UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	Chapter 11
WASHINGTON MUTUAL, INC., et al.,[1]	Case No. 08-12229 (MFW)
Debtors.	Jointly Administered
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,	Adversary Proceeding No. _____
Plaintiff,	
v.	
WASHINGTON MUTUAL, INC. AND WMI INVESTMENT CORP.,	
Defendants for all claims,	
- and-	
FEDERAL DEPOSIT INSURANCE CORPORATION,	
Additional Defendant for Interpleader claim.	

[1] The Debtors in these Chapter 11 cases and the last four digits of each Debtor's federal tax identification numbers are: (i) Washington Mutual, Inc. (3725) and (ii) WMI Investment Corp. (5395). The Debtors continue to share their principal offices with the employees of JPMorgan Chase located at 1301 Second Avenue, Seattle, Washington 98101.

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COMPLAINT

JPMorgan Chase Bank, National Association ("JPMorgan Chase" and, together with its subsidiaries and affiliates, "JPMC"), by and through its attorneys, Sullivan & Cromwell LLP and Landis Rath & Cobb LLP, for its Complaint, alleges upon knowledge as to itself and its conduct and upon information and belief as to all other matters, as follows:

NATURE OF ACTION

1. JPMorgan Chase brings this action in order to ensure that JPMorgan Chase and its subsidiaries are not divested of their assets and interests purchased in good faith from the Federal Deposit Insurance Corporation ("FDIC") as receiver (the "Receiver") for Washington Mutual Bank, Henderson Nevada ("WMB") under Title 12 of the United States Code pursuant to that certain Purchase and Assumption Agreement (Whole Bank) dated as of September 25, 2008, a true and correct copy of which is attached as Exhibit A hereto (the "P&A"). JPMC also brings this action for indemnification and recovery against the Debtors for certain liabilities that may be asserted against JPMorgan Chase as the successor by merger to Washington Mutual Bank, fsb, Utah ("WMB fsb"), a former subsidiary of WMB, or against other former subsidiaries of WMB that currently are subsidiaries of JPMorgan Chase.

2. Under the P&A, JPMorgan Chase acquired the business and related assets of WMB, including ownership of all of WMB's direct and indirect subsidiaries, and all right, title and interest of the Receiver in those assets. As provided for in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest" to these assets, pursuant to and in accordance with the Federal Deposit Insurance Act, as amended (the "FDI Act"). Among the assets acquired by JPMorgan Chase under the P&A were certain assets that have been claimed by Washington Mutual, Inc. ("WMI", and collectively with WMI Investment Corp. ("WMI

Investment"), the "Debtors").

3. Many of the assets the Debtors now improperly claim belong to them (but that JPMorgan Chase in fact acquired from the FDIC) have already been determined not to be the Debtors' property pursuant to the resolution procedures under Title 12. On December 30, 2008, the Debtors submitted claims in the Receivership for, among other things, ownership of these assets. On January 23, 2009, the FDIC, as Receiver, disallowed the Debtors' claims. The Debtors elected not to appeal the disallowance of their claims to ownership of these assets. Rather, on March 20, 2009, the Debtors filed an action against the FDIC in the United States District Court for the District of Columbia, *Washington Mutual, Inc.*, et al. v. *Federal Deposit Insurance Corporation*, Case No.1:09-cv-00533 (the "District Court Action"), challenging to the disallowance of their claims and also claiming ownership of those assets. The Debtors have exercised their purported right to demand a trial by jury in the District Court Action.

4. The assets that are the subject of the Debtors' disallowed claims are also among the assets set forth in the Debtors' Schedules and Statements of Financial Affairs filed with this Court on December 19, 2008, January 27, 2009 and February 24, 2009 (collectively, the "Schedules"). Notwithstanding the assertions in the Schedules and the District Court Action, the assets put at issue by the Debtors are not property of the Debtors' estates under 11 U.S.C. §541, nor are they property of the Receiver any longer, but rather the assets are property of JPMC, which acquired them in good faith and for value from the FDIC pursuant to the FDI Act.

5. In response to the Debtors' actions and in order to protect its economic interests in the assets the Debtors chose to put at issue in the District Court Action, JPMorgan Chase has filed this Complaint.

6. The assets of the Receiver that were sold to JPMC, as to which WMI has

asserted rights or has refused to acknowledge JPMC 's ownership, include (i) approximately $4 billion in the aggregate face amount of Trust Securities (as defined below) contributed by WMI to WMB, the amount of which constitutes regulatory core capital of WMB; (ii) the right to tax refunds arising from overpayments attributable to operations of WMB and its subsidiaries for the 2008 tax year and prior tax years and net operating loss, net capital loss, and excess tax credit carrybacks from 2008 to prior tax years; (iii) approximately $3.7 billion credited by book entry shortly prior to the receivership of WMB so as to create a purported deposit account at WMB fsb in the name of WMI without any apparent deposit of funds; (iv) at least $234 million in tax refunds that belonged to WMB and/or WMB subsidiaries and were acquired by JPMorgan Chase under the P&A but were deposited to the credit of WMI in the days following the Receivership; (v) goodwill judgments that arise from pending and prior litigation; (vi) assets of certain trusts supporting deferred compensation arrangements covering the former and current employees of WMB and its subsidiaries; and (vii) other assets of WMB, including Visa shares, intellectual property and contractual rights, as described below. The Debtors are also refusing to recognize the Receiver's ability to transfer to JPMorgan Chase certain tax qualified pension and 401(k) plans pursuant to which the trust assets are held for the exclusive benefit of participants, most of whom were WMB's employees.

7. The liabilities at issue in this adversary proceeding are liabilities that did not transfer to the Receiver or to JPMorgan Chase, but rather are liabilities of the Debtors that relate to acts, conduct or omissions of WMI in connection with events prior to the commencement of the receivership proceedings for WMB and for which WMB and/or its former subsidiaries would be entitled to indemnification and contribution from the Debtors as primary actors. These liabilities relate principally to (i) the issuance of "Trust Securities" with the

aggregate face amount of approximately $4 billion; (ii) so-called "deposit accounts," which in the aggregate were recorded as having a book balance of approximately $4.3 billion as of the commencement of these Chapter 11 cases; and (iii) the restructuring and transfer of assets and liabilities among the Debtors and their former subsidiaries.

8. In this action, JPMorgan Chase seeks, pursuant to Title 12 and the P&A, (i) a declaration that, as the successor of the Receiver, it has or is entitled to full legal title to and the beneficial interest in the assets at issue, (ii) a declaration that it has lien rights against, and/or is entitled to setoff, recoupment and/or imposition of a constructive trust with respect to any amounts to which the Debtors may otherwise claim to be entitled, (iii) a declaration of the rights of JPMC to indemnification, contribution and/or reimbursement for amounts paid or advanced by JPMC or WMB with respect to any of the assets at issue that are not transferred to JPMC, and (iv) adjudication of any and all conflicting claims to the so-called "deposit accounts" and any funds in them. JPMorgan Chase intends to file its proofs of claim for the amounts, if any, that this Court may determine in this adversary proceeding constitute claims against the Debtors and their estates.

PARTIES AND BACKGROUND RELATIONSHIPS

9. Plaintiff JPMorgan Chase is a national banking association organized under the laws of the United States of America with its principal place of business in Columbus, Ohio. JPMorgan Chase is a wholly-owned subsidiary of JPMorgan Chase & Co., a corporation organized under the laws of the State of Delaware. JPMorgan Chase is the "Assuming Bank" as that term is defined in the P&A and is the successor to and good faith purchaser for value from the Receiver under the P&A and under Title 12 of the United States Code.

10. Defendant WMI is a holding company incorporated in Washington with

its principal place of business in Seattle, Washington and is one of the debtors and debtors-in-possession in these cases, having filed its voluntary petition for reorganization under chapter 11 of Title 11 of the United States Code on September 26, 2008 (the "Petition Date") before the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

11. Defendant WMI Investment is a Delaware corporation with its principal place of business in Seattle, Washington and is the other debtor and debtor-in-possession in these cases.

12. Defendant FDIC is a federal corporation with its principal place of business in the District of Columbia. The FDIC is named as a defendant solely in connection with the interpleader claim.

13. At all times relevant hereto, WMI was a savings and loan holding company, WMI directly owned WMI Investment and directly or indirectly owned WMB and WMB's subsidiaries, including WMB fsb (WMB and WMB fsb as in existence prior to the Receivership are sometimes collectively referred to herein as the "Affiliated Banks").

14. At all times relevant hereto, the Debtors, WMB and WMB's direct and indirect subsidiaries, including WMB fsb, were subject to regulation by the Office of Thrift Supervision ("OTS") and various other state and federal depository institutions regulatory agencies and banking authorities, including the FDIC, which insured the banks' deposits.

15. On September 25, 2008, the Director of the OTS by order number 2008-36, appointed the FDIC as Receiver for WMB and the Receiver took possession of WMB in a receivership proceeding under section 1821 of Title 12 of the United States Code (the "Receivership").

16. On September 25, 2008, the FDIC, as Receiver and in its corporate

capacity, also entered into a Purchase and Assumption transaction with JPMorgan Chase under the P&A, whereby JPMorgan Chase acquired substantially all of the assets and assumed the deposit liabilities (as defined in the P&A and under 12 U.S.C. § 1813(1)) and certain other liabilities of WMB's banking operations under the authority vested in the FDIC by Title 12.

17. On September 26, 2008, at approximately 10:16 p.m., WMI and WMI Investment filed their voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (as amended, the "Bankruptcy Code") in the Bankruptcy Court, thereby commencing the Chapter 11 cases in which this adversary proceeding is filed.

18. On January 30, 2009, the Bankruptcy Court entered its order setting March 31, 2009 as the date by which all proofs of claim against the Debtors and their estates must be filed.

19. On February 24, 2009, the Debtors filed amended schedules in these cases.

20. On March 20, 2009, the Debtors commenced the District Court Action.

JURISDICTION AND VENUE

21. Since the Petition Date, the Debtors have been and continue to be authorized to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

22. On October 3, 2008, this Court entered an order pursuant to Federal Rule of Bankruptcy Procedure 1015(b) (collectively, the "Bankruptcy Rules") authorizing the joint administration of the Debtors' Chapter 11 cases.

23. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 1334, 28 U.S.C. § 157, and Bankruptcy Rule 7001.

24. Venue of this adversary proceeding in this Court is proper pursuant to 28 U.S.C. § 1409(a).

STATEMENT OF FACTS

A. The Bank Failure and Acquisition.

25. On September 18, 2008, the OTS designated WMB as a "problem institution," thus subjecting it to closer control and scrutiny by the federal regulatory authorities and on September 25, 2008, the OTS placed WMB in receivership because of significant concerns over the safety and soundness of the institution. To ensure continuity of operations, maximize public confidence and minimize cost to the public treasury, the FDIC ran an accelerated bidding process in accordance with statutorily mandated procedures under Title 12 that, subject to certain limited exceptions, resulted in the sale of all of the Receiver's right, title and interest to or in WMB's assets whether or not reflected on the books and records of WMB, to JPMorgan Chase pursuant to the terms of the P&A.

26. At the time of the Receivership, WMB was the sixth largest bank in the United States, with 2207 branches, more than 43,000 employees, and more than 13 million depositors with more than $140 billion of deposit liabilities insured by the FDIC.

27. WMB also indirectly owned 100% of WMB fsb. WMB fsb or "the little bank" (as it has sometimes been called) had 26 offices to WMB's 2,207 and less than $5 billion in customer deposits insured by the FDIC to WMB's more than $140 billion.

28. The FDIC's ability to promptly find a suitable acquirer of WMB's banking operations had significant economic and policy ramifications. This was a bank failure of unprecedented magnitude that occurred in the midst of the most severe financial crisis in decades. Had the FDIC been unable to sell the assets of WMB, 13 million depositors would

have lost their bank and the confidence of consumers in the banking system generally would likely have been further undermined. The protection of the title conveyed by the FDIC to institutions like JPMorgan Chase, who are encouraged to step into the breach and provide the stability and continuity necessary to avert a run on a failing bank and disruption of its services to the public, is critical to the ability of the regulators to manage bank failures under Title 12 and the government to administer an insurance fund that can maintain public confidence in the banking system.

29. That WMB stands as the largest bank failure in United States history stems in large part from the financial crisis and crisis of confidence that still grips the nation. In the ten days immediately prior to the Receivership, WMB experienced deposit outflows of more than $16.7 billion, amounting to more than $2 billion per banking business day, as its customers and even WMI itself were apparently moving their assets so as to avoid the effects of what was increasingly perceived to be an inevitable bank failure.

30. JPMorgan Chase had only two days after being briefed by the FDIC to submit a bid and then only twenty-four hours from the time that its bid was accepted by the FDIC until the time the acquisition closed to complete the single largest acquisition of a failed institution in United States history. The circumstances which led to execution of the P&A meant that JPMorgan Chase had limited opportunity to prepare for this unprecedented transaction.

31. The acquisition included, among other things, a nationwide credit card lending business, a multi-family and commercial real estate lending business, and nationwide mortgage banking activities. JPMorgan Chase's acquisition avoided an interruption in banking services. It assured that the 2,207 branches operated by WMB, as well as the 26 additional branches operated by WMB fsb, opened for business on September 26, 2008, protecting the

interests of employees, customers, vendors, and communities who were dependent on WMB's banking operations. JPMorgan Chase paid $1.88 billion dollars to the FDIC for these and other assets, and assumed all deposits. This transaction involved no financial assistance from, or cost to, the FDIC's Deposit Insurance Fund. This stands in contrast to other recent bank failures such as the FDIC's sale of IndyMac Federal Bank FSB, which cost the FDIC approximately $10.7 billion, despite IndyMac being a much smaller bank than WMB.

32. The task of stabilizing, integrating and creating as smooth a transition as possible has been time-consuming and arduous. But its success has been vital to the banking system, the communities served by WMB and the general public interest.

B. Combined Operations of Washington Mutual

33. As a federal savings association committed to serving consumers and small businesses, WMB accepted deposits from the general public, originated, purchased, serviced and sold home loans, made credit card, home equity, multi-family and other commercial real estate loans, and to a lesser degree, engaged in certain commercial banking activities. WMB's substantial mortgage business was hit especially hard by increasing home and commercial mortgage delinquencies in late 2007 and 2008.

34. As the financial crisis took root toward the end of 2007, WMI focused its efforts on raising capital for WMB. In late 2007, WMI raised approximately $3 billion in new capital through the issuance of a series of debt securities. In early 2008, WMI sought out merger partners and equity investors. A number of companies participated in the process (including JPMorgan Chase which submitted a bid to acquire WMI, but whose bid was rejected by WMI). In April 2008, in lieu of an acquisition or a merger, WMI negotiated a capital infusion of approximately $7.2 billion from a group of investment funds led by Texas Pacific Group, a

private equity firm, through an issuance of preferred stock, which included anti-dilution provisions that severely constricted the ability of WMI to raise additional capital.

35. WMI formally contributed to WMB at least $6.5 billion of the approximately $10.2 billion in capital it had raised. As discussed below, certain book entries made between September 19 and September 24, 2008 reflect an additional contribution of $3.7 billion from WMI to WMB fsb, accounting for much of the remaining debt and equity capital raised by WMI during 2007 and 2008. While book entries were made, neither WMI nor WMB transferred cash or other good funds to WMB fsb corresponding to the book entries, whether as a contribution or otherwise.

36. Prior to the Receivership, WMI and WMB had identical and overlapping directors and held joint meetings of the Boards of Directors of both entities on a combined basis, resulting in effect in a single Board of Directors with identical directors that met on the same topics at the same time and made decisions for both entities collectively. WMI's officers and employees were also officers and directors of WMB and WMI and WMB shared a joint general ledger and other books and records, and centralized their decision making, treasury, cash management, finance, governance, regulatory and executive functions in the same individuals. The overlap was so extensive that as of the time of the Receivership and subsequent Petition Date, WMI claimed it had only a handful of employees remaining as the result of the Receivership.

37. Likewise, the assets and liabilities of the Debtors and their direct and indirect subsidiaries, including the Affiliated Banks, were connected and in many cases, commingled and intertwined. Prior to the Receivership, the Debtors and their direct and indirect subsidiaries operated a centralized and consolidated cash management system pursuant to which

external receipts and payments were accounted for on a consolidated basis and internal receipts or payments were done in whole or in part by book or journal entry as "due to/from" accounts on the general ledger or other books of account.

38. At various times prior to the Receivership, WMI entered into agreements with third parties that titled assets or contractual rights in WMI's name although WMB or a subsidiary of WMB paid for the asset or contractual right or was the entity liable on the payment or liability therefore. At various times prior to the Receivership, WMI also entered into intercompany arrangements with the Affiliated Banks with documentation different than the documentation that the Affiliated Banks would have obtained in an arm's-length transaction with an unaffiliated party.

39. In 2007 and 2008, WMI undertook a series of projects and other acts, at least some of which appear to have moved assets away from WMB or its subsidiaries to WMI or another of WMI's subsidiaries. This included transfers undertaken during August and September 2008 as part of WMI's self-titled "WMI Cash Optimization Program", for the apparent benefit of WMI.

40. To the extent that that any person has or may assert claims against JPMC that resulted from these transactions, JPMC is entitled to be indemnified and held harmless by WMI since all pre-petition transactions were consummated at the behest and direction of WMI and for its benefit.

C. Trust Securities

41. Between March 2006 and October 2007, certain issuer trusts (the "Issuing Trusts") formed by WMI and its then subsidiaries issued securities (the "Trust Securities") in the aggregate face amount of approximately $4 billion, exchangeable into depository shares

representing preferred stock of WMI upon the occurrence of certain events. A complete list of the Trust Securities is attached as Exhibit B. The Trust Securities were issued in global form registered in the name of Cede & Co., as nominee, and held by Wilmington Trust as depositary for the Depositary Trust Corporation ("DTC"). The sole assets of the Issuing Trusts, in turn, were preferred securities issued by Washington Mutual Preferred Funding LLC ("WMPF").

42. As set forth below, JPMorgan Chase acquired the Trust Securities under the P&A and all steps required to transfer the Trust Securities as required were completed prior to the Petition Date save and except for the ministerial formality of changing record title as reflected at DTC and described below.

43. The Trust Securities, like other trust securities issued by financial institutions, qualified as regulatory core capital of WMB under applicable banking laws and regulations with specific approvals and requirements governing their issuance and treatment. They were, by their express terms, mandatorily and automatically exchangeable for a like amount of newly issued depository shares representing WMI preferred stock upon the occurrence of an exchange event. In addition, for the Trust Securities to be treated as core capital of WMB or any other regulated institution when issued, the Trust Securities would have to be structured in a manner that assured they would become property of the regulated institution upon exchange.

44. On January 30, 2006, WMB submitted a Notice for Establishment of an Operating Subsidiary (the "Notice") to the OTS and the FDIC regarding the establishment of WMPF. WMPF's assets consisted of indirect interests in various residential mortgage and home equity loans and other permitted investments. WMPF in turn issued preferred securities to the Issuing Trusts that entitled the Issuing Trusts to a liquidation preference against the assets of WMPF. In the Notice to the OTS and the FDIC, WMB sought confirmation from the OTS that

the Trust Securities would qualify for inclusion in the core capital of WMB.

45. On February 23, 2006, WMI committed to contribute the Trust Securities to WMB and stated that WMI "hereby undertakes that if, as a result of a Supervisory Event," WMI exchanges its preferred stock for the Trust Securities, "WMI will contribute to WMB the [Trust Securities]." A true and correct copy of that commitment is attached as Exhibit C.

46. WMI's written commitment to contribute the Trust Securities to WMB in exchange for including the Trust Securities in the core capital of WMB constituted a capital commitment to a federal depository institutions regulatory agency or its predecessor which was deemed assumed as of the Petition Date under 11 U.S.C. Section 365(o). That commitment also constituted a binding agreement (the "Contribution Agreement"), the breach of which would give rise to post-petition administrative claims against WMI.

47. At all times relevant hereto solely by virtue of the Contribution Agreement, WMB was permitted to include the Trust Securities in its core capital and counted the amount of the Trust Securities as regulatory core capital. The Trust Securities have never been beneficially owned by WMI and have always been subject to a concomitant obligation to contribute the Trust Securities to WMB as a necessary corollary to the treatment of the Trust Securities as core capital of WMB.

48. The issuance of the Trust Securities and the Contribution Agreement were duly authorized by all requisite corporate action on the part of WMI and WMB. True and correct copies of the minutes of the Board of Directors authorizing the transaction are attached as Exhibit D.

49. On September 25, 2008, in a letter to WMI, the OTS declared an Exchange Event had occurred and directed an immediate exchange of the Trust Securities for

WMI preferred stock. WMI responded to the OTS letter later on September 25, 2008, confirming the exchange and contribution. .

50. On September 25, 2008, WMI contributed the Trust Securities to WMB pursuant to an Assignment Agreement, a true and correct copy of which is attached as Exhibit E, pursuant to which, among other things, effective as of September 25, 2008, WMI transferred "all of [WMI's] right, title and interest, whether now owned or hereafter acquired, in and to the [Trust] Securities" to WMB. Furthermore, upon execution, WMI assigned to WMB all present and future "rights and benefits arising out of the [Trust] Securities which come into the possession of [WMI]."

51. Under the express terms of the P&A, JPMorgan Chase purchased "all right, title, and interest of the Receiver in and to all of the assets . . . of [WMB] whether or not reflected on the books of [WMB] as of Bank Closing," which includes WMB's and the Receiver's rights to receive the Trust Securities, a transfer that was effected on September 25, 2008. The Receiver sold the Trust Securities to JPMorgan Chase under the P&A and, therefore, JPMorgan Chase is the sole owner of all equitable and beneficial right, title and interest in the Trust Securities, leaving only the ministerial act of correcting the record at DTC (or with the Issuing Trusts and their trustees) undone before the filing of these Chapter 11 cases.

52. Although the Debtors did not initially dispute JPMorgan Chase's ownership of the Trust Securities and the parties drafted and agreed to a stipulation to transfer the Trust Securities to JPMorgan Chase to accompany the account stipulation, the Debtors amended their schedules on January 27, 2009 to add a Footnote 4 to Schedule B regarding the Trust Securities which had not been mentioned in the Schedules originally filed on December 19, 2008. In that footnote, which is repeated verbatim in the Debtors' Second Amended Schedules

filed on February 24, 2009, the Debtors assert unspecified and potential rights to or interests in the Trust Securities.

53. To the extent that WMI ever held or now holds any interest in the Trust Securities — and JPMorgan Chase believes WMI had and has no legally cognizable interest in them — that interest has never consisted of anything more than bare legal title to a securities entitlement to the Trust Securities for the moment in time of the conditional exchange and contribution. Section 541(iv) of the Bankruptcy Code provides that "property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate . . . only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold."

54. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Trust Securities, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Trust Securities. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own the Trust Securities. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims to the Trust Securities.

55. Accordingly, JPMorgan Chase seeks a declaration that it owns the Trust Securities and an order directing third parties including, DTC, Cede & Co., Wilmington Trust Corporation and any other trustee, custodian, depository or other securities intermediary, to take all actions reasonably necessary or appropriate, as requested by JPMorgan Chase, to have the record legal title reflect JPMorgan Chase as the sole owner of the Trust Securities.

56. In addition, JPMC is entitled to be indemnified and held harmless by WMI for any liabilities associated with the issuance, exchange, contribution or recovery of the Trust Securities, including without limitation any claims regarding authorization, enforceability, avoidability or inadequate disclosure. JPMC seeks a determination that WMI, as the controlling parent, the primary issuer and the principal actor, has the obligation to indemnify and hold harmless its indirect formerly wholly owned subsidiaries from any liability to third parties associated with or related to the Trust Securities.

D. Tax Refunds

57. To the extent WMB is or was entitled to tax refunds, the right to receive those refunds was purchased by JPMorgan Chase under the P&A.

58. For taxable years prior to 2008, the Washington Mutual entities, consisting of WMI, WMB, and other direct and indirect subsidiaries of WMI (collectively, the "WaMu Group"), filed a consolidated tax return, a unitary tax report or a combined tax return with appropriate taxing authorities wherever permissible. WMB (and its subsidiaries) made payments to WMI in the same manner and at the same time as if filing separate returns or separate consolidated returns.

59. For all tax refunds and rights to receive tax refunds attributable to tax attributes of WMB or its subsidiaries, pursuant to applicable rules and regulations, and as between the Debtors and WMB (or their respective subsidiaries), WMB (or such subsidiary) is the beneficial owner of such tax refund or such right to receive a tax refund attributable to its tax attributes. All or substantially all of the refunds received by, now due and hereafter expected to be due to the WaMu Group are attributable to income and losses of, and taxes paid by, WMB and its subsidiaries, and, therefore, as among the members of the WaMu Group, WMB and its

subsidiaries were and are the beneficial owners of all or substantially all tax refunds received, tax refunds due and rights to receive tax refunds.

(i) California Tax Refunds

60. For taxable years prior to 2008, the WaMu Group filed a unitary tax report with the California Franchise Tax Board ("FTB"), pursuant to the filing of FTB Form 2523A (for years prior to 1991), and pursuant to a Schedule R-7 (for taxable years after 1991). For taxable years on or after 2005, the Schedule R-7 was filed in compliance with FTB regulations promulgated in 2005 and effective for returns filed after January 8, 2005. In each case, the WaMu Group filed group returns under California tax law, with WMI as the "key corporation." In each case, the agent and surety for the other members included in the unitary tax report was WMI, the "key corporation" as defined under California tax law.

61. Even though each taxpayer corporation in the combined group is required under California law to file its own California return and pay its own tax due, as a matter of administrative convenience, the FTB permits groups to file a group return.

62. A "key corporation" only acts as agent for the other taxpayer members. Thus, (i) all California refunds are identifiable to an individual taxpayer in the WMI Group, and (ii) all California tax refunds WMI receives that are identified to California income taxes of WMB (or any of WMB's subsidiaries) are held by WMI merely as agent for WMB (or its respective subsidiary) and WMB (or its respective subsidiary) is the beneficial owner of such California tax refunds.

63. California tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes to the FTB.

64. All facts and circumstances necessary to determine the amount of California tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

65. The Debtors have wrongly asserted that WMI—and not WMB (or its respective subsidiaries)—is entitled to the California tax refunds due to the WaMu Group. Accordingly, JPMorgan Chase requests that the Court enter an order declaring that, pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds.

66. WMI has already received at least a portion of the California income tax refunds due as agent for the WaMu Group and owes those amounts to JPMorgan Chase and the former WMB subsidiaries acquired by JPMorgan Chase under the P&A.

67. The beneficial interest in all or a portion of the California income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB.

68. WMI has refused to turn over to JPMorgan Chase those California income tax refunds received already or in the future that are properly allocable to WMB (and its subsidiaries). As a result, JPMorgan Chase seeks an order from the Court compelling the Debtors to turn over those tax refunds.

69. Various employees and agents of WMB and its subsidiaries had been in discussions with the FTB regarding ongoing California tax matters, such as the progress of audits, and anticipated tax refunds, prior to September 26, 2008. WMI had threatened FTB and its officials with sanctions for violation of the stay to prevent them from continuing their communications with WMB.

70. JPMorgan Chase has been significantly prejudiced by not being able to communicate directly without restrictions with the FTB about matters concerning WMB or its

subsidiaries since the Petition Date. Certain employees and agents of JPMorgan Chase need to continue these discussions with the FTB about California tax matters related to WMB and its subsidiaries, in order to preserve beneficial tax attributes, to complete pending audits and refund applications, and to arrange for the receipt of California income tax refunds.

71. JPMorgan Chase is entitled to communicate with the FTB about matters concerning refunds that may be due to WMB and its subsidiaries, or WMB's successors. WMI only recently directed a letter to the FTB granting them "permission" to speak to WMB for the limited purpose of continuing negotiation of audit matters previously under discussion subject to numerous restrictions, including that WMI retained rights as the "key corporation" for the WaMu Group.

72. WMI is ineligible to serve as a "key corporation" under California law and its attempt to exercise continuing control over assets and property that do not belong to it is without legal authority or basis. WMI is no longer able to act as an agent for either WMB or any successors in interest to WMB, for matters involving both years prior to 2008, and for years on or after 2008, because WMI is no longer affiliated with WMB or its former subsidiaries and filing for bankruptcy has caused WMI to have interests adverse to those of WMB and WMB's successors in interest. As a result, JPMorgan Chase is entitled to unrestricted communications with the FTB about all matters concerning WMB, including but not limited to audit activity, assessments, tax refunds and notices. JPMorgan Chase therefore requests that the Court enter an Order authorizing it to engage in such communications and precluding the Debtors or anyone else from interfering with those communications.

(ii) Federal and Other State Tax Refunds

73. For taxable years prior to 2008, the WaMu Group filed a consolidated

U.S. federal tax return pursuant to regulations promulgated by the U.S. Department of the Treasury ("Treasury Regulations") and the Internal Revenue Service (the "IRS") under Internal Revenue Code ("IRC") Section 1501 *et seq*. For the tax year of 2008, WMB and its subsidiaries were members of the WaMu Group consolidated group until at least September 25, 2008. For each time period, WMI was the common parent of the consolidated group.

74. To the extent permissible under applicable state law, the WaMu Group filed consolidated tax returns, unitary reports or similar, combined returns with other (non-California) state revenue authorities with which it was required to file tax returns. Such consolidated or combined returns were filed in those states listed on Exhibit F.

75. Pursuant to applicable law, WMI acted as agent for the WaMu Group in filing the consolidated tax returns.

76. As with California tax filings, for all tax refunds attributable to tax attributes of WMB or its subsidiaries, WMB (or its respective subsidiary) is, and under applicable law and regulation is required to be, the beneficial owner of the portions of such tax refund attributable to its tax attributes.

77. WMI has already received certain U.S. federal and state income tax refunds as agent for the WaMu Group that have not been allocated and transferred to WMB (or its subsidiaries).

78. WMI has likely received additional U.S. federal and state income tax refunds as agent for the WaMu Group of which JPMorgan Chase is presently unaware.

79. The beneficial interest in all or a portion of the U.S. federal and state income tax refunds received by WMI as agent for the WaMu Group belongs to JPMorgan Chase, as successor in interest to WMB (and its subsidiaries).

80. WMI has refused to turn over to JPMorgan Chase those U.S. federal and state income tax refunds received that are properly allocable to WMB (and its subsidiaries).

81. U.S. federal and state income tax refunds, substantially all of which are expected to be attributable to WMB and its subsidiaries, are expected for the 2008 tax year and for tax years prior to 2008 relating to overpayments of taxes by the WaMu Group to the various state taxing authorities.

82. For the 2008 tax year, the WaMu Group is expected to have a variety of tax attributes such as net operating losses, net capital losses, and excess tax credits, and a substantial portion of such tax attributes are expected to be attributable to the operations of WMB and its subsidiaries. The WaMu Group expects to be able to carry back these favorable tax attributes to prior tax years, where such carrybacks will result in additional U.S. federal and state income tax refunds for such prior tax years.

83. All facts and circumstances necessary to determine the amount of U.S. federal and state tax refunds for WMB and for any of WMB's subsidiaries are fixed and determinable.

84. Debtors have wrongly asserted that WMI—and not WMB (nor its respective subsidiaries)—is entitled to the U.S. federal and state tax refunds due to the WaMu Group.

85. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in these tax refunds, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the tax refunds. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the

Debtors do not own or have an interest the tax refunds. On March 20, 2009, the Debtors filed the District Court Action with respect to the disallowance of their claims to the tax refunds.

86. Accordingly, JPMorgan Chase requests that in addition to an order directing the turnover of the funds, the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to such refunds and further ordering Debtors to turn over to JPMorgan Chase any such refunds already received.

87. In addition, during the time that WMI, WMB and their respective eligible subsidiaries filed a consolidated tax return for U.S. federal income tax purposes, items of income, deduction, loss and credit were combined in one consolidated return, filed by WMI on behalf of the consolidated group.

88. During this time, WMB was subject to a variety of state and local taxes. The accrual and payment of these state and local taxes generated by WMB created a deduction against income for the combined U.S. federal income tax return. Said differently, the state and local taxes accrued by virtue of WMB's operations created deductions that were used to offset the WMI consolidated group taxable income.

89. Although these deductions should have been recognized as a benefit that was solely WMB's, WMI did not credit WMB in any way for the state and local income tax deductions attributable to WMB's operations. In effect, WMI claimed for itself the state and local tax deductions properly attributable to WMB. Debtors have wrongly asserted that WMI—and not WMB (nor its respective subsidiaries)—is entitled to these deductions.

90. The total dollar value of such deductions is at least approximately $517 million. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title

and interest," in these assets, pursuant to and in accordance with the FDI Act. JPMorgan Chase requests that the Court enter an order declaring that as the acquirer of WMB's interests pursuant to the P&A, JPMorgan Chase and its subsidiaries own the rights to any cash value generated by such deductions and further ordering Debtors to turn over to JPMorgan Chase the value of any such deductions.

(iii) Tax Sharing Agreement

91. On August 31, 1999, WMI and members of the WaMu Group entered into a Tax Sharing Agreement, which required various members of the WaMu Group to pay WMI for each member's share of the WaMu Group's consolidated income, and required WMI to return to each member such member's share of any tax refunds paid to WMI.

92. The Tax Sharing Agreement provides further support that WMI would receive any tax refund attributable to WMB's or WMB's subsidiaries' tax attributes merely as agent, and that WMB (or its respective subsidiary) would be the beneficial owner of such tax refund. At all times the Tax Sharing Agreement was subject, by law and by its own terms, to applicable bank and thrift regulatory guidelines. The ownership of the tax refunds that would result from application of either applicable law or the Tax Sharing Agreement should be identical—in neither event may WMI retain refunds that are not attributable to the tax attributes of its regulated subsidiaries.

E. The Intercompany Amounts and Accounts

(i) The "On-Us" Accounting Entries

93. On the Petition Date, WMI claimed that JPMorgan Chase was liable to pay a total purported deposit liability to WMI and its non-WMB subsidiaries, originally claimed in the amount of $5 billion and then ultimately asserted in the total amount of $4,358,492,498

(the "Intercompany Amounts"). According to WMI, the Intercompany Amounts represented deposits maintained by WMI at the Affiliated Banks, all as non-interest bearing demand deposit accounts. A true and correct copy of the original list of twenty-nine account numbers (the "Accounts") provided to JPMorgan Chase by WMI shortly after the Petition Date is attached as Exhibit G.

94. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Intercompany Amounts, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of the Intercompany Amounts. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims, assert that the Intercompany Amounts are deposit accounts at JPMorgan Chase, and claim damages relating to the Intercompany Amounts.

95. With the exception of signature cards for several of the smaller Accounts, JPMC has not located and believes there do not exist pre-petition any deposit account agreements, signature cards or any other documentation for the Accounts as deposit accounts. Notwithstanding that fact and while it continued to investigate whether such documents existed somewhere, JPMorgan Chase was prepared to treat the Accounts as if they were deposit accounts so long as all rights of all parties, including JPMorgan Chase's rights, were acknowledged and approved by order of this Court. Toward that end, on or about October 15, 2008, JPMorgan Chase and the Debtors entered into a proposed stipulation (the "Account Stipulation") with respect to the Accounts that was filed with the Court for approval. The Account Stipulation was ultimately withdrawn following objections filed by certain creditors of the Receivership and the

FDIC and was never entered by the Court.

96. Pursuant to the Account Stipulation, and before it was withdrawn, JPMorgan Chase and the Debtors executed customary deposit account agreements regarding the Accounts on or about October 21, 2008 that provided, among other things, customary rights of setoff, recoupment and banker's liens to secure JPMorgan Chase's rights to recover claims JPMC may have against the Debtors or their subsidiaries and affiliates from the funds on deposit in the Accounts.

97. After the execution of those documents but prior to December 19, 2008, JPMorgan Chase acceded to a request of the Debtors and the Official Committee of Unsecured Creditors (the "Committee") to agree to the accrual of interest on the Intercompany Amounts as a sign of good faith in the event that it were ultimately determined that any of the Intercompany Amounts were in fact deposit accounts, without prejudice to its rights. Similarly, JPMorgan Chase agreed to the Debtors' further request that as a sign of "goodwill" it agree to release $292 million of the Intercompany Amounts attributable to the Accounts of the non-debtor subsidiaries of WMI, without prejudice to its rights.

98. JPMorgan Chase agreed to those requests from the Debtors in good faith, without prejudice to its rights, and on the understanding that the parties were working diligently to resolve open questions and issues with respect to the Intercompany Amounts. It did so in reliance on the Debtors' execution of account documentation for the Accounts that protected the interests of JPMC, and on the understanding that the Debtors would respect those rights. However, on or about December 19, 2008, after obtaining from JPMorgan Chase the benefit of these concessions, the Debtors advised JPMorgan Chase that the execution of those deposit account agreements on October 21, 2008, was only in anticipation of the proposed Account

Stipulation and, since that stipulation had never been approved, the execution and delivery of the agreements was in error, unauthorized and considered by the Debtors to be null, void and without legal effect.

99. The execution and effectiveness of the account documentation executed by the Debtors on October 21, 2008, was a key factor in JPMorgan Chase's decision to agree to the request that it accrue interest on the Intercompany Amounts and to the release of $292 million to the Debtors and their non-debtor affiliates. While JPMorgan Chase does not dispute that the Account Stipulation was never so ordered, to the extent that such documentation is ineffective, it should be ineffective for all parties and for all purposes, including the effectiveness of any post-petition book entries reflecting any portion of the Intercompany Amounts or Accounts as deposit liabilities and the release of any funds to the Debtors or their non-Debtor affiliates.

100. Although JPMorgan Chase still has not discovered any pre-petition deposit account agreements, signature cards or other documentation for the Accounts that would have been required of depositors that were not affiliates in order to treat the Accounts as deposit accounts (except for the signature cards on a few accounts as described above), it is nonetheless clear that if these are deposit accounts—not capital contributions—they were and are subject to the standard terms and conditions specified in the Master Business Account Disclosures and Regulations (the "MBA Policy") of the Affiliated Banks.

101. The Accounts were associated with the DDA numbers provided by WMI. Of the twenty-nine, most were so-called "On–Us Accounts", the internal nomenclature for intercompany receivables that were understood to represent deposit accounts at the Affiliated Banks. Thus, the balances in these Accounts as of any point in time, unlike third party deposit

accounts, were maintained both at the depository institution and as intercompany book entries on the general ledger of WMI and the Affiliated Banks that were its subsidiaries.

102. The decision on how to characterize an intercompany transaction was made by a single centralized Treasury group for WMI and all of its affiliates. That Treasury group was under the direct supervision of Robert Williams, currently the Chief Executive Officer of WMI.

103. To the extent the Intercompany Amounts and the Accounts reflect capital contributions, they are the property of JPMorgan Chase under the terms of the P&A. To the extent they are deposit liabilities, they must be governed by standard terms and conditions governing unaffiliated deposit accounts, as a result of which they become subject to any liens, claims and interests that JPMC may have, and are also subject to setoff, recoupment or other offset.

(ii) Deposit Liabilities

104. To the extent the Intercompany Amounts in the Accounts are not capital contributions and are in fact deposit liabilities of WMB or WMB fsb assumed by JPMorgan Chase under the P&A, WMI and its subsidiaries, like every other Affiliated Bank depositor (expressly or otherwise), are bound by the standard terms and conditions for deposits at the Affiliated Banks.

105. The Accounts were utilized to settle intercompany obligations, including obligations arising from the payment and allocation of expenses among WMI and all of its subsidiaries, with intercompany allocations, payments and settlements on a periodic, usually monthly, basis. The balances on the Accounts were reflected on "On-Us Elevation Reports" generated on a monthly basis and on paper "Washington Mutual Internal Checking Detail"

statements mailed to an employee of WMB on a monthly basis. Copies of the "On-Us Elevation Reports" and of the "Washington Mutual Internal Checking Detail" statements for August, September and October, 2008 are attached as Exhibits H and I, respectively.

106. These Accounts were established by WMI or one of its non-bank subsidiaries at the Affiliated Banks pursuant to WMI's Internal Corporate Demand Deposit Account Establishment and Usage Policy (the "On-Us Policy"). According to that policy, WMB had the right to use the Intercompany Amounts for, among other things, processing and clearing transactions between WMB and WMI or their respective subsidiaries, customers, vendors, or investors, again raising the question of whether the Intercompany Amounts represented a continuing deposit liability or should be characterized as a general reserve, a capital contribution or a form of intercompany advance to the Affiliated Banks. The On-Us Policy was silent regarding the rules and terms governing the acceptance by the Affiliated Banks of amounts under the On-Us Policy as deposit accounts and services related to such accounts maintained at the Affiliated Banks.

107. WMI and the Affiliated Banks maintained a detailed, forty-page policy, the MBA Policy, that operated as a contract setting forth the terms and conditions governing all deposit accounts established at the Affiliated Banks. The MBA Policy contained, among other things, a self-executing clause that made the terms of the policy binding upon all depositors, even those who did not expressly give permission, through consent implied by the opening and continued use of the deposit account.

108. The MBA Policy and its terms and conditions apply to and govern any accounts that are in fact deposit accounts at the Affiliated Banks, including the Accounts to the extent any are deposit accounts. WMI as the sole shareholder and parent of the Affiliated Banks

is charged with knowledge and acceptance of the MBA Policy for any deposit account it maintained at the Affiliated Banks.

109. Any claim that WMI is entitled to terms more favorable to it than the terms imposed on third party depositors under the MBA Policy would violate applicable federal law and regulations and be untenable. The provision of services, including deposit services, to WMI by its Affiliated Banks, under relevant banking laws and regulations, were required to have been conducted on terms and conditions no less favorable to the bank than would have been undertaken in a comparable transaction with an unaffiliated third party. Thus, these accounts, to the extent they reflect deposits, were required by law to be maintained on terms no less favorable to the Affiliated Banks than those clearly set forth in the MBA Policy.

110. The MBA Policy expressly grants the Affiliated Banks a right to offset any and all claims against all deposit account liabilities. Specifically, the MBA Policy provides, "you agree we have the right to offset any account or asset of yours then held by us, by our sister bank, or any subsidiary of ours or our sister bank." Said differently, to the extent the Accounts and the Intercompany Amounts contained therein are deposit liabilities of the Affiliated Banks, the MBA Policy created a broad contractual right of setoff against the Accounts and the Intercompany Amounts for the benefit of the Affiliated Banks and their subsidiaries.

111. Accordingly, to the extent that any of the Accounts or Intercompany Amounts are found by the Court to constitute deposit liabilities of JPMorgan Chase as assignee of the Receiver, they are deposit liabilities subject to and created under the MBA Policy and JPMorgan Chase has a security interest in, lien rights against and rights of set off and recoupment against the Intercompany Amounts as deposit liabilities under the MBA Policy and standard deposit account agreement terms and conditions applicable to all third party depositors

and as in effect at the time that the Affiliated Banks and their parent entered into the transactions creating and maintaining the Accounts.

(iii) JPMorgan Chase Also Has an Express Security Interest in at Least One Account

112. In addition, WMI entered into at least one specific security agreement with WMB (the "Security Agreement") whereby WMB received a security interest in and lien upon at least one of the Accounts in return for providing value to WMI. According to its terms, the Security Agreement "shall be binding upon [WMI] and its successors and assigns, and shall inure to the benefit of, and may be enforced by [WMB] and its successors, transferees, and assigns." This express security interest creates a lien to secure any and all intercompany obligations. JPMorgan Chase is the successor, transferee or assignee of the Security Agreement and entitled to enforce its terms against WMI at least as to Intercompany Amounts associated with Account No. 177-8911206. A true and correct copy of the Security Agreement is attached as Exhibit J.

(iv) The September $3.67 Billion Book Entry Transfer

113. Between September 19, 2008 and September 24, 2008, in the days immediately preceding the impending takeover of WMB by its regulators, WMI directed book entries purporting to transfer approximately $3.67 billion (the "$3.67 Billion Book Entry Transfer") from WMB to WMB fsb. The entries direct the transfer from the triple 070-10450-009909 "On-Us" Account No. 17900001650667, which is reflected in the internal On-Us Elevation Report and the Internal Checking Detail as an account at WMB, to what WMI now claims was a deposit account at WMB fsb identified as triple 070-10441-0009909 "On-Us" Account No. 44100000064234.

114. The general ledger entries for this transaction indicate that the entries were

posted on September 24, 2008 with a "retro" date to September 19, 2008 and describe the $3.67 Billion Book Entry Transfer as "WMI contributes to FSB." WMI has asserted that the transaction was intended to be a transfer of funds from a WMI deposit account at WMB to a WMI deposit account at WMB fsb. What is clear, however, is that no cash or other funds were actually moved to or received by WMB fsb in connection with the transfer.

115. The Debtor's agreement to the terms of the Account Stipulation and the deposit agreements that provide JPMorgan Chase on behalf of itself and its affiliates and subsidiaries with broad post-petition lien rights and rights of setoff and recoupment resulted in the entry of the $3.67 Billion Book Entry Transfer as a deposit liability on the books and records of JPMC. Having executed the standard deposit agreements with JPMorgan Chase necessary to have this account reflected as a deposit at JPMorgan Chase, WMI should be estopped from taking the position that these account agreements were a mistake and not binding on it or from enjoying the benefit of having the Accounts reflected as deposit liabilities free of the lien and setoff rights created by those very same agreements. To the extent that any post-petition book entry is considered as relevant to the status of the purported deposit, any such resulting deposit should similarly be considered subject to the depository institution's rights, including post-petition contractual and statutory rights of setoff, that accompany the post-petition deposit.

116. WMB fsb would never have accepted a deposit liability from an unaffiliated third party without first receiving good funds, or at least not a deposit liability of the magnitude its parent now asserts was created on or about September 19, 2008. The $3.67 Billion Book Entry Transfer represented approximately 44% of the total deposits at WMB fsb, an increase of nearly 80% in total deposit liabilities. In no way was this an ordinary course transaction. Regardless of the fact that WMI and its affiliates may have operated a centralized

cash management system for efficiency as members of the same corporate family, intracompany transfers, unaccompanied by actual movement of funds, cannot create obligations and liabilities as third parties when the corporate ownership link is broken. Because no cash or other funds were actually transferred by WMI to WMB fsb, the $3.67 Billion Book Entry Transfer could not have created a deposit liability of WMB fsb to WMI without receipt of good funds. To the extent the $3.7 Billion Book Entry Transfer is nonetheless deemed to create such a liability, JPMC is entitled to a complete offset for WMI's failure to deliver good funds representing that $3.67 billion deposit.

117. The $3.7 Billion Book Entry Transfer was not a deposit account and WMI should be estopped from making any claims to the contrary.

118. Alternatively, to the extent any third party has or may have a claim against WMB fsb and/or JPMorgan Chase with respect to or as a result of the $3.7 Billion Book Entry Transfer, JPMorgan Chase is entitled to be indemnified by WMI for any liability it may incur and is entitled to recover the amount by which it is or may be liable to any such third party from the Intercompany Amounts.

(v) The Tax Refunds and other Funds in the Accounts

119. A substantial portion of the Intercompany Amounts were, at the time of the Receivership and the Petition Date, in fact the property of the Affiliated Banks, representing tax payments made by the Affiliated Banks either as (i) accelerated payments of amounts previously claimed by WMI against the Affiliated Banks purportedly for taxes paid in prior years by WMI on behalf of the Affiliated Banks; or (ii) amounts transferred to WMI in payment of estimated or actual 2008 taxes.

120. In addition, after the Petition Date, at least approximately $234 million of

tax refunds due to WMB — the rights to which were purchased by JPMorgan Chase as assets of WMB (the "Tax Refunds Received") — were paid to WMI. An amount equal to at least this $234 million of the Tax Refunds Received are included in the balance of the Intercompany Amounts and the Accounts and should be paid over to JPMorgan Chase as the lawful owner of those funds.

121. The Tax Refunds Received should not have been, and at various times were not in fact, recorded in any way as a deposit liability. The Tax Refunds Received were and are property of JPMorgan Chase purchased under the P&A.

(vi) Section 9.5 of P&A

122. To the extent any of the Accounts are deposit liabilities assumed by JPMorgan Chase, pursuant to Section 9.5 of the P&A, "[a]t any time, the [FDIC] may, in its discretion, determine that all or any portion of any deposit balance assumed by [JPMorgan Chase] pursuant to this Agreement does not constitute a "Deposit" . . . and may direct [JPMorgan Chase] to withhold payment of all or any portion of any such deposit. Upon such direction, [JPMorgan Chase] agrees to hold such deposit and not make payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. [JPMorgan Chase] shall be obligated to reimburse the [FDIC], . . . for the amount of any deposit balance or portion thereof paid by [JPMorgan Chase] in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance, the payment of which was withheld pursuant to this Section."

