commencing at the beginning of such period and continuing until the end of such period.

13.11 Compliance With Law; Severability.

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

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

case may be; (ii) without limitation of clause (i), such provision shall in any event be ineffective only as to such jurisdiction and only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction; and (iii) without limitation of clauses (i) or (ii), such ineffectiveness shall not invalidate any of the remaining provisions of this Agreement. Without limitation of the preceding sentence, it is the intent of the parties to this Agreement that in the event that in any court proceeding, such court determines that any provision of this Agreement is prohibited or unenforceable in any jurisdiction (because of the duration or scope (geographic or otherwise) of such provision, or for any other reason) such court shall have the power to, and shall, (x) modify such provision (including without limitation, to the extent applicable, by limiting the duration or scope of such provision and/or the Persons against whom, and/or the circumstances under which, such provision shall be effective in such jurisdiction) for purposes of such proceeding to the minimum extent necessary so that such provision, as so modified, may then be enforced in such proceeding and (y) enforce such provision, as so modified pursuant to clause (x), in such proceeding. Nothing in this Section 13.11(b) is intended to, or shall, limit (1) the ability of any party to this Agreement to appeal any court ruling or the effect of any favorable ruling on appeal or (2) the intended effect of Section 13.3.

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

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

13.13 Submission to Jurisdiction; Waivers. Each of the Members, the Company and the Managing Member hereby irrevocably and unconditionally:

(a) (i) agrees that any suit, action or proceeding against it or any of its Affiliates by the Initial Member (or its direct or indirect predecessors, as such) arising out of or relating to or in connection with this Agreement or any Ancillary Document may be instituted, and that any suit, action or proceeding by the Company or any Member or any of their respective

Affiliates against the Initial Member (or its direct or indirect predecessors, as such) arising out of or relating to or in connection with this Agreement or any Ancillary Document shall be instituted only, in the Supreme Court of the State of New York, County of New York, or the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia (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, 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 13.13(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 Section 13.7 (with copies to such other Persons as specified therein), such service to become effective 30 days after such mailing, provided that nothing contained in this Section 13.13(b) shall affect the right of any party to serve process in any other manner permitted by Law;

(c) (i) waives any objection which 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 or any Ancillary Document brought in any court specified in Section 13.13(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;

(d) agrees that nothing contained in this Agreement shall be construed to constitute a consent to jurisdiction by the Initial Member in any capacity or a limitation on any removal rights the Initial Member, in any capacity, may have; and

(e) WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY ANCILLARY DOCUMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

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

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Franklin Bank, S.S.B.

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

RCS FRANKLIN VENTURE LLC

By: Residential Credit Solutions, Inc., its sole Member

By: _____
Name:
Title:

FRANKLIN VENTURE, LLC

By: RCS Franklin Venture LLC, its Managing Member

By: Residential Credit Solutions, Inc. its sole Member

By: _____
Name:
Title:

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

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for Franklin Bank, S.S.B.

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

RCS FRANKLIN VENTURE LLC

By: Residential Credit Solutions, Inc., its sole Member

By: _____
Name:
Title:

FRANKLIN VENTURE, LLC

By: RCS Franklin Venture LLC, its Managing Member

By: Residential Credit Solutions, Inc. its sole Member

By: _____
Name:
Title:

Annex I

Certain Definitions

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

"**Acceptable Rating**" shall mean (a) with respect to a mortgage loan servicer or special servicer, (i) a rating of "Strong" by Standard and Poor's Ratings Service, a division of The McGraw-Hill Companies, Inc., (ii) the applicable "Level 1" servicer rating for residential mortgage servicers by Fitch, Inc., or (iii) a rating of "SQ1" by Moody's Investors Service, and (b) with respect to any security, obligation or entity (other than a mortgage loan servicer or special servicer), any of the top three rating categories that may be assigned to such security, obligation or entity by the Rating Agencies.

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

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

"**Acquired Collateral**" shall mean Collateral to which title is acquired by or on behalf of the Company or any Ownership Entity by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, in any such case in accordance with the Loan Documents and this Agreement.

