

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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| | X | |
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| In re: | : | Chapter 11 |
| | : | |
| LandAmerica Financial Group, Inc., <u>et al.</u> , | : | Case No. 08-35994 |
| | : | |
| Debtors. | : | Jointly Administered |
| | X | |

TOLLING AGREEMENT

This Tolling Agreement (hereinafter “Agreement”) effective as of the Effective Date (as defined below), is made by and among LandAmerica Financial Group, Inc. (“LFG”), LandAmerica 1031 Exchange Services, Inc. (“LES” and, together with LFG, the “Debtors”), the Committee of Unsecured Creditors of LandAmerica Financial Group, Inc. (the “LFG Committee”), the Committee of Unsecured Creditors of LandAmerica 1031 Exchange Services, Inc. (the “LES Committee” and, together with the LFG Committee, the “Committees”); and the following current and/or former officers and directors of one or more of the Debtors: [

] and each additional current and/or former officer or director that is a party hereto (the “Officers and Directors”). The Debtors, the Committees, and the Directors and Officers are hereinafter referred collectively as the “Parties.”

RECITALS

WHEREAS, on November 26, 2008, the Debtors each filed a voluntary petition under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Eastern District of Virginia (the “Bankruptcy Court”);

WHEREAS, on September 9, 2009, the Debtors filed a Joint Chapter 11 Plan of LandAmerica Financial Group, Inc. and Its Affiliated Debtors in the above captioned case (as amended on October 12, 2009, and as it may be further amended, the “Plan”);

WHEREAS, if the Plan is confirmed and becomes effective, the LES Trust¹ and the LFG Trust shall be formed;

WHEREAS, subject to certain limitations expressly set forth therein, Section 14.4(b) of the Plan provides for an injunction (the “Plan Injunction”) that will enjoin, among other things, the prosecution of third-party claims against the Officers and Directors that may deplete proceeds of any insurance policy which proceeds would otherwise be available to satisfy a judgment, settlement, or other payment that could be made to the LES Trust or the LFG Trust;

WHEREAS, one or more of the LES exchange customers and other Persons who hold, held, or may hold claims against or interests in the Debtors or the Debtors’ estates (collectively, the “Stakeholders”) may have purported claims and/or causes of action, individually, against one or more of the Officers and Directors (the “Stakeholders’ Direct Claims”), which purported claims and/or causes of action may be temporarily enjoined by the Plan Injunction;

WHEREAS, the Parties have agreed that, for purposes of this Agreement, the Stakeholders are third party beneficiaries to this Agreement and the Stakeholders are hereby deemed to have notice of this Agreement;

WHEREAS, the Officers and Directors fully and completely deny that there is any basis whatsoever for any Stakeholders’ Direct Claims to be asserted against them and deny all liability with respect to the Stakeholders’ Direct Claims; and

¹ All capitalized terms not defined herein shall have the meanings ascribed to them in the Plan.

NOW, THEREFORE, in consideration of the promises and covenants contained herein, and for other good and valuable consideration the receipt of which is hereby acknowledged, the parties to this Agreement do hereby stipulate, covenant and agree as follows:

1. The Effective Date of this Agreement shall be the same as the Effective Date of the Plan, as defined therein.
2. The Termination Date of this Agreement shall be the earlier of (a) the date on which the Trustees file the joint Notice of Resolution of Litigation pursuant to section 7.15 of the Plan or (b) the fifth anniversary of the Effective Date.
3. The period of any statute of limitation, statute of repose, or other rule, defense, or principle based upon the passage of time (including, without limitation, waiver, estoppel, and laches) whether statutory, contractual, equitable or otherwise (the "Limitations Period") pertaining to any Stakeholders' Direct Claims, and any possible counterclaims and crossclaims and defenses in law or equity that any Officers and Directors may have or might assert in respect thereof (individually and collectively, "Counterclaims"), that have not expired as of the Effective Date is hereby tolled for each Stakeholders' Direct Claim and each Counterclaim from the Effective Date until 60 days after the Termination Date.
4. The Officers and Directors hereby waive their rights to assert and agree to refrain from asserting any statute of limitations as a defense to any Stakeholders' Direct Claims that are brought within the Limitations Period as tolled by this Agreement.
5. This Agreement, and the Parties' rights and obligations hereunder (including third party beneficiary rights of Stakeholders) are made expressly contingent upon (i) entry of a Final Order confirming the Plan and expressly authorizing, ordering and incorporating: (x) all the terms of the Plan Injunction as set forth in Section 14.4(b); and (y) all the terms relating to the treatment of claims of the Officers and Directors as set forth in Section 7.9, in each case, of the Joint Chapter 11 Plan of LandAmerica Financial Group, Inc. and Its Affiliated Debtors [Dkt. No. __], dated and filed with the Bankruptcy Court on October 12, 2009, (ii) the occurrence of the Effective Date of the Plan without any subsequent reversal, stay, vacation or modification of such Plan Injunction, and (iii) the entry of an order by the Bankruptcy Court (x) authorizing any of the Officers and Directors to file within ten (10) business days following entry of such order (the "D&O Bar Date"), one or more new or amended proofs of claim asserting or reasserting such person's claims arising from such person's service as an officer and/or director of any Debtor, and (y) providing that any such newly filed or amended proof of claim filed prior to the

expiration of the D&O Bar Date, shall be deemed timely for all purposes, and shall not be subject to objection, disallowance or challenge by any party in interest on timeliness grounds.

6. By entering into this Agreement, none of the Parties have waived or limited any rights, claims, causes of action or defenses, except as expressly stated herein.
7. Nothing in this Agreement shall be construed as reducing the time within which a Stakeholder may bring a Stakeholders' Direct Claim.
8. This Agreement shall have no application to any claims, rights, causes of action or suit other than one arising from the Stakeholders' Direct Claims.
9. The Parties agree that this Agreement shall not in any manner revive any rights, claims or causes of action that were barred by any Limitation Period as of the Effective Date, or limit in any way the assertion of any defense based upon any Limitation Period available as of the Effective Date.
10. Except as otherwise specifically provided in this Agreement, this Agreement does not constitute and shall not be construed as an admission against or as a waiver of any claims, rights, causes of action, position or defense presently available to any of the Officers and Directors or that any of the Officers and Directors has valid claims or defenses, and the Officers and Directors expressly deny any liability to any of the Stakeholders. This Agreement is not intended to and does not benefit any persons or entitles other than the Parties hereto and the Stakeholders.
11. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and any prior oral or written statements concerning its subject are merged herein for all purposes and are of no further force and effect.
12. The provisions of this Agreement will be binding and effective with respect to any legal representative, successor, assignee, transferee and heirs of each of the Parties.
13. This Agreement may be amended or modified only by written agreement of the Parties.
14. This Agreement shall be binding on the Officers and Directors and each other Party who is a signatory provided; however, it may be executed by facsimile and in one or more counterparts, and each such counterpart, upon execution, and delivery, shall be deemed a complete original.
15. In the event a Party listed below is not a signatory, this Agreement will be fully effective and binding upon each Party signatory.

16. This Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Virginia, without giving effect to the choice of law principles thereof, and it shall be subject to the continuing jurisdiction of the United States Bankruptcy Court for Eastern District of Virginia. Nothing in this Agreement shall be construed to affect the choice of law to be applied to the Stakeholders' Direct Claims.
17. Any individuals signing this Agreement on behalf of a Party represent that they have the authority to sign on behalf of and bind those respective Parties to the terms and conditions of this Agreement.
18. The Stakeholders are third party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as follows:

Additional officer or director:

On behalf of: _____

By: _____

Name: _____

Date: _____