123. The FDIC has not to date notified JPMorgan Chase that all or any portion of the Intercompany Amounts or Accounts are or are not Deposit Liabilities within the meaning of the P&A. Nor has the FDIC directed JPMorgan Chase to withhold payment on all or any

portion of the Accounts. JPMorgan Chase requests that to the extent this Court orders JPMorgan Chase to pay any portion of the Intercompany Amounts or Accounts to the Debtors or into the registry of this Court, that the Court do so by way of interpleader under Rule 7022, releasing JPMorgan Chase from any liability for such amounts to any person and preserving the rights of all parties and all possible claimants with respect to those funds (including JPMorgan Chase). Specifically, JPMorgan Chase requests a finding that it only has to pay or credit the Accounts or the Intercompany Amounts once and that this Court's determination regarding ownership, character and rights in or to the Intercompany Amounts or the Accounts is final so that JPMorgan Chase has no further liability in any capacity for the Intercompany Amounts or Accounts except as may be determined by this Court in this proceeding.

124. In the District Court Action, the Debtors assert that JPMorgan Chase assumed these liabilities as deposit liabilities under the P&A and that they are now depositors of JPMorgan Chase.

F. Goodwill Litigation

125. JPMorgan Chase, as the successor in interest to the Receiver and WMB—and not WMI—is the proper recipient of both the $356,454,911 judgment entered in *Anchor Savings Bank, FSB* v. *United States*, No. 95-39C (Fed. Cl.) (the "Anchor Judgment") and the $55,028,000 partial judgment entered in *American Savings Bank, F.A.* v. *United States*, No. 92-872C (Fed. Cl.) (the "ASB Judgment"), as well as the proper plaintiff in the continuing *Anchor Savings Bank* and *American Savings Bank* cases.

126. The *Anchor Savings Bank* and *American Savings Bank* cases are two of the numerous actions brought against the United States, asserting that passage of the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA") breached supervisory merger

contracts that permitted financial institutions to apply special accounting treatment to their acquisitions of failing savings and loan thrifts. Specifically, the contracts permitted the treatment of supervisory goodwill as regulatory capital that was no longer permissible under FIRREA.

127. As the facts and court decisions in the *Anchor Savings Bank* action establish, the damages resulting from the United States' breach of a series of contracts were incurred by Anchor Savings Bank. Ownership of the *Anchor Savings Bank* cause of action remained at all times with Anchor Savings Bank—the sole plaintiff in the action—and the successor thrifts so that the Anchor Judgment thereby became an asset of WMB. In 1995, the operations and assets of Anchor Savings Bank were merged with those of Dime Savings Bank. In 2002, Dime Savings Bank was merged into WMB.

128. Similarly, the capital at issue in the *American Savings Bank* action was provided and posted by American Savings Bank, F.A. and consisted of inventory capital and retained earnings held by American Savings Bank, F.A. As the facts and court decisions in the *American Savings Bank* action establish, the damages resulting from the United States' breach of the Note Forbearance—which are the damages comprising the ASB Judgment—were incurred by American Savings Bank, F.A. The plaintiff that provided the capital, American Savings Bank, F.A., was the predecessor in interest to WMB and amended its Federal Stock Charter in 1997 to change its corporate title from American Savings Bank, F.A. to Washington Mutual Bank, F.A. In addition, the parent company of American Savings Bank, F.A., New American Capital, Inc., was subsequently liquidated and merged into WMB, not WMI.

129. WMI has asserted that it is entitled to the ASB Judgment, which on February 16, 2009, this Court ordered be paid into its registry. This Court further directed that any party, other than the Debtors, asserting an ownership interest in the ASB Judgment bring its

claim through an adversary proceeding in accordance with Bankruptcy Rule 7001. JPMorgan Chase hereby does so.

G. Legacy Rabbi Trusts and Benefit Plans

(i) Legacy Rabbi Trusts

130. The Debtors have refused to acknowledge JPMorgan Chase's ownership of the assets of certain rabbi trusts ("Legacy Rabbi Trusts") that belong to JPMorgan Chase under the terms of the P&A, even though these assets were reflected on WMB's books and records and WMB was the successor to the original settlor. These assets support obligations under certain non-qualified retirement and pension plans covering current or former employees of or retirees from WMB or its predecessors in interest.

131. In a series of mergers in the late 1990s and the early part of this decade, WMI, through a variety of subsidiaries, acquired a number of financial institutions, which were merged into, or the assets of which were purchased by, WMB. As part of these acquisitions, WMB also acquired a number of non-qualified plans funded through Legacy Rabbi Trusts as well as liabilities for other plans not supported by trust assets. Rabbi Trusts are used to fund the payment of benefits under nonqualified deferred compensation plans that were adopted by some of the financial institutions WMI acquired. As of September 30, 2008, the books and records of WMB and WMI reflected 16 separate legacy plan Rabbi Trusts with aggregate legacy Rabbi Trust assets of over $550 million.

132. The "Legacy Rabbi Trusts" support the liabilities created under a number of non-qualified deferred compensation and supplemental retirement plans ("legacy plans") adopted by predecessor institutions acquired by the Washington Mutual family over the years.

133. Since the execution of the P&A, JPMorgan Chase has been prepared to

assume the obligations supported by the rabbi trust assets that it purchased under the P&A but the Debtors have refused to provide joint instructions to the trustees even where it is incontrovertible that the assets for a particular trust were acquired by JPMorgan Chase under the P&A. In so refusing to acknowledge JPMC's ownership and utilizing the automatic stay, the Debtors in effect have halted the payment of benefits to employees and many elderly retirees.

134. Under the P&A, the assets of twelve Legacy Rabbi Trusts were sold to JPMorgan Chase by the FDIC. With respect to five of these Legacy Rabbi Trusts, the FDIC has directed the trustees to turn the assets over to JPMorgan Chase and, when that happens, JPMorgan Chase has agreed to recommence the payment of benefits to retirees and others whose benefits were supported by the Legacy Rabbi Trust assets. With respect to the other seven Legacy Rabbi Trusts—four Dime Savings Bank Rabbi Trusts (the "Dime Rabbi Trusts"), two Great Western Rabbi Trusts (the "Great Western Rabbi Trusts"), and a Providian Rabbi Trust (the "Providian Rabbi Trust" and, together with the Dime Rabbi Trusts and the Great Western Rabbi Trusts, the "Bank Rabbi Trusts")[2]—there was some initial ambiguity as to either the identity of the successor to the original settlor of the Bank Rabbi Trust or the source of funding for the trust assets. JPMorgan Chase has since provided the Debtors with documentation for the conclusion that WMB had properly accounted for the assets of the Bank Rabbi Trusts on its books and that WMB was the successor to the original settlor. Accordingly, the assets of the Bank Rabbi Trusts were confirmed as property of WMB and thus also purchased by JPMorgan

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[2] JPMorgan Chase does not assert an ownership interest in the Rabbi Trusts previously sponsored by H.F. Ahmanson and Co. Accordingly, the Ahmanson Rabbi Trusts' assets and related liabilities are not included in the definition of Rabbi Trusts for the purposes of this Complaint.

Chase under the P&A. To date, the Debtors have refused to acknowledge JPMorgan Chase's ownership of the Bank RabbiTrust assets in writing.

135. To determine with finality the ownership of the assets of the Legacy Rabbi Trusts, JPMorgan Chase requests that the Court enter an order declaring that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts, and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership of the assets to JPMorgan Chase and compel Debtors to cooperate in the transfer of them to JPMorgan Chase.

(ii) The Pension Plan and the 401(k) Plan

136. As of the Petition Date, WMI sponsored the WaMu Savings Plan, a tax qualified savings plan under section 401(k) of the Internal Revenue Code (the "401(k) Plan"), and a tax qualified cash balance pension plan, the WaMu Pension Plan (the "Pension Plan") (collectively, the "Plans"). In 2007, WMB booked an intercompany receivable of approximately $316 million payable by WMI to WMB, of which approximately $275 million is still owed to WMB.

137. While WMI was the sponsor of the Plans as of the Petition Date, nearly all of the employees covered by the Plans were employees of WMB or its subsidiaries, many of whom are now employed by JPMorgan Chase.

138. Employees who participate in the 401(k) Plan contribute a percentage of their pre-tax income to the 401(k) Plan. Prior to the Petition Date, WMB would then match a portion of participants' contributions and fund that amount directly or indirectly by making a payment to the trust associated with the 401(k) Plan, which was administered by Fidelity Management Trust Company. The 401(k) Plan is administered by an administration committee

and investments are overseen by an investment committee, whose members were appointed by WMI.

139. The Pension Plan is a defined benefit plan in which no employee contributions are required. Instead, required funding contributions were made by WMI and/or participating employers. As with the 401(k) Plan, the Pension Plan was administered, and investments were overseen, by individuals appointed by WMI. As of Petition Date, the Pension Plan had approximately 32,000 participants and assets valued at approximately $1 billion.

140. Since the Petition Date, WMI has refused to relinquish sponsorship of the Plans. Members of the committees for each plan have made all administrative and investment decisions. WMI has retained responsibility for making payments to participants in the Plans.

141. Since September 25, 2008, JPMorgan Chase has been seeking to assume the Plans to ensure that covered employees retain their benefits and interests under the Plans. In anticipation of sponsoring the Plans, JPMorgan Chase, for the benefit of former WMB employees currently employed by JPMorgan Chase, has continued to record accruals for the Pension Plan. JPMorgan Chase also has directed employee contributions into the 401(k) Plan and funded significant matching contributions.

142. WMB, not WMI, had the real economic interest in the Plans, having (i) incurred most of the pension and other expenses associated with the Pension Plan and funded the contributions for the 401(k) Plan and (ii) employed nearly all of the participants. As of the Petition Date, the Pension and 401(k) Plans were not material to WMI's business or reorganization because WMI, by its own account, had only a handful of employees as of the Petition Date and, even since the Petition Date, has added only a dozen or two additional former employees of WMB. Thus, JPMorgan Chase believed that that it would ultimately assume

sponsorship of the Plans.

143. The Debtors have nonetheless refused to allow JPMorgan Chase to assume the Plans. With respect to the Pension Plan, the Debtors' refusal appears to be based on the unfounded claim that the Pension Plan is over-funded and the desire to extract from JPMorgan Chase the purported over-funding as a condition to assuming sponsorship. There is no support for this assertion under fact, law (including the Employee Retirement Income Security Act of 1974, which likely would prevent such a recapture) or the P&A. JPMorgan Chase intends to assume and continue the Pension Plan and the sufficiency of the Pension Plan's assets to cover benefit obligations will continue to vary depending upon ongoing market and economic fluctuations that affect the value of plan assets, as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there is "over-funding" that is due to the Debtors today as a practical matter, under relevant law or pursuant to the P&A.

144. With respect to the 401(k) Plan, Debtors' position is even less well reasoned. Debtors cannot obtain any value from the 401(k) Plan or its termination because the assets belong to the employees. Likewise, there is no basis for Debtors' assertion that, in connection with assumption of the Plans, JPMorgan Chase should acquire litigation pending against WMI and certain individual officers and directors arising from their pre-petition alleged misconduct.

145. Debtors have no rational basis on which to retain sponsorship of the Plans given the pending Chapter 11 proceeding and JPMorgan Chase's repeated attempts to assume the sponsorship and to ensure that the participants and beneficiaries are protected on an ongoing basis. To avoid hardship to its employees, JPMorgan Chase has continued to accrue benefits and make contributions into the 401(k) Plan, while waiting for WMI to stop holding the participants

and their benefits hostage as the value of the assets in the Pension Plan has dropped. The decline in value of those assets may be of little moment to WMI since it no longer employs the participants and is a debtor in bankruptcy, but it does matter to others.

146. JPMorgan Chase seeks a determination that either (i) JPMorgan Chase be permitted immediately to assume sponsorship of the Plans without making payments to the Debtors that they have no right to demand; or (ii) the Debtors and their estates are responsible for, and must indemnify and hold JPMorgan Chase harmless for any liabilities due to the decline in value of the Pension Plan during this Chapter 11 case.

147. JPMorgan Chase further requests that this Court allow its administrative claims against the Debtors for (i) the amount of all contributions made from and after the Petition Date to the 401(k) Plan; and (ii) the amount by which the decline in the value of the assets in the Pension Plan from and after the Petition Date has resulted from WMI's inattention and failure properly to administer the Pension Plan assets. Finally, whatever the outcome of the sponsorship issue, the pending litigation matters are and should remain the responsibility of WMI and its estate and JPMC is entitled to be fully indemnified and held harmless for any and all claims related to the Pension and 401(k) Plans prior to the date upon which JPMC may assume their sponsorship.

148. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Plans, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of various of the employee benefits plans. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims and put ownership of

the plans and its liabilities at issue in that action.

H. Other Assets

(i) Company and Bank Owned Life Insurance Policies

149. JPMorgan Chase also seeks an order confirming that certain life insurance policies owned by WMB and the cash surrender value of which were reflected on the books and records of WMB as of September 25, 2008 are JPMorgan Chase's property and were purchased under the P&A. These life insurance policies are known as Bank Owned Life Insurance ("BOLI").

150. The BOLI policies are types of life insurance policies purchased by WMB (or a predecessor company) on the lives of employees. Under these types of plans, WMB paid the premiums on the insurance and was also the primary beneficiary of the policies. In the case of a split dollar policy, the insurance proceeds are split by both WMB (or a predecessor company) and the insured employee's designated beneficiary. WMB used these BOLI policies and split dollar policies as a tax-deferred way to fund the costs of various welfare plans, hedge deferred compensation arrangements and to provide insurance benefits to certain employees.

151. By letter dated November 7, 2008, a true and correct copy of which is attached as Exhibit K (the "Cease and Desist Letter"), counsel for the Debtors demanded that JPMorgan Chase cease exercising control over the BOLI policies on the ground that the Debtors believed they might have an ownership interest in those policies and demanded access to books and records regarding the BOLI policies. JPMorgan Chase complied with the demand in the Cease and Desist Letter in order to provide the Debtors with the information they requested. JPMorgan Chase and Debtor have provided each other with documentation establishing the ownership of each party in certain policy list bills. (*See* Exhibit L for list bills owned by

JPMorgan Chase.) Accordingly, each of the parties have exercised their respective ownership rights over the policies that they own.

152. There are two BOLI policies issued by Pacific Life list bills of 7675A and 7729A on which the Debtors and JPMorgan Chase could not reach agreement as to ownership (the "Pac Life List Bill Policies"). As between WMI and WMB, these BOLI policies are reflected on WMB's books and records and owned by WMB. WMB acquired the policies from a banking institution that merged with WMB and these policies were on the books of that institution at the time of the merger. The accounting records of WMB do not show a dividend of these policies to WMI or a purchase of these policies by WMI, the only lawful ways that these policies could have been acquired by WMI from WMB. However, the carrier has advised JPMorgan Chase that, according to the records of the carrier, Washington Mutual Revocable Trust, not WMB, is shown as the policy owner. Because Debtors have refused to acknowledge JPMorgan Chase's ownership of these policies, JPMorgan Chase has not taken any action with respect thereto. JPMorgan Chase requests that the Court determine that JPMorgan Chase acquired all right, title and interest in and to these policies under the P&A and that WMI has no interest in them. To the extent that the carrier's records reflect WMI as the policy owner, WMI has no more than bare legal title under Section 541(iv) of the Bankruptcy Code and JPMorgan Chase is entitled to a declaration that it, and not WMI, is the rightful owner of the policies.

153. The parties did not address and no action has been taken by JPMorgan Chase with respect to certain other policies, the cash surrender value of which is reflected on WMB's books and records as of September 25, 2008. These policies consist of ING Security Life List Bills E208090000 and E208090001 and approximately 955 Split Dollar policies issued by a number of carriers.

154. The ING Security Life policies were reflected on the books and records of American Savings Bank, F.A. when it merged into WMB and supported American Savings Bank's executive life insurance plan. These policies were reflected on WMB's books and records as of September 25, 2008 and therefore were acquired by JPMorgan Chase from the Receiver under the P&A. WMI has no legal, record, equitable or beneficial interest in any of these policies and no right to continue to interfere with JPMorgan Chase's administration of these policies.

155. As of the date of the P&A, the 955 Split Dollar policies were recorded on the books of WMB. These policies initially belonged to Commercial Capital Bancorp Inc. ("CCBI") when it was merged into WMB in April 2006 and were reflected on its books as of the date of the merger. Correspondence with the insurance carriers for these Split Dollar policies—Beneficial Life, Jefferson Pilot Financial, John Hancock, Massachusetts Mutual, Midland National, New York Life, Northwestern Mutual, Security Life of Denver, and West Coast Life—confirms that WMB was the owner of these policies as of September 25, 2008. Once again, there can be no legitimate dispute regarding JPMorgan Chase's ownership of these policies. WMI has no legal, record, equitable, or beneficial interest in any of these policies and no right to interfere with JPMorgan Chase's administration of these policies as they clearly are property of JPMorgan Chase acquired from the Receiver under the P&A.

156. Accordingly, JPMorgan Chase seeks a determination that it owns the BOLI policies and Split Dollar policies discussed above, along with an administrative claim for its damages, fees, costs, and expenses, including for any deterioration in the value of these policies during the administration of these cases.

157. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's

right, title and interest," in the BOLI policies and Split Dollar policies, pursuant to and in accordance with the FDI Act. On December 30, 2008, the Debtors nonetheless submitted a claim to the Receiver asserting, among other things, ownership of certain of these policies. On January 23, 2009, the Debtors' claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these policies. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

(ii) Visa Shares

158. WMB was the original WaMu Group member of Visa U.S.A. Inc. WMB fsb became a member on July 27, 1994, when it signed the Visa U.S.A Inc. Membership Agreement with Washington Mutual, a Federal Savings Bank (predecessor to WMB) serving as its sponsor. WMB conducted the Visa payment card business for WaMu Group, paid all service fees, and bore the risk of the Visa payment card business.

159. As part of Visa's restructuring and initial public offering, members of Visa U.S.A. were allocated shares of Class B common stock in Visa, Inc. The shares were allocated based on each member's ownership interest, which was calculated on the basis of service fees paid over a period of time.

160. The allocation of Class B shares and Visa's retrospective responsibility plan (the "Plan") are outlined in Visa, Inc.'s Prospectus dated March 18, 2008 (the "Final Prospectus") (filed with the U.S. Securities and Exchange Commission), as well as in certain transaction documents. Class B shares are subject to the restrictions and are encumbered by contingent liabilities. The Class B shares are convertible into Class A shares upon the satisfaction of certain conditions and pursuant to a conversion formula, all as described in Visa

Inc.'s Final Prospectus and certain related transaction documents.

161. Pursuant to the restructuring documents, Visa U.S.A. members have litigation indemnification obligations to Visa Inc. with respect to certain antitrust litigation (whether a named defendant or not) referred to in the transaction documents as "Covered Litigation." The Class B shares are restricted until the later of three years or the conclusion of all Covered Litigation. If shares remain at the conclusion of the Covered Litigation and after the passage of three years, the Class B shares may be converted to Class A shares.

162. In connection with and in furtherance of the restructuring, certain Visa U.S.A. members executed a Loss Sharing Agreement (the "LSA") and an Interchange Judgment Sharing Agreement (the "JSA"), each document is dated July 2007. Each agreement provides that its signatories will indemnify Visa Inc. for potential liabilities associated with the Covered Litigation whether the signatory is a named defendant or not. The obligation is limited to their Visa U.S.A. respective membership portions. WMB signed the JSA on July 2, 2007; WMI signed the LSA, which applied to all Covered Litigation, on July 2, 2007.

163. Indemnity obligations that may arise in connection with the Covered Litigation are to be funded by an escrow account established by Visa. The escrow was established with some proceeds of Visa Inc.'s initial public offering and, to the extent that the escrow must be replenished, through further dilution of the Class B common stock. If the funds contained in the escrow account (after continued Class B share dilution) prove insufficient to satisfy a Covered Litigation, the Final Prospectus as well as certain transaction documents, provide that in addition to the dilution of the Visa Class B shares, any shortfall is to be paid from the voting members' own funds in accordance with their respective ownership proportion. The foregoing is clearly set out in the Final Prospectus, as well as in the LSA and in other transaction

documents.

164. On October 2, 2007, a notice of pre-true up share allocation was sent to WMI, indicating that WaMu Group would be allocated 5,465,562 shares of Visa Inc. class USA common stock. Pursuant to a true-up procedure, on March 17, 2008, the share allocation was adjusted to 5,130,523 shares of Visa Class B common stock. In the course of the initial public offering, Visa Inc. redeemed some of the Class B Shares of its members and paid proceeds to the members. On March 28, 2008, after redemption and payment of proceeds, 3,147,059 shares of Visa Inc. Class B common stock (the "Visa shares") were allocated to WaMu Group.

165. JPMorgan Chase believes that the Visa shares were issued in the name of WMI consistent with Visa's general practice of issuing its stock to the holding company of its issuing bank members. The Visa shares were not in the name of the bank entity issuing the credit and/or debit payment cards, which entity had paid fees to Visa and also had responsibility for the gains and losses associated with being a card issuing Visa member.

166. The proceeds Visa paid to its members in the initial public offering were in the case of WaMu Group, distributed to WMB.

167. Although WMI may have received bare legal title from Visa upon distribution of the shares, WMB at all times remained, and was required by applicable regulations and law to be, the beneficial owner of the Visa shares.

168. The expense and reserve associated with the Covered Litigation were posted to WMB and recorded in the profit and loss statement at the WMB level. For example, in 2007, WMB recognized a guarantee liability of $50 million for the modified indemnification obligation that resulted from Visa's reorganization and initial public offering. According to publicly filed documents, therefore, WMB accounted for loss with respect to the Covered

Litigation which burdens the Visa shares. WMB was the beneficial owner of the Visa shares, ownership which passed to JPMorgan Chase as the successor to the Receiver under the P&A.

169. Debtors have refused to transfer title in the Visa shares to JPMorgan Chase. In WMI's Schedule of Assets and Liabilities, originally filed December 19, 2008, first amended on January 27, 2009 and then amended again on February 24, 2009, Debtors list approximately 5.4 million shares of Visa Inc. Class B stock as an asset of the estate in "Schedule B – Personal Property," Item 13.

170. Upon information and belief, WMI holds only 3.147 million Visa shares, which it received post-redemption.

171. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Visa shares, pursuant to and in accordance with the FDI Act. JPMorgan Chase seeks an order determining that the Visa shares in which WMI has bare legal title were owned by WMB are JPMorgan Chase's property and were purchased pursuant to the P&A.

(iii) Contracts, Intellectual Property and Other Intangible Assets

172. Prior to the Receivership, WMB was the primary operating subsidiary of WMI and both WMI and WMB had registered the trademarks "Washington Mutual" and the "W" logo ("Trademarks") and utilized the marks interchangeably in their operations, agreements and transactions.

173. Prior to the Receivership, a number of contracts and other counterparty transactions to lease property, perform services, deliver goods, license, develop or acquire software were entered into for the benefit of the banking operations formerly owned by WMB, now owned and operated by JPMorgan Chase (the "Vendor Contracts"), were bought or paid for

by WMB and were utilized extensively if not exclusively by WMB. Some of the Vendor Contracts include prepaid rights, incentives, rebates or developed software (all of the foregoing, together with the Trademarks and the Vendor Contracts, the "Intangible Assets").

174. As a result of the Receivership and the P&A, WMB's banking operations and subsidiaries no longer belong directly or indirectly to WMI. Vendors have, nonetheless, continued to provide goods and services under the Vendor Contracts. By order dated December 16, 2008, this Court authorized and approved a stipulation between the Debtors and JPMorgan Chase regarding certain of the Vendor Contracts (the "Vendor Stipulation"). The Vendor Stipulation, among other things, (i) facilitates the transfer of the services to JPMorgan Chase, (ii) requires JPMorgan Chase to pay for the services provided under those contracts until twenty days after notice of the rejection of a contract is given by JPMorgan Chase to the Debtors, thereby reducing or eliminating certain expenses of administration, and (iii) allows the Debtors to use any new contracts negotiated by JPMorgan Chase for such services to mitigate any damage claims filed by such vendors for rejection of their contracts.

175. While the Vendor Stipulation resolved a number of the outstanding issues and protected the estates against administrative liability, the Vendor Stipulation did not resolve issues regarding ownership of the Intangible Assets. There are a number of Intangible Assets which JPMorgan Chase believes were properly assets of WMB, not WMI, and which have not been resolved to date.

176. Any interest of WMI in these Intangible Assets consists of nothing more than bare legal title and all beneficial and equitable rights thereunder were WMB's and now belong to JPMorgan Chase as the successor to the Receiver under the P&A and Title 12. While WMI may have been the nominal contracting party for contracts entered by the WaMu Group

entities, WMB held all beneficial and equitable title and interest in each Intangible Asset. WMB paid for the Intangible Assets, recorded the Intangible Assets on its books, and interacted directly with the counterparties as the Intangible Assets supported WMB's business, now owned and operated by JPMorgan Chase. All payments and pre-payments on the Vendor Contracts and other Intangible Assets were made by WMB.

177. WMI's Schedule of Assets and Liabilities appears to assert ownership over a number of these Intangible Assets in Schedule G—Executory Contracts and Unexpired Leases.

178. As set forth in the P&A, JPMorgan Chase purchased "all of the Receiver's right, title and interest," in the Vendor Contracts, pursuant to and in accordance with the FDI Act. On December 30, 2008, WMI nonetheless submitted a claim to the Receiver asserting, among other things, an interest in certain of these contracts. On January 23, 2009, the WMI's claims were disallowed by the Receiver. The Receiver's disallowance is dispositive of the fact that the Debtors do not own these contracts. On March 20, 2009, the Debtors commenced the District Court Action with respect to the disallowance of their claims.

179. JPMorgan Chase is entitled to a declaration that it has all right, title and interest to these Intangible Assets or, in the alternative, JPMorgan Chase is entitled to a claim for the full amount of all damages it may suffer from the loss of these Intangible Assets and to exercise rights of offset and recoupment for that loss.

RELIEF REQUESTED BY JPMORGAN CHASE

TRUST SECURITIES

Count One: Trust Securities (Declaratory Judgment)

180. JPMorgan Chase realleges and incorporates by reference each and every

allegation set forth above, as though fully set forth herein.

181. As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it purchased the Trust Securities. The Debtors have disputed JPMorgan Chase's ownership of these assets in this bankruptcy case, in their Schedules and in the filing of the District Court Action.

182. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

183. JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the Trust Securities through the District Court Action it chose to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase.

Count Two: Trust Securities
(Breach of Contract)

184. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

185. WMI assumed a direct obligation to WMB upon entering into the Contribution Agreement to immediately contribute and transfer the Trust Securities to WMB following the conditional exchange. In the alternative, WMB was the third party beneficiary of WMI's commitment to the OTS and the FDIC under the Contribution Agreement. WMI also assumed a direct obligation to WMB pursuant to the Assignment Agreement.

186. To the extent the Assignment Agreement is interpreted as leaving WMI with anything other than bare legal title, WMI breached the Contribution Agreement. WMI further breached the Contribution Agreement and the Assignment Agreement by refusing to assist JPMorgan Chase in obtaining registered ownership of the Trust Securities.

187. JPMorgan Chase (as successor in interest to WMB), has suffered, and will suffer, substantial monetary damages as a proximate result of WMI's breach of the Contribution Agreement and the Assignment Agreement.

Count Three: Trust Securities
(Unjust Enrichment)

188. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

189. The Debtors would be unjustly enriched if they retained the Trust Securities. From the time of the creation of the Trust Securities, the Debtors benefited from the treatment of the Trust Securities as core capital, which permitted the Debtors to, among other things, satisfy regulatory requirements and report higher capital ratios.

190. Thus, to the extent the Court does not enter a declaratory judgment determining that the Trust Securities are assets purchased by and belonging to JPMorgan Chase, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value recognized by Debtors as a result of the treatment of the Trust Securities as core capital.

TAX REFUNDS

Count Four: Tax Refunds
(Declaratory Judgment)

191. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

192. As discussed above, JPMorgan Chase is the beneficial owner of tax refunds due to, and deductions generated by, the WaMu Group. JPMorgan Chase is also the beneficial owner of tax refunds already received by, and deductions taken by, WMI. The

Debtors dispute JPMorgan Chase's ownership of these refunds and deductions.

193. Furthermore, JPMorgan Chase should be permitted to communicate directly without restriction with the taxing authorities concerning ongoing tax matters affecting WMB and its subsidiaries. The Debtors have sought to prohibit JPMorgan Chase from engaging in these communications.

194. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

195. JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to the tax refunds and deduction through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that the tax refunds and deductions are assets purchased by and belonging to JPMorgan Chase.

Count Five: Tax Refunds
(Unjust Enrichment)

196. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

197. In the alternative, WMI would be unjustly enriched if it retained any tax refunds received on behalf of, or generated by, the WaMu Group that are attributable to tax attributes of WMB or its subsidiaries.

198. WMI received the tax refunds and deductions merely as agent for the WaMu Group. If WMI is permitted to retain the tax refunds, it will have received a windfall by receiving a refund on income tax paid by WMB (or its subsidiaries).

199. JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the tax refunds received by and/or deductions

recognized by WMI to which WMB is entitled.

200. Furthermore, any future tax refunds received by and/or deductions recognized by WMI as agent for the WaMu Group should be similarly deposited into the constructive trust for the benefit of JPMorgan Chase.

DISPUTED INTERCOMPANY AMOUNTS

Count Six: Disputed Funds (Declaratory Judgment: $3.7 Billion Book Entry Transfer)

201. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

202. WMI has asserted that the $3.7 Billion Book Entry Transfer creates a deposit liability owed to it by WMB fsb, now JPMorgan Chase. JPMorgan Chase disputes that there is a valid deposit liability due to Debtors as the result of the $3.7 Billion Book Entry Transfer.

203. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

204. JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the $3.7 Billion Book Entry Transfer through the District Court Action they elected to commence. In the alternative, JPMorgan Chase requests a declaratory judgment determining that there is no valid deposit liability due to Debtors as a result of the $3.7 Billion Book Entry Transfer.

Count Seven: Disputed Funds (Declaratory Judgment: Setoff, Recoupment, and Other Equitable Limitations)

205. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

206. To the extent that JPMC has any liabilities to Debtors, including deposit account liabilities, it is entitled to (i) recoup and or setoff all such amounts under the MBA Policy and/or any other applicable terms and conditions governing those liabilities or deposit accounts; (ii) imposition of a constructive trust for the amount of all such liabilities over any funds of Debtors it possesses; and (iii) enforce any security interest determined to apply to the funds of the Debtors. Debtors dispute that JPMorgan Chase has these rights.

207. The amounts owed to JPMorgan Chase include, but are not limited to, the at least approximately $234 million in tax refunds deposited in the Accounts and due to WMB, which the Debtors have claimed as their own, the intercompany receivables of $275 million due from WMI to WMB, and any amounts awarded by the Court under this Complaint.

208. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

209. JPMorgan Chase requests a declaratory judgment determining its right to setoff, recoupment, imposition of a constructive trust, and/or enforcement of its security interests.

Count Eight: Any Remaining Deposit Liabilities (Interpleader Pursuant to Bankruptcy Rule 7022)

210. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

211. Pursuant to the terms of the P&A, JPMorgan Chase, WMI, and the FDIC have asserted, or may assert, competing claims to any funds that constitute deposit liabilities and JPMorgan Chase may be exposed to double liability if it were to pay these claims to the wrong party.

212. JPMorgan Chase seeks to interplead any remaining funds that constitute

deposit liabilities pursuant to Bankruptcy Rule 7022, less any attorneys' fees and costs, so that all claims to the amounts can be adjudged and the funds can be properly disbursed.

GOODWILL LITIGATION

Count Nine: Goodwill Litigations (Declaratory Judgment)

213. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

214. There is an actual and substantial controversy between JPMorgan Chase and WMI as to whether WMI or WMB (as successor in interest to Anchor Savings Bank and American Savings Bank) is entitled to the Anchor and ASB Judgments and any future judgment entered in either litigation.

215. This is an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

216. JPMorgan Chase requests a declaratory judgment determining that WMB (and thus JPMorgan Chase as successor in interest) owns the beneficial interest in the Anchor and American Judgments and all monies paid on account of those judgments and directing payment of the Anchor and ASB Judgments, as well as any future judgment in either the *Anchor Savings Bank* or the *American Savings Bank* litigations, to JPMorgan Chase.

RABBI TRUSTS

Count Ten: Rabbi Trusts (Declaratory Judgment)

217. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

218. As set forth above, JPMorgan Chase contends that, pursuant to the P&A, it

purchased the Legacy Rabbi Trusts. The Debtors dispute JPMorgan Chase's ownership of these assets.

219. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

220. JPMorgan Chase requests a declaratory judgment determining that JPMorgan Chase purchased the assets of the Legacy Rabbi Trusts and an order authorizing JPMorgan Chase and the trustees of each of the Legacy Rabbi Trusts to take all actions necessary or appropriate to transfer ownership to JPMorgan Chase.

Count Eleven: Rabbi Trusts
(Unjust Enrichment)

221. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

222. In the alternative, in the event that this Court finds that JPMorgan Chase did not purchase the assets of the Legacy Rabbi Trusts, the Debtors would be unjustly enriched if they were allowed to retain the assets. The Debtors did not fund the Trusts and the assets were owned by WMB.

223. JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the assets of the Legacy Rabbi Trusts.

PENSION AND 401(K) PLANS

Count Twelve: Pension and 401(k) Plans
(Declaratory Judgment)

224. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

225. JPMorgan Chase stands ready, willing and able to assume the Pension and

401(k) Plans, and continues to record accruals for the Pension Plan and fund significant matching contributions to the 401(k) Plan in anticipation of doing so.

226. As set forth above, JPMorgan Chase contends that it may assume the Pension and 401(k) Plans in their entirety. The Debtors dispute this contention. Debtors assert that JPMorgan Chase is required to pay them an amount reflecting a purported "excess funding" in the Pension Plan. However, the Pension and 401(k) Plans will not be terminated if they are assumed by JPMorgan Chase. Rather, JPMorgan Chase would assume the Pension Plan on an ongoing basis without any termination but, instead, with the continuing obligation to pay accrued benefits. And, because the Pension Plan is continuing, the sufficiency of their assets to cover benefit obligations will continue to vary depending upon ongoing fluctuations in the value of plan assets as well as the interest rate used to discount liabilities. It therefore makes no sense to suggest that there exists some excess value to which Debtors are presently entitled as though the Pension Plan was being terminated with no further liabilities.

227. In addition, the Debtors have claimed that, in order to assume the Pension and 401(k) Plans, JPMorgan Chase must assume the liabilities associated with litigation against WMI and its officers and directors for their conduct in administrating the Pension and 401(k) Plans before the Petition Date. JPMorgan Chase does not have any obligation to assume these liabilities.

228. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

229. JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of any assets in any employee benefit plans through the District Court Action they elected to commence. Alternatively, JPMorgan Chase

requests a declaratory judgment determining that JPMorgan Chase may assume the Pension and 401(k) Plans without requiring it to forfeit any hypothetical over-funding to Debtors and without imposing liability for litigation that does not belong to JPMorgan Chase. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not permitted to assume the Pension and 401(k) Plans, it has no further liability to any person for any liabilities associated with those plans.

Count Thirteen: Pension and 401(k) Plans
(Unjust Enrichment)

230. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

231. In the alternative, in the event that this Court finds that JPMorgan Chase can only assume the Pension and 401(k) Plans by either paying the hypothetical excess funding or assuming pending litigation liabilities upon assumption of the Pension and 401(k) Plans, and JPMorgan Chase does not assume the Pension and 401(k) Plans, the Debtors would be unjustly enriched by benefiting through JPMorgan Chase's contributions to the 401(k) Plan that were made in the expectation that it would be able to assume the 401(k) Plan pursuant to the P&A. Debtors and JPMorgan Chase understood that JPMorgan Chase was making these payments in anticipation of assumption of the plans.

232. The Debtors would unjustly realize a windfall from the circumstances alleged herein if they do not reimburse JPMorgan Chase for the funds contributed to the 401(k) and resources it allocated to the Plans, which Debtors (or another party) would have needed to contribute if JPMorgan Chase had not done so. The Debtors did not contribute any of these funds or resources relating to the post-September 25, 2008 operation of the Pension and 401(k) Plans and have no right to them.

233. By reason of the foregoing, a post-petition constructive trust should be imposed on the Debtors in the full amount necessary to reimburse JPMorgan Chase for the amounts it contributed to the 401(k) Plan.

BANK OWNED LIFE INSURANCE POLICIES

Count Fourteen: Life Insurance Policies (Declaratory Judgment)

234. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

235. As set forth above, there is an actual and substantial controversy between JPMorgan Chase and the Debtors. JPMorgan Chase contends that, pursuant to the P&A, it purchased the BOLI policies and Split Dollar policies referenced above. The Debtors appear to contend to the contrary.

236. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

237. JPMorgan Chase requests a declaratory judgment finding that Debtors must proceed with any claim to assert ownership of or interest in the BOLI Policies and Split Dollar policies through the District Court Action they elected to commence. Alternatively, JPMorgan Chase requests a declaratory judgment determining that the BOLI policies and Split Dollar policies are assets purchased by and belonging to JPMorgan Chase.

Count Fifteen: Life Insurance Policies (Unjust Enrichment)

238. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

239. In the alternative, in the event that this Court finds that JPMorgan Chase

did not purchase the BOLI policies and Split Dollar policies, the Debtors would be unjustly enriched if they were allowed to retain the policies. The Debtors were never the policyholders for the BOLI policies and Split Dollar policies. Accordingly, they have no right to the BOLI policies and Split Dollar policies and would unjustly realize a windfall from the circumstances alleged herein if they are permitted to retain the BOLI policies and Split Dollar policies.

240. JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of the BOLI policies and Split Dollar policies.

VISA SHARES

Count Sixteen: Visa Shares (Declaratory Judgment)

241. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

242. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

243. JPMorgan Chase requests a declaratory judgment determining that the Visa shares are assets purchased by and belonging to JPMorgan Chase. In the alternative, if the Court should determine that the Visa shares are assets belonging to the Debtors, JPMorgan Chase requests a declaratory judgment determining that Debtors assume the full liabilities associated with the Visa Inc. restructuring and initial public offering in which those shares were issued by requiring that the Debtors pay and discharge any Covered Litigation obligation not satisfied by the Visa shares.

Count Seventeen: Visa Shares
(Unjust Enrichment)

244. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

245. The Debtors would be unjustly enriched if they retained title to the Visa shares.

246. If the Debtors are permitted to retain the Visa shares without bearing full liability associated with the reorganization and creation of the asset, they will incur a windfall if and to the extent JPMorgan Chase is responsible for any Covered Litigation shortfall relating to the Visa shares.

247. Thus, to the extent the Court does not enter a declaratory judgment protecting JPMorgan Chase from any such liabilities, JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase over any Visa shares remaining after satisfaction of obligations related to the Covered Litigation.

INTANGIBLE ASSETS

Count Eighteen: Intangible Assets
(Declaratory Judgment)

248. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

249. As set forth above, JPMorgan Chase contends that, pursuant to the P&A and Title 12, it owns the Intangible Assets. The Debtors dispute this.

250. There is thus an actual controversy that is of sufficient immediacy to warrant judicial relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

251. JPMorgan Chase requests a declaratory judgment determining that

JPMorgan Chase is the owner of the Intangible Assets. In the alternative, JPMorgan Chase requests a declaratory judgment determining that, if it is not the owner of the Intangible Assets, it has no liability to any person for any liabilities associated with those Intangible Assets.

Count Nineteen: Intangible Assets
(Unjust Enrichment)

252. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

253. In the alternative, in the event that this Court finds that JPMorgan Chase does not own the Intangible Assets, the Debtors would be unjustly enriched if they were allowed to retain the Intangible Assets or were not ordered to repay JPMorgan Chase for amounts paid by WMB in connection with the Intangible Assets.

254. JPMorgan Chase requests that the Court establish a constructive trust for the benefit of JPMorgan Chase consisting of the value of Intangible Assets.

ADMINISTRATIVE CLAIM

Count Twenty: Administrative Expenses

255. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

256. To the extent the Court accepts WMI's claims of ownership of any of the Pension and 401(k) Plans or other assets and JPMorgan Chase has made payments and incurred expenses in connection with these assets, JPMorgan Chase is entitled to reimbursement from Debtors of all post-petition expenses it has incurred and payments it has made on account of those assets.

257. To the extent JPMorgan Chase incurs any liability or suffers any loss as the result of conduct by Debtors after the Petition Date, including conduct by the Debtors as the

sponsor of any of the Pension and 401(k) Plans, JPMorgan Chase is entitled to post-petition administrative claim for those amounts.

INDEMNIFICATION

Count Twenty-One: Indemnification

258. JPMorgan Chase realleges and incorporates by reference each and every allegation set forth above, as though fully set forth herein.

259. Claims have been threatened against JPMC arising out of or relating to the acts, omissions or conduct of Debtors prior to the Petition Date. To the extent that any claim is asserted against JPMC as a result of such matters, JPMC is entitled to be indemnified and held harmless by the Debtors for any loss, damage or liability they might incur.

PRAYER FOR RELIEF

WHEREFORE, plaintiff JPMorgan Chase respectfully requests that this Court grant judgment:

(i) declaring that the legal title and all beneficial interest in each of the assets described in this Complaint belong to JPMorgan Chase;

(ii) ordering WMI to deliver the assets to JPMorgan Chase;

(iii) ordering WMI to take steps to allow, and where appropriate, direct third parties to act in accordance with JPMorgan Chase's ownership of its assets;

(iv) awarding JPMorgan Chase damages as a result of Debtors' failure to transfer, or facilitate the transfer of, assets JPMorgan Chase acquired under the P&A;

(v) ordering Debtors to indemnify JPMorgan Chase for any losses JPMC incurs as a result of Debtors' pre-petition actions;

(vi) awarding JPMorgan Chase damages for losses resulting from Debtors' post-petition actions, including the Debtors' failure to deliver the Pension and 401(k) Plans and other assets to JPMorgan Chase;

(vii) granting JPMorgan Chase an administrative claim for amounts paid into or on account of the Pension and 401(k) Plans and other assets;

(viii) requiring Debtors to reimburse JPMorgan Chase for all amounts by which they have been unjustly enriched;

(ix) determining that JPMorgan Chase is entitled to setoff, recoup, or impose a lien against any liabilities that JPMC may owe to Debtors, for all amounts JPMC may be entitled to under this Complaint;

(x) determining that any and all interested persons, entities or agencies are restrained from instituting any actions against JPMC for recovery of any amounts being interplead with the Court;

(xi) determining that JPMC be discharged from any and all liability with regard to claims to the interplead funds;

(xii) awarding JPMorgan Chase, to the extent permissible, pre-judgment interest and punitive damages;

(xiii) awarding JPMorgan Chase its attorney's fees and costs; and

(xiv) awarding JPMorgan Chase such other and further relief as this Court deems just and proper.

Dated: March 24, 2009
Wilmington, Delaware

Respectfully submitted,

Adam G. Landis w/permission MBM #4366

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EXHIBIT A

PURCHASE AND ASSUMPTION AGREEMENT

WHOLE BANK

AMONG

FEDERAL DEPOSIT INSURANCE CORPORATION,
RECEIVER OF WASHINGTON MUTUAL BANK,
HENDERSON, NEVADA

FEDERAL DEPOSIT INSURANCE CORPORATION

and

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

DATED AS OF

SEPTEMBER 25, 2008

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PURCHASE AND ASSUMPTION AGREEMENT

WHOLE BANK

THIS AGREEMENT, made and entered into as of the 25th day of September, 2008, by and among the **FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER of WASHINGTON MUTUAL BANK, HENDERSON, NEVADA** (the "Receiver"), **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, organized under the laws of the United States of America, and having its principal place of business in Seattle, Washington (the "Assuming Bank"), and the **FEDERAL DEPOSIT INSURANCE CORPORATION**, organized under the laws of the United States of America and having its principal office in Washington, D.C., acting in its corporate capacity (the "Corporation").

WITNESSETH:

WHEREAS, on Bank Closing, the Chartering Authority closed Washington Mutual Bank (the "Failed Bank") pursuant to applicable law and the Corporation was appointed Receiver thereof; and

WHEREAS, the Assuming Bank desires to purchase substantially all of the assets and assume all deposit and substantially all other liabilities of the Failed Bank on the terms and conditions set forth in this Agreement; and

WHEREAS, pursuant to 12 U.S.C. Section 1823(c)(2)(A), the Corporation may provide assistance to the Assuming Bank to facilitate the transactions contemplated by this Agreement, which assistance may include indemnification pursuant to Article XII; and

WHEREAS, the Board of Directors of the Corporation (the "Board") has determined to provide assistance to the Assuming Bank on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, the Board has determined pursuant to 12 U.S.C. Section 1823(c)(4)(A) that such assistance is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in the Failed Bank and is the least costly to the deposit insurance fund of all possible methods for meeting such obligation.

NOW THEREFORE, in consideration of the mutual promises herein set forth and other valuable consideration, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Capitalized terms used in this Agreement shall have the meanings set forth in this Article I, or elsewhere in this Agreement. As used herein, words imparting the singular include the plural and vice versa.

"**Accounting Records**" means the general ledger and subsidiary ledgers and supporting schedules which support the general ledger balances.

"**Acquired Subsidiaries**" means Subsidiaries of the Failed Bank acquired pursuant to Section 3.1.

"**Adversely Classified**" means, with respect to any Loan or security, a Loan or security which has been designated in the most recent report of examination as "Substandard," "Doubtful" or "Loss" by the Failed Bank's appropriate Federal or State Chartering Authority or regulator.

"**Affiliate**" of any Person means any director, officer, or employee of that Person and any other Person (i) who is directly or indirectly controlling, or controlled by, or under direct or indirect common control with, such Person, or (ii) who is an affiliate of such Person as the term "affiliate" is defined in Section 2 of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. Section 1841.

"**Agreement**" means this Purchase and Assumption Agreement by and among the Assuming Bank, the Corporation and the Receiver, as amended or otherwise modified from time to time.

"**Assets**" means all assets of the Failed Bank purchased pursuant to Section 3.1. Assets owned by Subsidiaries of the Failed Bank are not "Assets" within the meaning of this definition.

"**Assumed Deposits**" means Deposits.

"**Bank Closing**" means the close of business of the Failed Bank on the date on which the Chartering Authority closed such institution.

"**Bank Premises**" means the banking houses, drive-in banking facilities, and teller facilities (staffed or automated) together with appurtenant parking, storage and service facilities and structures connecting remote facilities to banking houses, and land on which the foregoing are located, that are owned or leased by the Failed Bank and that are occupied by the Failed Bank as of Bank Closing.

"**Bid Amount**" has the meaning provided in Article VII.

"**Book Value**" means, with respect to any Asset and any Liability Assumed, the dollar amount thereof stated on the Accounting Records of the Failed Bank. The Book Value of any item shall be determined as of Bank Closing after adjustments made by the Assuming Bank for normal operational and timing differences in accounts, suspense items, unposted debits and credits, and other similar adjustments or corrections and for setoffs, whether voluntary or involuntary. The Book Value of a Subsidiary of the Failed Bank acquired by the Assuming Bank shall be determined from the investment in subsidiary and related accounts on the "bank only" (unconsolidated) balance sheet of the Failed Bank based on the equity method of accounting. Without limiting the generality of the foregoing, (i) the Book Value of a Liability Assumed shall include all accrued and unpaid interest thereon as of Bank Closing, and (ii) the Book Value of a Loan shall reflect adjustments for earned interest, or unearned interest (as it relates to the "rule of 78s" or add-on-interest loans, as applicable), if any, as of Bank Closing, adjustments for the portion of earned or unearned loan-related credit life and/or disability insurance premiums, if any, attributable to the Failed Bank as of Bank Closing, and adjustments for Failed Bank Advances, if any, in each case as determined for financial reporting purposes. The Book Value of an Asset shall not include any adjustment for loan premiums, discounts or any related deferred income or fees, or general or specific reserves on the Accounting Records of the Failed Bank.

"**Business Day**" means a day other than a Saturday, Sunday, Federal legal holiday or legal holiday under the laws of the State where the Failed Bank is located, or a day on which the principal office of the Corporation is closed.

"**Chartering Authority**" means (i) with respect to a national bank, the Office of the Comptroller of the Currency, (ii) with respect to a Federal savings association or savings bank, the Office of Thrift Supervision, (iii) with respect to a bank or savings institution chartered by a State, the agency of such State charged with primary responsibility for regulating and/or closing banks or savings institutions, as the case may be, (iv) the Corporation in accordance with 12 U.S.C. Section 1821(c), with regard to self appointment, or (v) the appropriate Federal banking agency in accordance with 12 U.S.C. 1821(c)(9).

