

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

-----X		
<i>In re</i>	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., <i>et al.</i> ,	:	
	:	Case No. 08-12229 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
-----X		

~~FIRST~~SECOND AMENDED JOINT PLAN OF AFFILIATED DEBTORS
PURSUANT TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE

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Dated: May ~~16~~21, 2010

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Washington Mutual, Inc. and WMI Investment Corp. hereby propose the following joint chapter 11 plan pursuant to section 1121(a) of the Bankruptcy Code:

ARTICLE I

DEFINITIONS

As used in the Plan, the following terms shall have the respective meanings specified below and be equally applicable to the singular and plural of the terms defined:

1.1 **Acquisition JPMC Entities:** JPMC in its capacity as the “Acquiring Bank” pursuant to the Purchase and Assumption Agreement and each former subsidiary of WMB acquired pursuant to the Purchase and Assumption Agreement (including each entity into which such former subsidiary may have been merged, consolidated or liquidated), together with JPMC in its capacity as the “Purchaser” pursuant to the Purchase and Assumption Agreement.

1.2 **Actions:** The “Actions,” as defined in the Global Settlement Agreement.

1.3 **Additional Common Stock:** The 4,000,000 additional shares of duly authorized common stock of Reorganized WMI to be issued as of the Effective Date or as soon thereafter as is practicable on account of the Rights Offering, ~~the number and par value of which shall be disclosed by the Debtors pursuant to written notice prior to the date of the hearing on the Disclosure Statement~~with a par value of \$25.00 per share.

1.4 **Admin Account:** That certain account identified as Account No. xxxxxx1206, identified by WMI as having a balance as of the Petition Date in the approximate amount of Fifty Two Million Six Hundred Thousand Dollars (\$52,600,000.00).

1.5 **Administrative Claim Bar Date:** Unless otherwise ordered by the Bankruptcy Court, the date established by the Bankruptcy Court and set forth in the Confirmation Order as the last day to file proof of Administrative Expense Claims, which date shall be no more than ninety (90) days after the Effective Date, after which date, any proof of Administrative Expense Claim not filed shall be deemed forever barred, and the Debtors, the Reorganized Debtors, and the Liquidating Trust shall have no obligation with respect thereto; provided, however, that no proof of Administrative Expense Claim shall be required to be filed if such Administrative Expense Claim shall have been incurred (i) in accordance with an order of the Bankruptcy Court or (ii) with the consent of the Debtors and in the ordinary course of the Debtors’ operations.

1.6 **Administrative Expense Claim:** A Claim constituting a cost or expense of administration of the Chapter 11 Cases asserted or authorized to be asserted, on or prior to the Administrative Claim Bar Date, in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code arising during the period up to and including the Effective Date, including, without limitation, (i) any actual and necessary cost and expense of preserving the estates of the Debtors, (ii) any actual and necessary cost and expense of operating the businesses of the Debtors in Possession, (iii) any post-Petition Date loan or advance extended by one Debtor to the other Debtor, (iv) any cost and expense of the Debtors in Possession for the management, maintenance, preservation, sale, or other disposition of any assets, (v) the administration and

implementation of the Plan, (vi) the administration, prosecution, or defense of Claims by or against the Debtors and for distributions under the Plan, (vii) any guarantee or indemnification obligation extended by the Debtors in Possession, (viii) any Claim for compensation and reimbursement of expenses arising during the period from and after the Petition Date and prior to the Effective Date and awarded by the Bankruptcy Court in accordance with section 328, 330, 331, or 503(b) of the Bankruptcy Code or otherwise in accordance with the provisions of the Plan, whether fixed before or after the Effective Date, (ix) any fee or charge assessed against the Debtors' estates pursuant to section 1930, chapter 123, title 28, United States Code, and (x) any tort or extracontractual claims against the Debtors in Possession.

1.7 **Affiliate:** With respect to any specified Entity, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified entity.

1.8 **Affiliated Banks:** WMB and FSB.

1.9 **Allowed Administrative Expense Claim:** An Administrative Expense Claim, to the extent it is or has become an Allowed Claim.