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

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

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

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

"**Affiliate**" shall mean, with respect to any specified Person, (i) any other Person directly or indirectly Controlling or Controlled by or under common Control with such specified

Person, (ii) any Person owning or Controlling ten percent (10%) or more of the outstanding voting securities, voting equity interests, or beneficial interests of the Person specified, (iii) any officer, director, general partner, managing member, trustee, employee or promoter of the Person specified or any Immediate Family Member of such officer, director, general partner, managing member, trustee, employee or promoter, (iv) any corporation, partnership, limited liability company or trust for which any Person referred to in clause (ii) or (iii) acts in that capacity, or (v) any Person who is an officer, director, general partner, managing member, trustee or holder of ten percent (10%) or more of the outstanding voting securities, voting equity interests or beneficial interests of any Person described in clauses (i) through (iv); provided, however, that for purposes of this Agreement, neither the Initial Member nor the Secured Party shall be deemed to be an Affiliate of the Company or any Affiliate of the Company.

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

"**Ancillary Documents**" shall mean the Contribution Agreement, the Servicing Agreement (including the Electronic Tracking Agreement attached as an exhibit thereto), the Custodial and Paying Agency Agreement, one or more Account Control Agreements, the LLC Interest Sale Agreement (and the Sponsor Guaranty required to be delivered thereby), the Purchase Money Note and the Reimbursement and Security Agreement, in each case once executed and delivered, and any and all other agreements and instruments executed and delivered in connection with the Closing.

"**Bid Amount**" shall have the meaning given in the LLC Interest Sale Agreement.

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

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

"**Bulk Sale**" shall mean the sale or other disposition, in a single transaction or a series of related transactions, of (i) Loans having an aggregate Unpaid Principal Balance of $20,000,000 or more as of the time of such sale or disposition or (ii) Collateral or Acquired

Collateral having an aggregate value of $10,000,000 or more (based on the most recent appraisal or broker price opinion) as of the time of such sale or disposition.

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

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

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

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

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

"**Change of Control**" with respect to a Member (other than the Initial Member) shall mean (i) the Person who currently Controls Member ceasing to Control Member; or (ii) the merger of Member or any Person who Controls Member into another Person.

"**Clean-up Call**" shall have the meaning set forth in Section 12.17.

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

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

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

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

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

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

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

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

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

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

"**Custodial and Paying Agency Agreement**" shall mean, initially, the Custodian and Paying Agent Agreement dated as of September 30, 2009, by and between the Company, the Secured Party and Citibank, N.A., and thereafter any replacement agreement entered into with a Custodian pursuant to Section 3.7.

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

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

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

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

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

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

others of the kinds referred to in clauses (i) through (v) above in respect of which such Person has entered into or issued any Guarantee.

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

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

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

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

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

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

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

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

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

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

"**Embargoed Person**" shall mean any person subject to trade restrictions under United States law, including, without limitation, the International Emergency Economic Powers

Act, 50 U.S.C. §§1701, et seq., The Trading with the Enemy Act, 50 U.S.C. §§ App. 1, et seq., any foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended), or any enabling legislation or regulations promulgated thereunder or any executive order relating thereto (including Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079 (2001)) or 31 C.F.R. §594.101, et seq.) with the result that a purchase of Assets or any other transaction entered into with respect to any Assets (including, without limitation, any investment in any structured transaction), whether directly or indirectly, is prohibited by or in violation of law.

"**Environmental Hazard**" shall mean the presence at, in or under any real property constituting part of the Collateral (whether held in fee simple estate or subject to a ground lease, or otherwise, and including any improvements whether by buildings or facilities, and any personal property, fixtures, leases and other property or rights pertaining thereto) of any "hazardous substance," as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601(14), or any petroleum (including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure), at a level or in an amount that requires remediation or abatement under applicable environmental Law.