"**Commitment**" means the unfunded portion of a line of credit or other commitment reflected on the books and records of the Failed Bank to make an extension of credit (or additional advances with respect to a Loan) that was legally binding on the Failed Bank as of Bank Closing, other than extensions of credit pursuant to the credit card business and overdraft protection plans of the Failed Bank, if any.

"**Credit Documents**" mean the agreements, instruments, certificates or other documents at any time evidencing or otherwise relating to, governing or executed in connection with or as security for, a Loan, including without limitation notes, bonds, loan agreements, letter of credit applications, lease financing contracts, banker's acceptances, drafts, interest protection agreements, currency exchange agreements, repurchase agreements, reverse repurchase agreements, guarantees, deeds of trust, mortgages, assignments, security agreements, pledges, subordination or priority agreements, lien priority agreements, undertakings, security instruments, certificates, documents, legal opinions, participation agreements and intercreditor agreements, and all amendments, modifications, renewals, extensions, rearrangements, and substitutions with respect to any of the foregoing.

"**Credit File**" means all Credit Documents and all other credit, collateral, or insurance documents in the possession or custody of the Assuming Bank, or any of its Subsidiaries or Affiliates, relating to an Asset or a Loan included in a Put Notice, or copies of any thereof.

"**Data Processing Lease**" means any lease or licensing agreement, binding on the Failed Bank as of Bank Closing, the subject of which is data processing equipment or computer hardware or software used in connection with data processing activities. A lease or licensing agreement for computer software used in connection with data processing activities shall constitute a Data Processing Lease regardless of whether such lease or licensing agreement also covers data processing equipment.

"**Deposit**" means a deposit as defined in 12 U.S.C. Section 1813(l), including without limitation, outstanding cashier's checks and other official checks and all uncollected items included in the depositors' balances and credited on the books and records of the Failed Bank; provided, that the term "Deposit" shall not include all or any portion of those deposit balances which, in the discretion of the Receiver or the Corporation, (i) may be required to satisfy it for any liquidated or contingent liability of any depositor arising from an unauthorized or unlawful transaction, or (ii) may be needed to provide payment of any liability of any depositor to the Failed Bank or the Receiver, including the liability of any depositor as a director or officer of the Failed Bank, whether or not the amount of the liability is or can be determined as of Bank Closing.

"**Failed Bank Advances**" means the total sums paid by the Failed Bank to (i) protect its lien position, (ii) pay ad valorem taxes and hazard insurance, and (iii) pay credit life insurance, accident and health insurance, and vendor's single interest insurance.

"**Fixtures**" means those leasehold improvements, additions, alterations and installations constituting all or a part of Bank Premises and which were acquired, added, built, installed or purchased at the expense of the Failed Bank, regardless of the holder of legal title thereto as of Bank Closing.

"**Furniture and Equipment**" means the furniture and equipment (other than leased data processing equipment, including hardware and software), leased or owned by the Failed Bank and reflected on the books of the Failed Bank as of Bank Closing, including without limitation automated teller machines, carpeting, furniture, office machinery (including personal computers), shelving, office supplies, telephone, surveillance and security systems, and artwork.

"**Indemnitees**" means, except as provided in paragraph (11) of Section 12.1(b), (i) the Assuming Bank, (ii) the Subsidiaries and Affiliates of the Assuming Bank other than any Subsidiaries or Affiliates of the Failed Bank that are or become Subsidiaries or Affiliates of the Assuming Bank, and (iii) the directors, officers, employees and agents of the Assuming Bank and its Subsidiaries and Affiliates who are not also present or former directors, officers, employees or agents of the Failed Bank or of any Subsidiary or Affiliate of the Failed Bank.

"**Initial Payment**" means the payment made pursuant to Article VII, the amount of which shall be either (i) if the Bid Amount is positive, the Bid Amount plus the Required Payment or (ii) if the Bid Amount is negative, the Required Payment minus the Bid Amount. The Initial Payment shall be payable by the Corporation to the Assuming Bank if the Initial Payment is a negative amount. The Initial Payment shall be payable by the Assuming Bank to the Corporation if the Initial Payment is positive.

"**Legal Balance**" means the amount of indebtedness legally owed by an Obligor with respect to a Loan, including principal and accrued and unpaid interest, late fees, attorneys' fees and expenses, taxes, insurance premiums, and similar charges, if any.

"**Liabilities Assumed**" has the meaning provided in Section 2.1.

"**Lien**" means any mortgage, lien, pledge, charge, assignment for security purposes, security interest, or encumbrance of any kind with respect to an Asset, including any conditional sale agreement or capital lease or other title retention agreement relating to such Asset.

"**Loans**" means all of the following owed to or held by the Failed Bank as of Bank Closing:

(i) loans (including loans which have been charged off the Accounting Records of the Failed Bank in whole or in part prior to Bank Closing), participation agreements, interests in participations, overdrafts of customers (including but not limited to overdrafts made pursuant to an overdraft protection plan or similar extensions of credit in connection with a deposit account), revolving commercial lines of credit, home equity lines of credit, Commitments, United States and/or State-guaranteed student loans, and lease financing contracts;

(ii) all Liens, rights (including rights of set-off), remedies, powers, privileges, demands, claims, priorities, equities and benefits owned or held by, or accruing or to accrue to or for the benefit of, the holder of the obligations or instruments referred to in clause (i) above, including but not limited to those arising under or based upon Credit Documents, casualty insurance policies and binders, standby letters of credit, mortgagee title insurance policies and binders, payment bonds and performance bonds at any time and from time to time existing with respect to any of the obligations or instruments referred to in clause (i) above; and

(iii) all amendments, modifications, renewals, extensions, refinancings, and refundings of or for any of the foregoing;

provided, that there shall be excluded from the definition of "Loans" amounts owing under Qualified Financial Contracts.

"**Obligor**" means each Person liable for the full or partial payment or performance of any Loan, whether such Person is obligated directly, indirectly, primarily, secondarily, jointly, or severally.

"**Other Real Estate**" means all interests in real estate (other than Bank Premises and Fixtures), including but not limited to mineral rights, leasehold rights, condominium and cooperative interests, air rights and development rights that are owned by the Failed Bank.

"**Payment Date**" means the first Business Day after Bank Closing.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof, excluding the Corporation.

"**Primary Indemnitor**" means any Person (other than the Assuming Bank or any of its Affiliates) who is obligated to indemnify or insure, or otherwise make payments (including payments on account of claims made against) to or on behalf of any Person in connection with the claims covered under Article XII, including without limitation any insurer issuing any directors and officers liability policy or any Person issuing a financial institution bond or banker's blanket bond.

"**Proforma**" means producing a balance sheet that reflects a reasonably accurate financial statement of the Failed Bank through the date of closing. The Proforma financial statements serve as a basis for the opening entries of both the Assuming Bank and the Receiver.

"**Put Date**" has the meaning provided in Section 3.4.

"**Put Notice**" has the meaning provided in Section 3.4.

"**Qualified Financial Contract**" means a qualified financial contract as defined in 12 U.S.C. Section 1821(e)(8)(D).

"**Record**" means any document, microfiche, microfilm and computer records (including but not limited to magnetic tape, disc storage, card forms and printed copy) of the Failed Bank generated or maintained by the Failed Bank that is owned by or in the possession of the Receiver at Bank Closing.

"**Related Liability**" with respect to any Asset means any liability existing and reflected on the Accounting Records of the Failed Bank as of Bank Closing for (i) indebtedness secured by mortgages, deeds of trust, chattel mortgages, security interests or other liens on or affecting such Asset, (ii) ad valorem taxes applicable to such Asset, and (iii) any other obligation determined by the Receiver to be directly related to such Asset.

"**Related Liability Amount**" with respect to any Related Liability on the books of the Assuming Bank, means the amount of such Related Liability as stated on the Accounting Records of the Assuming Bank (as maintained in accordance with generally accepted accounting principles) as of the date as of which the Related Liability Amount is being determined. With respect to a liability that relates to more than one asset, the amount of such Related Liability shall be allocated among such assets for the purpose of determining the Related Liability Amount with

respect to any one of such assets. Such allocation shall be made by specific allocation, where determinable, and otherwise shall be pro rata based upon the dollar amount of such assets stated on the Accounting Records of the entity that owns such asset.

"**Required Payment**" means $50,000,000.00.

"**Repurchase Price**" means with respect to any Asset or asset, which shall be determined by the Receiver, the lesser of (a) or (b):

(a) (i) in the event of a negative Bid Amount, the amount paid by the Assuming Bank, discounted by a percentage equal to the quotient produced by dividing the Assuming Bank's Bid Amount by the aggregate Book Value of the Risk Assets of the Failed Bank;

(ii) in the event of a negative Bid Amount, the amount resulting from (a)(i), above, or in the event of a positive Bid Amount, the amount paid by the Assuming Bank, (x) for a Loan, shall be decreased by any portion of the Loan classified "loss" and by one-half of any portion of the Loan classified "doubtful" as of the date of Bank Closing, and (y) for any Asset or asset, including a Loan, decreased by the amount of any money received with respect thereto since Bank Closing and, if the Asset is a Loan or other interest bearing or earning asset, the resulting amount shall then be increased or decreased, as the case may be, by interest or discount (whichever is applicable) accrued from and after Bank Closing at the lower of: (i) the contract rate with respect to such Asset, or (ii) the Settlement Interest Rate; net proceeds received by or due to the Assuming Bank from the sale of collateral, any forgiveness of debt, or otherwise shall be deemed money received by the Assuming Bank; or

(b) the dollar amount thereof stated on the Accounting Records of the Assuming Bank as of the date as of which the Repurchase Price is being determined, as maintained in accordance with generally accepted accounting principles, and, if the asset is a Loan, regardless of the Legal Balance thereof and adjusted in the same manner as the Book Value of a Failed Bank Loan would be adjusted hereunder.

Provided, however, (b), above, shall not be applicable and the Bid Amount shall be considered to have been positive for Loans repurchased pursuant to Section 3.4(a).

"**Risk Assets**" means (i) all Loans purchased hereunder, excluding (a) New Loans and (b) Loans to the extent secured by Assumed Deposits (and not included in (i)(a)), plus (ii) the Accrued Interest Receivable, Prepaid Expense, and Other Assets.

"**Safe Deposit Boxes**" means the safe deposit boxes of the Failed Bank, if any, including the removable safe deposit boxes and safe deposit stacks in the Failed Bank's vault(s), all rights and benefits (other than fees collected prior to Bank Closing) under rental agreements with respect to such safe deposit boxes, and all keys and combinations thereto.

"**Settlement Date**" means the first Business Day immediately prior to the day which is one hundred eighty (180) days after Bank Closing, or such other date prior thereto as

may be agreed upon by the Receiver and the Assuming Bank. The Receiver, in its discretion, may extend the Settlement Date.

"**Settlement Interest Rate**" means, for the first calendar quarter or portion thereof during which interest accrues, the rate determined by the Receiver to be equal to the equivalent coupon issue yield on twenty-six (26)-week United States Treasury Bills in effect as of Bank Closing as published in The Wall Street Journal; provided, that if no such equivalent coupon issue yield is available as of Bank Closing, the equivalent coupon issue yield for such Treasury Bills most recently published in The Wall Street Journal prior to Bank Closing shall be used. Thereafter, the rate shall be adjusted to the rate determined by the Receiver to be equal to the equivalent coupon issue yield on such Treasury Bills in effect as of the first day of each succeeding calendar quarter during which interest accrues as published in The Wall Street Journal.

"**Subsidiary**" has the meaning set forth in Section 3(w)(4) of the Federal Deposit Insurance Act, 12 U.S.C. Section 1813(w)(4), as amended.

ARTICLE II
ASSUMPTION OF LIABILITIES

2.1 Liabilities Assumed by Assuming Bank. Subject to Sections 2.5 and 4.8, the Assuming Bank expressly assumes at Book Value (subject to adjustment pursuant to Article VIII) and agrees to pay, perform, and discharge, all of the liabilities of the Failed Bank which are reflected on the Books and Records of the Failed Bank as of Bank Closing, including the Assumed Deposits and all liabilities associated with any and all employee benefit plans, except as listed on the attached Schedule 2.1, and as otherwise provided in this Agreement (such liabilities referred to as "Liabilities Assumed"). Notwithstanding Section 4.8, the Assuming Bank specifically assumes all mortgage servicing rights and obligations of the Failed Bank.

2.2 Interest on Deposit Liabilities. The Assuming Bank agrees that it will assume all deposit contracts as of Bank Closing, and it will accrue and pay interest on Deposit liabilities assumed pursuant to Section 2.1 at the same rate(s) and on the same terms as agreed to by the Failed Bank as existed as of Bank Closing. If such Deposit has been pledged to secure an obligation of the depositor or other party, any withdrawal thereof shall be subject to the terms of the agreement governing such pledge.

2.3 Unclaimed Deposits. If, within eighteen (18) months after Bank Closing, any depositor of the Failed Bank does not claim or arrange to continue such depositor's Deposit assumed pursuant to Section 2.1 at the Assuming Bank, the Assuming Bank shall, within fifteen (15) Business Days after the end of such eighteen (18)-month period, (i) refund to the Corporation the full amount of each such Deposit (without reduction for service charges), (ii) provide to the Corporation an electronic schedule of all such refunded Deposits in such form as may be prescribed by the Corporation, and (iii) assign, transfer, convey and deliver to the Receiver all right, title and interest of the Assuming Bank in and to Records previously transferred to the Assuming Bank and other records generated or maintained by the Assuming Bank pertaining to such Deposits. During such eighteen (18)-month period, at the request of the

Corporation, the Assuming Bank promptly shall provide to the Corporation schedules of unclaimed deposits in such form as may be prescribed by the Corporation.

2.4 **Omitted**.

2.5 **Borrower Claims.** Notwithstanding anything to the contrary in this Agreement, any liability associated with borrower claims for payment of or liability to any borrower for monetary relief, or that provide for any other form of relief to any borrower, whether or not such liability is reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, judicial or extra-judicial, secured or unsecured, whether asserted affirmatively or defensively, related in any way to any loan or commitment to lend made by the Failed Bank prior to failure, or to any loan made by a third party in connection with a loan which is or was held by the Failed Bank, or otherwise arising in connection with the Failed Bank's lending or loan purchase activities are specifically not assumed by the Assuming Bank.

ARTICLE III
PURCHASE OF ASSETS

3.1 **Assets Purchased by Assuming Bank**. Subject to Sections 3.5, 3.6 and 4.8, the Assuming Bank hereby purchases from the Receiver, and the Receiver hereby sells, assigns, transfers, conveys, and delivers to the Assuming Bank, all right, title, and interest of the Receiver in and to all of the assets (real, personal and mixed, wherever located and however acquired) including all subsidiaries, joint ventures, partnerships, and any and all other business combinations or arrangements, whether active, inactive, dissolved or terminated, of the Failed Bank whether or not reflected on the books of the Failed Bank as of Bank Closing. Assets are purchased hereunder by the Assuming Bank subject to all liabilities for indebtedness collateralized by Liens affecting such Assets to the extent provided in Section 2.1. The subsidiaries, joint ventures, partnerships, and any and all other business combinations or arrangements, whether active, inactive, dissolved or terminated being purchased by the Assuming Bank includes, but is not limited to, the entities listed on Schedule 3.1a. Notwithstanding Section 4.8, the Assuming Bank specifically purchases all mortgage servicing rights and obligations of the Failed Bank.

3.2 **Asset Purchase Price**.

(a) All Assets and assets of the Failed Bank subject to an option to purchase by the Assuming Bank shall be purchased for the amount, or the amount resulting from the method specified for determining the amount, as specified on Schedule 3.2, except as otherwise may be provided herein. Any Asset, asset of the Failed Bank subject to an option to purchase or other asset purchased for which no purchase price is specified on Schedule 3.2 or otherwise herein shall be purchased at its Book Value. Loans or other assets charged off the Accounting Records of the Failed Bank prior to the date of Bank Closing shall be purchased at a price of zero.

(b) The purchase price for securities (other than the capital stock of any Acquired Subsidiary) purchased under Section 3.1 by the Assuming Bank shall be the market value thereof as of Bank Closing, which market value shall be (i) the "Mid/Last", or "Trade" (as applicable), market price for each such security quoted at the close of the trading day effective on Bank Closing as published electronically by Bloomberg, L.P.; (ii) provided, that if such market price is not available for any such security, the Assuming Bank will submit a bid for each such security within three days of notification/bid request by the Receiver (unless a different time period is agreed to by the Assuming Bank and the Receiver) and the Receiver, in its sole discretion will accept or reject each such bid; and (iii) further provided in the absence of an acceptable bid from the Assuming Bank, each such security shall not pass to the Assuming Bank and shall be deemed to be an excluded asset hereunder.

(c) Qualified Financial Contracts shall be purchased at market value determined in accordance with the terms of Exhibit 3.2(c). Any costs associated with such valuation shall be shared equally by the Receiver and the Assuming Bank.

3.3 Manner of Conveyance; Limited Warranty; Nonrecourse; Etc. THE CONVEYANCE OF ALL ASSETS, INCLUDING REAL AND PERSONAL PROPERTY INTERESTS, PURCHASED BY THE ASSUMING BANK UNDER THIS AGREEMENT SHALL BE MADE, AS NECESSARY, BY RECEIVER'S DEED OR RECEIVER'S BILL OF SALE, "AS IS", "WHERE IS", WITHOUT RECOURSE AND, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, WITHOUT ANY WARRANTIES WHATSOEVER WITH RESPECT TO SUCH ASSETS, EXPRESS OR IMPLIED, WITH RESPECT TO TITLE, ENFORCEABILITY, COLLECTIBILITY, DOCUMENTATION OR FREEDOM FROM LIENS OR ENCUMBRANCES (IN WHOLE OR IN PART), OR ANY OTHER MATTERS.

3.4 Puts of Assets to the Receiver.

(a) **Omitted.**

(b) **Puts Prior to the Settlement Date.** During the period from Bank Closing to and including the Business Day immediately preceding the Settlement Date, the Assuming Bank shall be entitled to require the Receiver to purchase any Asset which the Assuming Bank can establish is evidenced by forged or stolen instruments as of Bank Closing. The Assuming Bank shall transfer all such Assets to the Receiver without recourse, and shall indemnify the Receiver against any and all claims of any Person claiming by, through or under the Assuming Bank with respect to any such Asset, as provided in Section 12.4.

(c) **Notices to the Receiver.** In the event that the Assuming Bank elects to require the Receiver to purchase one or more Assets, the Assuming Bank shall deliver to the Receiver a notice (a "Put Notice") which shall include:

(i) a list of all Assets that the Assuming Bank requires the Receiver to purchase;

(ii) a list of all Related Liabilities with respect to the Assets identified pursuant to (i) above; and

(iii) a statement of the estimated Repurchase Price of each Asset identified pursuant to (i) above as of the applicable Put Date.

Such notice shall be in the form prescribed by the Receiver or such other form to which the Receiver shall consent. As provided in Section 9.6, the Assuming Bank shall deliver to the Receiver such documents, Credit Files and such additional information relating to the subject matter of the Put Notice as the Receiver may request and shall provide to the Receiver full access to all other relevant books and records.

(d) **Purchase by Receiver**. The Receiver shall purchase Loans that are specified in the Put Notice and shall assume Related Liabilities with respect to such Loans, and the transfer of such Loans and Related Liabilities shall be effective as of a date determined by the Receiver which date shall not be later than thirty (30) days after receipt by the Receiver of the Credit Files with respect to such Loans (the "Put Date").

(e) **Purchase Price and Payment Date**. Each Loan purchased by the Receiver pursuant to this Section 3.4 shall be purchased at a price equal to the Repurchase Price of such Loan less the Related Liability Amount applicable to such Loan, in each case determined as of the applicable Put Date. If the difference between such Repurchase Price and such Related Liability Amount is positive, then the Receiver shall pay to the Assuming Bank the amount of such difference; if the difference between such amounts is negative, then the Assuming Bank shall pay to the Receiver the amount of such difference. The Assuming Bank or the Receiver, as the case may be, shall pay the purchase price determined pursuant to this Section 3.4(e) not later than the twentieth (20th) Business Day following the applicable Put Date, together with interest on such amount at the Settlement Interest Rate for the period from and including such Put Date to and including the day preceding the date upon which payment is made.

(f) **Servicing**. The Assuming Bank shall administer and manage any Asset subject to purchase by the Receiver in accordance with usual and prudent banking standards and business practices until such time as such Asset is purchased by the Receiver.

(g) **Reversals**. In the event that the Receiver purchases an Asset (and assumes the Related Liability) that it is not required to purchase pursuant to this Section 3.4, the Assuming Bank shall repurchase such Asset (and assume such Related Liability) from the Receiver at a price computed so as to achieve the same economic result as would apply if the Receiver had never purchased such Asset pursuant to this Section 3.4.

3.5 Assets Not Purchased by Assuming Bank. The Assuming Bank does not purchase, acquire or assume, or (except as otherwise expressly provided in this Agreement) obtain an option to purchase, acquire or assume under this Agreement the assets or Assets listed on the attached Schedule 3.5.

3.6 Assets Essential to Receiver.

(a) The Receiver may refuse to sell to the Assuming Bank, or the Assuming Bank agrees, at the request of the Receiver set forth in a written notice to the Assuming Bank, to assign, transfer, convey, and deliver to the Receiver all of the Assuming Bank's right, title and interest in and to, any Asset or asset essential to the Receiver as determined by the Receiver in its discretion (together with all Credit Documents evidencing or pertaining thereto), which may include any Asset or asset that the Receiver determines to be:

(i) made to an officer, director, or other Person engaging in the affairs of the Failed Bank, its Subsidiaries or Affiliates or any related entities of any of the foregoing;

(ii) the subject of any investigation relating to any claim with respect to any item described in Section 3.5(a) or (b), or the subject of, or potentially the subject of, any legal proceedings;

(iii) made to a Person who is an Obligor on a loan owned by the Receiver or the Corporation in its corporate capacity or its capacity as receiver of any institution;

(iv) secured by collateral which also secures any asset owned by the Receiver; or

(v) related to any asset of the Failed Bank not purchased by the Assuming Bank under this Article III or any liability of the Failed Bank not assumed by the Assuming Bank under Article II.

(b) Each such Asset or asset purchased by the Receiver shall be purchased at a price equal to the Repurchase Price thereof less the Related Liability Amount with respect to any Related Liabilities related to such Asset or asset, in each case determined as of the date of the notice provided by the Receiver pursuant to Section 3.6(a). The Receiver shall pay the Assuming Bank not later than the twentieth (20th) Business Day following receipt of related Credit Documents and Credit Files together with interest on such amount at the Settlement Interest Rate for the period from and including the date of receipt of such documents to and including the day preceding the day on which payment is made. The Assuming Bank agrees to administer and manage each such Asset or asset in accordance with usual and prudent banking standards and business practices until each such Asset or asset is purchased by the Receiver. All transfers with respect to Asset or assets under this Section 3.6 shall be made as provided in Section 9.6. The Assuming Bank shall transfer all such Asset or assets and Related Liabilities to the Receiver without recourse, and shall indemnify the Receiver against any and all claims of any Person claiming by, through or under the Assuming Bank with respect to any such Asset or asset, as provided in Section 12.4.

ARTICLE IV

ASSUMPTION OF CERTAIN DUTIES AND OBLIGATIONS

The Assuming Bank agrees with the Receiver and the Corporation as follows:

4.1 **Continuation of Banking Business**. The Assuming Bank agrees to provide full service banking in the trade area of the Failed Bank commencing on the first banking business day (including a Saturday) after Bank Closing. At the option of the Assuming Bank, such banking services may be provided at any or all of the Bank Premises, or at other premises within such trade area.

4.2 **Agreement with Respect to Debit and Credit Card Business**. The Assuming Bank agrees to honor and perform, from and after Bank Closing, all duties and obligations with respect to the Failed Bank's debit and credit card business, and/or processing related to debit and credit cards, if any, and assumes all outstanding extensions of credit with respect thereto.

4.3 **Agreement with Respect to Safe Deposit Business**. The Assuming Bank assumes and agrees to discharge, from and after Bank Closing, in the usual course of conducting a banking business, the duties and obligations of the Failed Bank with respect to all Safe Deposit Boxes, if any, of the Failed Bank and to maintain all of the necessary facilities for the use of such boxes by the renters thereof during the period for which such boxes have been rented and the rent therefor paid to the Failed Bank, subject to the provisions of the rental agreements between the Failed Bank and the respective renters of such boxes; provided, that the Assuming Bank may relocate the Safe Deposit Boxes of the Failed Bank to any office of the Assuming Bank located in the trade area of the Failed Bank. Fees related to the safe deposit business collected prior to Bank Closing shall be for the benefit of the Receiver and fees collected after Bank Closing shall be for the benefit of the Assuming Bank.

4.4 **Agreement with Respect to Safekeeping Business**. The Receiver transfers, conveys and delivers to the Assuming Bank and the Assuming Bank accepts all securities and other items, if any, held by the Failed Bank in safekeeping for its customers as of Bank Closing. The Assuming Bank assumes and agrees to honor and discharge, from and after Bank Closing, the duties and obligations of the Failed Bank with respect to such securities and items held in safekeeping. The Assuming Bank shall be entitled to all rights and benefits heretofore accrued or hereafter accruing with respect thereto; provided, that, fees related to the safe keeping business collected prior to Bank Closing shall be for the benefit of the Receiver and fees collected after Bank Closing shall be for the benefit of the Assuming Bank. The Assuming Bank shall provide to the Receiver written verification of all assets held by the Failed Bank for safekeeping within sixty (60) days after Bank Closing.

4.5 **Agreement with Respect to Trust Business**.

(a) The Assuming Bank shall, without further transfer, substitution, act or deed, to the full extent permitted by law, succeed to the rights, obligations, properties, assets, investments, deposits, agreements, and trusts of the Failed Bank under trusts, executorships, administrations, guardianships, and agencies, and other fiduciary or representative capacities, all to the same extent as though the Assuming Bank had assumed the same from the Failed Bank prior to Bank

Closing; provided, that any liability based on the misfeasance, malfeasance or nonfeasance of the Failed Bank, its directors, officers, employees or agents with respect to the trust business is not assumed hereunder.

(b) The Assuming Bank shall, to the full extent permitted by law, succeed to, and be entitled to take and execute, the appointment to all executorships, trusteeships, guardianships and other fiduciary or representative capacities to which the Failed Bank is or may be named in wills, whenever probated, or to which the Failed Bank is or may be named or appointed by any other instrument.

(c) In the event additional proceedings of any kind are necessary to accomplish the transfer of such trust business, the Assuming Bank agrees that, at its own expense, it will take whatever action is necessary to accomplish such transfer. The Receiver agrees to use reasonable efforts to assist the Assuming Bank in accomplishing such transfer.

(d) The Assuming Bank shall provide to the Receiver written verification of the assets held in connection with the Failed Bank's trust business within sixty (60) days after Bank Closing.

4.6 Agreement with Respect to Bank Premises.

(a) **Option to Lease.** The Receiver hereby grants to the Assuming Bank an exclusive option for the period of ninety (90) days commencing the day after Bank Closing to cause the Receiver to assign to the Assuming Bank any or all leases for leased Bank Premises, if any, which have been continuously occupied by the Assuming Bank from Bank Closing to the date it elects to accept an assignment of the leases with respect thereto to the extent such leases can be assigned; provided, that the exercise of this option with respect to any lease must be as to all premises or other property subject to the lease. If an assignment cannot be made of any such leases, the Receiver may, in its discretion, enter into subleases with the Assuming Bank containing the same terms and conditions provided under such existing leases for such leased Bank Premises or other property. The Assuming Bank shall give notice to the Receiver within the option period of its election to accept or not to accept an assignment of any or all leases (or enter into subleases or new leases in lieu thereof). The Assuming Bank agrees to assume all leases assigned (or enter into subleases in lieu thereof) pursuant to this Section 4.6.

(b) **Facilitation.** The Receiver agrees to facilitate the assumption, assignment or sublease of leases or the negotiation of new leases by the Assuming Bank; provided, that neither the Receiver nor the Corporation shall be obligated to engage in litigation, make payments to the Assuming Bank or to any third party in connection with facilitating any such assumption, assignment, sublease or negotiation or commit to any other obligations to third parties.

(c) **Occupancy.** The Assuming Bank shall give the Receiver fifteen (15) days' prior written notice of its intention to vacate prior to vacating any leased Bank Premises with respect to which the Assuming Bank has not exercised the option provided in Section 4.6(a). Any such notice shall be deemed to terminate the Assuming Bank's option with respect to such leased Bank Premises.

(d) **Occupancy Costs.**

(i) The Assuming Bank agrees, during the period of any occupancy by it of leased Bank Premises, to pay to the Receiver, or to appropriate third parties at the direction of the Receiver, all operating costs with respect thereto and to comply with all relevant terms of applicable leases entered into by the Failed Bank, including without limitation the timely payment of all rent, taxes, fees, charges, utilities, insurance and assessments.

(ii) The Assuming Bank agrees during the period of occupancy by it of leased Bank Premises to pay to the Receiver rent for the use of all leased Furniture and Equipment and all owned or leased Fixtures located on such Bank Premises for the period of such occupancy. Rent for such property owned by the Failed Bank shall be the market rental value thereof, as determined by the Receiver within sixty (60) days after Bank Closing. Rent for such leased property shall be an amount equal to any and all rent and other amounts which the Receiver incurs or accrues as an obligation or is obligated to pay for such period of occupancy pursuant to all leases and contracts with respect to such property. If the Assuming Bank purchases any owned Fixtures in accordance with Section 4.6(f), the amount of any rents paid by the Assuming Bank with respect thereto shall be applied as an offset against the purchase price thereof.

(e) **Certain Requirements as to Furniture, Equipment and Fixtures.** If the Assuming Bank accepts an assignment of the lease (or enters into a sublease or a new lease in lieu thereof) for leased Bank Premises, or if the Assuming Bank does not exercise such option but within twelve (12) months following Bank Closing obtains the right to occupy such premises (whether by assignment, lease, sublease, purchase or otherwise), other than in accordance with Section 4.6(a), the Assuming Bank shall (i) accept an assignment or a sublease of the leases or negotiate new leases for all Furniture and Equipment and Fixtures leased by the Failed Bank and located thereon, and (ii) if applicable, accept an assignment or a sublease of any ground lease or negotiate a new ground lease with respect to any land on which such Bank Premises are located; provided, that the Receiver shall not have disposed of such Furniture and Equipment and Fixtures or repudiated the leases specified in clause (i) or (ii).

(f) **Vacating Premises.** If the Assuming Bank elects not to accept an assignment of the lease or sublease any leased Bank Premises, the notice of such election in accordance with Section 4.6(a) shall specify the date upon which the Assuming Bank's occupancy of such leased Bank Premises shall terminate, which date shall not be later than the date which is one hundred eighty (180) days after Bank Closing. Upon vacating such premises, the Assuming Bank shall relinquish and release to the Receiver such premises and the Fixtures located thereon in the same condition as at Bank Closing, normal wear and tear excepted. By failing to provide notice of its intention to vacate such premises prior to the expiration of the option period specified in Section 4.6(a), or by occupying such premises after the one hundred eighty (180)-day period specified above in this paragraph, the Assuming Bank shall, at the Receiver's option, (x) be deemed to have assumed all leases, obligations and liabilities with respect to such premises (including any ground lease with respect to the land on which premises are located), and leased Furniture and Equipment and leased Fixtures located thereon in accordance with this Section 4.6 (unless the

Receiver previously repudiated any such lease), and (y) be required to purchase all Fixtures owned by the Failed Bank and located on such premises as of Bank Closing.

(g) **Omitted.**

4.7 Agreement with Respect to Leased Data Processing Equipment

(a) The Receiver hereby grants to the Assuming Bank an exclusive option for the period of ninety (90) days commencing the day after Bank Closing to accept an assignment from the Receiver of any or all Data Processing Leases to the extent that such Data Processing Leases can be assigned.

(b) The Assuming Bank shall (i) give written notice to the Receiver within the option period specified in Section 4.7(a) of its intent to accept an assignment or sublease of any or all Data Processing Leases and promptly accept an assignment or sublease of such Data Processing Leases, and (ii) give written notice to the appropriate lessor(s) that it has accepted an assignment or sublease of any such Data Processing Leases.

(c) The Receiver agrees to facilitate the assignment or sublease of Data Processing Leases or the negotiation of new leases or license agreements by the Assuming Bank; provided, that neither the Receiver nor the Corporation shall be obligated to engage in litigation or make payments to the Assuming Bank or to any third party in connection with facilitating any such assumption, assignment, sublease or negotiation.

(d) The Assuming Bank agrees, during its period of use of any property subject to a Data Processing Lease, to pay to the Receiver or to appropriate third parties at the direction of the Receiver all operating costs with respect thereto and to comply with all relevant terms of the applicable Data Processing Leases entered into by the Failed Bank, including without limitation the timely payment of all rent, taxes, fees, charges, utilities, insurance and assessments.

(e) The Assuming Bank shall, not later than fifty (50) days after giving the notice provided in Section 4.7(b), (i) relinquish and release to the Receiver all property subject to the relevant Data Processing Lease, in the same condition as at Bank Closing, normal wear and tear excepted, or (ii) accept an assignment or a sublease thereof or negotiate a new lease or license agreement under this Section 4.7.

4.8 Agreement with Respect to Certain Existing Agreements.

With respect to agreements existing as of Bank Closing which provide for the rendering of services by or to the Failed Bank, within one hundred twenty (120) days after Bank Closing, the Assuming Bank shall give the Receiver written notice specifying whether it elects to assume or not to assume each such agreement. Except as may be otherwise provided in this Article IV, the Assuming Bank agrees to comply with the terms of each such agreement for a period commencing on the day after Bank Closing and ending on: (i) in the case of an agreement that provides for the rendering of services by the Failed Bank, the date which is ninety (90) days after Bank Closing, and (ii) in the case of an agreement that provides for the rendering of services to

the Failed Bank, the date which is thirty (30) days after the Assuming Bank has given notice to the Receiver of its election not to assume such agreement; provided, that the Receiver can reasonably make such service agreements available to the Assuming Bank. The Assuming Bank shall be deemed by the Receiver to have assumed agreements for which no notification is timely given. The Receiver agrees to assign, transfer, convey, and deliver to the Assuming Bank all right, title and interest of the Receiver, if any, in and to agreements the Assuming Bank assumes hereunder. In the event the Assuming Bank elects not to accept an assignment of any lease (or sublease) or negotiate a new lease for leased Bank Premises under Section 4.6 and does not otherwise occupy such premises, the provisions of this Section 4.8 shall not apply to service agreements related to such premises. The Assuming Bank agrees, during the period it has the use or benefit of any such agreement, promptly to pay to the Receiver or to appropriate third parties at the direction of the Receiver all operating costs with respect thereto and to comply with all relevant terms of such agreement. This paragraph shall not apply with respect to deposit contracts which are expressly assumed by the Assuming Bank under Section 2.2 of this Agreement.

4.9 Informational Tax Reporting. The Assuming Bank agrees to perform all obligations of the Failed Bank with respect to Federal and State income tax informational reporting related to (i) the Assets and the Liabilities Assumed, (ii) deposit accounts that were closed and loans that were paid off or collateral obtained with respect thereto prior to Bank Closing, (iii) miscellaneous payments made to vendors of the Failed Bank, and (iv) any other asset or liability of the Failed Bank, including, without limitation, loans not purchased and Deposits not assumed by the Assuming Bank, as may be required by the Receiver.

Under a private letter ruling (PLR) issued to the FDIC in January of 1988, the Internal Revenue Service will allow the Assuming Bank to report for the Failed Bank transactions under its own TIN for the entire year 2008; there is no need to dual-report for different payors in pre- v. post-closing date periods.

The Assuming Bank agrees to prepare on behalf of the Receiver all required Federal and State compliance and income/franchise tax returns for the Failed Bank and acquired subsidiary entities as of Bank Closing. The returns will be provided to the Receiver within the statutorily required filing timeframe.

4.10 Insurance. The Assuming Bank agrees to obtain insurance coverage effective from and after Bank Closing, including public liability, fire and extended coverage insurance acceptable to the Receiver with respect to leased Bank Premises that it occupies, and all leased Furniture and Equipment and Fixtures and leased data processing equipment (including hardware and software) located thereon, in the event such insurance coverage is not already in force and effect with respect to the Assuming Bank as the insured as of Bank Closing. All such insurance shall, where appropriate (as determined by the Receiver), name the Receiver as an additional insured.

4.11 Office Space for Receiver and Corporation. For the period commencing on the day following Bank Closing and ending on the one hundred eightieth (180th) day thereafter, the Assuming Bank agrees to provide to the Receiver and the Corporation, without charge, adequate

and suitable office space (including parking facilities and vault space), furniture, equipment (including photocopying and telecopying machines) and utilities (including local telephone service and a dedicated broadband or T-1 internet service) at the Bank Premises occupied by the Assuming Bank for their use in the discharge of their respective functions with respect to the Failed Bank. In the event the Receiver and the Corporation determine that the space provided is inadequate or unsuitable, the Receiver and the Corporation may relocate to other quarters having adequate and suitable space and the costs of relocation and any rental and utility costs for the balance of the period of occupancy by the Receiver and the Corporation shall be borne by the Assuming Bank.

4.12 Omitted.

4.13 Omitted.

ARTICLE V
DUTIES WITH RESPECT TO DEPOSITORS OF THE FAILED BANK

5.1 Payment of Checks, Drafts and Orders. Subject to Section 9.5, the Assuming Bank agrees to pay all properly drawn checks, drafts and withdrawal orders of depositors of the Failed Bank presented for payment, whether drawn on the check or draft forms provided by the Failed Bank or by the Assuming Bank, to the extent that the Deposit balances to the credit of the respective makers or drawers assumed by the Assuming Bank under this Agreement are sufficient to permit the payment thereof, and in all other respects to discharge, in the usual course of conducting a banking business, the duties and obligations of the Failed Bank with respect to the Deposit balances due and owing to the depositors of the Failed Bank assumed by the Assuming Bank under this Agreement.

5.2 Certain Agreements Related to Deposits. Subject to Section 2.2, the Assuming Bank agrees to honor the terms and conditions of any written escrow or mortgage servicing agreement or other similar agreement relating to a Deposit liability assumed by the Assuming Bank pursuant to this Agreement.

5.3 Notice to Depositors.

(a) Within thirty (30) days after Bank Closing, the Assuming Bank shall give (i) notice to depositors of the Failed Bank of its assumption of the Deposit liabilities of the Failed Bank, and (ii) any notice required under Section 2.2, by mailing to each such depositor a notice with respect to such assumption and by advertising in a newspaper of general circulation in the county or counties in which the Failed Bank was located. The Assuming Bank agrees that it will obtain prior approval of all such notices and advertisements from counsel for the Receiver and that such notices and advertisements shall not be mailed or published until such approval is received.

(b) The Assuming Bank shall give notice by mail to depositors of the Failed Bank concerning the procedures to claim their deposits, which notice shall be provided to the

Assuming Bank by the Receiver or the Corporation. Such notice shall be included with the notice to depositors to be mailed by the Assuming Bank pursuant to Section 5.3(a).

(c) If the Assuming Bank proposes to charge fees different from those charged by the Failed Bank before it establishes new deposit account relationships with the depositors of the Failed Bank, the Assuming Bank shall give notice by mail of such changed fees to such depositors.

ARTICLE VI
RECORDS

6.1 Transfer of Records.

(a) In accordance with Section 3.1, the Receiver assigns, transfers, conveys and delivers to the Assuming Bank the following Records pertaining to the Deposit liabilities of the Failed Bank assumed by the Assuming Bank under this Agreement, except as provided in Section 6.4:

(i) signature cards, orders, contracts between the Failed Bank and its depositors and Records of similar character;

(ii) passbooks of depositors held by the Failed Bank, deposit slips, cancelled checks and withdrawal orders representing charges to accounts of depositors;

and the following Records pertaining to the Assets:

(iii) records of deposit balances carried with other banks, bankers or trust companies;

(iv) Loan and collateral records and Credit Files and other documents;

(v) deeds, mortgages, abstracts, surveys, and other instruments or records of title pertaining to real estate or real estate mortgages;

(vi) signature cards, agreements and records pertaining to Safe Deposit Boxes, if any; and

(vii) records pertaining to the credit card business, trust business or safekeeping business of the Failed Bank, if any.

(b) The Receiver, at its option, may assign and transfer to the Assuming Bank by a single blanket assignment or otherwise, as soon as practicable after Bank Closing, any other Records not assigned and transferred to the Assuming Bank as provided in this Agreement, including but not limited to loan disbursement checks, general ledger tickets, official bank checks, proof transactions (including proof tapes) and paid out loan files.

6.2 **Delivery of Assigned Records**. The Receiver shall deliver to the Assuming Bank all Records described in (i) Section 6.1(a) as soon as practicable on or after the date of this Agreement, and (ii) Section 6.1(b) as soon as practicable after making any assignment described therein.

6.3 **Preservation of Records**. The Assuming Bank agrees that it will preserve and maintain for the joint benefit of the Receiver, the Corporation and the Assuming Bank, all Records of which it has custody for such period as either the Receiver or the Corporation in its discretion may require, until directed otherwise, in writing, by the Receiver or Corporation. The Assuming Bank shall have the primary responsibility to respond to subpoenas, discovery requests, and other similar official inquiries with respect to the Records of which it has custody.

6.4 **Access to Records; Copies**. The Assuming Bank agrees to permit the Receiver and the Corporation access to all Records of which the Assuming Bank has custody, and to use, inspect, make extracts from or request copies of any such Records in the manner and to the extent requested, and to duplicate, in the discretion of the Receiver or the Corporation, any Record in the form of microfilm or microfiche pertaining to Deposit account relationships; provided, that in the event that the Failed Bank maintained one or more duplicate copies of such microfilm or microfiche Records, the Assuming Bank hereby assigns, transfers, and conveys to the Corporation one such duplicate copy of each such Record without cost to the Corporation, and agrees to deliver to the Corporation all Records assigned and transferred to the Corporation under this Article VI as soon as practicable on or after the date of this Agreement. The party requesting a copy of any Record shall bear the cost (based on standard accepted industry charges to the extent applicable, as determined by the Receiver) for providing such duplicate Records. A copy of each Record requested shall be provided as soon as practicable by the party having custody thereof.

ARTICLE VII
BID; INITIAL PAYMENT

The Assuming Bank has submitted to the Receiver a positive bid of $1,888,000,000.00 for the Assets purchased and Liabilities Assumed hereunder (the "Bid Amount"). On the Payment Date, the Assuming Bank will pay to the Corporation, or the Corporation will pay to the Assuming Bank, as the case may be, the Initial Payment, together with interest on such amount (if the Payment Date is not the day following the day of Bank Closing) from and including the day following Bank Closing to and including the day preceding the Payment Date at the Settlement Interest Rate.

ARTICLE VIII
PROFORMA

The Assuming Bank, as soon as practical after Bank Closing, in accordance with the best information then available, shall provide to the Receiver a Proforma Statement of Condition indicating all assets and liabilities of the Failed Bank as shown on the Failed Bank's books and records as of Bank Closing and reflecting which assets and liabilities are passing to the Assuming Bank and which assets and liabilities are to be retained by the Receiver. In addition, the Assuming Bank is to provide to the Receiver, in a standard data request as defined by the Receiver, an electronic database of all loans, deposits, and subsidiaries and other business combinations owned by the Failed Bank as of Bank Closing. See Schedule 3.1a.

ARTICLE IX
CONTINUING COOPERATION

9.1 General Matters. The parties hereto agree that they will, in good faith and with their best efforts, cooperate with each other to carry out the transactions contemplated by this Agreement and to effect the purposes hereof.

9.2 Additional Title Documents. The Receiver, the Corporation and the Assuming Bank each agree, at any time, and from time to time, upon the request of any party hereto, to execute and deliver such additional instruments and documents of conveyance as shall be reasonably necessary to vest in the appropriate party its full legal or equitable title in and to the property transferred pursuant to this Agreement or to be transferred in accordance herewith. The Assuming Bank shall prepare such instruments and documents of conveyance (in form and substance satisfactory to the Receiver) as shall be necessary to vest title to the Assets in the Assuming Bank. The Assuming Bank shall be responsible for recording such instruments and documents of conveyance at its own expense.

9.3 Claims and Suits.

(a) The Receiver shall have the right, in its discretion, to (i) defend or settle any claim or suit against the Assuming Bank with respect to which the Receiver has indemnified the Assuming Bank in the same manner and to the same extent as provided in Article XII, and (ii) defend or settle any claim or suit against the Assuming Bank with respect to any Liability Assumed, which claim or suit may result in a loss to the Receiver arising out of or related to this Agreement, or which existed against the Failed Bank on or before Bank Closing. The exercise by the Receiver of any rights under this Section 9.3(a) shall not release the Assuming Bank with respect to any of its obligations under this Agreement.

(b) In the event any action at law or in equity shall be instituted by any Person against the Receiver and the Corporation as codefendants with respect to any asset of the Failed Bank retained or acquired pursuant to this Agreement by the Receiver, the Receiver agrees, at the request of the Corporation, to join with the Corporation in a petition to remove the action to the United States District Court for the proper district. The Receiver agrees to institute, with or without joinder of the Corporation as coplaintiff, any action with respect to any such retained or acquired asset or any matter connected therewith whenever notice requiring such action shall be given by the Corporation to the Receiver.

9.4 **Payment of Deposits**. In the event any depositor does not accept the obligation of the Assuming Bank to pay any Deposit liability of the Failed Bank assumed by the Assuming Bank pursuant to this Agreement and asserts a claim against the Receiver for all or any portion of any such Deposit liability, the Assuming Bank agrees on demand to provide to the Receiver funds sufficient to pay such claim in an amount not in excess of the Deposit liability reflected on the books of the Assuming Bank at the time such claim is made. Upon payment by the Assuming Bank to the Receiver of such amount, the Assuming Bank shall be discharged from any further obligation under this Agreement to pay to any such depositor the amount of such Deposit liability paid to the Receiver.

9.5 **Withheld Payments**. At any time, the Receiver or the Corporation may, in its discretion, determine that all or any portion of any deposit balance assumed by the Assuming Bank pursuant to this Agreement does not constitute a "Deposit" (or otherwise, in its discretion, determine that it is the best interest of the Receiver or Corporation to withhold all or any portion of any deposit), and may direct the Assuming Bank to withhold payment of all or any portion of any such deposit balance. Upon such direction, the Assuming Bank agrees to hold such deposit and not to make any payment of such deposit balance to or on behalf of the depositor, or to itself, whether by way of transfer, set-off, or otherwise. The Assuming Bank agrees to maintain the "withheld payment" status of any such deposit balance until directed in writing by the Receiver or the Corporation as to its disposition. At the direction of the Receiver or the Corporation, the Assuming Bank shall return all or any portion of such deposit balance to the Receiver or the Corporation, as appropriate, and thereupon the Assuming Bank shall be discharged from any further liability to such depositor with respect to such returned deposit balance. If such deposit balance has been paid to the depositor prior to a demand for return by the Corporation or the Receiver, and payment of such deposit balance had not been previously withheld pursuant to this Section, the Assuming Bank shall not be obligated to return such deposit balance to the Receiver or the Corporation. The Assuming Bank shall be obligated to reimburse the Corporation or the Receiver, as the case may be, for the amount of any deposit balance or portion thereof paid by the Assuming Bank in contravention of any previous direction to withhold payment of such deposit balance or return such deposit balance the payment of which was withheld pursuant to this Section.

9.6 **Proceedings with Respect to Certain Assets and Liabilities**.

(a) In connection with any investigation, proceeding or other matter with respect to any asset or liability of the Failed Bank retained by the Receiver, or any asset of the Failed Bank acquired by the Receiver pursuant to this Agreement, the Assuming Bank shall cooperate to the extent reasonably required by the Receiver.

(b) In addition to its obligations under Section 6.4, the Assuming Bank shall provide representatives of the Receiver access at reasonable times and locations without other limitation or qualification to (i) its directors, officers, employees and agents and those of the Subsidiaries acquired by the Assuming Bank, and (ii) its books and records, the books and records of such Subsidiaries and all Credit Files, and copies thereof. Copies of books, records and Credit Files

shall be provided by the Assuming Bank as requested by the Receiver and the costs of duplication thereof shall be borne by the Receiver.