1.10 **Allowed CCB-1 Guarantees Claim:** A CCB-1 Guarantees Claim, to the extent set forth on Exhibit "A" hereto.

1.11 **Allowed CCB-2 Guarantees Claim:** A CCB-2 Guarantees Claim, to the extent set forth on Exhibit "B" hereto.

1.12 **Allowed Claim:** A Claim against any of the Debtors or the Debtors' estates, (i) proof of which was filed on or before the date designated by the Bankruptcy Court as the last date for filing such proof of claim against any such Debtor or such Debtor's estate, or (ii) if no proof of Claim has been timely filed, which has been or hereafter is listed by such Debtor in its Schedules as liquidated in amount and not disputed or contingent, in each such case in clauses (i) and (ii) above, a Claim as to which no objection to the allowance thereof, or action to equitably subordinate or otherwise limit recovery with respect thereto, has been interposed within the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or a Final Order, or as to which an objection has been interposed and such Claim has been allowed in whole or in part by a Final Order. For purposes of determining the amount of an "Allowed Claim," there shall be deducted therefrom an amount equal to the amount of any claim that the Debtors may hold against the holder thereof, to the extent such claim may be set off pursuant to applicable bankruptcy and non-bankruptcy law. Without in any way limiting the foregoing, "Allowed Claim" shall include any Claim arising from the recovery of property in accordance with sections 550 and 553 of the Bankruptcy Code and allowed in accordance with section 502(h) of the Bankruptcy Code, any Claim allowed under or pursuant to the terms of the Plan, or any Claim to the extent that it has been allowed pursuant to a Final Order; provided, however, that (i) Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered "Allowed Claims" hereunder unless otherwise specified herein or by order of the Bankruptcy Court, (ii) for any purpose under the Plan, "Allowed Claim" shall not include interest, penalties, or late charges arising from or relating to the period from and after the Petition Date, and (iii) "Allowed Claim"

shall not include any Claim subject to disallowance in accordance with section 502(d) of the Bankruptcy Code.

1.13 **Allowed Convenience Claim**: A Convenience Claim, to the extent it is or has become an Allowed Claim.

1.14 **Allowed General Unsecured Claim**: A General Unsecured Claim, to the extent it is or has become an Allowed Claim.

1.15 **Allowed JPMC Assumed Liability Claim**: A JPMC Assumed Liability Claim, to the extent it is or has become an Allowed Claim.

~~1.16 **Allowed Non-Subordinated Bank Bondholder Claim**: A Non-Subordinated Bank Bondholder Claim, to the extent it is or has become an Allowed Claim.~~

1.16 ~~1.17~~ **Allowed PIERS Claim**: A PIERS Claim, to the extent set forth on Exhibit “C” hereto.

1.17 ~~1.18~~ **Allowed Priority Non-Tax Claim**: A Priority Non-Tax Claim, to the extent it is or has become an Allowed Claim.

1.18 ~~1.19~~ **Allowed Priority Tax Claim**: A Priority Tax Claim, to the extent it is or has become an Allowed Claim.

1.19 ~~1.20~~ **Allowed Senior Notes Claim**: A Senior Notes Claim, to the extent set forth on Exhibit “D” hereto.

1.20 ~~1.21~~ **Allowed Senior Subordinated Notes Claim**: A Senior Subordinated Notes Claim, to the extent set forth on Exhibit “E” hereto.

1.21 ~~1.22~~ **Allowed Subordinated Claim**: A Subordinated Claim, to the extent it is or has become an Allowed Claim.

1.22 ~~1.23~~ **Allowed Trustee Claim**: A Trustee Claim, to the extent it is or has become an Allowed Claim.

1.23 ~~1.24~~ **Allowed WMB Vendor Claim**: A WMB Vendor Claim, to the extent it is or has become an Allowed Claim.

1.24 ~~1.25~~ **Allowed WMI Vendor Claim**: A WMI Vendor Claim, to the extent it is or has become an Allowed Claim.