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

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

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

(a) any amount payable under Section 2.1 of the Reimbursement and Security Agreement (including interest accrued through and including the Determination Date immediately preceding the Distribution Date on which such amount becomes payable) or under Section 7.15 of the Reimbursement and Security Agreement (including interest accrued through and including the Determination Date immediately preceding the Distribution Date on which such amount becomes payable) is not paid in full for any three (3) Distribution Dates occurring in a twelve (12) month period; or

(b) any failure of the Company to pay in full on any three (3) Distribution Dates occurring in a twelve (12) month period the interest accrued on the Purchase Money Note through and including the Determination Date immediately preceding each such Distribution Date; or

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

(d) any failure of Managing Member to cause to be made any payment of any Working Capital Advance or any Servicing Expense pursuant to Section 5.1(b) and Section 12.7, respectively, of this Agreement, which failure continues unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member; or

(e) the failure of the Company or the Managing Member to comply in any material respect with and enforce the provisions of this Agreement, which continues unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member; or

(f) the occurrence of either (i) a failure by the Servicer to perform in any material respect its obligations under the Servicing Agreement, which continues unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given by the Managing Member to the Servicer or by Secured Party to the Company, or (ii) a failure by the Managing Member to replace the Servicer upon the occurrence of either an Event of Default under the Reimbursement and Security Agreement as a result of the Servicer's acts or omissions or a material breach of or event of default under the Servicing Agreement by the Servicer, in either case which continues unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Managing Member; or

(g) the failure of the Company to comply in any material respect with its obligations under the Servicing Agreement or the Custodial and Paying Agency Agreement (including any failure to pay fees or expenses due thereunder by the Company) which, in either case, remains unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Company; or

(h) there shall be a change in the Managing Member or there shall occur a Change of Control with respect to the Managing Member without the consent of Secured Party; or

(i) the failure of the Managing Member to remit or cause to be remitted all Loan Proceeds to the Paying Agent as and when required; or

(j) any material breach of a representation or warranty made by the Company in the Reimbursement and Security Agreement, which remains unremedied for a period of sixty (60) days after the date on which written notice of such breach requiring the same to be remedied shall have been given to the Company; or

(k) any payment by the Secured Party of the Loan Parity Obligation; or

(j) any other failure (other than those specified in any of subsections (a) through (k) above) on the part of the Company duly to observe or perform in any material respect any other covenants or agreements on the part of Company contained in the Reimbursement and Security Agreement (including any obligations imposed upon any Servicer

or subservicer), which continues unremedied for a period of sixty (60) days after the date on which written notice of such failure requiring the same to be remedied shall have been given to the Company; provided, however, that in the case of a failure that cannot be cured within sixty (60) days, the cure period shall be extended for an additional sixty (60) days if the Company can demonstrate to the reasonable satisfaction of Secured Party that the Company is diligently pursuing remedial action.

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

"**Existing Servicer**" shall mean the entities providing servicing immediately prior to the Closing Date under the Existing Servicing Arrangements.

"**Existing Servicing Arrangements**" shall mean the servicing arrangements in effect with respect to the Loans immediately prior to the Closing Date.

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

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

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

"**Fannie Mae Guidelines**" shall mean those guidelines governing reimbursement of costs and expenses by Fannie Mae with respect to residential loans owned or securitized by Fannie Mae, as in effect on the date on which an expense or cost is incurred.

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

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

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

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

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

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

"**Group of Loans**" shall have the meaning provided in the Contribution Agreement.

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

"**Guarantor**" shall mean any guarantor of all or any portion of any Loan or all or any of any Borrower's obligations set forth and described in the Loan Documents.

"**Guidelines**" shall mean (i) the Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages (September 2007), issued by the federal financial institutions regulatory agencies and the Conference of State Bank Supervisors, (ii) the Statement on Working with Mortgage Borrowers (April 2007), issued by the federal financial institutions regulatory agencies, and (iii) any amendments, supplements or successors to either of the foregoing.

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

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

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

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

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

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

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

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

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

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

7. the specified Person becomes unable to pay its obligations as they become due; or

8. within ninety (90) days of any proceeding against the specified Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law if the proceeding has not been dismissed, or within ninety (90) days after the appointment of a trustee, receiver or liquidator for the specified Person or all or any substantial part of the specified Person's properties without the specified Person's agreement or acquiescence, which appointment is not vacated or stayed, or if the appointment is stayed, for ninety (90) days after the expiration of the stay if the appointment is not vacated.