(c) Not later than ten (10) days after the Put Notice pursuant to Section 3.4 or the date of the notice of transfer of any Loan by the Assuming Bank to the Receiver pursuant to Section 3.6, the Assuming Bank shall deliver to the Receiver such documents with respect to such Loan as the Receiver may request, including without limitation the following: (i) all related Credit Documents (other than certificates, notices and other ancillary documents), (ii) a certificate setting forth the principal amount on the date of the transfer and the amount of interest, fees and other charges then accrued and unpaid thereon, and any restrictions on transfer to which any such Loan is subject, and (iii) all Credit Files, and all documents, microfiche, microfilm and computer records (including but not limited to magnetic tape, disc storage, card forms and printed copy) maintained by, owned by, or in the possession of the Assuming Bank or any Affiliate of the Assuming Bank relating to the transferred Loan.

9.7 Information. The Assuming Bank promptly shall provide to the Corporation such other information, including financial statements and computations, relating to the performance of the provisions of this Agreement as the Corporation or the Receiver may request from time to time, and, at the request of the Receiver, make available employees of the Failed Bank employed or retained by the Assuming Bank to assist in preparation of the pro forma statement pursuant to Section 8.1.

ARTICLE X
CONDITION PRECEDENT

The obligations of the parties to this Agreement are subject to the Receiver and the Corporation having received at or before Bank Closing evidence reasonably satisfactory to each of any necessary approval, waiver, or other action by any governmental authority, the board of directors of the Assuming Bank, or other third party, with respect to this Agreement and the transactions contemplated hereby, the closing of the Failed Bank and the appointment of the Receiver, the chartering of the Assuming Bank, and any agreements, documents, matters or proceedings contemplated hereby or thereby.

ARTICLE XI
REPRESENTATIONS AND WARRANTIES OF THE ASSUMING BANK

The Assuming Bank represents and warrants to the Corporation and the Receiver as follows:

(a) **Corporate Existence and Authority**. The Assuming Bank (i) is duly organized, validly existing and in good standing under the laws of its Chartering Authority and has full power and authority to own and operate its properties and to conduct its business as now conducted by it, and (ii) has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The Assuming Bank has taken all necessary corporate

action to authorize the execution, delivery and performance of this Agreement and the performance of the transactions contemplated hereby.

(b) **Third Party Consents**. No governmental authority or other third party consents (including but not limited to approvals, licenses, registrations or declarations) are required in connection with the execution, delivery or performance by the Assuming Bank of this Agreement, other than such consents as have been duly obtained and are in full force and effect.

(c) **Execution and Enforceability**. This Agreement has been duly executed and delivered by the Assuming Bank and when this Agreement has been duly authorized, executed and delivered by the Corporation and the Receiver, this Agreement will constitute the legal, valid and binding obligation of the Assuming Bank, enforceable in accordance with its terms.

(d) **Compliance with Law**.

(i) Neither the Assuming Bank nor any of its Subsidiaries is in violation of any statute, regulation, order, decision, judgment or decree of, or any restriction imposed by, the United States of America, any State, municipality or other political subdivision or any agency of any of the foregoing, or any court or other tribunal having jurisdiction over the Assuming Bank or any of its Subsidiaries or any assets of any such Person, or any foreign government or agency thereof having such jurisdiction, with respect to the conduct of the business of the Assuming Bank or of any of its Subsidiaries, or the ownership of the properties of the Assuming Bank or any of its Subsidiaries, which, either individually or in the aggregate with all other such violations, would materially and adversely affect the business, operations or condition (financial or otherwise) of the Assuming Bank or the ability of the Assuming Bank to perform, satisfy or observe any obligation or condition under this Agreement.

(ii) Neither the execution and delivery nor the performance by the Assuming Bank of this Agreement will result in any violation by the Assuming Bank of, or be in conflict with, any provision of any applicable law or regulation, or any order, writ or decree of any court or governmental authority.

e) **Representations Remain True**. The Assuming Bank represents and warrants that it has executed and delivered to the Corporation a Purchaser Eligibility Certification and Confidentiality Agreement and that all information provided and representations made by or on behalf of the Assuming Bank in connection with this Agreement and the transactions contemplated hereby, including, but not limited to, the Purchaser Eligibility Certification and Confidentiality Agreement (which are affirmed and ratified hereby) are and remain true and correct in all material respects and do not fail to state any fact required to make the information contained therein not misleading.

ARTICLE XII
INDEMNIFICATION

12.1 **Indemnification of Indemnitees**. From and after Bank Closing and subject to the limitations set forth in this Section and Section 12.6 and compliance by the Indemnitees with Section 12.2, the Receiver agrees to indemnify and hold harmless the Indemnitees against any and all costs, losses, liabilities, expenses (including attorneys' fees) incurred prior to the assumption of defense by the Receiver pursuant to paragraph (d) of Section 12.2, judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with claims against any Indemnitee (1) based on liabilities of the Failed Bank that are not assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank for which indemnification is provided hereunder in (a) of this Section 12.1 or (2) described in Section 12.1(a) below subject in each case to certain exclusions as provided in (b) of this Section 12.1:

(a)

(1) claims based on the rights of any shareholder or former shareholder as such of (x) the Failed Bank, or (y) any Subsidiary or Affiliate of the Failed Bank;

(2) claims based on the rights of any creditor as such of the Failed Bank, or any creditor as such of any director, officer, employee or agent of the Failed Bank or any Affiliate of the Failed Bank, with respect to any indebtedness or other obligation of the Failed Bank or any Affiliate of the Failed Bank arising prior to Bank Closing;

(3) claims based on the rights of any present or former director, officer, employee or agent as such of the Failed Bank or of any Subsidiary or Affiliate of the Failed Bank;

(4) claims based on any action or inaction prior to Bank Closing of the Failed Bank, its directors, officers, employees or agents as such, or any Subsidiary or Affiliate of the Failed Bank, or the directors, officers, employees or agents as such of such Subsidiary or Affiliate;

(5) claims based on any malfeasance, misfeasance or nonfeasance of the Failed Bank, its directors, officers, employees or agents with respect to the trust business of the Failed Bank, if any;

(6) claims based on any failure or alleged failure (not in violation of law) by the Assuming Bank to continue to perform any service or activity previously performed by the Failed Bank which the Assuming Bank is not required to perform pursuant to this Agreement or which arise under any contract to which the Failed Bank was a party which the Assuming Bank elected not to assume in accordance with this Agreement and which neither the Assuming Bank nor any Subsidiary or Affiliate of the Assuming Bank has assumed subsequent to the execution hereof;

(7) claims arising from any action or inaction of any Indemnitee, including for purposes of this Section 12.1(a)(7) the former officers or employees of the Failed Bank or of any Subsidiary or Affiliate of the Failed Bank that is taken upon the specific written direction of the Corporation or the Receiver, other than any action or inaction taken in a manner constituting bad faith, gross negligence or willful misconduct; and

(8) claims based on the rights of any depositor of the Failed Bank whose deposit has been accorded "withheld payment" status and/or returned to the Receiver or Corporation in accordance with Section 9.5 and/or has become an "unclaimed deposit" or has been returned to the Corporation or the Receiver in accordance with Section 2.3;

(9) claims asserted by, or derivatively by any shareholder on behalf of, the Failed Bank's parent company based on the process of bidding, negotiation, execution and consummation of the transactions contemplated by this Agreement, provided that (x) the amount of the indemnification paid or payable pursuant to this clause (9) shall not exceed $500,000,000, and (y) the indemnification provided by this clause (9) shall cover only those claims specifically enumerated in the FDIC's approval of the transactions contemplated by this Agreement.

(b) provided, that, with respect to this Agreement, except for paragraphs (7), (8) and (9) of Section 12.1(a), no indemnification will be provided under this Agreement for any:

(1) judgment or fine against, or any amount paid in settlement (without the written approval of the Receiver) by, any Indemnitee in connection with any action that seeks damages against any Indemnitee (a "counterclaim") arising with respect to any Asset and based on any action or inaction of either the Failed Bank, its directors, officers, employees or agents as such prior to Bank Closing, unless any such judgment, fine or amount paid in settlement exceeds the greater of (i) the Repurchase Price of such Asset, or (ii) the monetary recovery sought on such Asset by the Assuming Bank in the cause of action from which the counterclaim arises; and in such event the Receiver will provide indemnification only in the amount of such excess; and no indemnification will be provided for any costs or expenses other than any costs or expenses (including attorneys' fees) which, in the determination of the Receiver, have been actually and reasonably incurred by such Indemnitee in connection with the defense of any such counterclaim; and it is expressly agreed that the Receiver reserves the right to intervene, in its discretion, on its behalf and/or on behalf of the Receiver, in the defense of any such counterclaim;

(2) claims with respect to any liability or obligation of the Failed Bank that is expressly assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank;

(3) claims with respect to any liability of the Failed Bank to any present or former employee as such of the Failed Bank or of any Subsidiary or Affiliate of the Failed Bank, which liability is expressly assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank;

(4) claims based on the failure of any Indemnitee to seek recovery of damages from the Receiver for any claims based upon any action or inaction of the Failed Bank, its directors, officers, employees or agents as fiduciary, agent or custodian prior to Bank Closing;

(5) claims based on any violation or alleged violation by any Indemnitee of the antitrust, branching, banking or bank holding company or securities laws of the United States of America or any State thereof;

(6) claims based on the rights of any present or former creditor, customer, or supplier as such of the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank;

(7) claims based on the rights of any present or former shareholder as such of the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank regardless of whether any such present or former shareholder is also a present or former shareholder of the Failed Bank;

(8) claims, if the Receiver determines that the effect of providing such indemnification would be to (i) expand or alter the provisions of any warranty or disclaimer thereof provided in Section 3.3 or any other provision of this Agreement, or (ii) create any warranty not expressly provided under this Agreement;

(9) claims which could have been enforced against any Indemnitee had the Assuming Bank not entered into this Agreement;

(10) claims based on any liability for taxes or fees assessed with respect to the consummation of the transactions contemplated by this Agreement, including without limitation any subsequent transfer of any Assets or Liabilities Assumed to any Subsidiary or Affiliate of the Assuming Bank;

(11) except as expressly provided in this Article XII, claims based on any action or inaction of any Indemnitee, and nothing in this Agreement shall be construed to provide indemnification for (i) the Failed Bank, (ii) any Subsidiary or Affiliate of the Failed Bank, or (iii) any present or former director, officer, employee or agent of the Failed Bank or its Subsidiaries or Affiliates; provided, that the Receiver, in its discretion, may provide indemnification hereunder for any present or former director, officer, employee or agent of the Failed Bank or its Subsidiaries or Affiliates who is also or becomes a director, officer, employee or agent of the Assuming Bank or its Subsidiaries or Affiliates;

(12) claims or actions which constitute a breach by the Assuming Bank of the representations and warranties contained in Article XI;

(13) claims arising out of or relating to the condition of or generated by an Asset arising from or relating to the presence, storage or release of any hazardous or toxic substance, or any pollutant or contaminant, or condition of such Asset which violate any applicable Federal, State or local law or regulation concerning environmental protection;

(14) claims based on, related to or arising from any asset, including a loan, acquired or liability assumed by the Assuming Bank, other than pursuant to this Agreement; and

(15) claims based on, related to or arising from any liability specifically not assumed by the Assuming Bank pursuant to Section 2.5 of this Agreement.

12.2 Conditions Precedent to Indemnification. It shall be a condition precedent to the obligation of the Receiver to indemnify any Person pursuant to this Article XII that such

Person shall, with respect to any claim made or threatened against such Person for which such Person is or may be entitled to indemnification hereunder:

(a) give written notice to the Regional Counsel (Litigation Branch) of the Corporation in the manner and at the address provided in Section 13.7 of such claim as soon as practicable after such claim is made or threatened; provided, that notice must be given on or before the date which is six (6) years from the date of this Agreement;

(b) provide to the Receiver such information and cooperation with respect to such claim as the Receiver may reasonably require;

(c) cooperate and take all steps, as the Receiver may reasonably require, to preserve and protect any defense to such claim;

(d) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Receiver the right, which the Receiver may exercise in its sole discretion, to conduct the investigation, control the defense and effect settlement of such claim, including without limitation the right to designate counsel and to control all negotiations, litigation, arbitration, settlements, compromises and appeals of any such claim, all of which shall be at the expense of the Receiver; provided, that the Receiver shall have notified the Person claiming indemnification in writing that such claim is a claim with respect to which the Person claiming indemnification is entitled to indemnification under this Article XII;

(e) not incur any costs or expenses in connection with any response or suit with respect to such claim, unless such costs or expenses were incurred upon the written direction of the Receiver; provided, that the Receiver shall not be obligated to reimburse the amount of any such costs or expenses unless such costs or expenses were incurred upon the written direction of the Receiver;

(f) not release or settle such claim or make any payment or admission with respect thereto, unless the Receiver consents in writing thereto, which consent shall not be unreasonably withheld; provided, that the Receiver shall not be obligated to reimburse the amount of any such settlement or payment unless such settlement or payment was effected upon the written direction of the Receiver; and

(g) take reasonable action as the Receiver may request in writing as necessary to preserve, protect or enforce the rights of the indemnified Person against any Primary Indemnitor.

12.3 No Additional Warranty. Nothing in this Article XII shall be construed or deemed to (i) expand or otherwise alter any warranty or disclaimer thereof provided under Section 3.3 or any other provision of this Agreement with respect to, among other matters, the title, value, collectibility, genuineness, enforceability or condition of any (x) Asset, or (y) asset of the Failed Bank purchased by the Assuming Bank subsequent to the execution of this Agreement by the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank, or (ii) create any warranty not expressly provided under this Agreement with respect thereto.

12.4 **Indemnification of Receiver and Corporation**. From and after Bank Closing, the Assuming Bank agrees to indemnify and hold harmless the Corporation and the Receiver and their respective directors, officers, employees and agents from and against any and all costs, losses, liabilities, expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with any of the following:

(a) claims based on any and all liabilities or obligations of the Failed Bank assumed by the Assuming Bank pursuant to this Agreement or subsequent to the execution hereof by the Assuming Bank or any Subsidiary or Affiliate of the Assuming Bank, whether or not any such liabilities subsequently are sold and/or transferred, other than any claim based upon any action or inaction of any Indemnitee as provided in paragraph (7) or (8) of Section 12.1(a); and

(b) claims based on any act or omission of any Indemnitee (including but not limited to claims of any Person claiming any right or title by or through the Assuming Bank with respect to Assets transferred to the Receiver pursuant to Section 3.4 or 3.6), other than any action or inaction of any Indemnitee as provided in paragraph (7) or (8) of Section 12.1(a).

12.5 **Obligations Supplemental**. The obligations of the Receiver, and the Corporation as guarantor in accordance with Section 12.7, to provide indemnification under this Article XII are to supplement any amount payable by any Primary Indemnitor to the Person indemnified under this Article XII. Consistent with that intent, the Receiver agrees only to make payments pursuant to such indemnification to the extent not payable by a Primary Indemnitor. If the aggregate amount of payments by the Receiver, or the Corporation as guarantor in accordance with Section 12.7, and all Primary Indemnitors with respect to any item of indemnification under this Article XII exceeds the amount payable with respect to such item, such Person being indemnified shall notify the Receiver thereof and, upon the request of the Receiver, shall promptly pay to the Receiver, or the Corporation as appropriate, the amount of the Receiver's (or Corporation's) payments to the extent of such excess.

12.6 **Criminal Claims**. Notwithstanding any provision of this Article XII to the contrary, in the event that any Person being indemnified under this Article XII shall become involved in any criminal action, suit or proceeding, whether judicial, administrative or investigative, the Receiver shall have no obligation hereunder to indemnify such Person for liability with respect to any criminal act or to the extent any costs or expenses are attributable to the defense against the allegation of any criminal act, unless (i) the Person is successful on the merits or otherwise in the defense against any such action, suit or proceeding, or (ii) such action, suit or proceeding is terminated without the imposition of liability on such Person.

12.7 **Limited Guaranty of the Corporation.** The Corporation hereby guarantees performance of the Receiver's obligation to indemnify the Assuming Bank as set forth in this Article XII. It is a condition to the Corporation's obligation hereunder that the Assuming Bank shall comply in all respects with the applicable provisions of this Article XII. The Corporation shall be liable hereunder only for such amounts, if any, as the Receiver is obligated to pay under the terms of this Article XII but shall fail to pay. Except as otherwise provided above in this Section 12.7, nothing in this Article XII is intended or shall be construed to create any liability or obligation on the part of the Corporation, the United States of America or any department or

agency thereof under or with respect to this Article XII, or any provision hereof, it being the intention of the parties hereto that the obligations undertaken by the Receiver under this Article XII are the sole and exclusive responsibility of the Receiver and no other Person or entity.

12.8 **Subrogation.** Upon payment by the Receiver, or the Corporation as guarantor in accordance with Section 12.7, to any Indemnitee for any claims indemnified by the Receiver under this Article XII, the Receiver, or the Corporation as appropriate, shall become subrogated to all rights of the Indemnitee against any other Person to the extent of such payment.

ARTICLE XIII
MISCELLANEOUS

13.1 **Entire Agreement**. This Agreement embodies the entire agreement of the parties hereto in relation to the subject matter herein and supersedes all prior understandings or agreements, oral or written, between the parties.

13.2 **Headings**. The headings and subheadings of the Table of Contents, Articles and Sections contained in this Agreement, except the terms identified for definition in Article I and elsewhere in this Agreement, are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

13.3 **Counterparts**. This Agreement may be executed in any number of counterparts and by the duly authorized representative of a different party hereto on separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

13.4 **GOVERNING LAW**. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE FEDERAL LAW OF THE UNITED STATES OF AMERICA, AND IN THE ABSENCE OF CONTROLLING FEDERAL LAW, IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE MAIN OFFICE OF THE FAILED BANK IS LOCATED.

13.5 **Successors**. All terms and conditions of this Agreement shall be binding on the successors and assigns of the Receiver, the Corporation and the Assuming Bank. Except as otherwise specifically provided in this Agreement, nothing expressed or referred to in this Agreement is intended or shall be construed to give any Person other than the Receiver, the Corporation and the Assuming Bank any legal or equitable right, remedy or claim under or with respect to this Agreement or any provisions contained herein, it being the intention of the parties hereto that this Agreement, the obligations and statements of responsibilities hereunder, and all other conditions and provisions hereof are for the sole and exclusive benefit of the Receiver, the Corporation and the Assuming Bank and for the benefit of no other Person.

13.6 **Modification; Assignment**. No amendment or other modification, rescission, release, or assignment of any part of this Agreement shall be effective except pursuant to a written agreement subscribed by the duly authorized representatives of the parties hereto.

13.7 **Notice**. Any notice, request, demand, consent, approval or other communication to any party hereto shall be effective when received and shall be given in writing, and delivered in person against receipt therefore, or sent by certified mail, postage prepaid, courier service, telex or facsimile transmission to such party (with copies as indicated below) at its address set forth below or at such other address as it shall hereafter furnish in writing to the other parties. All such notices and other communications shall be deemed given on the date received by the addressee.

Assuming Bank

JPMorgan Chase Bank, National Association
270 Park Avenue
New York, New York 10017

Attention: Brian A. Bessey

with a copy to: Stephen M. Cutler

Receiver and Corporation

Federal Deposit Insurance Corporation,
Receiver of Washington Mutual Bank, Henderson, Nevada
1601 Bryan St., Suite 1700
Dallas, Texas 75201

Attention: Deputy Director (DRR-Field Operations Branch)

with copy to: Regional Counsel (Litigation Branch)

and with respect to notice under Article XII:

Federal Deposit Insurance Corporation
Receiver of Washington Mutual Bank, Henderson, Nevada
1601 Bryan St., Suite 1700
Dallas, Texas 75201
Attention: Regional Counsel (Litigation Branch)

13.8 **Manner of Payment**. All payments due under this Agreement shall be in lawful money of the United States of America in immediately available funds as each party hereto may specify to the other parties; provided, that in the event the Receiver or the Corporation is obligated to make any payment hereunder in the amount of $25,000.00 or less, such payment may be made by check.

13.9 Costs, Fees and Expenses. Except as otherwise specifically provided herein, each party hereto agrees to pay all costs, fees and expenses which it has incurred in connection with or incidental to the matters contained in this Agreement, including without limitation any fees and disbursements to its accountants and counsel; provided, that the Assuming Bank shall pay all fees, costs and expenses (other than attorneys' fees incurred by the Receiver) incurred in connection with the transfer to it of any Assets or Liabilities Assumed hereunder or in accordance herewith.

13.10 Waiver. Each of the Receiver, the Corporation and the Assuming Bank may waive its respective rights, powers or privileges under this Agreement; provided, that such waiver shall be in writing; and further provided, that no failure or delay on the part of the Receiver, the Corporation or the Assuming Bank to exercise any right, power or privilege under this Agreement shall operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege by the Receiver, the Corporation, or the Assuming Bank under this Agreement, nor will any such waiver operate or be construed as a future waiver of such right, power or privilege under this Agreement.

13.11 Severability. If any provision of this Agreement is declared invalid or unenforceable, then, to the extent possible, all of the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

13.12 Term of Agreement. This Agreement shall continue in full force and effect until the sixth (6th) anniversary of Bank Closing; provided, that the provisions of Section 6.3 and 6.4 shall survive the expiration of the term of this Agreement. Provided, however, the receivership of the Failed Bank may be terminated prior to the expiration of the term of this Agreement; in such event, the guaranty of the Corporation, as provided in and in accordance with the provisions of Section 12.7 shall be in effect for the remainder of the term. Expiration of the term of this Agreement shall not affect any claim or liability of any party with respect to any (i) amount which is owing at the time of such expiration, regardless of when such amount becomes payable, and (ii) breach of this Agreement occurring prior to such expiration, regardless of when such breach is discovered.

13.13 Survival of Covenants, Etc. The covenants, representations, and warranties in this Agreement shall survive the execution of this Agreement and the consummation of the transactions contemplated hereunder.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER OF: WASHINGTON MUTUAL BANK, HENDERSON, NEVADA

BY: /Mitchell L. Glassman

NAME: Mitchell L. Glassman
TITLE: Director

Attest:

/David M. Gearin

FEDERAL DEPOSIT INSURANCE CORPORATION

BY: /Mitchell L. Glassman

NAME: Mitchell L. Glassman
TITLE: Director

Attest:

/David M. Gearin

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

BY: /Brian A. Bessey

NAME: Brian A. Bessey
TITLE: Senior Vice President

Attest:

/Michael Lipsitz

SCHEDULE 2.1 - Certain Liabilities Not Assumed

1. Preferred stock and litigation pending against the Failed Bank related to liabilities retained by the receiver.

2. Subordinated debt.

3. Senior debt.

4. All employee benefit plans sponsored by the holding company of the Failed Bank except the tax-qualified pension and 401(k) plans and employee medical plan.

5. All management, employment, change-in-control, severance, unfunded deferred compensation and individual consulting agreements or plans (i) between the Failed Bank and its employees or (ii) maintained by the Failed Bank on behalf of its employees.

SCHEDULE 3.2 - Purchase Price of Assets

(a)	cash and receivables from depository institutions, including cash items in the process of collection, plus interest thereon:	Book Value
(b)	securities (exclusive of the capital stock of Acquired Subsidiaries), plus interest thereon:	Market Value
(c)	federal funds sold and repurchase agreements, if any, including interest thereon:	Book Value
(d)	Loans:	Book Value
(e)	Other Real Estate:	Book Value
(f)	credit card business, if any, including all outstanding extensions of credit:	Book Value
(g)	Safe Deposit Boxes and related business, safekeeping business and trust business, if any:	Book Value
(h)	Records and other documents:	Book Value
(i)	capital stock of any Acquired Subsidiaries:	Book Value
(j)	amounts owed to the Failed Bank by any Acquired Subsidiary:	Book Value
(k)	assets securing Deposits of public money, to the extent not otherwise purchased hereunder:	Book Value
(l)	Overdrafts of customers:	Book Value

(m)	rights, if any, with respect to Qualified Financial Contracts.	Market Value
(n)	rights of the Failed Bank to provide mortgage servicing for others and to have mortgage servicing provided to the Failed Bank by others and related contracts.	Book Value
(o)	Bank Premises:	Book Value
(p)	Furniture and Equipment:	Book Value
(q)	Fixtures:	Book Value

SCHEDULE 3.5 - Certain Assets Not Purchased

(1) Any Financial Institution Bonds, Banker's Blanket Bonds, surety bonds (except Court bonds required for retained litigation risk), Directors and Officers insurance, Professional Liability insurance, or related premium refund, unearned premium derived from cancellation, or any proceeds payable with respect to any of the foregoing. This shall exclude Commercial General Liability, International Liability, Commercial Automobile, Worker's Compensation, Employer's Liability, Umbrella and Excess Liability, Property, Mortgage Impairment and Mortgage Errors & Omissions, Lender-placed coverage, Private Mortgage Insurance, Boiler & Machinery, Terrorism, Mail, Storage Tank Liability, Marine Liability, Vessel Hull and Vessel Pollution (if marine assets are acquired), Aircraft Liability (if aircraft assets are acquired) insurance policies, proceeds and collateral related to, held or issued with respect to or in connection with any Asset (including Bank staff) acquired by the Assuming Bank under this Agreement, which such policies, proceeds and collateral are acquired Assets.

(2) any interest, right, action, claim, or judgment against (i) any officer, director, employee, accountant, attorney, or any other Person employed or retained by the Failed Bank or any Subsidiary of the Failed Bank on or prior to Bank Closing arising out of any act or omission of such Person in such capacity, (ii) any underwriter of financial institution bonds, banker's blanket bonds or any other insurance policy of the Failed Bank, (iii) any shareholder or holding company of the Failed Bank, or (iv) any other Person whose action or inaction may be related to any loss (exclusive of any loss resulting from such Person's failure to pay on a Loan made by the Failed Bank) incurred by the Failed Bank; provided, that for the purposes hereof, the acts, omissions or other events giving rise to any such claim shall have occurred on or before Bank Closing, regardless of when any such claim is discovered and regardless of whether any such claim is made with respect to a financial institution bond, banker's blanket bond, or any other insurance policy of the Failed Bank in force as of Bank Closing;

(3) leased Bank Premises and leased Furniture and Equipment and Fixtures and data processing equipment (including hardware and software) located on leased or owned Bank Premises, if any; provided, that the Assuming Bank does obtain an option under Section 4.6, Section 4.7 or Section 4.8, as the case may be, with respect thereto; and

(4) any criminal/restitution orders issued in favor of the Failed Bank;

EXHIBIT 3.2(c) -- VALUATION OF CERTAIN QUALIFIED FINANCIAL CONTRACTS

A. Scope

Interest Rate Contracts - All interest rate swaps, forward rate agreements, interest rate futures, caps, collars and floors, whether purchased or written.

Option Contracts - All put and call option contracts, whether purchased or written, on marketable securities, financial futures, foreign currencies, foreign exchange or foreign exchange futures contracts.

Foreign Exchange Contracts - All contracts for future purchase or sale of foreign currencies, foreign currency or cross currency swap contracts, or foreign exchange futures contracts.

B. Exclusions

All financial contracts used to hedge assets and liabilities that are acquired by the Assuming Bank but are not subject to adjustment from Book Value.

C. Adjustment

The difference between the Book Value and market value as of Bank Closing.

D. Methodology

1. The price at which the Assuming Bank sells or disposes of Qualified Financial Contracts will be deemed to be the fair market value of such contracts, if such sale or disposition occurs at prevailing market rates within a predefined timetable as agreed upon by the Assuming Bank and the Receiver.

2. In valuing all other Qualified Financial Contracts, the following principles will apply:

   (i) All known cash flows under swaps or forward exchange contracts shall be present valued to the swap zero coupon interest rate curve.

   (ii) All valuations shall employ prices and interest rates based on the actual frequency of rate reset or payment.

   (iii) Each tranche of amortizing contracts shall be separately valued. The total value of such amortizing contract shall be the sum of the values of its component tranches.

(iv) For regularly traded contracts, valuations shall be at the midpoint of the bid and ask prices quoted by customary sources (e.g., The Wall Street Journal, Telerate, Reuters or other similar source) or regularly traded exchanges.

(v) For all other Qualified Financial Contracts where published market quotes are unavailable, the adjusted price shall be the average of the bid and ask price quotes from three (3) securities dealers acceptable to the Receiver and Assuming Bank as of Bank Closing. If quotes from securities dealers cannot be obtained, an appraiser acceptable to the Receiver and the Assuming Bank will perform a valuation based on modeling, correlation analysis, interpolation or other techniques, as appropriate.

EXHIBIT B

Trust Securities

- Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-1
- Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-2
- Washington Mutual Preferred Funding Trust I Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities
- Washington Mutual Preferred Funding Trust II Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities
- Washington Mutual Preferred Funding Trust III Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities
- Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities

EXHIBIT C

Washington Mutual

John F. Robinson
Executive Vice President
Corporate Risk Management

CONFIDENTIAL TREATMENT REQUESTED

February 23, 2006

Darrel Dochow
Deputy Regional Director, West Region
Office of Thrift Supervision
101 Stewart Street, Suite 1010
Seattle, WA 98101-1048

Re: Washington Mutual Bank (Docket Number: 08551) – Request for confirmation of capital treatment of two classes of preferred stock.

Dear Mr. Dochow:

On behalf of Washington Mutual, Inc. ("WMI"), I am writing with reference to the notice filed January 30, 2006 by Washington Mutual Bank ("WMB") to establish a new subsidiary, Washington Mutual Preferred Funding LLC ("WMPF"), for the purpose of issuing two classes of preferred securities to be eligible for inclusion in core capital of WMB (the "Notice"). You provided notice of the non-objection of the Office of Thrift Supervision ("OTS") to the establishment of WMPF by your letter dated February 9, 2006.

As you are aware, in the Notice WMB requested the OTS confirm that the sale of the Cayman Co. Preferred Securities and the Delaware Issuer Securities (as defined in the Notice) to outside investors constitutes the sale of the LLC Preferred Securities (as defined in the Notice) to outside investors and that the LLC Preferred Securities qualify for inclusion in core capital of WMB. In connection with that request, WMI hereby undertakes that if, as a result of a Supervisory Event (as defined in the Notice), WMI exchanges its Holding Company Shares (as defined in the Notice) for Cayman Co. Preferred Securities and the Delaware Issuer Securities, or if WMI subsequent to such exchange acquires the LLC Preferred Securities, WMI will contribute to WMB the Cayman Co. Preferred Securities and the Delaware Issuer Securities or, as appropriate, the LLC Preferred Securities.

If you have any questions regarding this letter, please call Robert Monheit at (212) 326-6104 or me at (206) 490-6100.

Sincerely,

John F. Robinson
Executive Vice President
Corporate Risk Management

1201 Third Avenue
WMT 1601
Seattle, WA 98101
phone 206.490.6100
fax 206.377.5318

EXHIBIT D

Minutes of January 17, 2006 meeting of WMI Board of Directors

Minutes of January 17, 2006 meeting of WMB Board of Directors

Minutes of February 17, 2006 meeting of WMI Board of Directors

WASHINGTON MUTUAL, INC.
CERTIFICATE OF ASSISTANT SECRETARY

I, Linda O'Brien, Assistant Secretary of Washington Mutual, Inc., a Washington corporation ("WMI") and formerly Assistant Secretary of Washington Mutual Bank, former subsidiary of Washington Mutual, Inc. and now a division of JP Morgan Chase Bank ("WMB"), do hereby certify that at a meeting duly called and held on January 17, 2006, the Board of Directors of WMI gave approval (see excerpt of minutes Exhibit A) of the resolutions attached as Exhibit B;

The undersigned further certifies that at a meeting duly called and held on February 21, 2006, the Board of Directors of WMI gave approval (see excerpt of minutes Exhibit C) of the resolutions attached as Exhibit D;

The undersigned further certifies that at a meeting duly called and held on January 17, 2006, the Board of Directors of WMB gave approval (see excerpt of minutes Exhibit E) of the resolutions attached as Exhibit F;

EXHIBIT A

Support for Capital Raising Transaction by WMB

Ms. Pugh reported that the Finance Committee had received a report from the Treasurer on equity and funding strategies. The strategy with regard to equity capital is to minimize the cost of capital by using hybrid securities. The Committee reviewed a proposal for the issuance of securities (the "LLC Preferred Securities") by a Delaware limited liability company that would be organized as an operating subsidiary under WMB's indirect subsidiary, University Street, Inc. Investors would purchase certain other securities (the "SPE Securities") from two special purpose entities, each of which will use the proceeds of its issuance of SPE Securities to finance the purchase of one of the two classes of LLC Preferred Securities. The Company will serve as a source of strength for WMB, as the SPE Securities will automatically be exchangeable into one share of a new class of preferred stock of the Company ("WMI Preferred") or a share of depositary stock representing a fractional interest in WMI Preferred, upon the occurrence of a "Supervisory Event" (defined to refer to WMB (a) becoming "undercapitalized" under the OTS's "prompt corrective action" regulations, (b) being placed into bankruptcy, reorganization, conservatorship or receivership, or (c) being determined by the OTS, in its sole discretion, to be in such condition as to cause the OTS to direct an exchange of SPE Securities for WMI Preferred in anticipation that WMB will become "undercapitalized" in the near term, or to cause the OTS to take supervisory action that limits the payment of distributions or dividends). The Committee recommended approval of the proposal. On motion duly made and seconded, the Board unanimously resolved to approve this transaction. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

EXHIBIT B

Appendix B – Approval of Issuance of REIT Preferred Securities

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street proposes to cause the formation of a Delaware limited liability company (the "LLC") and in connection therewith University Street and Washington Mutual Bank will contribute to the LLC assets of approximately $5 billion in the aggregate;

WHEREAS, it is proposed that the LLC will issue common interests, substantially all of which will be issued to University Street;

WHEREAS, it is proposed that the LLC will issue to WMB or its designee two series or classes of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $2.0 billion;

WHEREAS, it is proposed that one class of the LLC Preferred Interests will have a fixed dividend rate and the other class will have a dividend rate which is fixed for 5 years and thereafter is variable;

WHEREAS, it is proposed that the LLC Preferred Interests will be transferred to two special purpose entities which in turn will issue substantially similar securities (the "SPE Securities") to investors;

WHEREAS, under specified circumstances, each class of SPE Securities will automatically be exchanged for preferred stock of the Company or for depositary shares representing fractional interests in preferred stock of the Company; and

WHEREAS, the Board desires to authorize the issuance of two series of such preferred stock, to establish substantive terms of each series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and relative rights, preferences and limitations of each series and to provide for other matters relating to the preferred stock and the LLC preferred interests.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series I Perpetual Non-cumulative Fixed/Floating Rate Preferred Stock" (the "Series I Preferred Stock") and a series of preferred stock designated as the "Series J Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series J Preferred Stock"). The number of shares constituting each series shall not exceed 2,000; provided that the aggregate amount of shares in both series shall not exceed 2,000. The stock in each series shall have no par value.

FURTHER RESOLVED, that the Series I Preferred Stock and the Series J Preferred Stock (collectively, the "Preferred Stock") shall each have rights, preferences and limitations which are consistent with the following:

Ranking. The Preferred Stock shall, with respect to dividend rights and liquidation rights, rank (a) on a parity with each series or class of the Company's preferred stock issued in the future unless the terms of such future series or class expressly state that it is junior to the Preferred Stock; (b) rank on a parity with each other; and (c) rank senior to the Company's common stock and the Company's Series RP Preferred Stock.

Liquidation Account. The per share liquidation amount of each share of the Preferred Stock will not exceed $1,000,000.

Dividends. Dividends on the Preferred Stock, if and when declared by the Board, will be paid quarterly. Dividends will be non-cumulative.

The dividend rate on the Series I Preferred Stock will be at a fixed rate for a period of 5 years from the issuance of the SPE Securities. Such rate will be set on or about the date that the SPE Securities are issued and will not exceed 7.0% per annum, calculated on a 30/360 basis. After the expiration of such 5-year period, the dividend rate will become variable and for each dividend period will be an amount equal to the product of (A) the liquidation amount and (B) 3-month LIBOR applicable to such period plus a spread which shall not exceed 275 basis points, calculated on a 30/360 basis.

The dividend rate on the Series J Preferred Stock will be at a fixed rate and will be set on or about the date that the SPE Securities are issued. Such fixed rate shall not exceed 8.0% per annum, calculated on a 30/360 basis.

If dividends are not declared and paid in full on the Preferred Stock for any quarterly dividend period, then the Company shall not declare or pay, during such quarterly period, dividends or other distributions with respect to, or redeem, purchase, or acquire or make a liquidation payment with respect to, any of its capital securities, except dividends in connection with its shareholders' rights plan, or any successor plan, to the extent required therein, or dividends in connection with benefit plans.

Maturity. The Preferred Stock will be perpetual and, accordingly, will have no maturity date.

Redemption. The Preferred Stock will not be redeemable at the option of the holders.

The Company will be able to redeem the Preferred Stock at its option any time after 5 years from the date of issuance of the SPE Securities at a price equal to the liquidation amount with appropriate adjustments for declared and unpaid dividends, subject, however, to certain limits on the sources of funds for such redemption.

Sinking Fund. The Preferred Stock will not be subject to a sinking fund.

Convertibility. The Preferred Stock will not be convertible into any of the Company's other securities.

Voting. The holders of the Preferred Stock shall have no voting rights except (i) to the extent, if any, required by Washington law and (ii) in the event that dividends are not declared and paid on a series of Preferred Stock for 6 quarters (whether or not consecutive), then the holders of that series of Preferred Stock (together with the holders of any other parity series of preferred stock of WMI then outstanding which has the same voting rights) will have the right to elect two directors of WMI at the next annual shareholders meeting, provided that such right shall terminate when such holders have been paid dividends for 4 consecutive quarters (or in the case of the fourth quarter, dividends have been declared and set aside).

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy & Development, (vi) the Senior Vice President and Treasurer, (vii) the Senior Vice President and Assistant Treasurer and (viii) the Senior Vice President and Controller.

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any two of the Authorized Officers to designate, finalize, determine and complete the rights, preferences and limitations of the Preferred Stock, subject to the limits specified in these resolutions;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of each series of Preferred Stock to be authorized, to determine the dividend rates and the liquidation amount, to designate further situations in which the Company has the option to redeem the Preferred Stock with or without make-whole provisions, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for each series of Preferred Stock with the Secretary of State of the State of Washington;

RESOLVED FURTHER, that the Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the SPE Securities in a private/Regulation S offering, to prepare, or cause to be prepared, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action

shall approve in connection therewith in order to effect the offering of such securities in a private offering; and

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) purchase agreements with Goldman Sachs & Co. or an affiliate, (ii) exchange agreements relating to the exchange of the LLC Preferred Interests and the SPE Securities into the Preferred Stock, (iii) declaration of covenants or other agreements, in favor of holders of SPE Securities and/or specified indebtedness of the Company, prohibiting the issuance by the Company of preferred stock senior to the Preferred Stock, restricting sources of funds used to redeem the SPE Securities, or restricting dividends and distributions on the Company's stock if dividends are not paid on the SPE Securities), any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Preferred Stock, the LLC Preferred Interests or the SPE Securities or to further the intent of these resolutions, subject to the limits set forth in these resolutions.

EXHIBIT C

Clarification of Support for Capital Raising Transaction by WMB

Mr. Killinger submitted a proposal for clarifying amendments of the resolutions adopted by the Board at its January meeting in connection with the planned issuance of securities (the "LLC Preferred Securities") by a Delaware limited liability company that would be organized as an operating subsidiary under WMB's indirect subsidiary, University Street, Inc. Investors would purchase certain other securities (the "SPE Securities") from two special purpose entities, each of which will use the proceeds of its issuance of SPE Securities to finance the purchase of one of the two classes of LLC Preferred Securities. The Company will serve as a source of strength for WMB, as the SPE Securities will automatically be exchangeable into one share of a new class of preferred stock of the Company ("WMI Preferred") or a share of depositary stock representing a fractional interest in WMI Preferred, upon the occurrence of a "Supervisory Event" (as defined in the materials submitted to the Board). In response to questions by Mr. Matthews, Mr. Casey confirmed that executives do not have any personal interest in the special purpose entities being used to effectuate this transaction. On motion duly made and seconded, the Board unanimously adopted the clarifying resolutions. A copy of these resolutions will be kept in the minute book as an appendix to these minutes.

EXHIBIT D

Appendix G – University Street, Inc. – Issuance of Preferred Securities

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street proposes to cause the formation of a Delaware limited liability company (the "LLC") and in connection therewith University Street and Washington Mutual Bank will contribute to the LLC assets of approximately $5.4 billion in the aggregate;

WHEREAS, it is proposed that the LLC will issue common interests, substantially all of which will be issued to University Street;

WHEREAS, it is proposed that the LLC will issue to WMB or its designee two series or classes of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $2.0 billion;

WHEREAS, it is proposed that one class of the LLC Preferred Interests will have a fixed dividend rate and the other class will have a dividend rate which is fixed for approximately 5 years and thereafter is variable;

WHEREAS, it is proposed that the LLC Preferred Interests will be transferred to two special purpose entities which in turn will issue substantially similar securities (the "SPE Securities") to investors;

WHEREAS, under specified circumstances, each class of SPE Securities will automatically be exchanged for preferred stock of the Company or for depositary shares representing fractional interests in preferred stock of the Company;

WHEREAS, in a set of resolutions adopted at its January 17, 2006 meeting (the "Prior Resolutions"), the Board previously authorized the issuance of two series of such preferred stock of the Company, established substantive terms of each series, delegated authority to appropriate officers of the Company to determine, within the limits specifically prescribed in the Prior Resolutions, the designation and relative rights, preferences and limitations of each series and provided for other matters relating to the preferred stock and the LLC preferred interests; and

WHEREAS, the Board now desires to amend and supplement certain of the terms of each of the series of preferred stock of the Company and certain of the provisions in the Prior Resolutions.

THEREFORE, IT IS HEREBY RESOLVED, that the two series of preferred stock authorized by the Prior Resolutions shall be designated as the "Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock" (the "Series I Preferred Stock") and the "Series J Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series J Preferred Stock"), respectively;

RESOLVED FURTHER, that notwithstanding the Prior Resolutions, the Series I Preferred Stock and the Series J Preferred Stock (collectively, the "Preferred Stock") shall each have rights, preferences and limitations which are set forth in the respective designations for each series presented at this meeting subject to the completion and any modification by Authorized Officers as herein provided (the "Designations");

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any two of the Authorized Officers (as defined in the Prior Resolutions) to designate, finalize, determine and complete the rights, preferences, privileges, restrictions and other matters, and to take such other actions, relating to the Preferred Stock, subject to the limits in the Prior Resolutions relating to the number of shares in each series, liquidation amount, maturity, holders' redemption rights, sinking fund and convertibility and to the following limits:

(i) the Series I Preferred Stock will be at a fixed rate from issuance not to exceed 7.50% per annum until March 15, 2011 or another date in March 2011 as provided in the completed Designation and thereafter will be at a floating rate for each dividend period at a rate equal to the 3-month LIBOR applicable to such period (or in circumstances set forth in the Designation 4.75% per annum, if higher) plus a spread which will not exceed 275 basis points;

(ii) the Series J Preferred Stock will be at a fixed rate not to exceed 8.0% per annum;

(iii) the Company will be able to redeem the Preferred Stock any time on or after March 15, 2011 or another date in March 2011 as provided in the completed Designation; and

(iv) the holders of the Preferred Stock will have no voting rights except (i) to the extent, if any, required by Washington law and (ii) in the event that dividends are not declared and paid on a series of the Preferred (or on certain other classes or series as described in the completed Designation) then holders of the Preferred Stock (together with any other classes or series described in the completed Designation) will have the right to elect two directors of the Company at the next annual meeting;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolution shall, subject to the limits therein, include, without limitation, the authority to determine the number of shares of each series of Preferred Stock to be authorized, to determine the dividend rates, to specify additional redemption rights of the Company, to specify limits on the Company's rights to pay dividends on other equity securities if dividends have not been paid on the Preferred Stock, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for each series of Preferred Stock with the Secretary of State of the State of Washington;

RESOLVED FURTHER, that the number of shares authorized in the Designations as completed by the Authorized Officers as provided herein shall upon filing of the articles of amendment for each series be fully reserved for issuance;

RESOLVED FURTHER, that the declaration of covenants or other agreements referred to in clause (iii) of the last resolution in the Prior Resolutions may also include such other provisions or items as any Authorized Officer deems necessary or advisable including without limitation restrictions on dividends and distributions on the Company's other equity securities if dividends are not paid on the Preferred Stock after its issuance and restrictions on the sources of funds for any redemptions;

RESOLVED FURTHER, that except as hereby amended and supplemented, the Prior Resolutions remain in full force and effect; and

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards

and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Preferred Stock, the LLC Preferred Interests or the SPE Securities or to further the intent of these resolutions or the Prior Resolutions, subject to the limits set forth in these resolutions.

EXHIBIT E

Capital Raising Transaction

Ms. Pugh reported that the Finance Committee had received a report from the Treasurer on equity and funding strategies. The strategy with regard to equity capital is to minimize the cost of capital by using hybrid securities. The Committee reviewed a proposal for the issuance of securities by a Delaware limited liability company that would be organized as an operating subsidiary under the Association's indirect subsidiary, University Street, Inc. Investors would purchase certain other securities (the "SPE Securities") from two special purpose entities (not under the Association's control), each of which will use the proceeds of its issuance of SPE Securities to finance the purchase of one of the two classes of LLC Preferred Securities. The Holding Company will serve as a source of strength for the Association, as the SPE Securities will automatically be exchangeable into one share of a new class of preferred stock of the Holding Company ("WMI Preferred") or a share of depositary stock representing a fractional interest in WMI Preferred, upon the occurrence of a "Supervisory Event" (defined to refer to the Association doing any of the following: (a) becoming "undercapitalized" under the OTS's "prompt corrective action" regulations, (b) being placed into bankruptcy, reorganization, conservatorship or receivership, or (c) being determined by the OTS, in its sole discretion, to be in such condition as to cause the OTS to direct an exchange of SPE Securities for WMI Preferred in anticipation that the Association will become "undercapitalized", or to cause the OTS to take supervisory action that limits the Association's payment of distributions or dividends). The Committee recommended approval of the proposal. On motion duly made and seconded, the Board unanimously resolved to approve this transaction. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

EXHIBIT F

Appendix A – Approval of Issuance of REIT Preferred Securities

WHEREAS, Washington Mutual Bank (the "Bank") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, it is proposed that the Bank will make a contribution to University Street to consist of loans or interests thereon not to exceed $1.2 billion in book value (the "University Street Contribution) in exchange for preferred stock issued by University Street;

WHEREAS, University Street proposes to cause the formation of a Delaware limited liability company (the "LLC") and in connection therewith University Street and the Bank will contribute to the LLC assets of approximately $5 billion, with the Bank's portion (the "LLC Contribution") to consist of loans or interests therein not to exceed $1.0 billion in book value;

WHEREAS, in exchange for such contributions, University Street will receive substantially all of the common interests of the LLC and the Bank or its designee will receive two classes or series preferred stock of the LLC ("LLC Preferred Interests");

WHEREAS, it is proposed that the LLC Preferred Interests will be transferred by WMB or its designee to two special purpose entities ("SPEs") which in turn will issue substantially similar securities (the "SPE Securities") to investors; and

WHEREAS, it is proposed that the Bank's parent, Washington Mutual, Inc. ("WMI"), will authorize two series of preferred stock (the "WMI Preferred Stock") for which under certain circumstances each class of SPE Securities will be automatically exchanged.

THEREFORE, IT IS HEREBY RESOLVED, that the University Street Contribution and the LLC Contribution are hereby authorized and approved, and any Authorized Officer (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements or documents as such Authorized Officer deems necessary or appropriate in connection with the University Street Contribution or the LLC Contribution.

RESOLVED FURTHER, that the Bank is hereby authorized to transfer, or to cause its designee to transfer, the LLC Preferred Interests to the SPEs in exchange for cash and any Authorized Officer is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements or documents as such Authorized Officer deems necessary or appropriate in connection with such transfers;

RESOLVED FURTHER, each of the Authorized Officers is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements with the LLC as such Authorized Officer deems necessary or appropriate in connection with the management, operation or administration of the LLC;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Bank and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the SPE Securities in a private/Regulation S offering, to prepare, cause to be prepared or to participate in the preparation of, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private/Regulation S offering;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Bank (including, without limitation, those authorized from time to time pursuant to the Bank's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Bank (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the University Street Contribution, the LLC Contribution or the transfers of the LLC Preferred Interests or to further the intent of these resolutions; and

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) any Executive Vice President, (vi) the Senior Vice President and Treasurer, (vii) the Senior Vice President and Assistant Treasurer and (viii) the Senior Vice President and Controller.