1.25 ~~1.26~~ **American Savings Escrow Funds**: All funds held in escrow in connection with the American Savings Litigation, pursuant to that certain Escrow Agreement, dated December 20, 1996, by and among WMI, Keystone Holdings Partners, L.P., Escrow Partners, L.P. and The Bank of New York.

1.26 ~~1.27~~ **American Savings Litigation:** That certain litigation styled American Savings Bank, F.A. v. United States, No. 92-872C, currently pending in the United States Court of Federal Claims.

1.27 ~~1.28~~ **Anchor Litigation:** That certain litigation styled Anchor Savings Bank, FSB v. United States, No. 95-39C, currently pending in the United States Court of Federal Claims, and on appeal in the United States Court of Appeals for the Federal Circuit, as Anchor Savings Bank, FSB v. United States, No. 2008-5175, -5182.

1.28 ~~1.29~~ **Appaloosa Parties:** Appaloosa Management L.P. on behalf of Appaloosa Investment L.P. I, Palomino Fund Ltd., Thoroughbred Fund, L.P., Thoroughbred Master Ltd., and any other Affiliates who own securities issued by and/or have direct or indirect Claims against WMI.

1.29 ~~1.30~~ **Assets:** With respect to a Debtor, (i) all “property” of such Debtor’s estate, as defined in section 541 of the Bankruptcy Code, including, without limitation, such property as is reflected on such Debtor’s books and records as of the date of the Disclosure Statement Order (including, without limitation, received and anticipated “Net Tax Refunds,” as defined in the Global Settlement Agreement) and certain Plan Contribution Assets transferred to such Debtor pursuant to the Global Settlement Agreement, unless modified pursuant to the Plan or a Final Order, and except as transferred pursuant to the Global Settlement Agreement and (ii) all claims and causes of action, and any subsequent proceeds thereof, that have been or may be commenced by such Debtor in Possession or other authorized representative for the benefit of such Debtor’s estate, unless modified pursuant to the Plan or a Final Order, including, without limitation, any claim or cause of action pursuant to chapter 5 of the Bankruptcy Code.

1.30 ~~1.31~~ **Aurelius Parties:** Aurelius Capital Management, LP, on behalf of Aurelius Capital ~~Master, Ltd., ACP Master, Ltd., Aurelius Convergence Master, Ltd. or other managed fund entities~~ Partners, LP and Aurelius Investment, LLC, and any other Affiliates who own securities issued by and/or have direct or indirect Claims against WMI.

1.31 ~~1.32~~ **Avoidance Actions:** Any and all avoidance, recovery, subordination or other actions or remedies against Entities that may be brought by or on behalf of a Debtor or its estate under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, actions, settlements or remedies under sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552 and 553 of the Bankruptcy Code.

~~1.33 — **Backstop Commitment Agreement:** That certain commitment agreement to be executed by and between the Debtors and the Backstop Purchasers in connection with the Rights Offering, which agreement shall be in form and substance reasonably satisfactory to the Creditors’ Committee.~~

~~1.34 — **Backstop Purchasers:** One or more funds managed by the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties and the Aurelius Parties.~~

1.32 ~~1.35~~ **Ballot:** The form distributed to each holder of an impaired Claim entitled to vote on the plan (as set forth herein), on which is to be indicated, among other things, acceptance or rejection of the Plan.

1.33 ~~1.36~~ **Ballot Date:** The date established by the Bankruptcy Court and set forth in the Disclosure Statement Order for the submission of Ballots and the election of alternative treatments pursuant to the terms and provisions of the Plan.

1.34 ~~1.37~~ **Bank Bondholder Claims:** Those certain proofs of claim filed against the Debtors and their chapter 11 estates by holders of funded indebtedness against WMB, which are listed on Exhibit “B” to the Global Settlement Agreement.

1.35 ~~1.38~~ **Bankruptcy Code:** The Bankruptcy Reform Act of 1978, as amended, to the extent codified in title 11, United States Code, as applicable to the Chapter 11 Cases.