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

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

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

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

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

"**Liquidity Reserve**" has the meaning given in Section 12.11(a).

"**Liquidity Reserve Account**" has the meaning given in Section 12.11(a).

"**LLC Interest Sale Agreement**" shall mean that certain Limited Liability Company Interest Sale and Assignment Agreement dated the date hereof between the Initial Member and the Private Owner pursuant to which the Initial Member has agreed to sell to Private Owner, and Private Owner has agreed to acquire from Initial Member, an Interest representing a fifty percent (50%) Percentage Interest for a purchase price equal to the Bid Amount.

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

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

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

"**Loan Modification Program**" shall mean the loan modification program that meets the criteria described in Exhibit C to the Servicing Agreement, or any other or additional loan modification program (i) that may be required by the FDIC upon written notice to the Company or (ii) as proposed by the Company with respect to a group of Loans with similar characteristics, if approved in writing by the FDIC.

"**Loan Parity Obligation**" shall have the meaning given in the Purchase Money Note Guaranty.

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

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

"**Loan Proceeds**" shall mean (i) any and all proceeds (net of such proceeds as are payable to others under any Loan Participation Agreement) with respect to any or all of the Loans and any or all of the Collateral that is received at any time after the Cut-Off Date, including principal, interest, default interest, prepayment fees, premiums and charges, extension and exit fees, late fees, assumption fees, other fees and charges, insurance proceeds and condemnation payments (or any portion thereof) that are not used and disbursed to repair, replace or restore the related Collateral in accordance with the terms of the Loan Documents; (ii) any and all proceeds from sales or other dispositions of any or all of the Loans or the Collateral; (iii) any proceeds from making a draw under any letter of credit or certificate of deposit held with respect to any Loan, provided that such draw is permitted by the terms of the Loan Documents; (iv) any recoveries from Borrowers or Guarantors of any kind or nature with respect to the Loans; (v) any investor incentive fees received by the Company under any Loan Modification Program (but not any incentive fees payable to servicers under any Loan Modification Program), and (vi) any interest or other earnings accrued and paid on any of the amounts described in the foregoing clauses (i) through (v) while held in the Collection Account or any other account.

"**Management Fee**" shall mean a fee, payable on each Distribution Date pursuant to Section 5.1, (i) with respect to the initial Distribution Date, equal to the sum of (x) one-twelfth ($1/12^{th}$) of 0.50 percent (0.50%) *multiplied by* the Unpaid Principal Balance of the Loans calculated as of August 1, 2009 *plus* (y) one-twelfth ($1/12^{th}$) of 0.50 percent (0.50%) *multiplied by* the Unpaid Principal Balance of the Loans calculated as of September 1, 2009, and (ii) with respect to each subsequent Distribution Date, equal to one-twelfth ($1/12^{th}$) of 0.50 percent (0.50%) *multiplied by* the Unpaid Principal Balance of the Loans calculated as of the first day of the Due Period with respect to such Distribution Date.

"**Managing Member**" shall mean, initially, the Private Owner, in its capacity as "manager" of the Company, and thereafter shall mean any successor manager appointed in accordance with Section 3.1(a) or Section 8.4(a)(i) or by the Initial Member in accordance with Section 3.2.

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

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

"**MERS**" shall have the meaning given in Section 3.13.

"**MERS System**" shall mean the MERSCORP, Inc., mortgage electronic registry system, as more particularly described in the MERS Procedures Manual (a copy of which is attached to the Electronic Tracking Agreement).

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

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

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

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

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

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

"**Ownership Entity**" shall mean a Single Purpose Entity, whether already in existence or formed by the Company for such purpose, which is used to hold Acquired Collateral.

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

"**Percentage Interest**" shall mean, with respect to the Interest held by the Initial Member prior to the Closing Date, one hundred percent (100%) and, with respect to the Interests held by the Initial Member and Private Owner on and after the Closing Date, fifty percent (50%), and, with respect to the Interest held by the Private Owner, fifty percent (50%).