Minutes of October 17, 2006 meeting of WMI Board of Directors

WASHINGTON MUTUAL, INC.
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual, Inc. (the "Company") held its October meeting on Tuesday, October 17, 2006 in Seattle, Washington. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. Mr. Killinger presided. Also present, at the beginning of the meeting, were the Company's officers, Casey, Cathcart, Chapman, Rotella, Schneider and Lynch (secretary). The Board of the Company met in joint session with the Board of Directors of the Company's primary banking institution subsidiary, Washington Mutual Bank ("WMB").

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Support for WMB Capital Raising Transaction

Ms. Pugh reported that the Finance Committee had recommended a proposal for a contingent issuance of depositary shares representing fractional interests in a new series of preferred stock of the Company (the "Series L Preferred"). The Series L Preferred automatically would be exchanged, under specified circumstances, for securities (the "SPE Securities") issued by a special purpose entity (the "SPE"). The SPE would use the proceeds of its pending issuance of SPE Securities to finance the purchase of a third series of preferred securities (the "LLC Preferred Securities") that are to be issued by a Delaware limited liability company that was organized as an operating subsidiary under WMB's indirect subsidiary, University Street, Inc., as discussed at the January 2006 Board meeting. Thus the Company will serve as a source of strength for WMB. On motion duly made and seconded, the Board unanimously resolved to approve this transaction. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

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There being no further business the meeting was adjourned.

Appendices:

A - Resolutions Declaring Dividend on Common Stock

B - Resolutions Authorizing Support for WMB Preferred Funding LLC Capital Issuance

C - Resolutions related to Trust Subsidiary's Redemption of Trust Preferred Stock

D - Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix B - Resolutions Authorizing Support for WMB Preferred Funding LLC Capital Issuance

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, Washington Mutual Preferred Funding LLC, a Delaware limited liability company ("WMPF LLC"), is a subsidiary of University Street;

WHEREAS, WMPF LLC previously issued $2 billion liquidation preference of preferred membership interests, in two series, to Washington Mutual Bank ("WMB") in exchange for a corresponding amount of mortgage loan assets;

WHEREAS, it is proposed that WMPF LLC will issue to University Street or to a special purpose entity (the "SPE") a new series or class of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $1.0 billion;

WHEREAS, if the LLC Preferred Interests are issued to University Street, then University Street will, in turn, transfer or sell the LLC Preferred Interests to the SPE;

WHEREAS, upon receipt of the LLC Preferred Interests, the SPE will, in turn, issue substantially similar securities (the "SPE Securities") to investors for cash and will pay University Street or WMPF LLC an amount equal to the proceeds of such sale in payment for the LLC Preferred Interests;

WHEREAS, under specified circumstances, the SPE Securities will automatically be exchanged for depositary shares representing fractional interests in a new series of preferred stock of the Company; and

WHEREAS, the Board desires to authorize the issuance of such new series of such preferred stock, to establish substantive terms of such series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and relative rights, voting powers, preferences and limitations of such series and to provide for other matters relating to the preferred stock and the LLC Preferred Interests.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the

authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series L Perpetual Non-cumulative Fixed/Floating Rate Preferred Stock" (the "Series L Preferred Stock"). The number of shares constituting such series shall not exceed 1,000. The stock in such series shall have no par value.

FURTHER RESOLVED, that the Series L Preferred Stock shall have preferences, limitations, voting powers and relative rights set forth below, subject to completion or modification by the Authorized Officers as provided herein:

DESIGNATION

I. Designation. There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock" (the "Series L Preferred Stock"). The number of shares constituting such series shall be _____. The Series L Preferred Stock shall have no par value per share and the liquidation preference of the Series L Preferred Stock shall be $1,000,000.00 per share. Shares of Series L Preferred Stock shall be issued if and only if a Conditional Exchange occurs.

II. Ranking.

The Series L Preferred Stock will, with respect to dividend rights and rights on liquidation, winding-up and dissolution, rank (i) on a parity with the Company's Series I Perpetual Non-cumulative Fixed Floating Rate Preferred Stock (the "Series I Preferred Stock"), the Company's Series J Perpetual Non-cumulative Fixed Rate Preferred Stock (the "Series J Preferred Stock"), the Company's Series K Perpetual Non-Cumulative Floating Rate Preferred Stock (the "Series K Preferred Stock") and with each other class or series of preferred stock established after the Designation Date by the Company the terms of which expressly provide that such class or series will rank on a parity with the Series L Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Parity Securities") and (ii) senior to the Company's common stock (the "Common Stock"), the Company's Series RP Preferred Stock and each other class of capital stock outstanding or established after the Designation Date by the Company the terms of which do not expressly provide that it ranks on a parity with the Series L Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company, including the Common Stock (collectively referred to as "Junior Securities").

III. Definitions. Unless the context or use indicates another meaning or intent, the following terms shall have the following meanings, whether used in the singular or the plural:

Section 1. "3-Month USD LIBOR" means, with respect to any Dividend Period, a rate determined on the basis of the offered rates for three-month U.S. dollar deposits of not less than a principal amount equal to that which is representative for a single transaction in such market at such time, commencing on the first day of such Dividend Period, which appears on US LIBOR Telerate Page 3750 as of approximately 11:00 a.m., London time, on the LIBOR Determination Date for such Dividend Period. If on any LIBOR Determination Date no rate appears on US LIBOR Telerate Page 3750 as of approximately 11:00 a.m., London time, the Company or an affiliate of the Company on behalf of the Company will on such LIBOR Determination Date request four major reference banks in the London interbank market selected by the Company to provide the Company with a quotation of the rate at which three-month deposits in U.S. dollars, commencing on the first day of such Dividend Period, are offered by them to prime banks in the London interbank market as of approximately 11:00 a.m., London time, on such LIBOR Determination Date and in a principal amount equal to that which is representative for a single transaction in such market at such time. If at least two such quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations as calculated by the Company. If fewer than two quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted as of approximately 11:00 am., New York time, on the first day of such Dividend Period by three major banks in New York City, New York selected by the Company for loans in U.S. dollars to leading European banks, for a three-month period commencing on the first day of such Dividend Period and in a principal amount of not less than $1,000,000.

Section 2. "Business Day" means any day other than a Saturday, Sunday or any other day on which banks in New York City, New York, or Seattle, Washington are generally required or authorized by law to be closed.

Section 3. "Common Stock" has the meaning set forth in Section 2.

Section 4. "Company" means Washington Mutual, Inc., a Washington corporation.

Section 5. "Comparable Treasury Issue" means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the term remaining to the Dividend Payment Date in _____, 2016 that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of perpetual preferred securities having similar terms as the Series L Preferred Stock with respect to the payment of dividends and distributions of assets upon liquidation, dissolution or winding-up of the issuer of such preferred stock.

Section 6. "Comparable Treasury Price" means with respect to any Redemption Date the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or if the Independent Investment Banker obtains fewer than five such Reference Treasury Dealer Quotations, the average of all such quotations.

Section 7. "Conditional Exchange" means the automatic exchange of the Trust Securities into depositary shares representing an interest in the Series L Preferred Stock which occurs upon the written direction of the OTS upon or after the occurrence of an Exchange Event.

Section 8. [Intentionally Omitted]

Section 9. "Designation Date" means _____, 2006.

Section 10. "Dividend Payment Date" has the meaning set forth in Section 4(b).

Section 11. "Dividend Period" has the meaning set forth in Section 4(b).

Section 12. "Exchange Event" means the occurrence of any one of the following at a time as the Trust Securities are issued and outstanding:

(a) WMB becomes undercapitalized under the Prompt Corrective Action Regulations;

(b) WMB is placed into conservatorship or receivership; or

(c) the OTS, in its sole discretion, directs an exchange of the Trust Securities into depositary shares representing an interest in the Series L Preferred Stock in anticipation of WMB becoming undercapitalized under the Prompt Corrective Action Regulations or of the OTS taking any supervisory action that limits the payment of dividends by WMB.

Section 13. "Fixed-to-Floating Rate Delaware Preferred Securities" means the Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series [ ], liquidation preference $[1,000] per security, issued or to be issued by Washington Mutual Preferred Funding LLC, a Delaware limited liability company.

Section 14. "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company.

Section 15. "Junior Securities" has the meaning set forth in Section 2.

Section 16. "LIBOR Business Day" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.

Section 17. "LIBOR Determination Date" means, as to each Dividend Period, the date that is two LIBOR Business Days prior to the first day of such Dividend Period.

Section 18. "US LIBOR Telerate Page 3750"' means the display page of Moneyline's Telerate Service designated as 3750 (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying rates comparable to 3-Month USD LIBOR).

Section 19. "OTS" means the Office of Thrift Supervision or any successor regulatory entity.

Section 20. "Parity Securities" has the meaning set forth in Section 2.

Section 21. "Primary Treasury Dealer" has the meaning set forth in Section 3(x).

Section 22. "Prompt Corrective Action Regulation" means 12 C.F.R. Part 565 as in effect from time to time, or any successor regulation.

Section 23. "Redemption Date" means any date that is designated by the Company in a notice of redemption delivered pursuant to Section 7.

Section 24. "Reference Treasury Dealer" means each of the three primary U.S. government securities dealers (each, a "Primary Treasury Dealer"), as specified by the Company; provided that if any Primary Treasury Dealer as specified by the Company ceases to be a Primary Treasury Dealer, the Company will substitute for such Primary Treasury Dealer another Primary Treasury Dealer and if the Company fails to select a substitute within a reasonable period of time, then the substitute will be a Primary Treasury Dealer selected by the Independent Investment Banker after consultation with the Company.

Section 25. "Reference Treasury Dealer Quotations" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed, in each case, as a percentage of its principal amount) quoted in writing to the Independent Investment Banker by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

Section 26. A "Regulatory Capital Event" occurs when the Company determines, based upon receipt of an opinion of counsel, that there is a significant risk that the Fixed-to-Floating Rate Delaware Preferred Securities will no longer constitute core capital of WMB for purposes of the capital adequacy regulations issued by the OTS as a result of a change in applicable laws, regulations or related interpretations after issuance of the Fixed-to-Floating Rate Delaware Preferred Securities.

Section 27. "Treasury Rate" means the rate per year equal to the quarterly equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the relevant Redemption Date. The Treasury Rate will be calculated on the third Business Day preceding the relevant Redemption Date.

Section 28. "Trust Securities" means the Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities, Series [A-__], liquidation preference $100,000 per security, issued by Washington Mutual Preferred Funding Trust II, a Delaware statutory trust.

Section 29. "Voting Parity Securities" has the meaning set forth in Section 8(b).

Section 30. "WMB" means Washington Mutual Bank, a federal savings association and a subsidiary of the Company, or its successor.

IV. Dividends.

Section 1. Holders of shares of Series L Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of the funds legally available therefor, non-cumulative cash dividends in the amount determined as set forth in Section 4(c), and no more.

Section 2. Subject to Section 4(a), dividends shall be payable in arrears on March 15, June 15, September 15 and December 15 of each year commencing on the first such day after the issuance of the Series L Preferred Stock or, in each case, if any such day is not a Business Day, the next Business Day (each, a "Dividend Payment Date"). Each dividend will be payable to holders of record as they appear on the stock books of the Company on the first day of the month in which the relevant Dividend Payment Date occurs or, if such date is not a Business Day, the first Business Day of such month. Each period from and including a Dividend Payment Date (or the date of the issuance of the Series L Preferred Stock) to but excluding the following Dividend Payment Date (or the Redemption Date) is herein referred to as "Dividend Period", except that, if the Series L Preferred Stock is outstanding on _____ 15, 2016, the Dividend Period ending in _____ 2016 shall be to but excluding _____ 15, 2016 (whether or not a Business Day) and the Dividend Period ending in _____ [2017] shall commence on _____, 2016 (whether or not a Business Day).

Section 3. If the date of issuance of the Series L Preferred Stock is prior to the day immediately preceding _____ 15, 2016 or, if _____ 15, 2016 is not a Business Day, the first Business Day after _____ 15, 2016, then from such date of issuance to but not including _____ 15, 2016 (whether or not a Business Day), dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series L Preferred Stock, at an annual rate of _____% on the per share liquidation preference of the Series L Preferred Stock. From the later of the (i) _____ 15, 2016 and (ii) the date of issuance of the Series L Preferred Stock, dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series L Preferred Stock, at an annual rate on the per share liquidation preference of the Series L Preferred Stock equal to [the greater of (x)] 3-Month USD LIBOR for the related Dividend Period plus _____% [or (y) _____ percent (___%)]. Dividends payable for any Dividend Period greater or less than a full Dividend Period will be computed on the basis of twelve 30-day months, a 360-day year, and the actual number of days elapsed in the period if such Dividend Period ends in or prior to _____ 2016; thereafter dividends payable for any period greater or less than a full dividend period will be computed on the basis of the actual number of days in the relevant period divided by 360. No interest will be paid on any dividend payment of the Series L Preferred Stock.

Section 4. Dividends in the Series L Preferred Stock are non-cumulative. If the Board of Directors does not declare a dividend on the Series L Preferred Stock or declares less than a full dividend in respect of any Dividend Period, the holders of the Series L Preferred Stock will have no right to receive any dividend or a full dividend, as the case may be, for the Dividend Period, and the Company will have no obligation to pay a dividend or to pay full dividends for that Dividend Period, whether or not dividends are declared and paid for any future Dividend Period with respect to the Series L Preferred Stock or the Common Stock or any other class or series of the Company's preferred stock.

Section 5. If full dividends on all outstanding shares of the Series L Preferred Stock for any Dividend Period have not been declared and paid, the Company shall not declare or pay dividends with respect to, or redeem, purchase or acquire any of, its equity capital securities during the next succeeding Dividend Period, except dividends in connection with the Series RP Preferred Stock or other shareholders' rights plan, if any, or dividends in connection with benefit plans.

V. Liquidation.

Section 1. In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of Series L Preferred Stock at the time outstanding shall be entitled to receive liquidating distributions in the amount of $1,000,000 per share of Series L Preferred Stock, plus an amount equal to any declared but unpaid dividends thereon for the current Dividend Period to and including the date of such liquidation, out of assets legally available for distribution to its shareholders, before any distribution of assets is made to the holders of Common Stock or any securities ranking junior to the Series L Preferred Stock. After payment of the full amount of such liquidating distributions, the holders of Series L Preferred Stock will not be entitled to any further participation in any distribution of assets by, and shall have no right or claim to any remaining assets of, the Company.

Section 2. In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series L Preferred Stock and the corresponding amounts payable on any other Securities of equal ranking, the holders of Series L Preferred Stock and the holders of such other securities of equal ranking shall share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

VI. Maturity. The Series L Preferred Stock shall be perpetual unless redeemed by the Company in accordance with Section 7.

VII. Redemptions.

Section 1. The Series L Preferred Stock shall not be redeemable at the option of the holders at any time.

Section 2. The Series L Preferred Stock shall be redeemable at the option of the Company, in whole but not in part, upon the occurrence of a Regulatory Capital Event at a cash redemption price equal to the sum of: (X) the greater of (i) $1,000,000 per share, or (ii) the sum of present values of $1,000,000 per share and all undeclared dividends for the Dividend Period from the Redemption Date to and including the Dividend Payment Date in _____, 2016, discounted to the Redemption Date on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as calculated by an Independent Investment Banker), plus 0.30%; and (Y) any declared but unpaid dividends to the Redemption Date.

Section 3. In addition to the redemption described in Section 7(b), the Series L Preferred Stock shall be redeemable in whole or in part at the option of the Company, on (i) _____ 15, 2016 (or, in the event that _____ 15, 2016 is not a

Business Day, the next Business Day) and (ii) on each _____ 15 (or if such day is not a Business Day, the next Business Day) of each [fifth or tenth] year after 2016. Such redemption shall be at a cash redemption price of $1,000,000 per share, plus any declared and unpaid dividends to the Redemption Date, without accumulation of any undeclared dividends.

Section 4. In the case of any redemption under this Section 7, notice shall be mailed to each holder of record of the Series L Preferred Stock, not less than thirty nor more than 60 days prior to the Redemption Date specified in such notice; provided, however, that a longer minimum notice may be agreed to by the Company, including in a deposit agreement relating to depositary shares representing interests in the Series L Preferred Stock. The notice of redemption shall include a statement of (i) the redemption date, (ii) the redemption price, and (iii) the number of shares to be redeemed.

Section 5. Any shares of Series L Preferred Stock redeemed pursuant to this Section 7 or otherwise acquired by the Company in any manner whatsoever shall become authorized but unissued preferred shares of the Company but such preferred shares shall not under any circumstances be reissued as Series L Preferred Shares. The Company shall from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series L Preferred Stock accordingly.

VIII. Voting Rights.

Section 1. Holders of the Series L Preferred Stock will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, or (ii) voting rights, if any, described in Section 8(b).

Section 2. If after issuance of the Series L Preferred Stock the Company fails to pay, or declare and set aside for payment, full dividends on the Series L Preferred Stock or any other class or series of Parity Securities having similar voting rights ("Voting Parity Securities") for six Dividend Periods or their equivalent, the authorized number of the Company's directors will be increased by two. Subject to compliance with any requirement for regulatory approval of, or non-objection to, persons serving as directors, the holders of Series L Preferred Stock, voting together as a single and separate class with the holders of any outstanding Voting Parity Securities, will have the right to elect two directors in addition to the directors then in office at the Company's next annual meeting of shareholders. This right will continue at each subsequent annual meeting until the Company pays dividends or the Series L Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and pays or declares and sets aside for payment dividends for the fourth consecutive Dividend Period or its equivalent.

Section 3. The term of such additional directors will terminate, and the total number of directors will be decreased by two, at the first annual meeting of shareholders after the Company pays dividends for three consecutive Dividend Periods or their equivalent and declares and pays or sets aside for payment dividends on the Series L Preferred Stock and any Voting Parity Securities for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series L Preferred Stock. After the term of such additional directors terminates, the holders of the Series L Preferred Stock will not be able to elect additional directors unless dividends on the Series L Preferred Stock

have again not been paid or declared and set aside for payment for six future Dividend Periods.

Section 4. Any additional director elected by the holders of the Series L Preferred Stock and the Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series L Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at a meeting of the Company shareholders called for that purpose. As long as dividends on the Series L Preferred Stock or any Voting Parity Securities have not been paid for six Dividend Periods or their equivalent, any vacancy created by the removal of any such director may be filled only by the vote of the holders of the outstanding Series L Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at the same meeting at which such removal is considered.

IX. Certificates. The Company may at its option issue the Series L Preferred Stock without certificates.

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy & Development, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller.

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any one of the Authorized Officers to designate, finalize, determine and complete the preferences, limitations, voting powers and relative rights of the Series L Preferred Stock, subject to the limits specified in these resolutions;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of the Series L Preferred Stock to be authorized, to determine the dividend rates and the liquidation amount, to designate further situations in which the Company has the option to redeem the Series L Preferred Stock with or without make-whole provisions, to designate circumstances involving amendments to the Company's articles of incorporation (as amended) or involving mergers or other combinations or similar events in which holders of Series L Preferred Stock shall have voting rights, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for each series of Series L Preferred Stock with the Secretary of State of the State of Washington; provided, however, that (i) the number of shares of Series L Preferred Stock authorized shall not

exceed 1,000, (ii) the liquidation preferences shall not exceed $1,000,000 per share, (iii) the dividend rate will be at a fixed rate not to exceed 9.00% per annum from the date of the issuance until a date which is approximately 10 years from the date of issuance of the LLC Preferred Interests, as provided in the completed Designation and thereafter will be at a floating rate equal to the 3-month LIBOR applicable to such period plus a spread which will not exceed 275 basis points, except that such floating rate may be subject each dividend period to a floor which shall not exceed 6.00% per annum, and (iv) the Company will have the right to redeem the Series L Preferred Stock on a date that occurs no later than the first dividend payment date which is more than 10 years after the date on which the LLC Preferred Interests and the SPE Securities are issued.

RESOLVED FURTHER, that the Series L Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Series L Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that the number of shares authorized in the Designation as completed by an Authorized Officer shall upon filing of the articles of amendment for the S4eries L Preferred Stock be fully reserved for issuance;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the SPE Securities in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (the "Securities Act"), to prepare, or cause to be prepared, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering; and

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) purchase agreements with Goldman Sachs & Co., or an affiliate thereof, and/or other institutional purchasers, (ii) exchange agreements relating to the exchange of the LLC Preferred Interests and the SPE Securities into the Series L Preferred Stock, and (iii) declaration of covenants or other agreements, in favor of holders of SPE Securities and/or specified indebtedness of the Company, prohibiting the issuance by the Company of preferred stock senior to the Series L Preferred Stock, restricting sources of funds used to redeem the SPE Securities, or restricting dividends and distributions on the Company's stock if dividends are not paid on the SPE Securities), any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Series L Preferred Stock, the LLC Preferred Interests or the SPE Securities or to further the intent of these resolutions, subject to the limits set forth in these resolutions.

Minutes of October 17, 2006 meeting of WMB Board of Directors

WASHINGTON MUTUAL BANK
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual Bank (the "Association") held its October meeting on Tuesday, October 17, 2006 in Seattle, Washington. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. Mr. Killinger presided. Also present, at the beginning of the meeting, were the Association's officers, Casey, Cathcart, Chapman, Rotella, Schneider and Lynch (secretary). The Board met in joint session with the Board of Directors of Washington Mutual, Inc. (the "Holding Company").

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Preferred Funding LLC Capital Issuance

Ms. Pugh reported that the Finance Committee had recommended a proposal for the issuance of a third series of preferred securities (the "LLC Preferred Securities") by a Delaware limited liability company that was organized as an operating subsidiary under the Association's indirect subsidiary, University Street, Inc., as previously discussed at the January 2006 Board meeting. Investors would purchase securities (the "SPE Securities") to be issued by a special purpose entity that will be organized (not under the Association's control), and that will use the proceeds of its issuance of SPE Securities to finance the purchase of LLC Preferred Securities. The Holding Company will serve as a source of strength for the Association, as the SPE Securities will automatically be exchangeable into depositary shares representing fractional interests in Series L preferred stock of the Holding Company upon the occurrence of certain events. The Committee recommended approval of the proposal. On motion duly made and seconded, the Board unanimously resolved to approve this transaction. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

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There being no further business, the meeting was adjourned.

Appendices:

A – Clarification of Pricing Authority for Covered Bonds

B – Preferred Funding LLC Capital Issuance

C – Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix B - Preferred Funding LLC Capital Issuance

WHEREAS, Washington Mutual Bank (the "Bank") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street owns all of the issued and outstanding common interests in Washington Mutual Preferred Funding LLC ("WMPF LLC");

WHEREAS, WMPF LLC proposes to issue a new class or series of preferred interests (the "LLC Preferred Interests") to either (a) a newly formed special purpose entity ("SPE") or (b) University Street;

WHEREAS, following such contribution, University Street will continue to own all of the common interests of WMPF LLC;

WHEREAS, it is proposed that the LLC Preferred Interests will be sold or transferred by WMPF LLC or University Street, as the case may be, to the SPE which, in turn, will issue substantially similar securities (the "SPE Securities") to investors; and

WHEREAS, it is proposed that the Bank's parent, Washington Mutual, Inc. ("WMI"), will authorize a new series of preferred stock (the "WMI Preferred Stock") and under certain circumstances the SPE Securities will be automatically exchanged into depositary shares representing interests in the WMI Preferred Stock.

THEREFORE, IT IS HEREBY RESOLVED,

RESOLVED FURTHER, each of the Authorized Officers (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements with WMPF LLC as such Authorized Officer deems necessary or appropriate in connection with the transactions contemplated by these resolutions, as well as the management, operation or administration of WMPF LLC;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Bank and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, in the event that it is deemed necessary or desirable so to do, in connection with the transfer, sale or offering of the LLC Preferred Interests or SPE Securities, as the case may be, in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (a "Reg S Offering"), to prepare, cause to be prepared or to participate in the preparation of, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering or a Reg S Offering;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Bank (including, without limitation, those authorized from time to time pursuant to the Bank's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Bank (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the transfers of the LLC Preferred Interests or to further the intent of these resolutions; and

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) any Executive Vice President, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller.

Minutes of February 27, 2007 meeting of WMI Board of Directors

WASHINGTON MUTUAL, INC.
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual, Inc. (the "Company") held its February meeting on Tuesday, February 27, 2007 in Seattle, Washington. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. Mr. Killinger presided. Also present, at the beginning of the meeting, were Casey, Cathcart, Chapman, David, Rotella, Vuoto (to replace Mr. Saunders as Card Services President) and Lynch (secretary). The Board of the Company met in joint session with the Board of Directors of Washington Mutual Bank ("WMB"), which is the primary banking institution subsidiary of the Company.

...

Support for WMB Capital Raising Transaction

Mr. Killinger submitted a proposal for a contingent issuance of depositary shares representing fractional interests in a new series of preferred stock of the Company (the "Series M Preferred"). The Series M Preferred automatically would be exchanged, under specified circumstances, for securities (the "SPE Securities") issued by a special purpose entity (the "SPE"). The SPE would use the proceeds of its pending issuance of SPE Securities to finance the purchase of a third series of preferred securities (the "LLC Preferred Securities") that are to be issued by a Delaware limited liability company that was organized as an operating subsidiary under WMB's indirect subsidiary, University Street, Inc., as discussed at the January 2006 Board meeting. Thus the Company will serve as a source of strength for WMB. On motion duly made and seconded, the Board unanimously adopted the clarifying resolutions. A copy of these resolutions will be kept in the minute book as an appendix to these minutes.

...

There being no further business the meeting was adjourned.

Appendices:

A – Approval of Director Independence Determinations

B – Approval of Nominees for Election to the Board by Shareholders

C – Approval of Comprehensive Preparations for 2007 Annual Meeting

D – Approval of Actions related to REIT Preferred Issuance

E – Approval of Actions related to Trust Preferred Redemption

F – Designation of Section 16/Reg O Officers

G – Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix D – Approval of Actions related to REIT Preferred Issuance

Board of Directors Resolutions

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, Washington Mutual Preferred Funding LLC, a Delaware limited liability company ("WMPF LLC"), is a subsidiary of University Street;

WHEREAS, WMPF LLC previously issued $2.5 billion liquidation preference of preferred membership interests to Washington Mutual Bank ("WMB"), in three series, in exchange for a corresponding amount of mortgage loan assets;

WHEREAS, it is proposed that WMPF LLC will issue to University Street, to a special purpose entity (the "SPE") or to WMB, as the case may be, a new series or class of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $1 billion;

WHEREAS, if the LLC Preferred Interests are issued to University Street, then University Street will, in turn, transfer or sell the LLC Preferred Interests to the SPE and if the WMPF LLC interests are issued to WMB, then WMB will, in turn, transfer or sell the LLC Preferred interests to the SPE;

WHEREAS, upon receipt of the LLC Preferred Interests, the SPE will, in turn, issue substantially similar securities (the "SPE Securities") to investors for cash;

WHEREAS, under specified circumstances, the SPE Securities will automatically be exchanged for depositary shares representing fractional interests in a new series of preferred stock of the Company; and

WHEREAS, the Board desires to authorize the issuance of such new series of such preferred stock, to establish substantive terms of such series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and relative rights, voting powers, preferences and limitations of such series and to provide for other matters relating to the preferred stock and the LLC Preferred Interests.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock which, depending on whether the Authorized Officers select a fixed-to-floating dividend rate or a fixed dividend rate, shall be designated as the "Series M Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock" or the "Series M Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series M Preferred Stock"). The number of shares constituting such series shall not exceed 1,000. The stock in such series shall have no par value.

FURTHER RESOLVED, that the Series M Preferred Stock shall have preferences, limitations, voting powers and relative rights set forth below, subject to completion or modification by the Authorized Officers as provided herein:

DESIGNATION

Section 1. Designation. There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as [the "Series M Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock" or the "Series M Perpetual Non-cumulative Fixed-Rate Preferred Stock", depending on whether a fixed-to-floating dividend rate or a fixed dividend rate is selected] (the "Series M Preferred Stock"). The number of shares constituting such series shall be _____. The Series M Preferred Stock shall have no par value per share and the liquidation preference of the Series M Preferred Stock shall be $1,000,000.00 per share. Shares of the Series M Preferred Stock shall be issued if and only if a Conditional Exchange occurs.

Section 2. Ranking.

The Series M Preferred Stock will, with respect to dividend rights and rights on liquidation, winding-up and dissolution, rank (i) on a parity with the Company's Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series I Preferred Stock"), the Company's Series J Perpetual Non-cumulative Fixed Rate Preferred Stock (the "Series J Preferred Stock"), the Company's Series K Perpetual Non-Cumulative Floating Rate Preferred Stock (the "Series K Preferred Stock"), the Company's Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series L Preferred Stock") and with each other class or series of preferred stock established after the Designation Date by the Company the terms of which expressly provide that such class or series will rank on a parity with the Series M Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Parity Securities") and (ii) senior to the Company's common stock (the "Common Stock"), the Company's Series RP Preferred Stock and each other class of capital stock outstanding or established after the Designation Date by the Company the terms of which do not expressly provide that it ranks on a parity with or senior to the Series M Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company, including the Common Stock (collectively referred to as "Junior Securities"). The Company shall have the right to authorize and/or issue additional shares or series of Junior Securities and Parity Securities without the consent of the holders of the Series M Preferred Stock.

Section 3. Definitions. Unless the context or use indicates another meaning or intent, the following terms shall have the following meanings, whether used in the singular or the plural:

(a) "3-Month USD LIBOR" means, with respect to any Dividend Period, a rate determined on the basis of the offered rates for three-month U.S. dollar deposits of not less than a principal amount equal to that which is representative for a single transaction in such market at such time, commencing on the first day of such Dividend Period, which appears on US LIBOR Telerate Page 3750 as of approximately 11:00 a.m., London time, on the LIBOR Determination Date for such Dividend Period. If on any LIBOR Determination Date no rate appears on US LIBOR Telerate Page 3750 as of approximately 11:00 a.m., London time, the Company or an affiliate of the Company on behalf of the Company will on such LIBOR Determination Date request four major reference banks in the London interbank market selected by the Company to provide the Company with a quotation of the rate at which three-month deposits in U.S. dollars, commencing on the first day of such Dividend Period, are offered by them to prime banks in the London interbank market as of approximately 11:00 a.m., London time, on such LIBOR Determination Date and in a principal amount equal to that which is

representative for a single transaction in such market at such time. If at least two such quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations as calculated by the Company. If fewer than two quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted as of approximately 11:00 am., New York time, on the first day of such Dividend Period by three major banks in New York City, New York selected by the Company for loans in U.S. dollars to leading European banks, for a three-month period commencing on the first day of such Dividend Period and in a principal amount of not less than $1,000,000.

(b) "Business Day" means any day other than a Saturday, Sunday or any other day on which banks in New York City, New York, or Seattle, Washington are generally required or authorized by law to be closed.

(c) "Common Stock" has the meaning set forth in Section 2.

(d) "Company" means Washington Mutual, Inc., a Washington corporation.

(e) "Comparable Treasury Issue" means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the term remaining to the Dividend Payment Date in _____, [2017] that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of perpetual preferred securities having similar terms as the Series M Preferred Stock with respect to the payment of dividends and distributions of assets upon liquidation, dissolution or winding-up of the issuer of such preferred stock.

(f) "Comparable Treasury Price" means with respect to any Redemption Date the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or if the Independent Investment Banker obtains fewer than five such Reference Treasury Dealer Quotations, the average of all such quotations.

(g) "Conditional Exchange" means the automatic exchange of the Trust Securities into depositary shares representing an interest in the Series M Preferred Stock which occurs upon the written direction of the OTS upon or after the occurrence of an Exchange Event.

(h) "Delaware Preferred Securities" means [the Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series [__] or the Fixed Rate Perpetual Non-cumulative Preferred Securities, Series [__], depending on whether a fixed-to-floating rate or a fixed rate is selected], liquidation preference $[1,000] per security, issued or to be issued by Washington Mutual Preferred Funding LLC, a Delaware limited liability company.

(i) "Designation Date" means _____, 2007.

(j) "Dividend Payment Date" has the meaning set forth in Section 4(b).

(k) "Dividend Period" has the meaning set forth in Section 4(b).

(l) "Exchange Event" means the occurrence of any one of the following at a time as the Trust Securities are issued and outstanding:

(i) WMB becomes undercapitalized under the Prompt Corrective Action Regulations;

(ii) WMB is placed into conservatorship or receivership; or

(iii) the OTS, in its sole discretion, directs an exchange of the Trust Securities into depositary shares representing an interest in the Series M Preferred Stock in anticipation of WMB becoming undercapitalized under the Prompt Corrective Action Regulations or of the OTS taking any supervisory action that limits the payment of dividends by WMB.

(m) "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company.

(n) "Junior Securities" has the meaning set forth in Section 2.

(o) "LIBOR Business Day" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.

(p) "LIBOR Determination Date" means, as to each Dividend Period, the date that is two LIBOR Business Days prior to the first day of such Dividend Period.

(q) "OTS" means the Office of Thrift Supervision or any successor regulatory entity.

(r) "Parity Securities" has the meaning set forth in Section 2.

(s) "Primary Treasury Dealer" has the meaning set forth in Section 3(x).

(t) "Prompt Corrective Action Regulation" means 12 C.F.R. Part 565 as in effect from time to time, or any successor regulation.

(u) "Rating Agencies" means, at any time, Standard & Poor's Rating Services, a Division of the McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. and Fitch, inc., but only in the case of each such agency if it is rating the relevant security, including the Delaware Preferred Securities at the relevant time or, if none of them is providing a rating for the relevant security, including the Delaware Preferred Securities at such time, then any "*nationally recognized statistical rating organization*" as that phrase is defined for purposes of Rule 436(g)(2) under the Securities Act of 1933, as amended, which is rating such relevant Security.

(v) A "Rating Agency Event" occurs when the Company reasonably determines that an amendment, clarification or change has occurred in the equity criteria for securities such as the Delaware Preferred Securities of any Rating Agency that then publishes a rating for the Company which amendment, clarification or change results in a lower equity credit for the Company than the respective equity credit assigned by such Rating Agency to the Delaware Preferred Securities on the Designation Date.

(w) "Redemption Date" means any date that is designated by the Company in a notice of redemption delivered pursuant to Section 7.

(x) "Reference Treasury Dealer" means each of the three primary U.S. government securities dealers (each, a "Primary Treasury Dealer"), as specified by the Company; provided that if any Primary Treasury Dealer as specified by the Company ceases to be a Primary Treasury Dealer, the Company will substitute for such Primary Treasury Dealer another Primary Treasury Dealer and if the Company fails to select a substitute within a reasonable period of time, then the substitute will be a Primary Treasury Dealer selected by the Independent Investment Banker after consultation with the Company.

(y) "Reference Treasury Dealer Quotations" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed, in each case, as a percentage of its principal amount) quoted in writing to the Independent Investment Banker by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

(z) A "Regulatory Capital Event" occurs when the Company determines, based upon receipt of an opinion of counsel, that there is a significant risk that the Fixed-to-Floating Rate Delaware Preferred Securities will no longer constitute core capital of WMB for purposes of the capital adequacy regulations issued by the OTS as a result of a change in applicable laws, regulations or related interpretations after issuance of the Fixed-to-Floating Rate Delaware Preferred Securities.

(aa) "Series I Preferred Stock" has the meaning set forth in Section 2.

(bb) "Series J Preferred Stock" has the meaning set forth in Section 2.

(cc) "Series K Preferred Stock" has the meaning set forth in Section 2.

(dd) "Series L Preferred Stock" has the meaning set forth in Section 2.

(ee) "Series M Preferred Stock" has the meaning set forth in Section 1.

(ff) ["Ten-Year Date"] means the Dividend Payment Date in [_____ 2017] and the Dividend Payment Date of each tenth succeeding year (i.e., [_____ 2027, _____ 2037], etc.) assuming in each case that the Series M Preferred Stock has been issued.

(gg) "Treasury Rate" means the rate per year equal to the quarterly equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the relevant Redemption Date. The Treasury Rate will be calculated on the third Business Day preceding the relevant Redemption Date.

(hh) "Trust Securities" means the Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities, Series [___], liquidation preference $100,000 per security, issued by Washington Mutual Preferred Funding Trust III, a Delaware statutory trust.

(ii) "US LIBOR Telerate Page 3750"' means the display page of Moneyline's Telerate Service designated as 3750 (or such other page as may replace that page on that

service, or such other service as may be nominated as the information vendor, for the purpose of displaying rates comparable to 3-Month USD LIBOR).

(jj) "Voting Parity Securities" has the meaning set forth in Section 8(b).

(kk) "WMB" means Washington Mutual Bank, a federal savings association and a subsidiary of the Company, or its successor.

Section 4. Dividends.

(a) Holders of shares of Series M Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of the funds legally available therefor, non-cumulative cash dividends in the amount determined as set forth in Section 4(c), and no more.

(b) Subject to Section 4(a), dividends shall be payable in arrears on March 15, June 15, September 15 and December 15 of each year commencing on the first such day after the issuance of the Series M Preferred Stock or, in each case, if any such day is not a Business Day, the next Business Day (each, a "Dividend Payment Date"). Each dividend will be payable to holders of record as they appear on the stock books of the Company on the first day of the month in which the relevant Dividend Payment Date occurs or, if such date is not a Business Day, the first Business Day of such month. Each period from and including a Dividend Payment Date (or the date of the issuance of the Series M Preferred Stock) to but excluding the following Dividend Payment Date (or the Redemption Date) is herein referred to as "Dividend Period"[the following clause to be added if a fixed-to-floating rate is selected: , except that, if the Series M Preferred Stock is outstanding on _____ 15, [____], the Dividend Period ending in _____ [____] shall be to but excluding _____ 15, [____] (whether or not a Business Day) and the Dividend Period ending in _____ [____] shall commence on _____ 15, [____] (whether or not a Business Day)].

(c) If the date of issuance of the Series M Preferred Stock is prior to the day immediately preceding _____ 15, [____] or, if _____ 15, [____] is not a Business Day, the first Business Day after _____ 15, [____], then from such date of issuance to but not including _____ 15, [____] (whether or not a Business Day), [if fixed rate is selected, delete preceding language in Section 4(c) and insert "After issuance of the Series M Preferred Stock"], dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series M Preferred Stock, at an annual rate of _____% on the per share liquidation preference of the Series M Preferred Stock. [For fixed-to-floating rate selection: From the later of the (i) _____ 15, [____] and (ii) the date of issuance of the Series M Preferred Stock, dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series M Preferred Stock, at an annual rate on the per share liquidation preference of the Series M Preferred Stock equal to [the greater of (x)] 3-Month USD LIBOR for the related Dividend Period plus _____% [or (y) _____ percent (___%)]]. Dividends payable for any Dividend Period greater or less than a full Dividend Period will be computed on the basis of twelve 30-day months, a 360-day year, and the actual number of days elapsed in the period [For fixed-to-floating rate – if such Dividend Period ends in or prior to _____ [____]; thereafter dividends payable for any period greater or less than a full dividend period will be computed on the basis of the actual number of days in the relevant period divided by 360.] No interest will be paid on any dividend payment of the Series M Preferred Stock.

(d) Dividends on the Series M Preferred Stock are non-cumulative. If the Board of Directors does not declare a dividend on the Series M Preferred Stock or declares less than a full dividend in respect of any Dividend Period, the holders of the Series M Preferred Stock will have no right to receive any dividend or a full dividend, as the case may be, for the Dividend Period, and the Company will have no obligation to pay a dividend or to pay full dividends for that Dividend Period, whether or not dividends are declared and paid for any future Dividend Period with respect to the Series M Preferred Stock or the Common Stock or any other class or series of the Company's preferred stock.

(e) If full dividends on all outstanding shares of the Series M Preferred Stock for any Dividend Period have not been declared and paid, the Company shall not declare or pay dividends with respect to, or redeem, purchase or acquire any of, its equity capital securities during the next succeeding Dividend Period, except dividends in connection with the Series RP Preferred Stock or other shareholders' rights plan, if any, or dividends in connection with benefit plans.

Section 5. Liquidation.

(a) In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of Series M Preferred Stock at the time outstanding shall be entitled to receive liquidating distributions in the amount of $1,000,000 per share of Series M Preferred Stock, plus an amount equal to any declared but unpaid dividends thereon for the current Dividend Period to and including the date of such liquidation, out of assets legally available for distribution to its shareholders, before any distribution of assets is made to the holders of Common Stock or any securities ranking junior to the Series M Preferred Stock. After payment of the full amount of such liquidating distributions, the holders of Series M Preferred Stock will not be entitled to any further participation in any distribution of assets by, and shall have no right or claim to any remaining assets of, the Company.

(b) In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series M Preferred Stock and the corresponding amounts payable on any other Securities of equal ranking, the holders of Series M Preferred Stock and the holders of such other securities of equal ranking shall share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

Section 6. Maturity. The Series M Preferred Stock shall be perpetual unless redeemed by the Company in accordance with Section 7.

Section 7. Redemptions.

(a) The Series M Preferred Stock shall not be redeemable at the option of the holders at any time.

(b) The Series M Preferred Stock shall be redeemable at the option of the Company in any of the following circumstances:

(i) in whole but not in part, prior to the Dividend Payment Date in _____, [2017] upon the occurrence of a Regulatory Capital Event or a Rating Agency Event, at a cash redemption price equal to the sum of:

(A) the greater of:

(1) $1,000,000 per share of Series M Preferred Stock and

(2) The sum of the present value of $1,000,000 per share of Series M Preferred Stock, discounted from the Dividend Payment Date in _____, [2017] to the redemption date, and the present values of all undeclared dividends for each Dividend Period from the redemption date to and including the Dividend Payment Date in _____, [2017] discounted from their applicable Dividend Payment Dates to the redemption date, in each case on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate, as calculated by an Independent Investment Banker, *plus 0.50%*; *plus*

(B) any declared but unpaid dividends to the redemption date;

(ii) in whole but not in part, on any Dividend Payment Date prior to the Dividend Payment Date in _____, [2017] for any reason other than the occurrence of a Rating Agency Event or a Regulatory Capital Event, at a cash redemption price equal to:

(A) the greater of:

(1) $1,000,000 per share of Series M Preferred Stock, or

(2) the sum of the present value of $1,000,000 per share of Series M Preferred Stock discounted from the Dividend Payment Date in _____, [2017] to the redemption date, and the present values of all undeclared dividends for the Dividend Periods from the redemption date to and including the Dividend Payment Date in _____, [2017] , discounted from their applicable Dividend Payment Dates to the redemption date, in each case on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate, as calculated by an Independent Investment Banker, plus 0.35%; *plus*

(B) any declared but unpaid dividends to the redemption date;

(iii) in whole but not in part, on any Dividend Payment Date after the Dividend Payment Date in _____, [2017] that is not a [Ten-Year Date], upon the occurrence of a Regulatory Capital Event or a Rating Agency Event, at a cash redemption price equal to $1,000,000 per share of Series M Preferred Stock, *plus* any declared and unpaid dividends to the redemption date;

(iv) in whole or in part, on each Dividend Payment Date that is a [Ten-Year Date], at a cash redemption price of $1,000,000 per share of Series M Preferred Stock, *plus* any declared and unpaid dividends to the redemption date; and

(v) in whole but not in part, on any Dividend Payment Date after the Dividend Payment Date in _____, [2017] that is not a [Ten-Year Date] for any reason other than the occurrence of a Rating Agency Event or a Regulatory Capital Event, at a cash redemption price equal to:

(A) the greater of:

(1) $1,000,000 per share of Series M Preferred Stock, or

(2) the sum of the present value of $1,000,000 per share of Series M Preferred Stock, discounted from the next succeeding [Ten-Year Date] to the redemption date, and the present values of all undeclared dividends for the Dividend Periods from the redemption date to and including the next succeeding [Ten-Year Date], discounted from their applicable Dividend Payment Dates to the redemption date, in each case on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the 3-month USD LIBOR Rate applicable to the Dividend Period immediately preceding such redemption date (which 3-month USD LIBOR Rate will also, for the purposes of calculating such redemption price, be the rate used in calculating the amount for each undeclared dividend), as calculated by an Independent Investment Banker; *plus*

(B) any declared but unpaid dividends to the redemption date;

in each case, without accumulation of any undeclared dividends with respect to Dividend Payment Dates prior to the redemption date.

(c) Dividends will cease to accrue on the Series M Preferred Stock called for redemption on and as of the date fixed for redemption and such Series M Preferred Stock will be deemed to cease to be outstanding, *provided* that the redemption price, including any authorized and declared but unpaid dividends for the current Dividend Period, if any, to the date fixed for redemption, has been duly paid or provision has been made for such payment.

(d) In the case of any redemption under this Section 7, notice shall be mailed to each holder of record of the Series M Preferred Stock, not less than thirty nor more than 60 days prior to the Redemption Date specified in such notice; provided, however, that a longer minimum notice may be agreed to by the Company, including in a deposit agreement relating to depositary shares representing interests in the Series M Preferred Stock. The notice of redemption shall include a statement of (i) the redemption date, (ii) the redemption price, and (iii) the number of shares to be redeemed.

(e) Any shares of Series M Preferred Stock redeemed pursuant to this Section 7 or otherwise acquired by the Company in any manner whatsoever shall become authorized but unissued preferred shares of the Company but such preferred shares shall not under any circumstances be reissued as Series M Preferred Shares. The Company shall from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series M Preferred Stock accordingly.

Section 8. Voting Rights.

(a) Holders of the Series M Preferred Stock will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, and (ii) voting rights, if any, described in this Section 8.

(b) Holders of the Series M Preferred Stock will in the circumstances to the extent set forth in this Section 8(b), have the right to elect two directors.

(i) If after the issuance of the Series M Preferred Stock the Company fails to pay, or declare and set aside for payment, full dividends on the Series M Preferred Stock or any other class or series of Parity Securities having similar voting rights ("Voting Parity Securities") for six Dividend Periods or their equivalent, the authorized number of the Company's directors will be increased by two. Subject to compliance with any requirement for regulatory approval of, or non-objection to, persons serving as directors, the holders of Series M Preferred Stock, voting together as a single and separate class with the holders of any outstanding Voting Parity Securities, will have the right to elect two directors in addition to the directors then in office at the Company's next annual meeting of shareholders. This right will continue at each subsequent annual meeting until the Company pays dividends in full on the Series M Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and pays or declares and sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series M Preferred Stock.

(ii) The term of such additional directors will terminate, and the total number of directors will be decreased by two, at such time as the Company pays dividends in full on the Series M Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and declares and pays or sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series M Preferred Stock. After the term of such additional directors terminates, the holders of the Series M Preferred Stock will not be entitled to elect additional directors unless full dividends on the Series M Preferred Stock have again not been paid or declared and set aside for payment for six future Dividend Periods.

(iii) Any additional director elected by the holders of the Series M Preferred Stock and the Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series M Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at a meeting of the Company shareholders called for that purpose. Any vacancy created by the removal of any such director may be filled only by the vote of the holders of the outstanding Series M Preferred Stock and Voting Parity Securities, voting together as a single and separate class.

(c) So long as any shares of Series M Preferred Stock are outstanding, the vote or consent of the holders of at least 66 2/3% of the shares of Series M Preferred Stock at the time outstanding, voting as a class with all other classes and series of Parity Securities upon which like voting rights have been conferred and are exercisable, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Washington law:

(i) any amendment, alteration or repeal of any provision of the Company's Amended and Restated Articles of Incorporation (including the Articles of Amendment creating the Series M Preferred Stock) or the Company's bylaws that would alter or

change the voting powers, preferences or special rights of the Series M Preferred Stock so as to affect them adversely;

(ii) any amendment or alteration of the Company's Amended and Restated Articles of Incorporation to authorize or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Company's capital stock ranking prior to the Series M Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Company; or

(iii) the consummation of a binding share exchange or reclassification involving the Series M Preferred Stock or a merger or consolidation of the Company with another entity, except that holders of Series M Preferred Stock will have no right to vote under this provision or under §23B.11.035 of the Revised Code of Washington or otherwise under Washington law if in each case (x) the Series M Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such Series M Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series M Preferred Stock, taken as a whole;

provided, however, that any increase in the amount of the authorized or issued Series M Preferred Stock or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock ranking equally with and/or junior to the Series M Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Company's liquidation, dissolution or winding up will not be deemed to adversely affect the voting powers, preferences or special rights of the Series M Preferred stock and, notwithstanding §23B.10.040(1)(a), (e) or (f) of the Revised Code of Washington or any other provision of Washington law, holders of Series M Preferred Stock will have no right to vote on such an increase, creation or issuance.

(d) If an amendment, alteration, repeal, share exchange, reclassification, merger or consolidation described above would adversely affect one or more but not all series of preferred stock with like voting rights (including the Series M Preferred Stock for this purpose), then only the series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Section 9. Certificates. The Company may at its option issue the Series M Preferred Stock without certificates.