1.36 ~~1.39~~ **Bankruptcy Court:** The United States Bankruptcy Court for the District of Delaware or such other court having jurisdiction over the Chapter 11 Cases.

1.37 ~~1.40~~ **Bankruptcy Rules:** The Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as applicable to the Chapter 11 Cases.

1.38 ~~1.41~~ **Bankruptcy Stay Motions:** The motions by the FDIC Receiver and JPMC to stay or dismiss the Turnover Action and the JPMC Action in favor of proceedings before the United States District Court for the District of Columbia in the WMI Action.

1.39 ~~1.42~~ **BB Liquidating Trust Interests:** Those certain Liquidating Trust Interests that are receivable by holders of ~~Allowed~~ Non-Subordinated Bank Bondholder Claims, which interests, in the aggregate, represent an undivided percentage interest in the Homeownership Carryback Refund Amount, as defined and set forth in Section 2.4 of the Global Settlement Agreement, equal to ~~5.5% of WMI's share~~ 5.357% of the Homeownership Carryback Refund Amount; provided, however, that in no event shall the distribution to holders of ~~Allowed~~ Non-Subordinated Bank Bondholder Claims of Cash on account of BB Liquidating Trust Interests exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in the aggregate.

1.40 ~~1.43~~ **Benefit Plan:** Any employee welfare benefit plan, employee pension benefit plan, or a plan that is both an employee welfare benefit plan and an employee pension benefit plan within the meaning of Section 3(3) of ERISA, including, without limitation, those benefit plans listed on Exhibit “F” hereto, or any such similar employee benefit plan or arrangement that any of the Debtors maintained prior to the Petition Date; provided, however, that the term “Benefit Plan” does not include the WaMu Savings Plan (#002) and does not include any plan policy, or arrangement transferred to JPMC pursuant to the Global Settlement Agreement.

1.41 ~~1.44~~ **BKK Liabilities:** Any and all liabilities and obligations of the WMI Entities (other than WMI Rainier) for remediation or clean-up costs and expenses (and excluding tort and tort related liabilities, if any) in excess of applicable and available insurance arising from or relating to (i) the BKK Litigation, (ii) the Amended Consent Decree, dated March 6, 2006, entered in connection therewith, and (iii) that certain Amended and Restated Joint Defense, Privilege and Confidentiality Agreement, dated as of February 28, 2005, by and among the BKK Joint Defense Group, as defined therein.

1.42 ~~1.45~~ **BKK Litigation:** That certain litigation styled California Department of Toxic Substances Control, et al. v. American Honda Motor Co., Inc., et al., No. CV05-7746 CAS (JWJx), currently pending in the United States District Court for the Central District of California.

1.43 ~~1.46~~ **BKK Proofs of Claim:** The BKK Liabilities-related proofs of claim filed against the Debtors and the Debtors' chapter 11 estates numbered 2138, 2213, 2233, 2405, 2467, 2693 and 3148.

1.44 ~~1.47~~ **Bond Claim:** Any Claim against the Debtors set forth on Schedule 2.23 to the Global Settlement Agreement filed by any of the Bonding Companies, to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim.

1.45 ~~1.48~~ **Bond Indemnity:** That certain General Agreement of Indemnity, as amended, dated as of June 14, 1999, executed and delivered by WMI, pursuant to which, among other things, the Bonds were to be issued and WMI agreed to pay all losses and expenses of the Bonding Companies associated therewith.

1.46 ~~1.49~~ **Bonding Companies:** Safeco Insurance Company and such other insurance or bonding companies that issued Bonds pursuant to the Bond Indemnity.

1.47 ~~1.50~~ **Bonds:** The bonds issued by the Bonding Companies on behalf of one or more of the Affiliated Banks or their Affiliates, each as identified on Exhibit "D" to the Global Settlement Agreement, together with the numbers of the respective proofs of Claim that have been filed with the Bankruptcy Court in connection therewith.

1.48 ~~1.51~~ **Business Day:** A day other than a Saturday, Sunday, or any other day on which commercial banking institutions in New York, New York are required or authorized to close by law or executive order.