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

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

(a) direct obligations of, or guaranteed as to timely payment of principal and interest by, the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America;

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

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

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

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

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

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

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

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

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

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

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

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

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

"**Qualified Custodian**" shall mean any Person that (i) is a bank, trust company or title insurance company subject to supervision and examination by any federal or state regulatory authority, (ii) is experienced in providing services of the type required to be performed by the Custodian under the Custodial and Paying Agency Agreement, (iii) is qualified and licensed to do business in each such jurisdiction to the extent required unless and to the extent the failure to be so qualified or licensed will not have a material adverse effect on the Custodian or the ability of the Custodian to perform its obligations under the Custodial and Paying Agency Agreement, (iv) is not prohibited from exercising custodial powers in any jurisdiction in which the Custodial Documents are or will be held, (v) has combined capital and surplus of at least $50,000,000 as reported in its most recent report of condition, (vi) has the facilities to safeguard the Loan Documents and other Custodial Documents as required by the Custodial and Paying Agency Agreement, (vii) is not an Affiliate of the Company or the Servicer, and (viii) is acceptable to and approved by the Secured Party and the Initial Member (such approval not to be unreasonably withheld, delayed or conditioned).

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

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

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

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

"**Reimbursement and Security Agreement**" shall mean that certain Reimbursement and Security Agreement dated as of September 30, 2009 by and between the Company and the Secured Party.

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

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

"**Secured Party**" shall mean the FDIC, in its capacity as the secured party under the Reimbursement and Security Agreement.

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

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

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

"**Servicing Agreement**" shall mean a servicing agreement to be entered into between the Managing Member and the Person designated as the Servicer therein, which servicing agreement shall satisfy the requirements of Section 12.1(b) and shall be acceptable to the Initial Member in all respects.

"**Servicing Expenses**" shall mean all customary and reasonable out-of-pocket fees, costs, expenses and indemnified amounts incurred in connection with servicing the Loans and the Acquired Collateral, including (i) any and all out-of-pocket fees, costs, expenses and indemnified amounts which a Borrower is obligated to pay to any Person or to reimburse to the lender pursuant to the applicable Note or any other Loan Documents, including Escrow Advances, (ii) any and all reasonable out-of-pocket expenses necessary to protect or preserve the value of the Collateral or the priority of the Liens and security interests created by the Loan Documents relating thereto, including taxes, insurance premiums (including forced place insurance premiums), payment of ground rent, the costs of prevention of waste, repairs and maintenance, foreclosure expenses and legal fees and expenses relating to foreclosure or other litigation with respect to the Loans, (iii) any and all direct expenses related to the preservation, operation, demolition, management and sale of the Acquired Collateral (including real estate brokerage fees), and (iv) to the extent not covered by any of clauses (i) through (iii), legal fees and expenses (including judgments, settlements and reasonable attorneys fees) incurred by the Servicer in its defense of claims asserted against the Company that relate to one or more Loans, and (x) arise out of the acts or omissions of the Failed Bank or the Receiver in connection with the origination or servicing of such Loans prior to the Servicing Transfer Date for such Loans, or (y) allege, as the basis for such claims, any act or omission of the Company (or the Managing Member or the Servicer) and such claims are decided (and there are final non appealable orders) in favor of the Company (or the Managing Member or the Servicer); provided, however, that Servicing Expenses shall not include Excluded Expenses.

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

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

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

"**Single Purpose Entity**" shall mean a corporation or limited liability company that (i) is organized under the laws of any state of the United States or the District of Columbia, (ii) has no material assets other than the Loans and any Acquired Collateral, its right, title and interest in, to and under this Agreement and the other instruments contemplated by this Agreement, (iii) is not engaged in any significant business operations except its ownership of the Loans and any Acquired Collateral and the conduct of its business pursuant to this Agreement, (iv) does or causes to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises, (v) at all times holds itself out to the public as a legal entity separate from any other Person (including any Affiliate), (vi) except as expressly contemplated hereby or by the Ancillary Documents, does not commingle its assets with assets of any other Person, (vii) conducts its business in its own name and strictly complies with all organizational formalities to maintain its separate existence, (viii) maintains an arm's length relationship with any Affiliate upon terms that are commercially reasonable and on terms no less favorable to it than could be obtained in a comparable arm's length transaction with an unrelated Person, and (ix) has no Debt.