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy & Development, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller;

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any one of the Authorized Officers to designate, finalize, determine and complete the preferences, limitations, voting powers and relative rights of the Series M Preferred Stock, subject to the limits specified in these resolutions;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of the Series M Preferred Stock to be authorized, to determine the dividend rates and whether such rates are fixed or fixed-to-floating, to determine the liquidation amount, to designate situations in which the Company has the option to redeem the Series M Preferred Stock with or without make-whole provisions (including without limitation changing references to "10-Year Date" to a shorter time period), to designate circumstances involving amendments to the Company's articles of incorporation as amended or involving mergers or other combinations or similar events in which holders of Series M shall have voting rights, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for the Series M Preferred Stock with the Secretary of State of the State of Washington; provided, however, that (i) the number of shares of Series M Preferred Stock authorized shall not exceed 1,000, (ii) the liquidation preferences shall not exceed $1,000,000 per share, (iii) the dividend rate will be at a fixed rate not to exceed 9.00% per annum from the date of the issuance and, in the case of a fixed-to-floating rate election, after a date which is approximately either 5 or 10 years from the date of issuance of the LLC Preferred Interests, as provided in the completed Designation and thereafter will be at a floating rate equal to the 3-month LIBOR applicable to such period plus a spread which will not exceed 300 basis points, except that such floating rate may be subject each dividend period to a floor which shall not exceed 4.00% per annum, and (iv) the Company will have the right to redeem the Series M Preferred Stock on a date that occurs no later than the first dividend payment date which is more than 10 years after the date on which the LLC Preferred Interests and the SPE Securities are issued;

RESOLVED FURTHER, that the Series M Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Series M Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that the number of shares authorized in the Designation as completed by an Authorized Officer as provided in these resolutions shall upon filing of the articles of amendment for the Series M Preferred Stock be fully reserved for issuance;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the SPE Securities in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (the "Securities Act"), to prepare, or cause to be prepared, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or

any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering;

RESOLVED FURTHER, that after filing with the Secretary of State of the State of Washington the respective articles of amendment designating the terms of the Series M Preferred Stock, the Company's Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock, the Company's Series J Series Perpetual Non-cumulative Fixed Rate Preferred Stock or the Company's Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock, but prior to the issuance of the shares of the respective series, the authority of each of the Authorized Officer to execute and file an amendment to each such articles of amendment is hereby authorized, approved and confirmed, provided that any such filing shall be made only in order to make technical, clarifying or similar corrections or modifications and provided further that such corrections or modifications are consistent with the limitations previously established in the prior board resolutions authorizing such series and with the description of such series in the offering circular relating to such series; and

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) purchase agreements with Goldman Sachs & Co. or an affiliate and/or other institutional purchasers, (ii) exchange agreements relating to the exchange of the LLC Preferred Interests and the SPE Securities into the Series M Preferred Stock, and (iii) declaration of covenants or other agreements, in favor of holders of SPE Securities and/or specified indebtedness of the Company, prohibiting the issuance by the Company of preferred stock senior to the Series M Preferred Stock, restricting sources of funds used to redeem the SPE Securities, or restricting dividends and distributions on the Company's stock if dividends are not paid on the SPE Securities), any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Series M Preferred Stock, the LLC Preferred Interests or the SPE Securities or to further the intent of these resolutions, subject to the limits set forth in these resolutions.

Minutes of February 27, 2007 meeting of WMB Board of Directors

WASHINGTON MUTUAL BANK
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual Bank (the "Association") held its February meeting on Tuesday, February 27, 2007 in Seattle, Washington. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. Mr. Killinger presided. Also present, at the beginning of the meeting, were Casey, Cathcart, Chapman, David, Rotella, Vuoto (to replace Mr. Saunders as Card Services President) and Lynch (secretary). The Board of the Association met in joint session with the Board of Directors of Washington Mutual, Inc. (the "Holding Company").

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Preferred Funding LLC Capital Issuance

Mr. Killinger submitted a proposal for the issuance of a third series of preferred securities (the "LLC Preferred Securities") by a Delaware limited liability company that was organized as an operating subsidiary under the Association's indirect subsidiary, University Street, Inc. Investors would purchase securities (the "SPE Securities") to be issued by a special purpose entity that will be organized (not under the Association's control), and that will use the proceeds of its issuance of SPE Securities to finance the purchase of LLC Preferred Securities. The Holding Company will serve as a source of strength for the Association, as the SPE Securities will automatically be exchangeable into depositary shares representing fractional interests in Series M preferred stock of the Holding Company upon the occurrence of certain events. On motion duly made and seconded, the Board unanimously resolved to approve this transaction. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

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There being no further business the meeting was adjourned.

Appendices:

A – Approve Director Independence Determinations

B – Amend Bylaws

C – Approve Actions related to REIT Preferred Issuance

D – Clarification of Officer Authority

E – Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix C – Approve REIT Preferred Issuance

Board of Directors Resolutions

WHEREAS, Washington Mutual Bank (the "Bank") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street owns all of the issued and outstanding common interests in Washington Mutual Preferred Funding LLC ("WMPF LLC");

WHEREAS, WMPF LLC proposes to issue a new class or series of preferred interests (the "LLC Preferred Interests") to either (a) a newly formed special purpose entity ("SPE"), (b) University Street or (c) the Bank;

WHEREAS, it is proposed that the LLC Preferred Interests will be sold or transferred by WMPF LLC, University Street or the Bank, as the case may be, to the SPE which, in turn, will issue substantially similar securities (the "SPE Securities") to investors; and

WHEREAS, it is proposed that the Bank's parent, Washington Mutual, Inc. ("WMI"), will authorize a new series of preferred stock (the "WMI Preferred Stock") and under certain circumstances the SPE Securities will be automatically exchanged into depositary shares representing interests in the WMI Preferred Stock.

THEREFORE, IT IS HEREBY RESOLVED, that each of the Authorized Officers (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements with WMPF LLC, the SPE or any other party as such Authorized Officer deems necessary or appropriate in connection with the transactions contemplated by these resolutions, as well as the management, operation or administration of WMPF LLC;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Bank and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, in the event that it is deemed necessary or desirable so to do, in connection with the transfer, sale or offering of the LLC Preferred Interests or SPE Securities, as the case may be, in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (a "Reg S Offering"), to prepare, cause to be prepared or to participate in the preparation of, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering or a Reg S Offering;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Bank (including, without limitation, those authorized from time to time pursuant to the Bank's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Bank (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be

necessary or advisable in connection with the issuance or transfers of the LLC Preferred Interests or to further the intent of these resolutions;

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) any Executive Vice President, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller; and

RESOLVED FURTHER, that in the event WMPF LLC issues the LLC Preferred Interests to the SPE, then the Bank is hereby authorized from time to time to sell loans to WMPF LLC in exchange for some or all of the proceeds from the sale of the LLC Preferred Interests or otherwise for cash or cash equivalents.

Minutes of August 21, 2007 meeting of WMI Board of Directors

WASHINGTON MUTUAL, INC.
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual, Inc. (the "Company") held a special telephonic meeting on August 21, 2007. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Pugh, Reed, Smith and Stever. The meeting was purely telephonic, with all Directors participating by means of a conference telephone enabling all participants to hear one another. Mr. Killinger presided. Also present, at the beginning of the meeting, were the Company's officers, Casey, Cathcart, Chapman, Rotella, Williams, and Lynch (secretary). The Board of the Company met in joint session with the Board of Directors of Washington Mutual Bank ("WMB"), which is the primary banking institution subsidiary of the Company.

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CEO's Report

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Mr. Casey noted that the Moody's bond rating agency is currently re-evaluating the Company's ratings, and has commented favorably on the Company's capital and liquidity. He submitted information about the short-term capital plan and capital forecast. Mr. Killinger noted the proposal to issue up to $1.5 billion in preferred securities (the "Delaware Preferred Securities") by the Delaware limited liability company that was organized in 2006 as an indirect operating subsidiary of WMB (the "WaMu Preferred Funding IV" issuance). Investors would purchase certain other securities (the "Trust Securities") from a special purpose entity, which will use the proceeds of its issuance of Trust Securities to finance the purchase of the Delaware Preferred Securities. The Company will serve as a source of strength for WMB, as the Trust Securities will automatically be exchanged into depositary shares representing a fractional interest in a share of a new class of preferred stock of the Company ("Series N Preferred") upon the occurrence of a "Exchange Event" (as defined in the resolutions submitted to the Board). In response to a question by Mr. Stever, Mr. Casey explained the possible interest rate to be paid on the securities. In response to a question by Mr. Stever, Mr. Casey identified likely investors and their locations. On motion duly made and seconded, the Board resolved to approve the Company's actions in support of the WaMu Preferred Funding IV issuance. A copy of the resolutions will be kept in the minute book as an appendix to these minutes.

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There being no further business, the meeting was adjourned.

A - Resolutions for Capital Raising Transaction

Appendix A – Resolutions for Capital Raising Transaction

Board of Directors Resolutions

(Series N Preferred Stock)

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, Washington Mutual Preferred Funding LLC, a Delaware limited liability company ("WMPF LLC"), is a subsidiary of University Street;

WHEREAS, WMPF LLC previously issued preferred membership interests to Washington Mutual Bank ("WMB"), in exchange for transfers of mortgage loan assets;

WHEREAS, it is proposed that WMPF LLC will issue to University Street, to a special purpose entity (the "SPE") and/or to WMB a new series or class of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $[1.0] billion;

WHEREAS, if LLC Preferred Interests are issued to University Street, then University Street will, in turn, transfer or sell the LLC Preferred Interests to the SPE and if WMPF LLC interests are issued to WMB, then WMB will, in turn, transfer or sell the LLC Preferred interests to the SPE;

WHEREAS, upon or concurrently with receipt of the LLC Preferred Interests, the SPE will, in turn, issue substantially similar securities (the "SPE Securities") to investors for cash;

WHEREAS, under specified circumstances, the SPE Securities will automatically be exchanged for depositary shares representing fractional interests in shares of a new series of preferred stock of the Company; and

WHEREAS, the Board desires to authorize the issuance of such new series of such preferred stock, to establish substantive terms or limits of such series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and relative rights, voting powers, preferences and limitations of such series and to provide for other matters relating to the preferred stock and the LLC Preferred Interests.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock which, unless an Authorized Officer determines that such series should bear a fixed-to-floating dividend rate or a floating dividend rate, shall be designated as the "Series N Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series N Preferred Stock"). The number of shares constituting such series shall not exceed 1,000. The stock in such series shall have no par value.

FURTHER RESOLVED, that the Series N Preferred Stock shall have preferences, limitations, voting powers and relative rights set forth below, subject to completion or modification by the Authorized Officers as provided herein:

DESIGNATION

Section I. Designation. There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series N Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series N Preferred Stock"). The number of shares constituting such series shall be _____. The Series N Preferred Stock shall have no par value per share and the liquidation preference of the Series N Preferred Stock shall be $1,000,000.00 per share. Shares of the Series N Preferred Stock shall be issued if and only if a Conditional Exchange occurs.

Section 2. Ranking.

The Series N Preferred Stock will, with respect to dividend rights and rights on liquidation, winding-up and dissolution, rank (i) on a parity with the Company's Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series I Preferred Stock"), the Company's Series J Perpetual Non-cumulative Fixed Rate Preferred Stock (the "Series J Preferred Stock"), the Company's Series K Perpetual Non-Cumulative Floating Rate Preferred Stock (the "Series K Preferred Stock"), the Company's Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series L Preferred Stock"), the Company's Series M Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the Series M Preferred Stock") and with each other class or series of preferred stock established after the Designation Date by the Company the terms of which expressly provide that such class or series will rank on a parity with the Series N Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Parity Securities") and (ii) senior to the Company's common stock (the "Common Stock"), the Company's Series RP Preferred Stock and each other class of capital stock outstanding or established after the Designation Date by the Company the terms of which do not expressly provide that it ranks on a parity with or senior to the Series N Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company, including the Common Stock (collectively referred to as "Junior Securities"). The Company shall have the right to authorize and/or issue additional shares or series of Junior Securities and Parity Securities without the consent of the holders of the Series N Preferred Stock.

Section 3. Definitions. Unless the context or use indicates another meaning or intent, the following terms shall have the following meanings, whether used in the singular or the plural:

(a) "Business Day" means any day other than a Saturday, Sunday or any other day on which banks in New York City, New York, or Seattle, Washington are generally required or authorized by law to be closed.

(b) "Common Stock" has the meaning set forth in Section 2.

(c) "Company" means Washington Mutual, Inc., a Washington corporation.

(d) "Comparable Treasury Issue" means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the term remaining to the Dividend Payment Date in _____, [2012] that would be utilized,

at the time of selection and in accordance with customary financial practice, in pricing new issues of perpetual preferred securities having similar terms as the Series N Preferred Stock with respect to the payment of dividends and distributions of assets upon liquidation, dissolution or winding-up of the issuer of such preferred stock.

(e) "Comparable Treasury Price" means with respect to any Redemption Date the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or if the Independent Investment Banker obtains fewer than five such Reference Treasury Dealer Quotations, the average of all such quotations.

(f) "Conditional Exchange" means the automatic exchange of the Trust Securities into depositary shares representing an interest in the Series N Preferred Stock which occurs upon the written direction of the OTS upon or after the occurrence of an Exchange Event.

(g) "Delaware Preferred Securities" means the ___% Perpetual Non-cumulative Preferred Securities, Series 2007-B, liquidation preference $1,000 per security, issued or to be issued by Washington Mutual Preferred Funding LLC, a Delaware limited liability company.

(h) "Designation Date" means _____, 2007.

(i) "Dividend Payment Date" has the meaning set forth in Section 4(b).

(j) "Dividend Period" has the meaning set forth in Section 4(b).

(k) "Exchange Event" means the occurrence of any one of the following at a time as the Trust Securities are issued and outstanding:

(i) WMB becomes undercapitalized under the Prompt Corrective Action Regulations;

(ii) WMB is placed into conservatorship or receivership; or

(iii) the OTS, in its sole discretion, directs an exchange of the Trust Securities into depositary shares representing an interest in the Series N Preferred Stock in anticipation of WMB becoming undercapitalized under the Prompt Corrective Action Regulations or of the OTS taking any supervisory action that limits the payment of dividends by WMB.

(l) "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company.

(m) "Junior Securities" has the meaning set forth in Section 2.

(n) "OTS" means the Office of Thrift Supervision or any successor regulatory entity.

(o) "Parity Securities" has the meaning set forth in Section 2.

(p) "Primary Treasury Dealer" has the meaning set forth in Section 3(u).

(q) "Prompt Corrective Action Regulation" means 12 C.F.R. Part 565 as in effect from time to time, or any successor regulation.

(r) "Rating Agencies" means, at any time, Standard & Poor's Rating Services, a Division of the McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. and Fitch, Inc., but only in the case of each such agency if it is rating the relevant security, including the Delaware Preferred Securities at the relevant time or, if none of them is providing a rating for the relevant security, including the Delaware Preferred Securities at such time, then any "*nationally recognized statistical rating organization*" as that phrase is defined for purposes of Rule 436(g)(2) under the Securities Act of 1933, as amended, which is rating such relevant security.

(s) A "Rating Agency Event" occurs when the Company reasonably determines that an amendment, clarification or change has occurred in the equity criteria for securities such as the Delaware Preferred Securities of any Rating Agency that then publishes a rating for the Company which amendment, clarification or change results in a lower equity credit for the Company than the respective equity credit assigned by such Rating Agency to the Delaware Preferred Securities on the Designation Date.

(t) "Redemption Date" means any date that is designated by the Company in a notice of redemption delivered pursuant to Section 7.

(u) "Reference Treasury Dealer" means each of the three primary U.S. government securities dealers (each, a "Primary Treasury Dealer"), as specified by the Company; provided that if any Primary Treasury Dealer as specified by the Company ceases to be a Primary Treasury Dealer, the Company will substitute for such Primary Treasury Dealer another Primary Treasury Dealer and if the Company fails to select a substitute within a reasonable period of time, then the substitute will be a Primary Treasury Dealer selected by the Independent Investment Banker after consultation with the Company.

(v) "Reference Treasury Dealer Quotations" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed, in each case, as a percentage of its principal amount) quoted in writing to the Independent Investment Banker by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

(w) A "Regulatory Capital Event" occurs when the Company determines, based upon receipt of an opinion of counsel, that there is a significant risk that the Delaware Preferred Securities will no longer constitute core capital of WMB for purposes of the capital adequacy regulations issued by the OTS as a result of a change in applicable laws, regulations or related interpretations after issuance of the Delaware Preferred Securities.

(x) "Series I Preferred Stock" has the meaning set forth in Section 2.

(y) "Series J Preferred Stock" has the meaning set forth in Section 2.

(z) "Series K Preferred Stock" has the meaning set forth in Section 2.

(aa) "Series L Preferred Stock" has the meaning set forth in Section 2.

(bb) "Series M Preferred Stock" has the meaning set forth in Section 2.

(cc) "Series N Preferred Stock" has the meaning set forth in Section 1.

(dd) "Treasury Rate" means the rate per year equal to the quarterly equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the relevant Redemption Date. The Treasury Rate will be calculated on the third Business Day preceding the relevant Redemption Date.

(ee) "Trust Securities" means the ___% Perpetual Non-cumulative Trust Securities, liquidation preference $100,000 per security, issued by Washington Mutual Preferred Funding Trust IV, a Delaware statutory trust.

(ff) "Voting Parity Securities" has the meaning set forth in Section 8(b).

(gg) "WMB" means Washington Mutual Bank, a federal savings association and a subsidiary of the Company, or its successor.

Section 4. Dividends.

(a) Holders of shares of Series N Preferred Stock shall be entitled to receive, if, when and as declared by the Board of Directors, out of the funds legally available therefor, non-cumulative cash dividends in the amount determined as set forth in Section 4(c), and no more.

(b) Subject to Section 4(a), dividends shall be payable in arrears on March 15, June 15, September 15 and December 15 of each year commencing on the first such day after the issuance of the Series N Preferred Stock or, in each case, if any such day is not a Business Day, the next Business Day (each, a "Dividend Payment Date"). Each dividend will be payable to holders of record as they appear on the stock books of the Company on the first day of the month in which the relevant Dividend Payment Date occurs or, if such date is not a Business Day, the first Business Day of such month. Each period from and including a Dividend Payment Date (or the date of the issuance of the Series N Preferred Stock) to but excluding the following Dividend Payment Date (or the Redemption Date) is herein referred to as "Dividend Period".

(c) After issuance of the Series N Preferred Stock, dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series N Preferred Stock, at an annual rate of _____% on the per share liquidation preference of the Series N Preferred Stock. Dividends payable for any Dividend Period greater or less than a full Dividend Period will be computed on the basis of twelve 30-day months, a 360-day year, and the actual number of days elapsed in the period. No interest will be paid on any dividend payment of the Series N Preferred Stock.

(d) Dividends on the Series N Preferred Stock are non-cumulative. If the Board of Directors does not declare a dividend on the Series N Preferred Stock or declares less than a full dividend in respect of any Dividend Period, the holders of the Series N

Preferred Stock will have no right to receive any dividend or a full dividend, as the case may be, for the Dividend Period, and the Company will have no obligation to pay a dividend or to pay full dividends for that Dividend Period, whether or not dividends are declared and paid for any future Dividend Period with respect to the Series N Preferred Stock or the Common Stock or any other class or series of the Company's preferred stock.

(e) If full dividends on all outstanding shares of the Series N Preferred Stock for any Dividend Period have not been declared and paid, the Company shall not declare or pay dividends with respect to, or redeem, purchase or acquire any of, its equity capital securities during the next succeeding Dividend Period, except dividends in connection with the Series RP Preferred Stock or other shareholders' rights plan, if any, or dividends in connection with benefit plans.

Section 5. Liquidation.

(a) In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of Series N Preferred Stock at the time outstanding shall be entitled to receive liquidating distributions in the amount of $1,000,000 per share of Series N Preferred Stock, plus an amount equal to any declared but unpaid dividends thereon for the current Dividend Period to and including the date of such liquidation, out of assets legally available for distribution to its shareholders, before any distribution of assets is made to the holders of Common Stock or any securities ranking junior to the Series N Preferred Stock. After payment of the full amount of such liquidating distributions, the holders of Series N Preferred Stock will not be entitled to any further participation in any distribution of assets by, and shall have no right or claim to any remaining assets of, the Company.

(b) In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series N Preferred Stock and the corresponding amounts payable on any other Securities of equal ranking, the holders of Series N Preferred Stock and the holders of such other securities of equal ranking shall share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

Section 6. Maturity. The Series N Preferred Stock shall be perpetual unless redeemed by the Company in accordance with Section 7.

Section 7. Redemptions.

(a) The Series N Preferred Stock shall not be redeemable at the option of the holders at any time.

(b) The Series N Preferred Stock shall be redeemable at the option of the Company in any of the following circumstances:

(i) in whole but not in part, on any Dividend Payment Date prior to the Dividend Payment Date in _____, [2012] upon the occurrence of a

Regulatory Capital Event or a Rating Agency Event, at a cash redemption price equal to the sum of:

(A) the greater of:

(1) $1,000,000 per share of Series N Preferred Stock and

(2) The sum of the present value of $1,000,000 per share of Series N Preferred Stock, discounted from the Dividend Payment Date in _____, [2012] to the Redemption Date, and the present values of all undeclared dividends for each Dividend Period from the Redemption Date to and including the Dividend Payment Date in _____, [2012] discounted from their applicable Dividend Payment Dates to the Redemption Date, in each case on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate, as calculated by an Independent Investment Banker, plus [_____%]; *plus*

(B) any declared but unpaid dividends to the Redemption Date;

or

(ii) in whole or in part, on any Dividend Payment Date on or after the Dividend Payment Date in _____, [2012], at a cash redemption price equal to $1,000,000 per share of Series N Preferred Stock, *plus* any declared and unpaid dividends to the Redemption Date;

In each case, without accumulation of any undeclared dividends with respect to Dividend Payment Date prior to the Redemption Date.

(c) Dividends will cease to accrue on the Series N Preferred Stock called for redemption on and as of the date fixed for redemption and such Series N Preferred Stock will be deemed to cease to be outstanding, *provided* that the redemption price, including any authorized and declared but unpaid dividends for the current Dividend Period, if any, to the date fixed for redemption, has been duly paid or provision has been made for such payment.

(d) In the case of any redemption under this Section 7, notice shall be mailed to each holder of record of the Series N Preferred Stock, not less than 30 nor more than 60 days prior to the Redemption Date specified in such notice; provided, however, that a longer minimum notice may be agreed to by the Company, including in a deposit agreement relating to depositary shares representing interests in the Series N Preferred Stock. The notice of redemption shall include a statement of (i) the Redemption Date, (ii) the redemption price, and (iii) the number of shares to be redeemed.

(e) Any shares of Series N Preferred Stock redeemed pursuant to this Section 7 or otherwise acquired by the Company in any manner whatsoever shall become authorized but unissued preferred shares of the Company but such preferred shares shall not under any circumstances be reissued as Series N Preferred Stock. The Company shall

from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series N Preferred Stock accordingly.

Section 8. Voting Rights.

(a) Holders of the Series N Preferred Stock will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, and (ii) voting rights, if any, described in this Section 8.

(b) Holders of the Series N Preferred Stock will in the circumstances to the extent set forth in this Section 8(b), have the right to elect two directors.

(i) If after the issuance of the Series N Preferred Stock the Company fails to pay, or declare and set aside for payment, full dividends on the Series N Preferred Stock or any other class or series of Parity Securities having similar voting rights ("Voting Parity Securities") for six Dividend Periods or their equivalent, the authorized number of the Company's directors will be increased by two. Subject to compliance with any requirement for regulatory approval of, or non-objection to, persons serving as directors, the holders of Series N Preferred Stock, voting together as a single and separate class with the holders of any outstanding Voting Parity Securities, will have the right to elect two directors in addition to the directors then in office at the Company's next annual meeting of shareholders. This right will continue at each subsequent annual meeting until the Company pays dividends in full on the Series N Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and pays or declares and sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series N Preferred Stock.

(ii) The term of such additional directors will terminate, and the total number of directors will be decreased by two, at such time as the Company pays dividends in full on the Series N Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and declares and pays or sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series N Preferred Stock. After the term of such additional directors terminates, the holders of the Series N Preferred Stock will not be entitled to elect additional directors unless full dividends on the Series N Preferred Stock have again not been paid or declared and set aside for payment for six future Dividend Periods.

(iii) Any additional director elected by the holders of the Series N Preferred Stock and the Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series N Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at a meeting of the Company shareholders called for that purpose. Any vacancy created by the removal of any such director may be filled only by the vote of the holders of the outstanding Series N Preferred Stock and Voting Parity Securities, voting together as a single and separate class.

(c) So long as any shares of Series N Preferred Stock are outstanding, the vote or consent of the holders of at least 66 2/3% of the shares of Series N Preferred Stock at the time outstanding, voting as a class with all other classes and series of Parity Securities upon which like voting rights have been conferred and are exercisable, given in

person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Washington law:

(i) any amendment, alteration or repeal of any provision of the Company's Amended and Restated Articles of Incorporation (including the Articles of Amendment creating the Series N Preferred Stock) or the Company's bylaws that would alter or change the voting powers, preferences or special rights of the Series N Preferred Stock so as to affect them adversely;

(ii) any amendment or alteration of the Company's Amended and Restated Articles of Incorporation to authorize or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Company's capital stock ranking prior to the Series N Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Company; or

(iii) the consummation of a binding share exchange or reclassification involving the Series N Preferred Stock or a merger or consolidation of the Company with another entity, except that holders of Series N Preferred Stock will have no right to vote under this provision or under §23B.11.035 of the Revised Code of Washington or otherwise under Washington law if in each case (x) the Series N Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such Series N Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series N Preferred Stock, taken as a whole;

provided, however, that any increase in the amount of the authorized or issued Series N Preferred Stock or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock ranking equally with and/or junior to the Series N Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Company's liquidation, dissolution or winding up will not be deemed to adversely affect the voting powers, preferences or special rights of the Series N Preferred stock and, notwithstanding §23B.10.040(1)(a), (e) or (f) of the Revised Code of Washington or any other provision of Washington law, holders of Series N Preferred Stock will have no right to vote on such an increase, creation or issuance.

(d) If an amendment, alteration, repeal, share exchange, reclassification, merger or consolidation described above would adversely affect one or more but not all series of preferred stock with like voting rights (including the Series N Preferred Stock for this purpose), then only the series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Section 9. Certificates. The Company may at its option issue the Series N Preferred Stock without certificates.

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy & Development, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller.

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any one of the Authorized Officers to designate, finalize, determine and complete (it being understood that this authority includes without limitation making appropriate modifications of the preceding designation) the preferences, limitations, voting powers and relative rights of the Series N Preferred Stock, subject to the limits specified in these resolutions;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of the Series N Preferred Stock to be authorized, to determine the dividend rates and whether such rates are fixed, fixed-to-floating or floating (and to make appropriate modifications in other provisions to reflect such rates), to determine the liquidation amount, to designate situations in which the Company has the option to redeem the Series N Preferred Stock with or without make-whole provisions (including without limitation the terms of such make-whole provisions), to designate circumstances involving amendments to the Company's articles of incorporation as amended or involving mergers or other combinations or similar events in which holders of Series N Preferred Stock shall have voting rights, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for the Series N Preferred Stock with the Secretary of State of the State of Washington; provided, however, that (i) the number of shares of Series N Preferred Stock authorized shall not exceed 1,000, (ii) the liquidation preferences shall not exceed $1,000,000 per share, (iii) the dividend rate will be at a fixed rate not to exceed 10.5% per annum from the date of the issuance and, in the case of a fixed-to-floating rate election (upon the time the floating rate applies) or a floating rate election, will be at a floating rate equal to the relevant LIBOR applicable to such period plus a spread which will not exceed 600 basis points, and (iv) the Company will have the right to redeem the Series N Preferred Stock on a date that occurs no later than the first dividend payment date which is more than 10 years after the date on which the LLC Preferred Interests and the SPE Securities are issued.

RESOLVED FURTHER, that the Series N Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Series N Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that the number of shares authorized in the Designation as completed by an Authorized Officer as provided in these resolutions shall upon filing of the articles of amendment for the Series N Preferred Stock be fully reserved for issuance;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the SPE Securities in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (the "Securities Act"), to prepare, or cause to be prepared, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering;

RESOLVED FURTHER, that after filing with the Secretary of State of the State of Washington the articles of amendment designating the terms of the Series N Preferred Stock, but prior to the issuance of the shares of the series, the authority of each of the Authorized Officer to execute and file an amendment to the articles of amendment is hereby authorized, approved and confirmed, provided that any such filing shall be made only in order to make technical, clarifying or similar corrections or modifications and provided further that such corrections or modifications are consistent with the limitations established in these board resolutions and with the description of the series in the offering circular;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) purchase agreements with Goldman Sachs & Co. or an affiliate and/or other institutional purchasers, (ii) exchange agreements relating to the exchange of the LLC Preferred Interests and the SPE Securities into depositary shares representing interests in the Series N Preferred Stock, and (iii) declaration of covenants or other agreements, in favor of holders of SPE Securities and/or specified indebtedness of the Company, prohibiting the issuance by the Company of preferred stock senior to the Series N Preferred Stock, restricting sources of funds used to redeem the SPE Securities, or restricting dividends and distributions on the Company's stock if dividends are not paid on the SPE Securities), any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Series N Preferred Stock, the LLC Preferred Interests or the SPE Securities or to further the intent of these resolutions, subject to the limits set forth in these resolutions; and

RESOLVED FURTHER, that any actions taken by any of the Authorized Officers or any other proper officer of the Company prior to the adoption of these resolutions that is otherwise within the scope of the authority conferred by these resolutions is hereby ratified, confirmed and approved.

Minutes of August 21, 2007 meeting of WMB Board of Directors

WASHINGTON MUTUAL BANK
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual Bank (the "Association") held a special telephonic meeting on August 21, 2007. Present were: Farrell, Frank, Killinger, Leppert, Lillis, Matthews, Montoya, Murphy, Pugh, Reed, Smith and Stever. The meeting was purely telephonic, with all Directors participating by means of a conference telephone enabling all participants to hear one another. Mr. Killinger presided. Also present, at the beginning of the meeting, were the Company's officers, Casey, Cathcart, Chapman, Rotella, Williams, and Lynch (secretary). The Board met in joint session with the Board of Directors of Washington Mutual, Inc. (the "Holding Company").

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Capital Raising Transaction

Mr. Killinger submitted a proposal for the issuance of up to $1.5 billion in preferred securities (the "Delaware Preferred Securities") by the Delaware limited liability company that was organized in 2006 as an indirect operating subsidiary of the Association (the "WaMu Preferred Funding IV" issuance), depending on market conditions. Investors would purchase certain other securities (the "Trust Securities") from a special purpose entity, which will use the proceeds of its issuance of Trust Securities to finance the purchase of the Delaware Preferred Securities. The Holding Company will serve as a source of strength for the Association, as the Trust Securities will automatically be exchanged into depositary shares representing a fractional interest in a share of a new class of preferred stock of the Holding Company (the "WMI Preferred") upon the occurrence of certain possible events. In response to a question by Mr. Stever, Mr. Casey explained the possible interest rate to be paid on the Trust Securities. In response to a question by Mr. Stever, Mr. Casey identified likely investors and their locations. On motion duly made and seconded, the Board unanimously resolved to approve the Association's actions in support of the WaMu Preferred Funding IV issuance. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes.

There being no further business, the meeting was adjourned.

Appendix:

A – Resolutions for Capital Raising Transaction

Appendix A – Resolutions for Capital Raising Transaction

Board of Directors Resolutions

WHEREAS, Washington Mutual Bank (the "Bank") directly owns all of the issued and outstanding common stock of Seneca Holdings, Inc. ("Seneca Holdings"), indirectly owns all of the interests in WM Marion Holdings, LLC ("WM Marion") and indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street owns all of the issued and outstanding common interests in Washington Mutual Preferred Funding LLC ("WMPF LLC");

WHEREAS, it is proposed that the Bank will make an equity contribution to Seneca Holdings to consist of loans or interests therein not to exceed $3.4 billion in book value (the "Seneca Holdings Contribution"); that Seneca Holdings will make an equity contribution of such loans or interests to WM Marion; that WM Marion will make an equity contribution of such loans to University Street; and that University Street will make an equity contribution of such loans to WMPF LLC;

WHEREAS, it is proposed that in addition to the Seneca Holdings Contribution, the Bank will contribute to WMPF LLC assets consisting of loans or interests therein not to exceed $1.0 billion (the "LLC Contribution);

WHEREAS, WMPF LLC proposes to issue a new class or series of preferred interests (the "LLC Preferred Interests") to either (a) a newly formed special purpose entity ("SPE"), (b) University Street or (c) the Bank;

WHEREAS, it is proposed that the LLC Preferred Interests will be sold or transferred by WMPF LLC, University Street or the Bank, as the case may be, to the SPE which, in turn, will issue substantially similar securities (the "SPE Securities") to investors; and

WHEREAS, it is proposed that the Bank's parent, Washington Mutual, Inc. ("WMI"), will authorize a new series of preferred stock (the "WMI Preferred Stock") and under certain circumstances the SPE Securities will be automatically exchanged into depositary shares representing interests in the WMI Preferred Stock.

THEREFORE, IT IS HEREBY RESOLVED, that the Seneca Holdings Contribution and the LLC Contribution are hereby authorized and approved (and any and all prior contributions or transfers to University Street and the LLC relating to transactions with WMPF LLC are approved, confirmed and ratified), and any Authorized Officer (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements or documents as such Authorized Officer deems necessary or appropriate in connection with such contributions;

RESOLVED FURTHER, that the Bank is hereby authorized to transfer, or to cause its designee to transfer, any LLC Preferred Interests that it may receive to the SPE in exchange for cash and any Authorized Officer is hereby authorized on behalf of

the Bank to negotiate, execute and deliver any agreements or documents as such Authorized Officer deems necessary or appropriate in connection with such transfers;

RESOLVED FURTHER, that each of the Authorized Officers (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements with WMPF LLC, the SPE or any other party as such Authorized Officer deems necessary or appropriate in connection with the transactions contemplated by these resolutions, as well as the management, operation or administration of WMPF LLC;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Bank and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, in the event that it is deemed necessary or desirable so to do, in connection with the transfer, sale or offering of the LLC Preferred Interests or SPE Securities, as the case may be, in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (a "Reg S Offering"), to prepare, cause to be prepared or to participate in the preparation of, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering or a Reg S Offering;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Bank (including, without limitation, those authorized from time to time pursuant to the Bank's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Bank (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance or transfers of the LLC Preferred Interests or to further the intent of these resolutions;

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) any Executive Vice President, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller; and

RESOLVED FURTHER, that any actions taken by any of the Authorized Officers or any other proper officer of the Bank prior to the adoption of these resolutions that is otherwise within the scope of the authority conferred by these resolutions is hereby ratified, confirmed and approved.

Minutes of October 16, 2007 meeting of WMI Board of Directors

WASHINGTON MUTUAL, INC.
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual, Inc. (the "Company") held its October meeting on Tuesday, October 16, 2007 in Seattle, Washington. Present were: Frank, Killinger, Leppert, Lillis, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. (Ms. Osmer McQuade participated by means of a conference telephone enabling all participants to hear one another.) Mr. Killinger presided. Also present, at the beginning of the meeting, were the Company's officers, Casey, Cathcart, Chapman, David, Rotella and Lynch (secretary). The Board of the Company met in joint session with the Board of Directors of the Company's primary banking institution subsidiary, Washington Mutual Bank ("WMB").

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Preferred Stock - Modified Series N Authorization and Series O and P Approval

Ms. Pugh reported that the Finance Committee had reviewed proposals with regard to the issuance of capital securities, including a proposal to modify the authorization for the Company's Series N Preferred stock and proposals to authorize the Company's issuance of Series O Preferred stock and Series P Preferred stock. The Company would serve as a source of strength for WMB in specific circumstances, when depositary shares representing a fractional interest in Series N or Series O Preferred stock automatically would be issued in exchange for certain other securities (the "Entity Securities") to be issued by one of two or more entities, which will use the proceeds of issuance of Entity Securities to finance the purchase in preferred securities ("Delaware Preferred Securities") to be issued by the Delaware limited liability company that was organized in 2006 as an indirect operating subsidiary of WMB. The Company would issue the Series N Preferred stock upon the occurrence of a Exchange Event affecting up to $1.5 billion in Delaware Preferred Securities (as authorized under the resolutions that were adopted by the Board at its August 21, 2007, meeting) and would issue the Series O Preferred stock upon the occurrence of a Exchange Event affecting certain Entity Securities issued by a Cayman Islands or other foreign entity to purchase up to $2.0 billion in Delaware Preferred Securities. In response to market conditions, the coupon range for the Series N Preferred stock would be wider than authorized at the August 21 meeting, whereas the issuance of Series P Preferred stock would be independent of the issuance of Entity Securities and Delaware Preferred Securities. Ms. Pugh reported that the Finance Committee recommended approval of all of these proposals. On motion duly made and seconded, the Board resolved to modify the authorization for the Series N Preferred stock and to authorize the issuance of Series O Preferred stock and Series P Preferred stock. A copy of the resolutions will be kept in the minute book as an appendix to these minutes.

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There being no further business the meeting was adjourned.

Appendices:

A – Resolutions Declaring Dividend on Common Stock and Series K Preferred Stock

B – Resolutions for Series N Preferred Stock, Series O Preferred Stock, and Series P DRD Preferred Stock

C – Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix B – Resolutions related to Series N Preferred Stock, Series O Preferred Stock, and Series P DRD Preferred Stock

(Series N Preferred Stock – Supplemental Resolutions)

WHEREAS, at a meeting of the Board of Directors (the "Board") of Washington Mutual, Inc. (the "Company") duly called and held on August 21, 2007, the Board adopted resolutions (the "Original Resolutions") relating to and authorizing the creation out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock initially designated as the "Series N Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series N Preferred Stock");

WHEREAS, the Original Resolutions also, among other matters, delegated authority to appropriate officers of the Company to determine, complete and modify, within the limits specifically prescribed in the Original Resolutions, the designation, relative rights, voting powers, preferences and limitations of the Series N Preferred Stock;

WHEREAS, the Board is contemplating the authorization of additional series of preferred stock of the Company whose designation will include the term "Series O" (the "Series O Preferred Stock"); and

WHEREAS, the Board now desires, because of recent changes in capital market conditions, to adjust certain of the limits in the Original Resolutions.

THEREFORE, IT IS HEREBY RESOLVED, that notwithstanding anything to the contrary contained in the Original Resolutions, the Authorized Officers (as that term is defined in the Original Resolutions), and any one of them acting alone, shall have the authority to determine the dividend rate of the Series N Preferred Stock and the number of shares of the Series N Preferred Stock, provided that (i) the dividend rate will be at a fixed rate not to exceed 13.0% per annum from the date of the issuance and, in the case of a fixed-to-floating rate election (upon the time the floating rate applies) or a floating rate election, will be at a floating rate equal to the relevant LIBOR applicable to such period plus a spread which will not exceed 800 basis points and (ii) the number of authorized shares of Series N Preferred Stock shall not exceed 2,000 and, in addition, the sum of the number of authorized shares of Series N Preferred Stock and the number of authorized shares of Series O Preferred Stock shall not exceed 2,000; and

RESOLVED FURTHER, that except as set forth herein, the Original Resolutions and all of the other terms, limits, delegations of authority and other conditions with respect to the Series N Preferred Stock set forth therein shall remain in full force and effect and are hereby ratified and confirmed in all respects.

(Series O Preferred Stock)

WHEREAS, Washington Mutual, Inc. (the "Company") indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, Washington Mutual Preferred Funding LLC, a Delaware limited liability company ("WMPF LLC"), is a subsidiary of University Street;

WHEREAS, WMPF LLC previously issued preferred membership interests to Washington Mutual Bank ("WMB"), in exchange for transfers of mortgage loan assets;

WHEREAS, it is proposed that WMPF LLC will issue to University Street, to a Cayman Islands or other foreign entity (the "Cayman Entity") and/or to WMB one or more new series or class (or classes, as the case may be) of preferred interests (the "LLC Preferred Interests") which LLC Preferred Interests in the aggregate will not exceed $2.0 billion;

WHEREAS, if LLC Preferred Interests are issued to University Street, then University Street will, in turn, transfer or sell the LLC Preferred Interests to the Cayman Entity and if WMPF LLC interests are issued to WMB, then WMB will, in turn, transfer or sell the LLC Preferred interests to the Cayman Entity;

WHEREAS, upon or concurrently with receipt of the LLC Preferred Interests, the Cayman Entity will, in turn, issue substantially similar securities (the "Cayman Securities") to investors for cash;

WHEREAS, under specified circumstances, the Cayman Securities will automatically be exchanged for depositary shares representing fractional interests in shares of a new series of preferred stock of the Company; and

WHEREAS, the Board desires to authorize the issuance of such new series of such preferred stock, to establish substantive terms or limits of such series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and relative rights, voting powers, preferences and limitations of such series and to provide for other matters relating to the preferred stock and the LLC Preferred Interests.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock which, unless an Authorized Officer determines that such series should bear a fixed-to-floating dividend rate or a floating dividend rate, shall be designated as the "Series O Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series O Preferred Stock"). The number of shares constituting such series shall not exceed 2,000; provided that, in addition, the sum of the shares constituting such series and the shares constituting the Company's series of preferred stock defined as "Series N Preferred Stock" in resolutions adopted by the Board at its meeting held on August 21, 2007, shall not exceed 2,000. The stock in such series shall have no par value;

FURTHER RESOLVED, that the Series O Preferred Stock shall have preferences, limitations, voting powers and relative rights set forth below, subject to completion or

modification by the Authorized Officers as provided herein:

DESIGNATION

Section 1. Designation. There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series O Perpetual Non-cumulative Fixed Rate Preferred Stock" (the "Series O Preferred Stock"). The number of shares constituting such series shall be _____. The Series O Preferred Stock shall have no par value per share and the liquidation preference of the Series O Preferred Stock shall be $1,000,000.00 per share. Shares of the Series O Preferred Stock shall be issued if and only if a Conditional Exchange occurs.

Section 2. Ranking.

The Series O Preferred Stock will, with respect to dividend rights and rights on liquidation, winding-up and dissolution, rank (i) on a parity with the Company's Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series I Preferred Stock"), the Company's Series J Perpetual Non-cumulative Fixed Rate Preferred Stock (the "Series J Preferred Stock"), the Company's Series K Perpetual Non-Cumulative Floating Rate Preferred Stock (the "Series K Preferred Stock"), the Company's Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series L Preferred Stock"), the Company's Series M Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock (the "Series M Preferred Stock"), the Company's Series N Perpetual Non-cumulative Fixed-Rate Preferred Stock (the "Series N Preferred Stock") and with each other class or series of preferred stock established after the Designation Date by the Company the terms of which expressly provide that such class or series will rank on a parity with the Series O Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Parity Securities") and (ii) senior to the Company's common stock (the "Common Stock"), the Company's Series RP Preferred Stock and each other class of capital stock outstanding or established after the Designation Date by the Company the terms of which do not expressly provide that it ranks on a parity with or senior to the Series O Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company, including the Common Stock (collectively referred to as "Junior Securities"). The Company shall have the right to authorize and/or issue additional shares or series of Junior Securities and Parity Securities without the consent of the holders of the Series O Preferred Stock.

Section 3. Definitions. Unless the context or use indicates another meaning or intent, the following terms shall have the following meanings, whether used in the singular or the plural:

(a) "Business Day" means any day other than a Saturday, Sunday or any other day on which banks in New York City, New York, or Seattle, Washington are generally required or authorized by law to be closed.

(b) "Cayman Preferred Securities" means the ___% Perpetual Non-cumulative Preferred Securities, Series 2007-[__], liquidation preference $1,000 per security, issued or to be issued by [Washington Mutual Preferred Funding (Cayman) II Ltd.], a [_____].

(c) "Common Stock" has the meaning set forth in Section 2.

(d) "Company" means Washington Mutual, Inc., a Washington corporation.

(e) "Comparable Treasury Issue" means the United States Treasury security selected by the Independent Investment Banker as having a maturity comparable to the term remaining to the Dividend Payment Date in _____, [2012] that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of perpetual preferred securities having similar terms as the Series O Preferred Stock with respect to the payment of dividends and distributions of assets upon liquidation, dissolution or winding-up of the issuer of such preferred stock.

(f) "Comparable Treasury Price" means with respect to any Redemption Date the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or if the Independent Investment Banker obtains fewer than five such Reference Treasury Dealer Quotations, the average of all such quotations.

(g) "Conditional Exchange" means the automatic exchange of the Cayman Securities into depositary shares representing an interest in the Series O Preferred Stock which occurs upon the written direction of the OTS upon or after the occurrence of an Exchange Event.

(h) "Delaware Preferred Securities" means the ___% Perpetual Non-cumulative Preferred Securities, Series 2007-C, liquidation preference $1,000 per security, issued or to be issued by Washington Mutual Preferred Funding LLC, a Delaware limited liability company.

(i) "Designation Date" means _____, 2007.

(j) "Dividend Payment Date" has the meaning set forth in Section 4(b).

(k) "Dividend Period" has the meaning set forth in Section 4(b).

(l) "Exchange Event" means the occurrence of any one of the following at a time as the Cayman Securities are issued and outstanding:

(i) WMB becomes undercapitalized under the Prompt Corrective Action Regulations;

(ii) WMB is placed into conservatorship or receivership; or

(iii) the OTS, in its sole discretion, directs an exchange of the Cayman Securities into depositary shares representing an interest in the Series O Preferred Stock in anticipation of WMB becoming undercapitalized under the Prompt Corrective Action Regulations or of the OTS taking any supervisory action that limits the payment of dividends by WMB.

(m) "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company.

(n) "Junior Securities" has the meaning set forth in Section 2.

(o) "OTS" means the Office of Thrift Supervision or any successor regulatory entity.

(p) "Parity Securities" has the meaning set forth in Section 2.

(q) "Primary Treasury Dealer" has the meaning set forth in Section 3(u).

(r) "Prompt Corrective Action Regulation" means 12 C.F.R. Part 565 as in effect from time to time, or any successor regulation.

(s) "Rating Agencies" means, at any time, Standard & Poor's Rating Services, a Division of the McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. and Fitch, Inc., but only in the case of each such agency if it is rating the relevant security, including the Delaware Preferred Securities at the relevant time or, if none of them is providing a rating for the relevant security, including the Delaware Preferred Securities at such time, then any "nationally recognized statistical rating organization" as that phrase is defined for purposes of Rule 436(g)(2) under the Securities Act of 1933, as amended, which is rating such relevant security.

(t) A "Rating Agency Event" occurs when the Company reasonably determines that an amendment, clarification or change has occurred in the equity criteria for securities such as the Delaware Preferred Securities of any Rating Agency that then publishes a rating for the Company which amendment, clarification or change results in a lower equity credit for the Company than the respective equity credit assigned by such Rating Agency to the Delaware Preferred Securities on the Designation Date.

(u) "Redemption Date" means any date that is designated by the Company in a notice of redemption delivered pursuant to Section 7.

(v) "Reference Treasury Dealer" means each of the three primary U.S. government securities dealers (each, a "Primary Treasury Dealer"), as specified by the Company; provided that if any Primary Treasury Dealer as specified by the Company ceases to be a Primary Treasury Dealer, the Company will substitute for such Primary Treasury Dealer another Primary Treasury Dealer and if the Company fails to select a substitute within a reasonable period of time, then the substitute will be a Primary Treasury Dealer selected by the Independent Investment Banker after consultation with the Company.

(w) "Reference Treasury Dealer Quotations" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed, in each case, as a percentage of its principal amount) quoted in writing to the Independent Investment Banker by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

(x) A "Regulatory Capital Event" occurs when the Company determines, based upon receipt of an opinion of counsel, that there is a significant risk that the Delaware Preferred Securities will no longer constitute core capital of WMB for purposes of the capital adequacy regulations issued by the OTS as a result of a change in applicable laws, regulations or related interpretations after issuance of the Delaware Preferred Securities.

(y) "Series I Preferred Stock" has the meaning set forth in Section 2.

(z) "Series J Preferred Stock" has the meaning set forth in Section 2.

(aa) "Series K Preferred Stock" has the meaning set forth in Section 2.

(bb) "Series L Preferred Stock" has the meaning set forth in Section 2.

(cc) "Series M Preferred Stock" has the meaning set forth in Section 2.

(dd) "Series N Preferred Stock" has the meaning set forth in Section 2.