1.49 ~~1.52~~ **Cash:** Lawful currency of the United States, including, but not limited to, bank deposits, checks representing good funds, and other similar items.

1.50 ~~1.53~~ **Cash Equivalents:** Equivalents of Cash in the form of readily marketable securities or instruments issued by a person other than the Debtors, including, without limitation, readily marketable direct obligations of, or obligations guaranteed by, the United States of America, commercial paper of domestic corporations carrying a Moody's Rating of "A" or better, or equivalent rating of any other nationally recognized rating service, or interest-bearing certificates of deposit or other similar obligations of domestic banks or other financial institutions having a shareholders' equity or equivalent capital of not less than One Hundred Million Dollars (\$100,000,000.00), having maturities of not more than one (1) year, at the then best generally available rates of interest for like amounts and like periods.

1.51 ~~1.54~~ **Causes of Action:** All Claims, actions, causes of action, rights to payment, choses in action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and cross claims

(including, but not limited to, all claims for breach of fiduciary duty, negligence, malpractice, breach of contract, aiding and abetting, fraud, inducement, avoidance, recovery, subordination, and all Avoidance Actions) of any of the Debtors and/or their estates that are pending or may be asserted against any Entity on or after the date hereof, based in law or equity, including, but not limited to, under the Bankruptcy Code, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order.

1.52 ~~1.55~~ **CCB-1 Guarantees**: The guarantees issued and delivered by WMI in accordance with the terms and conditions of the CCB-1 Guarantee Agreements, and set forth on Exhibit “A” hereto.

1.53 ~~1.56~~ **CCB-1 Guarantees Claim**: An Unsecured Claim arising from or relating to the CCB-1 Guarantees.

1.54 ~~1.57~~ **CCB-1 Guarantee Agreements**: Those certain agreements titled “Guarantee of Washington Mutual, Inc.,” dated as of November 1, 2007, pursuant to which WMI guaranteed payment of the obligations and liabilities of WMB under certain agreements and related securities issued by the CCB Capital Trust IV, CCB Capital Trust V, CCB Capital Trust VII, and CCB Capital Trust VIII.

1.55 ~~1.58~~ **CCB-1 Trustee**: Wilmington Trust Company, as Trustee, or its duly appointed successor, solely in its capacity as trustee with regard to each of the CCB-1 Guarantee Agreements.

1.56 ~~1.59~~ **CCB-2 Guarantees**: The guarantees issued and delivered by WMI in accordance with the terms and conditions of the CCB-2 Guarantee Agreements, and set forth on Exhibit “B” hereto.

1.57 ~~1.60~~ **CCB-2 Guarantees Claim**: An Unsecured Claim arising from or relating to the CCB-2 Guarantees.

1.58 ~~1.61~~ **CCB-2 Guarantee Agreements**: Those certain agreements titled “Guarantee of Washington Mutual, Inc.,” dated as of November 1, 2007, pursuant to which WMI guaranteed payment of the obligations and liabilities of WMB under certain agreements and related securities issued by the HFC Capital Trust I, CCB Capital Trust VI, and CCB Capital Trust IX.

1.59 ~~1.62~~ **CCB-2 Trustees**: Wilmington Trust Company, as Trustee, and Deutsche Bank Trust Company Americas, as Trustee, or their duly appointed successors, solely in their capacities as trustees with regard to each of the CCB-2 Guarantee Agreements.

1.60 ~~1.63~~ **Centerbridge Parties**: Centerbridge Partners, L.P., on behalf of Centerbridge Credit Advisors, LLC, Centerbridge Special Credit Advisors, LLC, and any other Affiliates who own securities issued by and/or have direct or indirect Claims against WMI.

1.61 ~~1.64~~ **Chapter 11 Cases:** The jointly administered cases commenced by the Debtors styled as In re Washington Mutual, Inc., et al. and being jointly administered in the Bankruptcy Court, Case No. 08-12229 (MFW), under chapter 11 of the Bankruptcy Code.