"**Sponsor Guaranty**" shall have the meaning given in the recitals.

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

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

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

"**Tax**" shall mean any federal, state, county, local, or foreign tax, charge, fee, levy, duty, or other assessment, including any income, gross receipts, transfer, recording, capital, withholding, property, ad valorem, or other tax or governmental fee of any kind whatsoever,

imposed or required to be withheld by any governmental authority having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, including any interest, penalties and additions imposed thereon or with respect thereto.

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

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

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

"**Unpaid Principal Balance**" shall mean, at any time, (a) when used in connection with multiple Loans, an amount equal to the aggregate then outstanding principal balance of such Loans, and (b) when used with respect to a single Loan, an amount equal to the then outstanding principal balance of such Loan. For this purpose, in the case of a Loan for which some or all of the related Collateral has been converted to Acquired Collateral, until such time as the Acquired Collateral (or any portion thereof) is liquidated, the unpaid principal balance of such Loan shall be deemed to equal the sum of (i) the unpaid principal balance of such Loan (adjusted pro rata for partial collateral sales, debt forgiveness or retained indebtedness) at the time at which such Loan was converted to Acquired Collateral plus any outstanding balance remaining on such Loan which is evidenced by a modification agreement or a replacement or successor promissory note executed by the Borrower.

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

"**Working Capital Advance**" shall mean amounts advanced by or on behalf of the Managing Member to fund the Company's operations and operating deficits, which amounts shall be funded in accordance with Section 5.1(b).

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

Annex II

Member Schedule as of September 30, 2009

Member	Percentage Interests	Capital Account
Federal Deposit Insurance Corporation	50%	$64,215,000
RCS Franklin Venture LLC	50%	$64,215,000

EXHIBIT A

CERTIFICATE OF FORMATION
OF
FRANKLIN VENTURE, LLC

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

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

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

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

By:_____

Name:

Title: Authorized Person

EXHIBIT B

FORM OF MONTHLY REPORT

MONTHLY REPORTS

Cashflow and Distribution Report

Principal collections
+ Interest collections, net of servicing fees
+ Loan sale proceeds
+ Real Estate Owned ("**REO**") liquidation proceeds
+Servicing Expenses Recovered
+ Other Collections (including late fees and penalties)
+ Release from Liquidity Reserve
GROSS FUNDS AVAILABLE
- Servicing Expenses Paid
- Pre-Approved Charges
NET FUNDS AVAILABLE
+ Required Working Capital Advance
FUNDS DUE TO DISTRIBUTION ACCOUNT
- Custodian and Paying Agent Fees
- Prior month cumulative Working Capital Advances used for purposes described in Section 5.1(a)(ii)(x) and (y) of Custodial Agreement
- Management Fee, net of servicing fees
  - Management Fee payable to predecessor Managing Member (if applicable)
  - Management Fee payable to current Managing Member
- Purchase Money Note Guaranty Fee
- Reimbursements due under Reimbursement and Security Agreement for prior payments under Purchase Money Note Guaranty
- Interest due and payable on the Purchase Money Note
- Principal due and payable on Purchase Money Note
- Holdback for Liquidity Reserve Account
TOTAL DISTRIBUTIONS DUE
NET DISTRIBUTABLE CASH TO MEMBERS (if positive number)

DISTRIBUTION TO MEMBERS OF COMPANY
Distribution to Initial Member
Distribution to Managing Member
TOTAL DISTRIBUTIONS (Equal to Net Distributable Cash)

Calculation of Required Working Capital Advance
Net Funds Available before Working Capital Advance
Less: Custodian and Paying Agent Fees

Total

Required Working Capital Advance (Total above, if negative)

Interest Collections

Gross interest collections
Less: Servicing Fees
Net Interest Collections

Management Fee Calculation

UPB, beginning of Due Period
Times Management Fee rate
Divided by 12
Management Fee, gross
Less: Servicing Fees paid
Management Fee due to predecessor Managing Member (if applicable)
Management Fee due to current Managing Member

Allocation of Principal Proceeds

Part I - Calculation of amount payable for items in Section 5.1(a)(i) through (vi) of the Custodial Agreement