(ee) "Series O Preferred Stock" has the meaning set forth in Section 1.

(ff) "Treasury Rate" means the rate per year equal to the quarterly equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for the relevant Redemption Date. The Treasury Rate will be calculated on the third Business Day preceding the relevant Redemption Date.

(gg) "Voting Parity Securities" has the meaning set forth in Section 8(b).

(hh) "WMB" means Washington Mutual Bank, a federal savings association and a subsidiary of the Company, or its successor.

Section 4 Dividends.

(a) Holders of shares of Series O Preferred Stock shall be entitled to receive, if, when and as declared by the Board of Directors, out of the funds legally available therefor, non-cumulative cash dividends in the amount determined as set forth in Section 4(c), and no more.

(b) Subject to Section 4(a), dividends shall be payable in arrears on March 15, June 15, September 15 and December 15 of each year commencing on the first such day after the issuance of the Series O Preferred Stock or, in each case, if any such day is not a Business Day, the next Business Day (each, a "Dividend Payment Date"). Each dividend will be payable to holders of record as they appear on the stock books of the Company on the first day of the month in which the relevant Dividend Payment Date occurs or, if such date is not a Business Day, the first Business Day of such month. Each period from and including a Dividend Payment Date (or the date of the issuance of the Series O Preferred Stock) to but excluding the following Dividend Payment Date (or the Redemption Date) is herein referred to as "Dividend Period".

(c) After issuance of the Series O Preferred Stock, dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series O Preferred Stock, at an annual rate of _____% on the per share liquidation preference of the Series O Preferred Stock. Dividends payable for any Dividend Period greater or less than a full Dividend Period will be computed on the basis of twelve 30-day months, a 360-day year, and the actual number of days elapsed in the period. No interest will be paid on any dividend payment of the Series O Preferred Stock.

(d) Dividends on the Series O Preferred Stock are non-cumulative. If the Board of Directors does not declare a dividend on the Series O Preferred Stock or declares

less than a full dividend in respect of any Dividend Period, the holders of the Series O Preferred Stock will have no right to receive any dividend or a full dividend, as the case may be, for the Dividend Period, and the Company will have no obligation to pay a dividend or to pay full dividends for that Dividend Period, whether or not dividends are declared and paid for any future Dividend Period with respect to the Series O Preferred Stock or the Common Stock or any other class or series of the Company's preferred stock.

(e) If full dividends on all outstanding shares of the Series O Preferred Stock for any Dividend Period have not been declared and paid, the Company shall not declare or pay dividends with respect to, or redeem, purchase or acquire any of, its equity capital securities during the next succeeding Dividend Period, except dividends in connection with the Series RP Preferred Stock or other shareholders' rights plan, if any, or dividends in connection with benefit plans.

Section 5 Liquidation.

(a) In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of Series O Preferred Stock at the time outstanding shall be entitled to receive liquidating distributions in the amount of $1,000,000 per share of Series O Preferred Stock, plus an amount equal to any declared but unpaid dividends thereon for the current Dividend Period to and including the date of such liquidation, out of assets legally available for distribution to its shareholders, before any distribution of assets is made to the holders of Common Stock or any securities ranking junior to the Series O Preferred Stock. After payment of the full amount of such liquidating distributions, the holders of Series O Preferred Stock will not be entitled to any further participation in any distribution of assets by, and shall have no right or claim to any remaining assets of, the Company.

(b) In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series O Preferred Stock and the corresponding amounts payable on any other Securities of equal ranking, the holders of Series O Preferred Stock and the holders of such other securities of equal ranking shall share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

Section 6 Maturity. The Series O Preferred Stock shall be perpetual unless redeemed by the Company in accordance with Section 7.

Section 7 Redemptions.

(a) The Series O Preferred Stock shall not be redeemable at the option of the holders at any time.

(b) The Series O Preferred Stock shall be redeemable at the option of the Company in any of the following circumstances:

(i) in whole but not in part, on any Dividend Payment Date prior to the Dividend Payment Date in _____, [2012] upon the occurrence of a

Regulatory Capital Event or a Rating Agency Event, at a cash redemption price equal to the sum of:

(A) the greater of:

(1) $1,000,000 per share of Series O Preferred Stock and

(2) The sum of the present value of $1,000,000 per share of Series O Preferred Stock, discounted from the Dividend Payment Date in _____, to the Redemption Date, and the present values of all undeclared dividends for each Dividend Period from the Redemption Date to and including the Dividend Payment Date in _____, discounted from their applicable Dividend Payment Dates to the Redemption Date, in each case on a quarterly basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate, as calculated by an Independent Investment Banker, plus [_____%]; *plus*

(B) any declared but unpaid dividends to the Redemption Date;

or

(ii) in whole or in part, on any Dividend Payment Date on or after the Dividend Payment Date in _____, at a cash redemption price equal to $1,000,000 per share of Series O Preferred Stock, *plus* any declared and unpaid dividends to the Redemption Date;

Section 1. In each case, without accumulation of any undeclared dividends with respect to Dividend Payment Date prior to the Redemption Date.

(c) Dividends will cease to accrue on the Series O Preferred Stock called for redemption on and as of the date fixed for redemption and such Series O Preferred Stock will be deemed to cease to be outstanding, *provided* that the redemption price, including any authorized and declared but unpaid dividends for the current Dividend Period, if any, to the date fixed for redemption, has been duly paid or provision has been made for such payment.

(d) In the case of any redemption under this Section 7, notice shall be mailed to each holder of record of the Series O Preferred Stock, not less than 30 nor more than 60 days prior to the Redemption Date specified in such notice; provided, however, that a longer minimum notice may be agreed to by the Company, including in a deposit agreement relating to depositary shares representing interests in the Series O Preferred Stock. The notice of redemption shall include a statement of (i) the Redemption Date, (ii) the redemption price, and (iii) the number of shares to be redeemed.

(e) Any shares of Series O Preferred Stock redeemed pursuant to this Section 7 or otherwise acquired by the Company in any manner whatsoever shall become authorized but unissued preferred shares of the Company but such preferred shares shall not under any circumstances be reissued as Series O Preferred Stock. The Company shall from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series O Preferred Stock accordingly.

Section 8 Voting Rights.

(a) Holders of the Series O Preferred Stock will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, and (ii) voting rights, if any, described in this Section 8.

(b) Holders of the Series O Preferred Stock will in the circumstances to the extent set forth in this Section 8(b), have the right to elect two directors.

(i) If after the issuance of the Series O Preferred Stock the Company fails to pay, or declare and set aside for payment, full dividends on the Series O Preferred Stock or any other class or series of Parity Securities having similar voting rights ("Voting Parity Securities") for six Dividend Periods or their equivalent, the authorized number of the Company's directors will be increased by two. Subject to compliance with any requirement for regulatory approval of, or non-objection to, persons serving as directors, the holders of Series O Preferred Stock, voting together as a single and separate class with the holders of any outstanding Voting Parity Securities, will have the right to elect two directors in addition to the directors then in office at the Company's next annual meeting of shareholders. This right will continue at each subsequent annual meeting until the Company pays dividends in full on the Series O Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and pays or declares and sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series O Preferred Stock.

(ii) The term of such additional directors will terminate, and the total number of directors will be decreased by two, at such time as the Company pays dividends in full on the Series O Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and declares and pays or sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series O Preferred Stock. After the term of such additional directors terminates, the holders of the Series O Preferred Stock will not be entitled to elect additional directors unless full dividends on the Series O Preferred Stock have again not been paid or declared and set aside for payment for six future Dividend Periods.

(iii) Any additional director elected by the holders of the Series O Preferred Stock and the Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series O Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at a meeting of the Company shareholders called for that purpose. Any vacancy created by the removal of any such director may be filled only by the vote of the holders of the outstanding Series O Preferred Stock and Voting Parity Securities, voting together as a single and separate class.

(c) So long as any shares of Series O Preferred Stock are outstanding, the vote or consent of the holders of at least 66 2/3% of the shares of Series O Preferred Stock at the time outstanding, voting as a class with all other classes and series of Parity Securities upon which like voting rights have been conferred and are exercisable, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Washington law:

(i) any amendment, alteration or repeal of any provision of the Company's Amended and Restated Articles of Incorporation (including the Articles of Amendment creating the Series O Preferred Stock) or the Company's bylaws that would alter or change the voting powers, preferences or special rights of the Series O Preferred Stock so as to affect them adversely;

(ii) any amendment or alteration of the Company's Amended and Restated Articles of Incorporation to authorize or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Company's capital stock ranking prior to the Series O Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Company; or

(iii) the consummation of a binding share exchange or reclassification involving the Series O Preferred Stock or a merger or consolidation of the Company with another entity, except that holders of Series O Preferred Stock will have no right to vote under this provision or under §23B.11.035 of the Revised Code of Washington or otherwise under Washington law if in each case (x) the Series O Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such Series O Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series O Preferred Stock, taken as a whole;

provided, however, that any increase in the amount of the authorized or issued Series O Preferred Stock or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock ranking equally with and/or junior to the Series O Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Company's liquidation, dissolution or winding up will not be deemed to adversely affect the voting powers, preferences or special rights of the Series O Preferred stock and, notwithstanding §23B.10.040(1)(a), (e) or (f) of the Revised Code of Washington or any other provision of Washington law, holders of Series O Preferred Stock will have no right to vote on such an increase, creation or issuance.

(d) If an amendment, alteration, repeal, share exchange, reclassification, merger or consolidation described above would adversely affect one or more but not all series of preferred stock with like voting rights (including the Series O Preferred Stock for this purpose), then only the series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Section 9 Certificates. The Company may at its option issue the Series O Preferred Stock without certificates.

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy &

Development, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller;

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any one of the Authorized Officers to designate, finalize, determine and complete (it being understood that this authority includes without limitation making appropriate modifications of the preceding designation) the preferences, limitations, voting powers and relative rights of the Series O Preferred Stock, subject to the limits specified in these resolutions;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of the Series O Preferred Stock to be authorized, to determine the dividend rates and whether such rates are fixed, fixed-to-floating or floating (and to make appropriate modifications in other provisions to reflect such rates), to determine the liquidation amount, to designate situations in which the Company has the option to redeem the Series O Preferred Stock with or without make-whole provisions (including without limitation the terms of such make-whole provisions), to designate circumstances involving amendments to the Company's articles of incorporation as amended or involving mergers or other combinations or similar events in which holders of Series O Preferred Stock shall have voting rights, to approve the form of any stock certificate and to prepare and authorize the filing of articles of amendment for the Series O Preferred Stock with the Secretary of State of the State of Washington; provided, however, that (i) the number of shares of Series O Preferred Stock authorized shall not exceed 2,000 and, in addition, the sum of the number of authorized shares of Series O Preferred Stock and the number of authorized shares of Series N Preferred Stock shall not exceed 2,000, (ii) the liquidation preferences shall not exceed $1,000,000 per share, (iii) the dividend rate will be at a fixed rate not to exceed 13.0% per annum from the date of the issuance and, in the case of a fixed-to-floating rate election (upon the time the floating rate applies) or a floating rate election, will be at a floating rate equal to the relevant LIBOR applicable to such period plus a spread which will not exceed 800 basis points, and (iv) the Company will have the right to redeem the Series O Preferred Stock on a date that occurs no later than the first dividend payment date which is more than 10 years after the date on which the LLC Preferred Interests and the Cayman Securities are issued;

RESOLVED FURTHER, that the Series O Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Series O Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that the number of shares authorized in the Designation as completed by an Authorized Officer as provided in these resolutions shall upon filing of the articles of amendment for the Series O Preferred Stock be fully reserved for issuance;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized

and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Preferred Stock, the LLC Preferred Interests or the Cayman Securities in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (the "Securities Act"), to prepare, or cause to be prepared, an offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering;

RESOLVED FURTHER, that after filing with the Secretary of State of the State of Washington the articles of amendment designating the terms of the Series O Preferred Stock, but prior to the issuance of the shares of the series, the authority of each of the Authorized Officer to execute and file an amendment to the articles of amendment is hereby authorized, approved and confirmed, provided that any such filing shall be made only in order to make technical, clarifying or similar corrections or modifications and provided further that such corrections or modifications are consistent with the limitations established in these board resolutions and with the description of the series in the offering circular;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) purchase agreements with Goldman Sachs & Co. or an affiliate and/or other institutional purchasers, (ii) exchange agreements relating to the exchange of the LLC Preferred Interests and the Cayman Securities into depositary shares representing interests in the Series O Preferred Stock, and (iii) declaration of covenants or other agreements, in favor of holders of Cayman Securities and/or specified indebtedness of the Company, prohibiting the issuance by the Company of preferred stock senior to the Series O Preferred Stock, restricting sources of funds used to redeem the Cayman Securities, or restricting dividends and distributions on the Company's stock if dividends are not paid on the Cayman Securities), any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Series O Preferred Stock, the LLC Preferred Interests or the Cayman Securities or to further the intent of these resolutions, subject to the limits set forth in these resolutions; and

RESOLVED FURTHER, that any actions taken by any of the Authorized Officers or any other proper officer of the Company prior to the adoption of these resolutions that is otherwise within the scope of the authority conferred by these resolutions is hereby ratified, confirmed and approved.

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(Series P DRD Preferred Stock)

WHEREAS, the Board of Directors of Washington Mutual, Inc. (the "Company") desires to authorize the issuance of a new series of preferred stock, to establish substantive terms of the series, to delegate authority to appropriate officers of the Company to determine, within the limits specifically prescribed in these resolutions, the designation and preferences, limitations, voting powers and relative rights of the series and to provide for other matters relating to the preferred stock.

THEREFORE, IT IS HEREBY RESOLVED, that there is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series P Perpetual Non-Cumulative Preferred Stock" (the "Series P Preferred Stock"). The number of shares constituting such series shall not exceed 2,000. The stock in such series shall have no par value.

FURTHER RESOLVED, that the Series P Preferred Stock shall have the preferences, limitations, voting powers and relative rights set forth in the designation for such series set forth below subject to completion or modification by Authorized Officers as provided herein:

DESIGNATION

Section 1. **Designation.** There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as the "Series P Perpetual Non-Cumulative Floating Rate Preferred Stock" (the "Series P Preferred Stock"). The number of shares constituting such series shall be _____. The Series P Preferred Stock shall have no par value per share and the liquidation preference of the Series P Preferred Stock shall be $1,000,000.00 per share.

Section 2. **Ranking.** The Series P Preferred Stock will, with respect to dividend rights and rights on liquidation, winding-up and dissolution, rank (i) on a parity with the Series I Preferred Stock, the Series J Preferred Stock, the Series K Preferred Stock, the Series L Preferred Stock, the Series M Preferred Stock, the Series N Preferred Stock and the Series O Preferred Stock and with each other class or series of preferred stock established after the Effective Date by the Company the terms of which expressly provide that such class or series will rank on a parity with the Series P Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Parity Securities") and (ii) senior to the Company's common stock (the "Common Stock"), the Company's Series RP Preferred Stock and each other class or series of capital stock outstanding or established after the Effective Date by the Company the terms of which do not expressly provide that it ranks on a parity with or senior to the Series P Preferred Stock as to dividend rights and rights on liquidation, winding-up and dissolution of the Company (collectively referred to as "Junior Securities"). The Company has the right to authorize and/or issue additional shares or series of Junior Securities or Parity Securities without the consent of the holders of the Series P Preferred Stock.

Section 3. **Definitions.** Unless the context or use indicates another meaning or intent, the following terms shall have the following meanings, whether used in the singular or the plural:

(a) "3-Month USD LIBOR" means, with respect to any Dividend Period, a rate determined on the basis of the offered rates for three-month U.S. dollar deposits, commencing on the first day of such Dividend Period, which appears on Reuters Screen LIBOR01 Page as of approximately 11:00 a.m., London time, on the LIBOR Determination Date for such Dividend Period. If on any LIBOR Determination Date no rate appears on Reuters Screen LIBOR01 Page as of approximately 11:00 a.m., London time, the Company or an affiliate of the Company on behalf of the Company will on such LIBOR Determination Date request four major reference banks in the London interbank market selected by the Company to provide the Company with a quotation of the rate at which three-month deposits in U.S. dollars, commencing on the first day of such Dividend Period, are offered by them to prime banks in the London interbank market as of approximately 11:00 a.m., London time, on such LIBOR Determination Date and in a principal amount equal to that which is representative for a single transaction in such market at such time. If at least two such quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations as calculated by the Company. If fewer than two quotations are provided, 3-Month USD LIBOR for such Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted as of approximately 11:00 am., New York time, on the first day of such Dividend Period by three major banks in New York City, New York selected by the Company for loans in U.S. dollars to leading European banks, for a three-month period commencing on the first day of such Dividend Period and in a principal amount of not less than $1,000,000; *provided, however*, that, if the banks selected as aforesaid by the Company are not quoting as mentioned in this sentence, 3-Month USD LIBOR for such Dividend Period will be the 3-Month USD LIBOR determined with respect to the immediately preceding Dividend Period.

(b) "Business Day" means any day other than a Saturday, Sunday or any other day on which banks in New York City, New York, or Seattle, Washington are generally required or authorized by law to be closed.

(c) "Common Stock" has the meaning set forth in Section 2.

(d) "Company" means Washington Mutual, Inc., a Washington corporation.

(e) "Dividend Payment Date" has the meaning set forth in Section 4(b).

(f) "Dividend Period" has the meaning set forth in Section 4(b).

(g) "Effective Date" means the date on which shares of the Series P Preferred Stock are first issued.

(h) "Junior Securities" has the meaning set forth in Section 2.

(i) "LIBOR Business Day" means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.

(j) "LIBOR Determination Date" means, as to each Dividend Period, the date that is two LIBOR Business Days prior to the first day of such Dividend Period.

(k) "Parity Securities" has the meaning set forth in Section 2.

(l) "Redemption Date" means any date that is designated by the Company in a notice of redemption delivered pursuant to Section 7.

(m) "Reuters Screen LIBOR01 Page" means the display so designated on the Reuters 3000 Xtra (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor for the purpose of displaying rates comparable to the London Interbank Offered rate for U.S. dollar deposits).

(n) "Series I Preferred Stock" means the shares of the Company's Series I Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock reserved for issuance.

(o) "Series J Preferred Stock" means the shares of the Company's Series J Perpetual Non-cumulative Fixed Rate Preferred Stock reserved for issuance.

(p) "Series K Preferred Stock" means the shares of the Company's issued and outstanding Series K Perpetual Non-Cumulative Floating Rate Preferred Stock.

(q) "Series L Preferred Stock" means the shares of the Company's Series L Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock reserved for issuance.

(r) "Series M Preferred Stock" means the shares of the Company's Series M Perpetual Non-cumulative Fixed-to-Floating Rate Preferred Stock reserved for issuance.

(s) "Series N Preferred Stock" means the shares of the series of the Company's preferred stock containing the phrase "Series N" in its designation reserved, as of the date hereof or in the future, for issuance.

(t) "Series O Preferred Stock" means the shares of the series of the Company's preferred stock containing the phrase "Series O" in its designation reserved, as of the date hereof or in the future, for issuance.

(u) "Series P Preferred Stock" has the meaning set forth in Section 1.

(v) "Voting Parity Securities" has the meaning set forth in Section 8(b).

Section 4. Dividends.

(a) From and after the Effective Date, holders of shares of Series P Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors, out of the funds legally available therefor, non-cumulative cash dividends in the amount determined as set forth in Section 4(c), and no more.

(b) Subject to Section 4(a), dividends shall be payable in arrears on March 15, June 15, September 15 and December 15 of each year commencing on _____ or, in each case, if any such day is not a Business Day, the next Business Day (each, a "Dividend Payment Date"). Each dividend will be payable to holders of record as they appear on the stock books of the Company on the first day of the month in which the relevant Dividend Payment Date occurs or, if such date is not a Business Day, the first Business Day of such month. Each period from and including a Dividend Payment Date (or the date of the issuance of the Series P Preferred Stock) to but excluding the following

Dividend Payment Date (or the Redemption Date) is herein referred to as a "Dividend Period."

(c) With respect to each Dividend Period, dividends, if, when and as declared by the Board of Directors, will be, for each outstanding share of Series P Preferred Stock, at an annual rate on the $1,000,000 per share liquidation preference equal to the greater of (i) 3-Month USD LIBOR for the related Dividend Period, plus ____% or (ii) _____ percent (_____%). Dividends payable for a Dividend Period, including any Dividend Period greater or less than a full Dividend Period, will be computed on the basis of the actual number of days elapsed in the period divided by 360. No interest will be paid on any dividend payment on a Series P Preferred Stock paid later than the scheduled Dividend Payment Date.

(d) Dividends on the Series P Preferred Stock are non-cumulative. If the Board of Directors does not declare a dividend on the Series P Preferred Stock or declares less than a full dividend in respect of any Dividend Period, the holders of the Series P Preferred Stock will have no right to receive any dividend or a full dividend, as the case may be, for the Dividend Period, and the Company will have no obligation to pay a dividend or to pay full dividends for that Dividend Period, whether or not dividends are declared and paid for any future Dividend Period with respect to the Series P Preferred Stock or the Common Stock or any other class or series of the Company's preferred stock.

(e) If full dividends on all outstanding shares of the Series P Preferred Stock for any Dividend Period have not been declared and paid, the Company shall not declare or pay dividends with respect to, or redeem, purchase or acquire any of, its Junior Securities during the next succeeding Dividend Period, other than (i) redemptions, purchases or other acquisitions of Junior Securities in connection with any benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors or consultants or in connection with a dividend reinvestment or shareholder stock purchase plan, and (ii) any declaration of a dividend in connection with any shareholders' rights plan, including with respect to the Company's Series RP Preferred Stock, or the issuance of rights, stock or other property under any shareholders' rights plan, or the redemption or repurchase of rights pursuant thereto. If dividends for any Dividend Payment Date are not paid in full on the shares of the Series P Preferred Stock and there are issued and outstanding shares of Parity Securities with the same Dividend Payment Date, then all dividends declared on shares of the Series P Preferred Stock and such Parity Securities shall be declared pro rata so that the respective amounts of such dividends shall bear the same ratio to each other as full dividends per share on the shares of the Series P Preferred Stock and all such Parity Securities otherwise payable on such Dividend Payment Date (subject to their having been declared by the Board of Directors out of legally available funds and including, in the case of any such Parity Securities that bear cumulative dividends, all accrued but unpaid dividends) bear to each other.

Section 5. Liquidation.

(a) In the event the Company voluntarily or involuntarily liquidates, dissolves or winds up, the holders of Series P Preferred Stock at the time outstanding shall be entitled to receive liquidating distributions in the amount of $1,000,000 per share of Series P Preferred Stock, plus an amount equal to any declared but unpaid dividends thereon to and including the date of such liquidation, out of assets legally available for

distribution to its shareholders, before any distribution of assets is made to the holders of Common Stock or any other Junior Securities. After payment of the full amount of such liquidating distributions, the holders of Series P Preferred Stock will not be entitled to any further participation in any distribution of assets by, and shall have no right or claim to any remaining assets of, the Company.

(b) In the event the assets of the Company available for distribution to shareholders upon any liquidation, dissolution or winding-up of the affairs of the Company, whether voluntary or involuntary, shall be insufficient to pay in full the amounts payable with respect to all outstanding shares of the Series P Preferred Stock and the corresponding amounts payable on any Parity Securities, the holders of Series P Preferred Stock and the holders of such Parity Securities shall share ratably in any distribution of assets of the Company in proportion to the full respective liquidating distributions to which they would otherwise be respectively entitled.

(c) The Company's consolidation or merger with or into any other entity, the consolidation or merger of any other entity with or into the Company, or the sale of all or substantially all of the Company's property or business will not constitute its liquidation, dissolution or winding up.

Section 6. Maturity. The Series P Preferred Stock shall be perpetual unless redeemed by the Company in accordance with Section 7.

Section 7. Redemptions.

(a) The Series P Preferred Stock shall not be redeemable at the option of the holders at any time.

(b) The Series P Preferred Stock shall be redeemable in whole or in part at the option of the Company at any time, or from time to time, on or after _____, _____, (or, in the event that _____, _____ is not a Business Day, the next Business Day). Such redemption shall be at a cash redemption price of $1,000,000 per share, plus any declared and unpaid dividends to the Redemption Date, without accumulation of any undeclared dividends.

(c) In the case of any redemption under this Section 7, notice shall be mailed to each holder of record of the Series P Preferred Stock, not less than 30 nor more than 60 days prior to the Redemption Date specified in such notice provided, however, that no failure to give such notice nor any defect therein shall affect the validity of the proceeding for the redemption of any shares of the Series P Preferred Stock to be redeemed except as to the holder to whom the Company has failed to mail said notice or except as to the holder whose notice was defective. The notice of redemption shall include a statement of (i) the Redemption Date, (ii) the redemption price, and (iii) the number of shares to be redeemed.

(d) Any shares of Series P Preferred Stock redeemed by the Company pursuant to this Section 7 or otherwise acquired by the Company in any manner whatsoever shall become authorized but unissued preferred shares of the Company but such preferred shares shall not under any circumstances be reissued as Series P Preferred Stock. The Company shall from time-to-time take such appropriate action as may be necessary to reduce the authorized number of shares of Series P Preferred Stock accordingly.

Section 8. Voting Rights.

(a) Holders of the Series P Preferred Stock will not have any voting rights, including the right to elect any directors, except (i) voting rights, if any, required by law, and (ii) voting rights, if any, described in this Section 8.

(b) Holders of the Series P Preferred Stock will, in the circumstances and to the extent set forth in this Section 8(b), have the right to elect two directors.

a. If after the Effective Date the Company fails to pay, or declare and set aside for payment, full dividends on the Series P Preferred Stock or any other class or series of Parity Securities having similar voting rights ("Voting Parity Securities") for six Dividend Periods or their equivalent, the authorized number of the Company's directors will be increased by two. Subject to compliance with any requirement for regulatory approval of, or non-objection to, persons serving as directors, the holders of Series P Preferred Stock, voting together as a single and separate class with the holders of any outstanding Voting Parity Securities, will have the right to elect two directors in addition to the directors then in office at the Company's next annual meeting of shareholders. This right will continue at each subsequent annual meeting until the Company pays dividends in full on the Series P Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and pays or declares and sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series P Preferred Stock.

b. The term of such additional directors will terminate, and the total number of directors will be decreased by two, at such time as the Company pays dividends in full on the Series P Preferred Stock and any Voting Parity Securities for three consecutive Dividend Periods or their equivalent and declares and pays or sets aside for payment dividends in full for the fourth consecutive Dividend Period or its equivalent or, if earlier, upon the redemption of all Series P Preferred Stock. After the term of such additional directors terminates, the holders of the Series P Preferred Stock will not be entitled to elect additional directors unless full dividends on the Series P Preferred Stock have again not been paid or declared and set aside for payment for six future Dividend Periods.

c. Any additional director elected by the holders of the Series P Preferred Stock and the Voting Parity Securities may only be removed by the vote of the holders of record of the outstanding Series P Preferred Stock and Voting Parity Securities, voting together as a single and separate class, at a meeting of the Company shareholders called for that purpose. Any vacancy created by the removal of any such director may be filled only by the vote of the holders of the outstanding Series P Preferred Stock and Voting Parity Securities, voting together as a single and separate class.

(c) So long as any shares of Series P Preferred Stock are outstanding, the vote or consent of the holders of at least 66 2/3% of the shares of Series P Preferred Stock at the time outstanding, voting as a class with all other classes and series of Parity Securities upon which like voting rights have been conferred and are exercisable, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Washington law:

a. any amendment, alteration or repeal of any provision of the Company's Amended and Restated Articles of Incorporation (including the Articles of Amendment creating the Series P Preferred Stock) or the Company's bylaws that would alter or change the voting powers, preferences or special rights of the Series P Preferred Stock so as to affect them adversely;

b. any amendment or alteration of the Company's Amended and Restated Articles of Incorporation to authorize or create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Company's capital stock ranking prior to the Series P Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Company; or

c. the consummation of a binding share exchange or reclassification involving the Series P Preferred Stock or a merger or consolidation of the Company with another entity, except that holders of Series P Preferred Stock will have no right to vote under this provision or under §23B.11.035 of the Revised Code of Washington or otherwise under Washington law if in each case (x) the Series P Preferred Stock remains outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (y) such Series P Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series P Preferred Stock, taken as a whole;

provided, however, that any increase in the amount of the authorized or issued Series P Preferred Stock or authorized preferred stock or the creation and issuance, or an increase in the authorized or issued amount, of other series of preferred stock ranking equally with and/or junior to the Series P Preferred Stock with respect to the payment of dividends (whether such dividends are cumulative or non-cumulative) and/or the distribution of assets upon the Company's liquidation, dissolution or winding up will not be deemed to adversely affect the voting powers, preferences or special rights of the Series P Preferred stock and, notwithstanding §23B.10.040(1)(a), (e) or (f) of the Revised Code of Washington or any other provision of Washington law, holders of Series P Preferred Stock will have no right to vote on such an increase, creation or issuance.

If an amendment, alteration, repeal, share exchange, reclassification, merger or consolidation described above would adversely affect one or more but not all series of preferred stock with like voting rights (including the Series P Preferred Stock for this purpose), then only the series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Section 9. Certificates. The Company may at its option issue the Series P Preferred Stock without certificates.

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) the Executive Vice President – Corporate Strategy &

Development, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller.

RESOLVED FURTHER, that the Board hereby authorizes, and delegates the authority to, any one of the Authorized Officers on behalf of the Board to designate, finalize, determine and complete (it being understood that this authority includes without limitation the authority to make appropriate modifications in the preceding designation) the preferences, limitations, voting powers and relative rights of the Series P Preferred Stock, as set forth in the preceding resolutions, subject to the other limits specified in these resolutions and such final designation shall constitute a final determination of such preferences, limitations, voting powers and relative rights and shall be maintained as an official record of the Board;

RESOLVED FURTHER, that the authorization and delegation in the immediately preceding resolutions shall include, without limitation, the authority to determine the number of shares of Series P Preferred Stock to be authorized, to determine the dividend rates, the liquidation preference and the redemption prices, to determine the dividend payment dates, to add restrictions on dividend payments to parity securities in the event full dividends are not paid on the Series P Preferred Stock, to designate the dates on which and further situations (including without limitation any changes in the regulatory capital rules as applied to the Company) in which the Company has the option to redeem the Series P Preferred Stock (with or without make-whole provisions), to designate additional events or circumstances in which holders of Series P Preferred Stock shall have voting rights, to approve the form of any stock certificate and to prepare and authorize the filing of an amendment for the Series P Preferred Stock with the Secretary of State of the State of Washington which shall include the designation of the preferences, limitations, voting powers and relative rights of the Series P Preferred Stock; provided, however, that the spread over 3-month LIBOR used in determining the dividend rate for each dividend period shall not exceed 800 basis points, the minimum dividend rate for any dividend period shall not be greater than 9% per annum, the number of shares issued shall not exceed 2,000, the liquidation preference per share shall not exceed $1,000,000 and the Company shall have the right to redeem the Series P Preferred Stock no later than the first dividend payment date which is more than five years after the date one which the Series P Preferred Stock is issued (or, if not a business day, the first business day thereafter);

RESOLVED FURTHER, that the Series P Preferred Stock may be issued in either certificated or non-certificated form as determined by any Authorized Officer;

RESOLVED FURTHER, that the Series P Preferred Stock may be issued to a depositary, which shall issue depositary shares each representing a fractional interest in the shares of a series of the Series P Preferred Stock;

RESOLVED FURTHER, that the Company is hereby authorized to enter into and perform its obligations under a deposit agreement to issue depositary shares, and any Authorized Officer is authorized to select the depositary and to negotiate, execute and deliver such deposit agreement on behalf of the Company;

RESOLVED FURTHER, that any Authorized Officer is authorized to appoint from time to time one or more transfer agents, dividend and redemption price disbursement

agents and registrars for shares of the Series P Preferred Stock, and any Authorized Officer is authorized to enter into agreements with such agents and registrars;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Company and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, pursuant to a power of attorney, in the event that it is deemed necessary or desirable so to do, in connection with the offering of the Series P Preferred Stock, (i) to prepare, or cause to be prepared, a prospectus, offering circular or offering memorandum with respect to such securities or related depositary shares (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities and (ii) to execute any notice or application required or requested by the Securities and Exchange Commission or any banking regulator with respect to the Series P Preferred Stock or related depositary shares, to procure all necessary signatures thereto and to file any such notice or application, together with such amendments or supplements as such officers shall deem necessary or appropriate or as counsel for the Company may approve;

RESOLVED FURTHER, that the Company may make application to the New York Stock Exchange (or other organization) for the registration and listing on such Exchange (or such other organization), on official notice of issuance, of the Series P Preferred Stock or related depositary shares; that each Authorized Officer be, and each hereby is, authorized and empowered, at such time as he or she shall deem advisable, in the name and on behalf of the Company, to make application for such registration and listing and, in connection therewith, to execute in the name and on behalf of the Company, and to file and deliver all such applications, statements, certificates, agreements, including indemnification agreements, and other instruments and documents as shall be necessary to accomplish such listing and that each Authorized Officer is authorized to appear on behalf of the Company before the appropriate committee or body of said Exchange (or other organization) as such appearance may be required, with authority to make such changes in any such listing application as shall be presented thereto, and in any agreements that may be made in connection therewith, as in their discretion may be necessary or proper to comply with the requirements for such listing;

RESOLVED FURTHER, that any Authorized Officer is hereby authorized to determine the jurisdictions in which appropriate action may be taken to qualify or register for sale all or such part of the Series P Preferred Stock or related depositary shares as such Authorized Officer deems necessary or advisable; that such Authorized Officer is herby authorized to perform on behalf of the Company any and all such acts as he or she may deem advisable in order to comply with the applicable laws of any such jurisdictions, and in connection therewith, to execute, deliver and file all requisite instruments and agreements, including but not limited to, applications, reports, surety bonds, irrevocable consents and appointments of agents for service of process; the execution by such Authorized Officer of any such instrument or agreement or the taking of any action in connection with the foregoing matters shall conclusively establish such Authorized Officer's authority therefore from the Company and the approval and ratification by the Company of the instruments and agreements and the actions so taken;

RESOLVED FURTHER , that the Company hereby constitutes and appoints Charles

Edward Smith its agent for service in connection with any filing with the New York Stock Exchange (or other organization);

RESOLVED FURTHER, that each Authorized Officer is hereby authorized and directed in the name and on behalf of the Company to take any and all action which they may deem necessary or advisable in order to obtain a permit, register or qualify its securities for issuance and sale or to request an exemption from registration of its securities or to register or obtain a license for the Company as a dealer or broker under the securities laws of such of the states of the United States of America or other jurisdictions as such officers may deem advisable, and in connection with such registration, permits, licenses, qualifications and exemptions, to execute, acknowledge, verify, deliver, file and publish all such applications, reports, issuer's covenants, resolutions, irrevocable consents to service of process, powers of attorney and other papers and instruments as may be required under such laws or may be deemed by such officers to be useful or advisable to be filed thereunder, and that the Board hereby adopts the form of any and all resolutions required by any such applications, reports, issuer's covenants, irrevocable consents to service of process, powers of attorney and other papers and instruments if (1) in the opinion of such officer or officers of the Company so acting the adoption of such resolutions is necessary or advisable and (2) the secretary of the Company evidences such adoption by filing with these resolutions copies of such resolutions, which shall thereupon be deemed to be adopted by this Board and incorporated in the minutes as a part of this resolution and with the same force and effect as if presented herewith, and that such officer or officers of the Company take any and all further action which they may deem necessary or advisable in order to maintain such registration in effect for as long as they may deem to be in the best interest of the Company; and

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Company (including, without limitation, those authorized from time to time pursuant to the Company's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements (which agreements may include, without limitation, (i) underwriting, purchase, distribution or similar agreements with underwriters or agents named therein, (ii) a replacement capital covenant or other similar agreement, in favor of holders of the specified indebtedness of the Company, restricting sources of funds used to redeem or repurchase the Series P Preferred Stock, any undertakings or other documents or supplemental agreements on behalf of the Company (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance of the Series P Preferred Stock, or to further the intent of these resolutions, subject to the limits set forth in these resolutions.

Minutes of October 16, 2007 meeting of WMB Board of Directors

WASHINGTON MUTUAL BANK
BOARD OF DIRECTORS MINUTES

The Board of Directors of Washington Mutual Bank (the "Association") held its October meeting on Tuesday, October 16, 2007 in Seattle, Washington. Present were: Frank, Killinger, Leppert, Lillis, Montoya, Murphy, Osmer McQuade, Pugh, Reed, Smith and Stever. (Ms. Osmer McQuade participated by means of a conference telephone enabling all participants to hear one another.) Mr. Killinger presided. Also present, at the beginning of the meeting, were the Company's officers, Casey, Cathcart, Chapman, David, Rotella, and Lynch (secretary). The Board met in joint session with the Board of Directors of Washington Mutual, Inc. (the "Holding Company").

...

Capital Raising Transaction

Ms. Pugh reported that the Finance Committee had reviewed a proposal with regard to the issuance of capital securities by a subsidiary of the Association. The Delaware limited liability company that was organized in 2006 as an indirect operating subsidiary of the Association would issue up to $2.0 billion in additional preferred securities ("Delaware Preferred Securities") to a newly formed Cayman entity or other foreign entity, which would issue certain other securities ("Entity Securities") and use the proceeds of issuance of the Entity Securities to finance the purchase of Delaware Preferred Securities. The Holding Company will serve as a source of strength for the Association, as the Entity Securities will automatically be exchanged into depositary shares representing a fractional interest in a share of a new class of preferred stock of the Holding Company upon the occurrence of certain possible events. Ms. Pugh reported that the Finance Committee recommended approval of this proposal. On motion duly made and seconded, the Board unanimously resolved to approve the Association's actions in support of the issuance of Delaware Preferred Securities. A copy of the resolutions adopted by the Board will be kept in the minute book as an appendix to these minutes. Ms. Pugh also reported that the Finance Committee had heard a report indicating that the Holding Company would widen the coupon range for another class of preferred stock of the Holding Company, for which depositary shares representing fractional interests automatically will be issued in exchange for another new category of Entity Securities. Thus, also, the Holding Company would serve as a source of strength for the Association.

...

There being no further business, the meeting was adjourned.

Appendices:

A – Resolutions in Response to Consent Order

B – Resolutions in Response to Assessment Order

C – Resolutions Authorizing Global Note Program

D – Resolutions Authorizing Preferred Securities

E – Schedule of Officer Elections, Promotions, Transfers and Other Changes

Appendix D – Resolutions Authorizing Preferred Securities

(WMPF Preferred Securities Offering)

WHEREAS, Washington Mutual Bank (the "Bank") directly owns all of the issued and outstanding common stock of Seneca Holdings, Inc. ("Seneca Holdings"), indirectly owns all of the interests in WM Marion Holdings, LLC ("WM Marion") and indirectly owns all of the issued and outstanding common stock of University Street, Inc. ("University Street");

WHEREAS, University Street owns all of the issued and outstanding common interests in Washington Mutual Preferred Funding LLC ("WMPF LLC");

WHEREAS, at a meeting of the Board of Directors (the "Board") of the Bank duly called and held on August 21, 2007, the Board adopted resolutions (the "Original Resolutions") relating to and authorizing an equity contribution by the Bank to Seneca Holdings consisting of loans or interests therein not to exceed $3.4 billion in book value (the "Seneca Holdings Contribution") and an equity contribution by the Bank to WMPF LLC (the "LLC Contribution") of assets consisting of loans or interests therein not to exceed $1.5 billion;

WHEREAS, at the time the Original Resolutions were adopted, it was anticipated that Seneca Holdings would make an equity contribution of loans or interests contributed to it pursuant to the Seneca Holdings Contribution to WM Marion, that WM Marion in turn would make an equity contribution of such loans to University Street, and that University Street in turn would make an equity contribution of such loans to WMPF LLC;

WHEREAS, at the time the Original Resolutions were adopted it was also anticipated that WMPF LLC would issue a new class or series of preferred interests (the "LLC 2007-B Preferred Interests") to either (a) a newly formed special purpose entity (the "SPE"), (b) University Street or (c) the Bank;

WHEREAS, at the time the Original Resolutions were adopted it was also anticipated that the LLC 2007-B Preferred Interests would be sold or transferred by WMPF LLC, University Street or the Bank, as the case may be, to the SPE which, in turn, will issue substantially similar securities (the "SPE Securities") to investors;

WHEREAS, WMPF LLC now proposes to issue another class or series of preferred interests (the "LLC 2007-C Preferred Interests") to a newly formed Cayman Islands or other foreign entity (the "Cayman Entity") in addition to or in lieu of issuing LLC 2007-B Preferred Interests to the SPE, University Street or the Bank;

WHEREAS, it is currently anticipated that some or all of the LLC 2007-C Preferred Interests may be sold or transferred by WMPF LLC, University Street or the Bank, as the case may be, to the Cayman Entity which, in turn, will issue substantially similar securities (the "Cayman Securities") to investors;

WHEREAS, it is now proposed that the authorized amount of the Seneca Holdings Contribution be increased to an amount not to exceed $5.2 billion and that the authorized amount of the LLC Contribution be increased to an amount not to exceed $2.0 billion;

WHEREAS, the Bank's parent, Washington Mutual, Inc. ("WMI"), has authorized a new series of preferred stock (the "WMI Series N Preferred Stock") and under certain circumstances the SPE Securities will be automatically exchanged into depositary shares representing interests in the WMI Series N Preferred Stock;

WHEREAS, it is proposed that WMI will authorize a new series of preferred stock (the "WMI Series O Preferred Stock") and under certain circumstances the Cayman Securities will be automatically exchanged into depositary shares representing interests in the WMI Series O Preferred Stock;

WHEREAS, the Original Resolutions authorized (a) the Bank to transfer, or to cause its designee to transfer, any LLC 2007-B Preferred Interests that it may receive to the SPE in exchange for cash, (b) the Bank to execute and deliver any agreements with WMPF LLC, the SPE or any other party necessary or appropriate in connection with the transactions contemplated by the Original Resolutions, (c) the Bank to take any necessary or appropriate action in connection the transfer, sale or offering of the LLC 2007-B Preferred Interests or the SPE Securities, and (d) certain officers of the Bank to take any of the foregoing actions on behalf of the Bank; and

WHEREAS, the Bank desires to expand the authority granted in the Original Resolutions to accommodate the transactions related to the issuance of the LLC 2007-C Preferred Interests and the Cayman Securities.

THEREFORE, IT IS HEREBY RESOLVED, the Seneca Holdings Contribution in an amount not to exceed $5.2 billion in book value and the LLC Contribution in an amount not to exceed $2.0 billion are hereby authorized, and any Authorized Officer (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements or documents as any Authorized Officer deems necessary or appropriate in connection with such contributions;

RESOLVED FURTHER, that the Bank is hereby authorized to transfer, or to cause its designee to transfer, any LLC 2007-C Preferred Interests that it may receive to the Cayman Entity in exchange for cash and any Authorized Officer (as defined below) is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements or documents as such Authorized Officer deems necessary or appropriate in connection with such transfers;

RESOLVED FURTHER, that each of the Authorized Officers is hereby authorized on behalf of the Bank to negotiate, execute and deliver any agreements with WMPF LLC, the Cayman Entity or any other party as such Authorized Officer deems necessary or appropriate in connection with the transactions contemplated by these resolutions or the Original Resolutions, as well as the management, operation or administration of WMPF LLC;

RESOLVED FURTHER, that the Authorized Officers, or any of them, are authorized and empowered, on behalf of the Bank and in its name, with full power and authority to delegate such authority to one or more attorneys-in-fact or agents acting for such Authorized Officers, or any of them, in the event that it is deemed necessary or desirable so to do, in connection with the transfer, sale or offering of the LLC 2007-C Preferred Interests or the Cayman Securities, as the case may be, in a private offering and/or in an offering effected in reliance on Regulation S promulgated under the Securities Act of 1933, as amended (a "Reg S Offering"), to prepare, cause to be prepared or to participate in the preparation of, an

offering circular or offering memorandum with respect to such securities (and any supplements or amendments thereto), as the Authorized Officers, or any of them, taking such action shall approve in connection therewith in order to effect the offering of such securities in a private offering or a Reg S Offering;

RESOLVED FURTHER, that any Authorized Officer, together with other proper officers of the Bank (including, without limitation, those authorized from time to time pursuant to the Bank's Asset and Liability Management Policy and the standards and procedures from time to time in effect thereunder), is hereby authorized to negotiate, enter into, execute and deliver any and all additional agreements, any undertakings or other documents or supplemental agreements on behalf of the Bank (including, without limitation, filings or applications with banking regulators, securities regulators or stock exchanges, domestic or foreign) and to take any other actions, in each case, as such Authorized Officer or other proper officer deems to be necessary or advisable in connection with the issuance or transfers of the LLC 2007-C Preferred Interests or to further the intent of these resolutions or the Original Resolutions;

RESOLVED FURTHER, that for purposes of these resolutions and the transactions contemplated hereby, each of the following shall be an "Authorized Officer": (i) the Chief Executive Officer, (ii) the Chief Operating Officer, (iii) the Chief Financial Officer, (iv) any Senior Executive Vice President, (v) any Executive Vice President, (vi) the Senior Vice President and Treasurer, (vii) any Senior Vice President reporting directly to the Senior Vice President and Treasurer and (viii) the Senior Vice President and Controller;

RESOLVED FURTHER, that any actions taken by any of the Authorized Officers or any other proper officer of the Bank prior to the adoption of these resolutions that is otherwise within the scope of the authority conferred by these resolutions is hereby ratified, confirmed and approved; and

RESOLVED FURTHER, that, as supplemented hereby, the Original Resolutions shall remain in full force and effect and are hereby ratified and confirmed in all ways.

EXHIBIT E

ASSIGNMENT AGREEMENT

between

WASHINGTON MUTUAL BANK,
as Assignee

and

WASHINGTON MUTUAL, INC.,
as Assignor

Effective as of September 25, 2008

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (as amended, modified or supplemented from time to time after the date hereof, the "Agreement") is effective as of September 25, 2008, and is made by and between WASHINGTON MUTUAL BANK, a federally-chartered savings association, as Assignee (the "Assignee"), and WASHINGTON MUTUAL, INC., a Washington corporation, as Assignor (the "Assignor").

RECITALS

(A) Assignor wishes to assign to Assignee certain securities, and Assignee wishes to accept such assignment, which Securities shall be assigned upon the execution of this Agreement.

AGREEMENT

In consideration of the premises and the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignee and Assignor agree as follows:

ARTICLE I

DEFINITIONS; GENERAL INTERPRETIVE PRINCIPLES

Section 1.01. Definitions.

Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

Agreement: This Assignment Agreement, including all exhibits hereto, and all amendments hereof and supplements hereto.

Certificate: Any instrument constituting evidence of ownership of a Security.

Effective Date: September 25, 2008.

Code: The Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder and rulings issued thereunder. Section references to the Code are to the Code, as in effect as the date of this Agreement and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefore.

Assignment: The assignment to Assignee by Assignor of Securities pursuant to this Agreement.

Delivery: Is deemed to occur as of September 25, 2008.

Person: Any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Assignee: Washington Mutual Bank, a federally-chartered savings association, and its successors and assigns.

Securities: The securities listed in Exhibit A that are the subject of this Agreement. The term "Securities" includes, without limitation, such securities, any Certificates corresponding to such securities, and all other rights, benefits, proceeds and obligations of the owner of such securities arising from or in connection with such securities, whether now owned or hereafter acquired.

Assignor: Washington Mutual, Inc., a Washington corporation, and its successors and assigns.

Section 1.02. General Interpretive Principles.

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

a) the terms defined in this Agreement have the meanings assigned to them in this Agreement and include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other gender;

b) accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles;

c) references herein to "Articles," "Sections," "Subsections," "Paragraphs," and other subdivisions without reference to a document are to designated Articles, Sections, Subsections, Paragraphs and other subdivisions of this Agreement;

d) a reference to a Subsection without further reference to a Section is a reference to such Subsection as contained in the same Section in which the reference appears, and this rule shall also apply to Paragraphs and other subdivisions;

e) the words "herein," "hereof," "hereunder," and other words of similar import refer to this Agreement as a whole and not to any particular provision; and

f) the term "include" or "including" shall mean without limitation by reason of enumeration.

ARTICLE II

ASSIGNMENT OF SECURITIES

Section 2.01. Assignment of Securities.

With respect to the Securities listed on Exhibit A attached hereto, Assignor hereby contributes, transfers, assigns, sets over and conveys to Assignee, without recourse, but subject to the terms of this Agreement, all of Assignor's right, title and interest, whether now owned or hereafter acquired, in and to the Securities.