1.62 ~~1.65~~ **Claim:** Any right to payment or performance, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, known or unknown or asserted or unasserted; or any right to an equitable remedy for breach or enforcement of performance, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, and all debts, suits, damages, rights, remedies, losses, liabilities, obligations, judgments, actions, causes of action, demands, or claims of every kind or nature whatsoever, in law, at equity, or otherwise.

1.63 ~~1.66~~ **Class:** A category of holders of Claims or Equity Interests set forth in Article IV of the Plan.

1.64 ~~1.67~~ **Common Equity Interest:** An Equity Interest represented by the 3,000,000,000 authorized shares of common stock of WMI, including, without limitation, one of the 1,704,958,913 shares of common stock of WMI issued and outstanding as of the Petition Date, or any interest or right to convert into such an Equity Interest or acquire any Equity Interest of WMI that was in existence immediately prior to or on the Petition Date.

1.65 ~~1.68~~ **Confirmation Date:** The date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket.

1.66 ~~1.69~~ **Confirmation Hearing:** The hearing conducted by the Bankruptcy Court pursuant to section 1128(a) of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

1.67 ~~1.70~~ **Confirmation Order:** The order of the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code, approving the compromise and settlement set forth in the Global Settlement Agreement and directing the consummation of the transactions contemplated therein, which order shall be in form and substance ~~reasonably~~ satisfactory to the Debtors, JPMC, the Settlement Note Holders, the Creditors' Committee and the FDIC Receiver and FDIC Corporate.

1.68 ~~1.71~~ **Convenience Claim:** A Claim equal to or less than Fifty Thousand Dollars (\$50,000.00) or greater than Fifty Thousand Dollars (\$50,000.00) but, with respect to which, the holder thereof voluntarily reduces such Claim to Fifty Thousand Dollars (\$50,000.00) on the Ballot; provided, however, that, for purposes of the Plan and the distributions to be made hereunder, "Convenience Claim" shall not include (i) an Administrative Expense Claim, (ii) a Priority Tax Claim, (iii) a Priority Non-Tax Claim, (iv) a Senior Notes Claim, (v) a Senior Subordinated Notes Claim, (vi) any JPMC Assumed Liability Claim, (vii) a WMB Vendor Claim, (viii) a WMI Vendor Claim, (ix) a CCB-1 Guarantees Claim, (x) a CCB-2 Guarantees Claim, (xi) a PIERS Claim, (xii) a Non-Subordinated Bank Bondholder Claim, (xiii) a Subordinated Claim, (xiv) a Trustee Claim and (xv) any other Claim that is a component of a larger Claim, portions of which may be held by one or more holders of Allowed Claims.

1.69 ~~1.72~~ **Creditor:** Any Entity holding a Claim against one or more of the Debtors or the Debtors' estates or, pursuant to section 102(2) of the Bankruptcy Code, against property of the Debtors, including, without limitation, a Claim against either one of the Debtors or Debtors in Possession of a kind specified in section 502(g), 502(h), or 502(i) of the Bankruptcy Code.

1.70 ~~1.73~~ **Creditor Cash:** On the Effective Date (or as soon as practicable thereafter when the Disbursing Agent is prepared to make its initial distribution pursuant to Section 32.1 of the Plan), the excess, if any, of (i) all Cash and Cash Equivalents to be distributed by the Disbursing Agent in accordance with the Plan over (ii) such amounts of Cash (a) reasonably determined by the Disbursing Agent as necessary to satisfy, in accordance with the terms and conditions of the Plan, Allowed Administrative Expense Claims, Allowed Priority Tax Claims (to the extent necessary), Allowed Priority Non-Tax Claims, Allowed Convenience Claims, Trustee Claims, the fees and expenses owed to certain Creditors' professionals pursuant to Section 43.18 herein, and fees and expenses of the Disbursing Agent as of the Effective Date, (b) necessary to fund the Liquidating Trust in accordance with Article XXVIII of the Plan, as reasonably determined by the Debtors, (c) necessary to make pro rata distributions to holders of Disputed Claims as if such Disputed Claims were, at such time, Allowed Claims, (d) necessary to make pro rata distributions to holders of Administrative Expense Claims that have not yet been filed or Allowed as of the Effective Date, and (e) such other amounts reasonably determined by the Disbursing Agent (in consultation with the Liquidating Trustee) as necessary to fund the ongoing operations of the Liquidating Trust during the period from the Effective Date up to and including such later date as the Disbursing Agent shall reasonably determine; provided, however, that "Creditor Cash" shall include Cash in the Vendor Escrow only to the extent of WMI's share of Cash remaining in such escrow after payment of Allowed WMI Vendor Claims.