Gross Funds Available
Less Principal collections
Less Loan sale proceeds
Less REO liquidation proceeds
= Interest Proceeds available
Items payable first from Interest Proceeds, then Principal Proceeds
Servicing Expenses
Pre-Approved Charges
Custodian and Paying Agent Fees
Prior month cumulative Working Capital Advances
Management Fee
Note Guaranty Fee
Reimbursements due Note Guarantor
Interest due on Purchase Money Note
Subtotal, Section 5.1(a)(i) - (vi)
Excess (Shortfall) in Interest Proceeds

Part II - Allocation

Principal collections on loans
Loan sale proceeds
REO liquidation proceeds
Total Principal Proceeds
- Shortfall in Interest Proceeds
= Net Principal Proceeds for Allocation (not less than zero)

Percentage allocation to Note (85% or 80%)
Principal due on Purchase Money Note

Monthly Loan and REO Rollforward Report:– by # and $

(EXAMPLE COUNT AND BALANCES)

Loans		**# ASSETS**	**AMOUNT**
Beginning pool balance (UPB)		**927**	**$1,033,143,674.89**
(+)	Commitments funded	1	6,450.00
(-)	Payments received		7,382,315.85
(-)	Payoffs	30	
(-)	UPB, transfers to REO	18	2,237,068.84
(-)	Write down of principal (Other)		38,390,188.97
Ending pool balance		**880**	**$ 985,140,551.23**

REO			
Beginning UPB of REO properties		**36**	**$ 14,642,495.10**
(+)	UPB on REO transfers in	18	2,237,068.84
(-)	Net liquidation proceeds	(3)	(186,906.95)
(+/-)	Realized Gain (Losses)		(739,033.55)
Ending UPB of REO properties		**51**	**$15,953,623.44**

Servicing Advances Rollforward Report

EXAMPLE BALANCES	Escrow Advances	(1) Other Servicing Advances	Total Servicing Advances
Balance, beginning of month	$ 500,000	$ 100,000	$ 600,000
Advances	100,000	25,000	125,000
Recoveries	(30,000)	(5,000)	(35,000)
Balance, end of month	$ 570,000	$ 120,000	$ 690,000
	(2)	(2)	

(1) These may be broken out into additional fields at the discretion of the Managing Member/Servicer, such as breaking out the Corporate (Protective) Advances from other types of advances such as foreclosure costs. Servicing Advances should include those associated with REO as well as Loans.

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

Working Capital Advances Report

Balance, previous Distribution Date
- Reimbursement, cumulative advances prior month
+ Working Capital Advance, this period
Balance, this Distribution Date

Liquidity Reserve Report

Balance, beginning of Due Period
Transfers In (1)
Disbursements (1)
Balance, end of Due Period

(1) Transfers In and Disbursements from the Liquidity Reserve should be reflected in the Cashflow and Distribution Report each month:

(a) Disbursements should be reflected as cash inflow in the line titled "Release from Liquidity Reserve"

(b) Transfers In should be reflected in the line titled "Holdback for Liquidity Reserve Account".

PERFORMANCE TESTS

Delinquency Test

As of previous Determination Date:

UPB, Loans 60 Days Delinquent		A
UPB, all Loans	_____	B
Percentage 60 Days Delinquent		A / B

Maximum	60%
Performance Test Met?	Y/N

(EXAMPLE BALANCES)

Severity Test	1st Preceding Determination Date	2nd Preceding Determination Date	3rd Preceding Determination Date	3-Month Total
Aggregate Losses incurred in Due Period	50,000	5,000	40,000	95,000
Aggregate UPB of related Loans	100,000	5,000	100,000	205,000
Loss %	50.0%	100.0%	40.0%	46.3%
Maximum				70%
Performance Test Met?	Y/N			

Principal Reduction Test	Note Balance	Outstanding As % of Original	Maximum Outstanding As % of Original
Original			
End of Year 1			90%
End of Year 2			80%
End of Year 3			70%
End of Year 4			60%
End of Year 5			50%
End of Year 6			40%
End of Year 7			30%
End of Year 8			20%
End of Year 9			10%
End of Year 10			0%
Performance Test Met?			Y/N