Upon execution and delivery of this Agreement by Assignor and Assignee, all rights and benefits arising out of the Securities which come into the possession of Assignor, including but not limited to funds which may be received by Assignor on or in connection with the Securities, and the ownership of all records and documents with respect to the Securities which are prepared by or which come into the possession of Assignor, shall immediately vest in Assignee.

Assignee acknowledges that the assignment by Assignor to Assignee under this Agreement are intended to qualify as tax-free transactions under Section 351 of the Code.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01. Mutual Representations and Warranties.. Each party hereby represents and warrants to the other that it has all requisite power and authority to enter into and perform its obligations under this Agreement.

It is understood and agreed that the representations and warranties set forth in this Article V shall survive delivery of the respective Securities to the Assignee, and shall continue throughout the term of this Agreement.

ARTICLE IV

COSTS

Section 4.01. Costs.

Each party shall bear its own costs and expenses. All other costs and expenses incurred in connection with the transfer and delivery of the Securities, including without limitation recording and filing fees, shall be paid by Assignee.

Each remittance or distribution made pursuant to this Agreement shall be made in the manner agreed to by the parties. To the extent that the amount of a remittance or distribution made pursuant to this Agreement is greater than the amount that was supposed to be made, each party agrees to give prompt written notice thereof to the other party after discovery thereof, including the amount of such remittance or distribution that was paid in error, and to refund such overpayment immediately.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.01. Amendment.

This Agreement may be amended from time to time only by written agreement signed by Assignor and Assignee.

Section 5.02. Governing Law.

This Agreement shall be construed in accordance with the internal laws of the State of Washington, except to the extent preempted by federal law and without reference to the choice of law doctrine of such state, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

Section 5.03. Notices.

All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered or certified mail, postage prepaid, to (a) in the case of Assignor,

Washington Mutual, Inc.
1301 Second Avenue, WMC 1411
Seattle, Washington 98101
Attention: Corporate Secretary

or such other address as may hereafter be furnished by Assignor to Assignee in writing; and

b) in the case of Assignee,

Washington Mutual Bank
1301 Second Avenue, WMC 1411
Seattle, Washington 98101
Attention: Corporate Secretary

or such other address as may hereafter be furnished by Assignee to Assignor in writing.

Section 5.04. Merger; Severability of Provisions.

This Agreement, and the documents and instruments referred to herein, constitute the entire agreement of and is the final and complete expression of the parties relating to the subject matter of this Agreement, and supersedes all prior or contemporaneous negotiations and agreements, whether oral or written, relating to the subject matter hereof.

If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be held invalid for any reason whatsoever, then such covenants,

agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement. If the invalidity of any part, provision, representation or warranty of this Agreement shall deprive any party of the economic benefit intended to be conferred by this Agreement, the parties shall negotiate in good faith to develop a structure the economic effect of which is nearly as possible the same as the economic effect of this Agreement without regard to such inability.

Section 5.05. Execution; Successors and Assigns.

This Agreement may be executed in one or more counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed to be an original; such counterparts, together, shall constitute one and the same agreement. This Agreement shall inure to the benefit of and be binding upon Assignor and Assignee and their respective successors and assigns.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers on the dates shown below, to be effective as of the effective date first set forth above.

WASHINGTON MUTUAL BANK

By: _____
Name: Patricia Schultz
Title: Senior Vice President

WASHINGTON MUTUAL, INC.

By: _____
Name: Todd Baker
Title: Executive Vice President

EXHIBIT A

SECURITIES

(i) Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-1

(ii) Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-cumulative Preferred Securities, Series A-2

(iii) Washington Mutual Preferred Funding Trust Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities

(iv) Washington Mutual Preferred Funding Trust II Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities

(v) Washington Mutual Preferred Funding Trust III Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities

(vi) Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-cumulative Trust Securities

(vii) Washington Mutual Preferred Funding LLC Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series 2006-A

(viii) Washington Mutual Preferred Funding LLC 7.25% Perpetual Non-cumulative Preferred Securities, Series 2006-B

(ix) Washington Mutual Preferred Funding LLC Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series 2006-C

(x) Washington Mutual Preferred Funding LLC Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series 2007-A

(xi) Washington Mutual Preferred Funding LLC Fixed-to-Floating Rate Perpetual Non-cumulative Preferred Securities, Series 2007-B

(xii) Any and all right, title and interest of the Washington Mutual, Inc. in and to Washington Mutual Preferred (Cayman) I Ltd. ("WaMu Cayman"), Washington Mutual Preferred Funding Trust ("WaMu Delaware I"), Washington Mutual Preferred Funding Trust II ("WaMu Delaware II"), Washington Mutual Preferred Funding Trust III ("WaMu Delaware III") and Washington Mutual Preferred Funding Trust IV ("WaMu Delaware IV" and, together with WaMu Cayman, WaMu Delaware I, WaMu Delaware II and WaMu Delaware III, the "Trusts"), including any interests of the Trusts in any of the Securities

EXHIBIT F

States Where Consolidated, Combined or Unitary Tax Returns Filed

Alaska

Arizona

California

Colorado

Hawaii

Idaho

Illinois

Indiana

Kansas

Maine

Michigan

Minnesota

Montana

Nebraska

New Hampshire

New Mexico

Oklahoma

Oregon

Tennessee

Texas

Utah

Vermont

EXHIBIT G

Washington Mutual Inc and Subsidiaries
JPM Bank Accounts - Post 09/26/2008

Legal Entity Name	Federal ID No	Co No	WMB/Chase DDA No.	12/1/2008
Washington Mutual Inc.	91-1653725	70	179-165066-7	261,346,985
Washington Mutual Inc.	91-1653725	70	441-006423-4	3,667,943,173
Washington Mutual Inc.	91-1653725	70	177-891120-6	52,659,715
Washington Mutual Inc.	91-1653725	70	181-252962-6	4,650
Washington Mutual Inc.	91-1653725	70	314-197966-3	747,799
WMI Investment Corp (fka WAMU Investments Corp)	20-5885395	467	314-197470-4	53,493,453
			Debtor Companies	4,036,195,775
Great Western Service Corp. No. 2	95-4132223	113	095-014218-4	2,048,994
Washington Mutual Finance Group, LLC	59-3637422	422	441-006352-5	1,832,765
Washington Mutual Finance Group, LLC	59-3637422	422	314-197787-3	-
WaMu 1031 Exchange (fka TIMCOR Exchange) - General	20-4242904	481	440-043509-9	-
WaMu 1031 Exchange (fka TIMCOR Exchange) - Deposit	20-4242904	481	440-043508-1	64,874
WaMu 1031 Exchange (fka TIMCOR Exchange) - MM Acct	20-4242904	481	342-890084-4	29,764,197
WM Mortgage Reinsurance Company, Inc.	99-0347524	136	179-170835-9	156,368
Marion Insurance Company Inc.	91-2006036	139	179-170773-1	37,862
WM Aircraft Holdings, LLC	91-2092536	141	179-170718-7	25,493,030
Ahmanson Developments Inc.	95-2758479	231	195-072341-1	1,625,243
Ahmanson GGC LLC	91-1984608	240	195-023628-2	74,623,241
Ahmanson Residential Development	95-4388137	247	195-072342-9	3,097,999
ACD2	95-4388136	248	195-072348-7	41,813
Sutter Bay LLC	91-1984607	253	195-072349-5	93,996,770
Sutter Bay Corp.	95-4605800	255	195-023629-0	62,490,542
Flower Street Corp.	95-4605799	256	195-023630-7	13,166,938
ACD4	95-4466602	258	195-072344-5	282
ACD3	95-4466606	260	195-072346-1	73,356
Ahmanson Residential 2	95-4466607	261	195-072347-9	1,677
Ahmanson Obligation Company	95-4365770	275	876-483771-9	11,566,788
Riverpoint Associates	95-4234896	280	195-023632-3	2,108,986
Riverpoint Associates	95-4234896	280	179-170367-2	105,000
WMI Rainier LLC	20-4753452	462	314-197969-7	-
			Non-debtor Companies	322,296,723

EXHIBIT H

WASHINGTON MUTUAL
ON-US ELEVATION REPORT
08/31/2008

Explain Footnotes

Thomas Casey - Chief Financial Officer
James Douthitt - Controller - Business Segment
Lourdes St John - OWNER

ON-US ACCT	ACCT NAME	CO NO	CLRG DAYS	R	Last Recon Date	CURRENT BALANCE* AS OF 08/31/2008	RECONCILING ITEMS Aged 0 TO 30 DAYS DEBITS	RECONCILING ITEMS Aged 0 TO 30 DAYS CREDITS	RECONCILING ITEMS Aged 31 TO 60 DAYS DEBITS	RECONCILING ITEMS Aged 31 TO 60 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS DEBITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged 61 TO 90 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS DEBITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS CREDITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	Oldest mmddyy	ADJUSTED BALANCE*	F	RECON MGR	K
100003877967	WASHINGTON MUTUAL FOUNDATION	1	15	1	08/31/2008	173,593.53		1,500.00												172,093.53		Little	H
18100002530772	SENECA FUNDING (UK) LIMITED AS	2	15	1	08/31/2008	0.00														0.00		Little	H
31400001974704	WAMU INVESTMENT CORP	2	15	1	08/31/2008	51,650,603.75														51,650,603.75		Little	H
31400001979217	NAMCO SECURITIES CORP	2	15	1	08/31/2008	1,000.00														1,000.00		Little	H
31400001979663	WASHINGTON MUTUAL INC	2	15	1	08/31/2008	10,000,000.00														10,000,000.00		Little	H
44100000064177	WAMU 2008-SFR1	2	15	1	08/31/2008	0.01		0.01												0.00		St John	H
	TOTAL ON-US					61,825,197.29	0.00	1,500.01	0.00	0.00	0.00	0	0.00	0	0.00	0	0.00	0		61,823,697.28			

Additional On-Us accounts under ownership; however, elevated via the GL accounts listed:

On-Us Acct#	Acct Name	CO	Clrg Days	R	Balance	GL Co	GL Acct	Rc	GL Title
	SEAFAIR SECURITIES								
10000000649541	HOLDING CORP	2	15	1	52,551,992.04	322	10450	0009909	DUE FROM WMB FA-I/C
17700008911206	WASHINGTON MUTUAL INC	2	15	1	52,553,247.70	070	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
	SEAFAIR SECURITIES								
17700008938359	HOLDING CORP	2	15	1	143,381,359.89	322	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
17700008982942	MARION HOLDINGS INC	2	15	1	0.00	103	10451	0009909	DUE FROM WMBFA-MMDA-I/C
17900001650867	WASHINGTON MUTUAL INC	2	15	4	4,541,729,651.01	070	10450	0009909	DUE FROM WMB FA-I/C
	SENECA FUNDING (UK)								
18100002530764	LIMITED IN ITS	2	15	1	1,062,809.02	428	10450	0009910	DUE FROM WMB FA-I/C
30600004730291	WM HOME EQUITY TRUST I	2	15	1	0.00	457	10450	0009909	DUE FROM WMB FA-I/C
	WM PREFERRED FUNDING								
30600004730308	LLC	2	15	1	1,735,399,024.30	456	10450	0009909	DUE FROM WMB FA-I/C
31400001974837	WAMU 2006-OA1-458	2	15	1	0.00	458	10450	0009909	DUE FROM WMB FA-I/C
31400001979225	WAMU 2007-FLEX 1	2	15	1	0.00	503	10450	0009909	DUE FROM WMB FA-I/C
31400001979382	PIKE STREET HOLDINGS	2	15	1	0.00	502	10450	0009909	DUE FROM WMB FA-I/C
31400001979697	WMI RAINIER LLC	2	15	1	0.00	462	10450	0009909	DUE FROM WMB FA-I/C
44100000063244	WESTERN SERVICE CO.	2	30	1	0.00	518	10450	0009909	DUE FROM WMB FA-I/C
44100000063252	DIME CAPITAL PARTNERS, INC	2	15	1	0.00	343	10450	0009909	DUE FROM WMB FA-I/C
44100000063385	WINSLOW LLC	2	15	1	0.00	511	10450	0009909	DUE FROM WMB FA-I/C
	WASHINGTON MUTUAL TRADE								
44100000063591	SERVICE	2	15	1	18,882.05	411	10450	0009909	DUE FROM WMB FA-I/C
44100000064143	WASHINGTON MUTUAL BANK	2	15	1	0.01	527	10450	0009909	DUE FROM WMB FA-I/C
	AHMANSON OBLIGATION								
87600004837719	COMPANY	2	15	1	11,410,072.64	275	10450	0009909	DUE FROM WMB FA-I/C
	WASHINGTON MUTUAL								
9100008014490	BANK,FA	1	15	4	238,973.53	002	10421	0009347	DUE FROM WMB-MMDA-I/C
9500000147770	WASHINGTON MUTUAL FSB	2	15	4	448,504.69	040	10450	0009909	DUE FROM WMB FA-I/C

Legend:
R-Reconciliation Method, i.e. 1-Manual, 4-Recon Plus, 8-BREC
K-Risk Factor, i.e. H-High,M-Medium,L-Low
F-Footnotes

On-Us owner Signature:_____Date:_____
On-Us owner signature above is acknowledgment that all On-Us accts have been reconciled in accordance with policy. Any exceptions to the policy are fully documented within the elevation report, using the last date column, footnote column, and exception report.

To be received by Recon Control Department (CSQ1015) by the 20th of the month following the report date.

FOOTNOTES

WASHINGTON MUTUAL
ON-US ELEVATION REPORT
09/30/2008

Explain Footnotes

Thomas Casey - Chief Financial Officer
James Douthitt - Controller - Business Segment
Lourdes St John - OWNER

ON-US ACCT	ACCT NAME	CO NO	CLRG DAYS	R	Last Recon Date	CURRENT BALANCE* AS OF 09/30/2008	RECONCILING ITEMS Aged 0 TO 30 DAYS DEBITS	RECONCILING ITEMS Aged 0 TO 30 DAYS CREDITS	RECONCILING ITEMS Aged 31 TO 60 DAYS DEBITS	RECONCILING ITEMS Aged 31 TO 60 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS DEBITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged 61 TO 90 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS DEBITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS CREDITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	Oldest mmddyy	ADJUSTED BALANCE*	F	RECON MGR	K
100003877987	WASHINGTON MUTUAL FOUNDATION	1	15	1	09/30/2008	164,465.48		977.00												163,488.48		Little	H
18100002530772	SENECA FUNDING (UK) LIMITED AS	2	15	1	09/30/2008	0.00														0.00		Little	H
31400001974704	WAMU INVESTMENT CORP.	2	15	1	09/30/2008	53,145,275.33														53,145,275.33		Little	H
31400001979217	NAMCO SECURITIES CORP	2	15	1	09/30/2008	1,000.00														1,000.00		Little	H
31400001979663	WASHINGTON MUTUAL INC	2	15	1	09/30/2008	747,799.23														747,799.23		Little	H
44100000064177	WAMU 2008-SFR1	2	15	1	09/30/2008	0.01				0.01										0.00		St John	H
	TOTAL ON-US					54,058,540.05	0.00	977.00	0.00	0.01	0.00	0	0.00	0	0.00	0	0.00	0		54,057,563.04			

Additional On-Us accounts under ownership; however, elevated via the GL accounts listed:

On-Us Acct#	Acct Name	CO	Clrg Days	R	Balance	GL Co	GL Acct	Rc	GL Title
1000000649541	SEAFAIR SECURITIES HOLDING CORP	2	15	1	52,866,639.04	322	10450	0009909	DUE FROM WMB FA-I/C
17700008911206	WASHINGTON MUTUAL INC SEAFAIR SECURITIES	2	15	1	52,600,201.01	070	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
17700008938359	HOLDING CORP	2	15	1	148,363,327.83	322	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
17700008982942	MARION HOLDINGS INC	2	15	1	0.00	103	10451	0009909	DUE FROM WMBFA-MMDA-I/C
17900001650667	WASHINGTON MUTUAL INC SENECA FUNDING (UK)	2	15	4	264,068,186.05	070	10450	0009909	DUE FROM WMB FA-I/C
18100002530764	LIMITED IN ITS	2	15	1	1,062,809.02	428	10450	0009910	DUE FROM WMB FA-I/C
30600004730291	WM HOME EQUITY TRUST I WM PREFERRED FUNDING	2	15	1	0.00	457	10450	0009909	DUE FROM WMB FA-I/C
30600004730308	LLC	2	15	1	1,828,374,144.74	456	10450	0009909	DUE FROM WMB FA-I/C
31400001979225	WAMU 2007-FLEX 1	2	15	1	0.00	503	10450	0009909	DUE FROM WMB FA-I/C
31400001979382	PIKE STREET HOLDINGS	2	15	1	0.00	502	10450	0009909	DUE FROM WMB FA-I/C
31400001979697	WMI RAINIER LLC	2	15	1	0.00	462	10450	0009909	DUE FROM WMB FA-I/C
44100000063244	WESTERN SERVICE CO.	2	30	1	0.00	518	10450	0009909	DUE FROM WMB FA-I/C
44100000063252	DIME CAPITAL PARTNERS, INC	2	15	1	0.00	343	10450	0009909	DUE FROM WMB FA-I/C
44100000063385	WINSLOW LLC	2	15	1	342,607,720.67	511	10450	0009909	DUE FROM WMB FA-I/C
44100000063591	WASHINGTON MUTUAL TRADE SERVICE	2	15	1	18,882.05	411	10450	0009909	DUE FROM WMB FA-I/C
87600004837719	AHMANSON OBLIGATION COMPANY	2	15	1	11,566,787.62	275	10450	0009909	DUE FROM WMB FA-I/C
9100008014490	WASHINGTON MUTUAL BANK,FA	1	15	4	238,973.53	002	10421	0009347	DUE FROM WMB-MMDA-I/C
9500000147770	WASHINGTON MUTUAL FSB	2	15	4	392,657.94	040	10450	0009909	DUE FROM WMB FA-I/C

Legend:
R-Reconciliation Method, i.e. 1-Manual, 4-Recon Plus, 8-BREC
K-Risk Factor, i.e. H-High,M-Medium,L-Low
F-Footnotes

FOOTNOTES

On-Us owner Signature:_____Date:_____
On-Us owner signature above is acknowledgment that all On-Us accts have been reconciled in accordance with policy. Any exceptions to the policy are fully documented within the elevation report, using the last date column, footnote column, and exception report.

To be received by Recon Control Department (CSQ1015) by the 20th of the month following the report date.

WASHINGTON MUTUAL
ON-US ELEVATION REPORT
10/31/2008

Explain Footnotes

Thomas Casey - Chief Financial Officer
James Douthitt - Controller - Business Segment
Lourdes St John - OWNER

ON-US ACCT	ACCT NAME	CO NO	CLRG DAYS	R	Last Recon Date	CURRENT BALANCE* AS OF 10/31/2008	RECONCILING ITEMS Aged 0 TO 30 DAYS DEBITS	RECONCILING ITEMS Aged 0 TO 30 DAYS CREDITS	RECONCILING ITEMS Aged 31 TO 60 DAYS DEBITS	RECONCILING ITEMS Aged 31 TO 60 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS DEBITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged 61 TO 90 DAYS CREDITS	RECONCILING ITEMS Aged 61 TO 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS DEBITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	RECONCILING ITEMS Aged OVER 90 DAYS CREDITS	RECONCILING ITEMS Aged OVER 90 DAYS # OF ITEMS	Oldest mmddyy	ADJUSTED BALANCE*	F	RECON MGR	K
100003877967	WASHINGTON MUTUAL FOUNDATION	1	15	1	10/31/2008	163,980.98				86.00										163,894.98		Little	H
18100002530772	SENECA FUNDING (UK) LIMITED AS	2	15	1	10/31/2008	0.00														0.00		Little	H
3140001974704	WAMU INVESTMENT CORP.	2	15	1	10/31/2008	53,378,234.14														53,378,234.14		Little	H
3140001979217	NAMCO SECURITIES CORP	2	15	1	10/31/2008	1,000.00														1,000.00		Little	H
3140001979663	WASHINGTON MUTUAL INC	2	15	1	10/31/2008	747,799.23														747,799.23		Little	H
44100000064177	WAMU 2008-SFR1	2	15	1	10/31/2008	0.01							0.01							0.00		St John	H
	TOTAL ON-US					54,291,014.36	0.00	0.00	0.00	86.00	0.00	0	0.01	0	0.00	0	0.00	0		54,290,928.35			

Additional On-Us accounts under ownership; however, elevated via the GL accounts listed:

On-Us Acct#	Acct Name	CO	Clrg Days	R	Balance	GL Co	GL Acct	Rc	GL Title
10000000649541	SEAFAIR SECURITIES HOLDING CORP	2	15	1	53,319,980.55	322	10450	0009909	DUE FROM WMB FA-I/C
17700008911206	WASHINGTON MUTUAL INC	2	15	1	52,638,142.14	070	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
17700008938359	SEAFAIR SECURITIES HOLDING CORP	2	15	1	153,603,003.36	322	12512	0009909	MONEY MKT INV-I/C-WMBFA-002
17900001650667	WASHINGTON MUTUAL INC	2	15	4	266,346,124.56	070	10450	0009909	DUE FROM WMB FA-I/C
18100002530764	SENECA FUNDING (UK) LIMITED IN ITS	2	15	1	1,062,809.02	428	10450	0009910	DUE FROM WMB FA-I/C
30600004730291	WM HOME EQUITY TRUST I	2	15	1	0.00	457	10450	0009909	DUE FROM WMB FA-I/C
30600004730308	WM PREFERRED FUNDING LLC	2	15	1	1,982,302,298.57	456	10450	0009909	DUE FROM WMB FA-I/C
3140001979225	WAMU 2007-FLEX 1	2	15	1	0.00	503	10450	0009909	DUE FROM WMB FA-I/C
3140001979382	PIKE STREET HOLDINGS	2	15	1	0.00	502	10450	0009909	DUE FROM WMB FA-I/C
3140001979697	WMI RAINIER LLC	2	15	1	0.00	462	10450	0009909	DUE FROM WMB FA-I/C
44100000063244	WESTERN SERVICE CO.	2	30	1	0.00	518	10450	0009909	DUE FROM WMB FA-I/C
44100000063252	DIME CAPITAL PARTNERS, INC	2	15	1	0.00	343	10450	0009909	DUE FROM WMB FA-I/C
44100000063385	WINSLOW LLC	2	15	1	609,379,345.77	511	10450	0009909	DUE FROM WMB FA-I/C
44100000063591	WASHINGTON MUTUAL TRADE SERVICE	2	15	1	18,882.05	411	10450	0009909	DUE FROM WMB FA-I/C
44100000064234	WMI AHMANSON OBLIGATION	40	15	1	3,667,943,172.50	070	10441	0009909	DUE FROM WFSB-MMDA-I/C
87600004837719	COMPANY WASHINGTON MUTUAL	2	15	1	11,566,787.62	275	10450	0009909	DUE FROM WMB FA-I/C
9100008014490	BANK,FA	1	15	4	238,973.53	002	10421	0009347	DUE FROM WMB-MMDA-I/C
9500000147770	WASHINGTON MUTUAL FSB	2	15	4	371,508.98	040	10450	0009909	DUE FROM WMB FA-I/C

Legend:
R-Reconciliation Method, i.e. 1-Manual, 4-Recon Plus, 8-BREC
K-Risk Factor, i.e. H-High,M-Medium,L-Low
F-Footnotes

FOOTNOTES

On-Us owner Signature:_____Date:_____
On-Us owner signature above is acknowledgment that all On-Us accts have been reconciled in accordance with policy. Any exceptions to the policy are fully documented within the elevation report, using the last date column, footnote column, and exception report.

To be received by Recon Control Department (CSQ1015) by the 20th of the month following the report date.

EXHIBIT I

WaMu

P.O. BOX 2395
CHATSWORTH, CA 91313-2395

This Statement Covers
From: 08/01/08
Through: 08/31/08

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or visit us at **wamu.com**

WASHINGTON MUTUAL INC
ATTN: TREASURY ACCTG/LULU ST JOHN
1301 2ND AVE # WMC1411
SEATTLE WA 98101-2005

Washington Mutual Internal Checking Detail Information

WASHINGTON MUTUAL INC **Account Number: 179-165066-7**
Washington Mutual Bank, FA

Account Summary

Beginning Balance	**$3,941,291,473.69**
Deposits	+29,613.00
Electronic & Misc. Deposits	+707,687,666.24
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	-107,279,101.92
Checks Paid	0.00
Service Fees	0.00
Ending Balance	**$4,541,729,651.01**

Deposits

Date	Amount	Description
08/12	29,613.00	Customer Deposit
1 Item	***$29,613.00***	

Electronic & Miscellaneous Deposits

Date	Amount	Description	Card Number
08/04	1,366.72	WIRE TRANSFER DEPOSIT	
08/04	2,440.83	WIRE TRANSFER DEPOSIT	
08/04	13,424.52	WIRE TRANSFER DEPOSIT	
08/04	4,900.49	WIRE TRANSFER DEPOSIT	
08/04	100,000.00	WIRE TRANSFER DEPOSIT	
08/05	100,000.00	WIRE TRANSFER DEPOSIT	
08/06	131.34	WIRE TRANSFER DEPOSIT	
08/07	6,100,000.00	WIRE TRANSFER DEPOSIT	
08/07	28,000.00	WIRE TRANSFER DEPOSIT	
08/07	25,000.00	WIRE TRANSFER DEPOSIT	
08/07	5,755,000.00	WIRE TRANSFER DEPOSIT	
08/07	535,094.92	MISCELLANEOUS CREDIT	

Electronic & Miscellaneous Deposits

Date	Amount	Description	Card Number
08/07	100,000.00	WIRE TRANSFER DEPOSIT	
08/08	2,100,000.00	WIRE TRANSFER DEPOSIT	
08/08	2,965,000.00	WIRE TRANSFER DEPOSIT	
08/08	32,230,408.90	WIRE TRANSFER DEPOSIT	
08/08	5,868,920.00	WIRE TRANSFER DEPOSIT	
08/12	2,420,000.00	WIRE TRANSFER DEPOSIT	
08/12	1,670,000.00	WIRE TRANSFER DEPOSIT	
08/12	111.83	WIRE TRANSFER DEPOSIT	
08/12	2,094,190.00	WIRE TRANSFER DEPOSIT	
08/13	912,849.64	WIRE TRANSFER DEPOSIT	
08/14	19,700,000.00	WIRE TRANSFER DEPOSIT	
08/14	103.53	WIRE TRANSFER DEPOSIT	
08/14	319,239.88	WIRE TRANSFER DEPOSIT	
08/14	757,803.27	WIRE TRANSFER DEPOSIT	
08/15	4,404,600.00	WIRE TRANSFER DEPOSIT	
08/15	398,661.53	WIRE TRANSFER DEPOSIT	
08/19	600,000,000.00	BOOK TRANSFER CREDIT	
08/19	53,120.03	WIRE TRANSFER DEPOSIT	
08/20	3,025,682.98	WIRE TRANSFER DEPOSIT	
08/21	666,769.26	MISCELLANEOUS CREDIT	
08/28	138,284.21	WIRE TRANSFER DEPOSIT	
08/29	5,100,973.68	MISCELLANEOUS CREDIT	
08/29	10,095,588.68	MISCELLANEOUS CREDIT	
35 Items	***$707,687,666.24***		

Electronic & Miscellaneous Withdrawals

Date	Amount	Description
08/01	15,453,125.00	DOMESTIC OUTGOING WIRE
08/01	5,757,332.43	PC INITIATED OUTGOING WIRE
08/01	200,000.00	PC INITIATED OUTGOING WIRE
08/01	90,000.00	PC INITIATED OUTGOING WIRE
08/04	140,000.00	PC INITIATED OUTGOING WIRE
08/06	100,000.00	PC INITIATED OUTGOING WIRE
08/07	3,151.05	MISCELLANEOUS DEBIT
08/07	1,805,099.83	MISCELLANEOUS DEBIT
08/08	200,000.00	PC INITIATED OUTGOING WIRE
08/11	110,000.00	PC INITIATED OUTGOING WIRE
08/11	192.01	DOMESTIC OUTGOING WIRE
08/11	32,230,408.90	BOOK TRANSFER DEBIT
08/12	1,690,000.00	PC INITIATED OUTGOING WIRE
08/12	7,615,000.00	PC INITIATED OUTGOING WIRE
08/14	1,431,922.60	MISCELLANEOUS DEBIT
08/14	2,573,609.62	MISCELLANEOUS DEBIT
08/14	58,652.00	MISCELLANEOUS DEBIT
08/15	16,893,325.59	DOMESTIC OUTGOING WIRE
08/15	13,521.90	DOMESTIC OUTGOING WIRE
08/15	757,803.27	BOOK TRANSFER DEBIT
08/18	397,500.00	BOOK TRANSFER DEBIT
08/20	53,120.03	BOOK TRANSFER DEBIT
08/21	3,025,682.98	BOOK TRANSFER DEBIT
08/21	4,194,820.96	MISCELLANEOUS DEBIT
08/25	9,938,225.00	DOMESTIC OUTGOING WIRE
08/26	2,518,582.82	DOMESTIC OUTGOING WIRE

Electronic & Miscellaneous Withdrawals

Date	Amount	Description
08/26	28,025.93	WA ST D.O.R EX DTC 0000021262
27 Items	***$107,279,101.92***	

Account Activity Summary

Average Collected Balance	$4,190,036,779.61	Minimum Daily Ending Balance	$3,919,773,148.82
Checks Deposited	1	Cash Deposited	$0.00
Number of Deposits	36	Cash Purchased	$0.00
Checks/Debits	0		

Your Overdraft Limit as of the statement end date: $1,000.00
Please note that this may be changed at any time without notice. (View back of statement for more information.)

7782 NNGR 001 07 31 083108 PAGE 3 of 3 COLR732B 7321 3200 01AA7782

WaMu

P.O. BOX 2395
CHATSWORTH, CA 91313-2395

This Statement Covers
From: 09/01/08
Through: 09/30/08

WASHINGTON MUTUAL INC
ATTN: TREASURY ACCTG/LULU ST JOHN
1301 2ND AVE # WMC1411
SEATTLE WA 98101-2005

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Please see the end of statement message regarding important information about changes to your deposit accounts and services.

Washington Mutual Internal Checking Detail Information

WASHINGTON MUTUAL INC **Account Number: 179-165066-7**
Washington Mutual Bank, FA

Account Summary

Beginning Balance	**$4,541,729,651.01**
Deposits	0.00
Electronic & Misc. Deposits	+615,444,052.72
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	-4,893,105,517.68
Checks Paid	0.00
Service Fees	0.00
Ending Balance	**$264,068,186.05**

Electronic & Miscellaneous Deposits

Date	Amount	Description	Card Number
09/02	1,080.61	WIRE TRANSFER DEPOSIT	
09/02	11,024.44	WIRE TRANSFER DEPOSIT	
09/03	7,004.31	WIRE TRANSFER DEPOSIT	
09/03	2,423.75	WIRE TRANSFER DEPOSIT	
09/04	3,810,000.00	WIRE TRANSFER DEPOSIT	
09/05	5,125,000.00	WIRE TRANSFER DEPOSIT	
09/09	103.89	WIRE TRANSFER DEPOSIT	
09/10	167,386.65	WIRE TRANSFER DEPOSIT	
09/12	5,266,361.00	WIRE TRANSFER DEPOSIT	
09/12	318,260.96	WIRE TRANSFER DEPOSIT	
09/15	849,376.57	WIRE TRANSFER DEPOSIT	
09/18	1,775,712.04	MISCELLANEOUS CREDIT	
09/18	48,177.68	WIRE TRANSFER DEPOSIT	
09/18	37,500.00	WIRE TRANSFER DEPOSIT	
09/19	10,000,000.00	WIRE TRANSFER DEPOSIT	

Electronic & Miscellaneous Deposits

Date	Amount	Description	Card Number
09/19	177,000,000.00	BOOK TRANSFER CREDIT	
09/19	145,000,000.00	BOOK TRANSFER CREDIT	
09/22	145,160.97	WIRE TRANSFER DEPOSIT	
09/23	22,497,553.85	WIRE TRANSFER DEPOSIT	
09/23	5,500.00	WIRE TRANSFER DEPOSIT	
09/24	8,849,902.00	WIRE TRANSFER DEPOSIT	
09/30	99,999,999.00	SIR2 TREAS 220 MISC PAY 911653725200929 2	
09/30	99,999,999.00	SIR2 TREAS 220 MISC PAY 911653725200929 2	
09/30	34,526,526.00	SIR2 TREAS 220 MISC PAY 911653725200929 2	
24 Items	***$615,444,052.72***		

Electronic & Miscellaneous Withdrawals

Date	Amount	Description
09/05	3,810,000.00	BOOK TRANSFER DEBIT
09/05	5,125,000.00	BOOK TRANSFER DEBIT
09/09	3,002.57	MISCELLANEOUS DEBIT
09/09	70,000.00	IRS USATAXPYMT 220865300699212
09/10	500,000,000.00	BOOK TRANSFER DEBIT
09/11	614,326.45	MISCELLANEOUS DEBIT
09/11	58,652.00	MISCELLANEOUS DEBIT
09/11	112,923.51	MISCELLANEOUS DEBIT
09/11	167,386.65	BOOK TRANSFER DEBIT
09/15	59,416,800.00	DOMESTIC OUTGOING WIRE
09/15	5,055,600.00	DOMESTIC OUTGOING WIRE
09/15	19,168,800.00	DOMESTIC OUTGOING WIRE
09/15	238,489,257.00	BOOK TRANSFER DEBIT
09/15	27,318,823.00	BOOK TRANSFER DEBIT
09/17	3,669,654.36	DOMESTIC OUTGOING WIRE
09/18	797,072.50	BOOK TRANSFER DEBIT
09/18	17,205,753.61	MISCELLANEOUS DEBIT
09/18	398.65	BOOK TRANSFER DEBIT
09/19	5,000.00	BOOK TRANSFER DEBIT
09/19	270,104,885.03	DOMESTIC OUTGOING WIRE
09/19	999,999,999.00	MISCELLANEOUS DEBIT
09/19	999,999,999.00	MISCELLANEOUS DEBIT
09/19	999,999,999.00	MISCELLANEOUS DEBIT
09/19	674,000,003.00	MISCELLANEOUS DEBIT
09/22	9,392,500.00	DOMESTIC OUTGOING WIRE
09/22	2,848,399.06	DOMESTIC OUTGOING WIRE
09/22	49,638,000.00	DOMESTIC OUTGOING WIRE
09/23	145,160.97	BOOK TRANSFER DEBIT
09/23	37,500.00	BOOK TRANSFER DEBIT
09/23	60,000.00	DOMESTIC OUTGOING WIRE
09/24	5,500.00	BOOK TRANSFER DEBIT
09/25	1,681,646.07	MISCELLANEOUS DEBIT
09/25	4,101,278.69	MISCELLANEOUS DEBIT
09/26	2,197.56	WA ST D.O.R. EX DTC 0000021262
34 Items	***$4,893,105,517.68***	

This Statement Covers
Account Number: 179-165066-7
From: 09/01/08
Through: 09/30/08

Account Activity Summary			
Average Collected Balance	$2,551,511,238.78	Minimum Daily Ending Balance	$4,221,989.49
Checks Deposited	0	Cash Deposited	$0.00
Number of Deposits	24	Cash Purchased	$0.00
Checks/Debits	0		

Your Overdraft Limit as of the statement end date: $1,000.00
Please note that this may be changed at any time without notice. (View back of statement for more information.)

Notice of Change in Terms

Effective October 1, 2008, the address for deposits (other than deposit contributions to a Retirement or Coverdell Education Savings Account) and payments for any Business Overdraft Line of Credit sent by mail is P.O. Box 659588, San Antonio, TX 78265-9588. Use of any other address can result in loss or delayed processing.

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WaMu

P.O. BOX 2395
CHATSWORTH, CA 91313-2395

This Statement Covers
From: 09/19/08
Through: 09/30/08

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WMI
1301 2ND AVE
SEATTLE WA 98101-2005

Please see the end of statement message regarding important information about changes to your deposit accounts and services.

Washington Mutual Internal Checking Detail Information

WMI **Account Number: 441-006423-4**
Washington Mutual Bank, FA

Account Summary

Beginning Balance	**$0.00**
Deposits	+3,674,000,000.00
Electronic & Misc. Deposits	0.00
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	-6,056,827.50
Checks Paid	0.00
Service Fees	0.00
Ending Balance	**$3,667,943,172.50**

Deposits

Date	Amount	Description
09/22	999,999,999.00	Opening Deposit (Eff. Date:09/19/08)
09/22	674,000,003.00	Customer Deposit (Eff. Date:09/19/08)
09/22	999,999,999.00	Customer Deposit (Eff. Date:09/19/08)
09/22	999,999,999.00	Customer Deposit (Eff. Date:09/19/08)
4 Items	***$3,674,000,000.00***	

Electronic & Miscellaneous Withdrawals

Date	Amount	Description
09/24	3,000,000.00	DOMESTIC OUTGOING WIRE
09/25	3,056,827.50	DOMESTIC OUTGOING WIRE
2 Items	***$6,056,827.50***	

WaMu

This Statement Covers
Account Number: 441-006423-4
From: 09/19/08
Through: 09/30/08

Account Activity Summary			
Average Collected Balance	$3,670,721,586.25	Minimum Daily Ending Balance	$3,667,943,172.50
Checks Deposited	0	Cash Deposited	$3,674,000,000.00
Number of Deposits	4	Cash Purchased	$0.00
Checks/Debits	0		

Your Overdraft Limit as of the statement end date: $100.00
Please note that this may be changed at any time without notice. (View back of statement for more information.)

Notice of Change in Terms

Effective October 1, 2008, the address for deposits (other than deposit contributions to a Retirement or Coverdell Education Savings Account) and payments for any Business Overdraft Line of Credit sent by mail is P.O. Box 659588, San Antonio, TX 78265-9588. Use of any other address can result in loss or delayed processing.

7782 NNGR 001 07 30 093008 PAGE 2 of 2 COLR732A 7321 3200 01AA7782

WaMu

P.O. BOX 2395
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This Statement Covers
From: 10/01/08
Through: 10/31/08

WASHINGTON MUTUAL INC
ATTN: TREASURY ACCTG/LULU ST JOHN
1301 2ND AVE # WMC1411
SEATTLE WA 98101-2005

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or visit us at **wamu.com**

Washington Mutual Internal Checking Detail Information

WASHINGTON MUTUAL INC **Account Number: 179-165066-7**
Washington Mutual Bank, FA

Account Summary

Beginning Balance	**$264,068,186.05**
Deposits	0.00
Electronic & Misc. Deposits	+2,277,938.51
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	0.00
Checks Paid	0.00
Service Fees	0.00
Ending Balance	**$266,346,124.56**

Electronic & Miscellaneous Deposits

Date	Amount	Description	Card Number
10/02	2,114.58	WIRE TRANSFER DEPOSIT	
10/06	1,529,366.86	WIRE TRANSFER DEPOSIT	
10/08	158,165.00	WIRE TRANSFER DEPOSIT	
10/10	3,375.34	WIRE TRANSFER DEPOSIT	
10/15	101.42	WIRE TRANSFER DEPOSIT	
10/15	576,481.98	WIRE TRANSFER DEPOSIT	
10/28	8,333.33	BOOK TRANSFER CREDIT	
7 Items	***$2,277,938.51***		

Account Activity Summary

Average Collected Balance	$265,795,039.09	Minimum Daily Ending Balance	$264,068,186.05
Checks Deposited	0	Cash Deposited	$0.00
Number of Deposits	7	Cash Purchased	$0.00
Checks/Debits	0		

Your Overdraft Limit as of the statement end date: $1,000.00
Please note that this may be changed at any time without notice. (View back of statement for more information.)

WaMu

P.O. BOX 2395
CHATSWORTH, CA 91313-2395

This Statement Covers
From: 10/01/08
Through: 10/31/08

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WMI
1301 2ND AVE
SEATTLE WA 98101-2005

Washington Mutual Internal Checking Detail Information

WMI **Account Number: 441-006423-4**
Washington Mutual Bank, FA

Account Summary

Beginning Balance	**$3,667,943,172.50**
Deposits	0.00
Electronic & Misc. Deposits	0.00
Card Purchases/ATM Withdrawals	0.00
Electronic & Misc. Withdrawals	0.00
Checks Paid	0.00
Service Fees	0.00
Ending Balance	**$3,667,943,172.50**

Account Activity Summary

Average Collected Balance	$3,667,943,172.50	Minimum Daily Ending Balance	$3,667,943,172.50
Checks Deposited	0	Cash Deposited	$0.00
Number of Deposits	0	Cash Purchased	$0.00
Checks/Debits	0		

Your Overdraft Limit as of the statement end date: $100.00
Please note that this may be changed at any time without notice. (View back of statement for more information.)

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EXHIBIT J

WMI-70
FA-002
MAY 31, 2002

ACCOUNT SECURITY AGREEMENT

THIS ACCOUNT SECURITY AGREEMENT ("Agreement") is made as of May 31, 2002, by and between Washington Mutual, Inc., a Washington corporation ("Debtor"), for the benefit of WASHINGTON MUTUAL BANK, FA a federal savings association ("Secured Party").

RECITALS

Debtor is an affiliate of Secured Party. From time to time Secured Party may pay certain expenses and obligations incurred by one or more other affiliates of Debtor (other than Long Beach Mortgage Company, which has entered into a separate account security agreement with Secured Party) (each, an "Affiliate") for which such Affiliate will be obligated to repay Secured Party together with such interest thereon and charges incidental thereto, if any, as such Affiliate and Secured Party may agree from time to time. All such expenses, obligations, interest and charges for which such Affiliate is obligated to pay or repay Secured Party are referred to, collectively, as the "Inter-Company Obligations."

Debtor maintains a deposit account numbered 177-8911206 with Secured Party. Such account, however titled or maintained is referred to as the "Deposit Account." All funds from time to time on deposit in the Deposit Account are referred to, collectively, as the "Deposit Funds."

Secured Party is required by law to hold certain collateral for the Inter-Company Obligations.

NOW, THEREFORE, in consideration of the above and the mutual promises contained in this Agreement, the receipt and sufficiency of which are acknowledged, Debtor and Secured Party agree as follows:

AGREEMENT

1. **Grant of Security Interest, Etc.** Debtor hereby assigns, transfers and pledges to Secured Party, and grants Secured Party a security interest in and lien upon, the Deposit Account and the Deposit Funds (collectively, the "Collateral") as security for all of the Inter-Company Obligations and for all obligations of Affiliates of Debtor to Secured Party under the terms of this Agreement. All obligations secured by this Agreement are referred to, collectively, as the "Secured Obligations."

2. **Default and Remedies.** It shall be an "Event of Default" under this Agreement if an Affiliate of Debtor at any time defaults in its obligation to timely pay or repay any of the Secured Obligations or fails to perform any obligation under the terms of this Agreement or if Debtor or such Affiliate becomes the subject of any bankruptcy, receivership or other insolvency proceeding. After the occurrence and during the continuance of an Event of Default, Secured Party in its sole and absolute discretion, may (i) apply the Collateral or any portion thereof to payment of the Secured Obligations; (ii) apply the Collateral or any portion thereof to reimburse Secured Party for any losses or expenses (including, without limitation, legal fees) suffered or incurred by Secured Party as a result of such Event of Default, and (iii) apply the Collateral or

any portion thereof in connection with exercising and exercise all rights and remedies available to Secured Party at law or in equity or under this Agreement.

3. **Remedies Cumulative**. None of the rights and remedies conferred upon or reserved to Secured Party under this Agreement are intended to be exclusive of any other rights or remedies, and each and every such right shall be cumulative and concurrent, and may be enforced separately, successively, or together, and may be exercised from time to time as often as may be deemed necessary by Secured Party.

4. **Successors and Assigns Bound**. This Agreement shall be binding upon Debtor and its successors and assigns, and shall inure to the benefit of, and may be enforced by Secured Party and its successors, transferees, and assigns.

5. **Amendment and Waiver**. No amendment to this Agreement will be valid unless it is made in writing and executed by the parties to this Agreement. No specific waiver or forbearance for any breach of any of the terms of this Agreement shall be considered as a general waiver of that or any other term of this Agreement.

6. **Entire Agreement**. This Agreement contains the complete and entire understanding of the parties and no changes shall be recognized as valid unless they are made in writing and signed by both Debtor and Secured Party.

7. **Severability**. The invalidity, illegality, or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.

8. **Applicable Law**. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year first above written.

DEBTOR:

Washington Mutual, Inc.

By: _____

Name: RICHARD D LODGE

Title: SENIOR VICE PRESIDENT & TREASURER

```
      NSCPRDN ____ ACPR 0 CIS ACCOUNT/PRODUCT PROFILE      08/10/06 16.53.58
ACPR       CO   2 OP                    MS 64000 ACTION SUCCESSFUL
ACTION: INQ    (INQ NXT NXTCUS NXTACR NXTRMK ACDT ACDE)
COID     2 PRD DDA ACCT 0177-0000891120-6       SSN/TID 91-1653725  NO 1 LINE 1
T WASHINGTON MUTUAL INC                         BALANCE          52,600,201.01
T FBO WASHINGTON MUTUAL BANK FA                    SUB-PRD U5 ST 99  CURR
A WASHINGTON MUTUAL                                COST CTR     9909 BRN   9909
A ROWENA LITTLE                                    OPENED    1020530 OFF1
A 1301 2ND AVE # WMC1411                           CLOSED            OFF2
C SEATTLE WA 98101-2005                            LST MNT   1080331 EMP?     N
                                          CNTRY                          SENS 0
                                                                         LANG
ACTN: CUPR CUID          R E L A T E D   C U S T O M E R S        NEXT:    1
SEQ- COID CUSTOMER------------------------------ TIE-- REL----- APSP OWNER  %
0001    2 *WASHINGTON MUTUAL INC                    10 N-I OWNE NNN  100.0000

                         R E L A T E D   A C C O U N T S          NEXT:    1
SEQ- COID- PRD ACCOUNT----------------              REL----- APSP OWNER  %


                         R E M A R K S                            NEXT:    1
    TYPE      EFF         EXP
    TYPE      EFF         EXP
PF: 1-HELP 2-CONT 3-PLVL 4-DECR 5-INCR 7-END
```

EXHIBIT K

WEIL, GOTSHAL & MANGES LLP
767 FIFTH AVENUE
NEW YORK, NY 10153
(212) 310-8000
FAX: (212) 310-8007

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SHANGHAI
SILICON VALLEY
SINGAPORE
WARSAW
WASHINGTON, D.C.

BRIAN S. ROSEN
DIRECT LINE (212) 310-8602
E-MAIL: brian.rosen@weil.com

November 7, 2008

BY E:MAIL

Hydee R. Feldstein, Esq.
Sullivan & Cromwell LLP
1888 Century Park East
Los Angeles, California 90067

Re: Liquidation of BOLI/COLI Assets

Dear Hydee:

It has come to the attention of Washington Mutual, Inc. ("WMI") that JP Morgan Chase Bank, N.A. ("JPM") is monetizing or taking control of certain Bank-Owned Life Insurance policies and Company-Owned Life Insurance policies (collectively, the "BOLI/COLI Policies") that may or may not have belonged to Washington Mutual Bank ("WMB") prior to September 25, 2008. As you may know, WMI representatives have been requesting copies of the BOLI/COLI Policies (and related information) for weeks in an effort to ascertain the respective ownership of the BOLI/COLI Policies and the extent to which WMI or WMB maintains rights with respect thereto. To date, all requests have been denied.

WMI HEREBY (I) RENEWS ITS REQUEST TO OBTAIN THE BOLI/COLI POLICIES AND (II) DEMANDS THAT JPM IMMEDIATELY CEASE AND DESIST FROM LIQUIDATING THE BOLI/COLI POLICIES UNTIL SUCH TIME THAT WMI HAS PERFORMED A REVIEW OF THE BOLI/COLI POLICIES AND OWNERSHIP OF THE BOLI/COLI POLICIES CAN BE APPROPRIATELY DETERMINED.

Please contact me at your earliest convenience. It is my hope that we can agree to a consensual resolution of this issue.

Very truly yours,

Brian S. Rosen

CC: Thomas Califano, Esq.
Fred Hodara, Esq.
Marcia Goldstein, Esq.
Michael Walsh, Esq.
Bill Kosturos
John Goulding
John Maciel

EXHIBIT L

Carrier	List Bills
Kemper Investors Life	KI9035-S01W, KI9036-S01W
Met Life	191511-G, 191514-G
Hartford	VG153
Sun Life	G171, G172, G180, G187, G188
Minnesota Life	55010
Pacific Life	Z04701, 7776, 7777, 1A22E76B,