Withdrawals from Collection Account

Managing Member hereby certifies that all withdrawals by the Managing Member from the Collection Account during the relevant Due Period were made in accordance with the terms of the Amended and Restated Limited Liability Company Operating Agreement and the Custodial and Paying Agency Agreement: Y / N

Delinquency Report

and $ by delinquency classification: Current, < 30, 30-60 days, 61-90 days, > 90 days, in foreclosure, in bankruptcy, REO

Breakout of > 60 day delinquencies by collateral type, # and $
Breakout of > 60 day delinquencies by state, # and $

REO Report

Listing of REO properties held to include original loan number, date of ownership, description, collateral type, address, UPB (of the loan prior to foreclosure), net book value, listing date, estimated sale date, appraisal amount, original list price, current list price, cumulative Servicing Expenses allocable, broker name, and comments

Modification Report

Listing of loans modified, to include borrower name, loan balance and terms before modification, loan balance and terms after modification. Show amounts of principal forgiven, if any, and principal forbearance amounts, if any.

Liquidation Report

Listing of loans and REO properties liquidated, to include borrower name, UPB, net liquidation proceeds, cumulative Servicing Expenses, realized loss amount

Short Sale Report

Listing of loans for which short sales were accepted, to include borrower name, UPB, payoff accepted, realized loss amount

Judgment Report

Listing of Judgments obtained, to include borrower name, Judgment amount, current month and cumulative payments received, remaining balance

Significant Litigation Report

Provide a litigation summary report describing any claim or counterclaim ("claim") filed against the Company and/or Servicer with respect to assets subject to this Agreement, the actions taken

to defend such claim, and an estimate of the projected exposure for: a) any claim in which the Company or Servicer expects to incur more than $10,000 in Servicing Expenses to defend such claim, b) any claim in which multiple plaintiffs have joined in filing an action against the Company and/or Servicer or the same law firm has filed individual claims on behalf of more than one plaintiff, and c) any claim(s) regardless of the dollar amount naming: (i) Franklin Bank, S.S.B., or (ii) FDIC (in any capacity) as defendant(s). Activity should be updated quarterly.

Environmental Exposure Report

Provide a report identifying any assets in which the Site Assessment identified an Environmental Hazard together with information on the nature of the hazard, additional tests performed, and the cost of correcting the hazard identified in the Site Assessment.

MONTHLY LOAN-LEVEL DETAIL REPORTS

Monthly Loan Trial Balance and Activity Report

PROVIDE A MONTHLY LOAN-LEVEL REPORT IN EXCEL WITH THE FOLLOWING FIELDS:

Current Loan Number
Prior Servicer Loan Number
P&I Constant
Note Rate
Next Due or Paid-Thru Date
Payoff Date (if applicable)
Principal Balance, end of prior month
Principal collections - regular
Principal collections - payoffs
Principal proceeds – loan sales
Principal Write-Off Amount
Other Non-Cash Principal Adjustment
Transfer to REO
Principal Balance, end of current month
Escrow balance
Other Advances Balance
Interest collections - regular
Interest collections - payoffs
Interest collections – loan sales
Non-Cash Interest Adjustment
Late Charges
Pre-Payment Penalty Paid
Other Fee Income

Servicing System Data Download – To Initial Member

Provide a monthly loan-level data download in Excel format with every field populated in the Servicer's loan servicing system. This requirement may be modified in the future by the Initial Member to include only certain specified fields.

SEMIANNUAL REPORT – TO INITIAL MEMBER

Projected Cash Flows

Excel model of projected cash flows by month, as of June 30 and December 31 each year. The model should present projected monthly cash inflows on the Loans and REO, projected outflows of Servicing Expenses, net monthly cash available for allocation, net monthly cash available for payments of amounts under the Purchase Money Note, and the amount of allocation to Initial Member and Private Owner under the LLC Operating Agreement of the Company.

The projection should run through the final projected distribution by the Company.

AS AVAILABLE – TO INITIAL MEMBER

Loan Document Exception Report from the Custodian, as provided to the Company.