1.71 ~~1.74~~ **Creditors' Committee:** The official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code.

1.72 ~~1.75~~ **Debtors:** WMI and WMI Investment.

1.73 ~~1.76~~ **Debtors' Claims:** The proof of claim filed by the Debtors and each of WMI's direct and indirect non-banking subsidiaries, on December 30, 2008, with the FDIC Receiver in connection with WMB's receivership, asserting claims on behalf of the Debtors' chapter 11 estates, and as asserted in the WMI Action.

1.74 ~~1.77~~ **Debtors in Possession:** The Debtors as debtors in possession pursuant to sections 1101(1), 1107(a), and 1108 of the Bankruptcy Code.

1.75 ~~1.78~~ **Dime Inc.:** Dime Bancorp, Inc.

1.76 ~~1.79~~ **Dime Warrants:** Those certain Litigation Tracking Warrants™ for shares of Dime Inc. common stock based on the value of the recovery in the Anchor Litigation, which warrants, as a result of the merger of Dime Inc. into WMI, are now exchangeable for and into shares of Common Equity Interests in WMI upon certain conditions.

1.77 ~~1.80~~ **Disbursing Agent:** With respect to (a) the initial distribution of (i) Cash pursuant to Article III of the Plan to holders of Allowed Administrative Expense Claims

and, to the extent applicable, Allowed Priority Tax Claims as of the Effective Date, (ii) Cash to holders of Allowed Priority Non-Tax Claims as of the Effective Date, (iii) Cash to holders of Allowed Convenience Claims, Allowed WMI Claims, Trustee Claims, and the fees and expenses owed to certain Creditors' professionals pursuant to Section 43.18 herein, in each case as of the Effective Date and (iv) Creditor Cash pursuant to Section 32.1 of the Plan, the Reorganized Debtors or to such other Entity designated in the Confirmation Order and (b) with respect to all subsequent distributions, the Liquidating Trustee or any Entity in its capacity as a disbursing agent.

1.78 ~~1.81~~ **Disclosure Statement**: The disclosure statement relating to the Plan and approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

1.79 ~~1.82~~ **Disclosure Statement Order**: The Final Order of the Bankruptcy Court approving the Disclosure Statement in accordance with section 1125 of the Bankruptcy Code.

1.80 ~~1.83~~ **Disputed Accounts**: The amounts and intercompany balances identified with the account numbers set forth on Exhibit "E" to the Global Settlement Agreement.

1.81 ~~1.84~~ **Disputed Claim**: A Claim against the Debtors, to the extent the allowance of such Claim is the subject of a timely objection or request for estimation in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Confirmation Order, or is otherwise disputed by the Debtors in accordance with applicable law, and which objection, request for estimation, or dispute has not been withdrawn, with prejudice, or determined by a Final Order.

1.82 **Distribution Record Date: The Ballot Date.**

1.83 ~~1.85~~ **Effective Date**: The first (1st) Business Day on which (i) the Confirmation Order is a Final Order, (ii) all of the conditions precedent to confirmation of the Plan specified in Section 38.1 of the Plan shall have been satisfied or waived, as provided in Section 38.2 of the Plan, and (iii) all the conditions precedent to the effectiveness of the Plan specified in Section 39.1 of the Plan shall have been satisfied or waived as provided in Section 39.2 of the Plan.

1.84 ~~1.86~~ **Entity**: A Person, a corporation, a general partnership, a limited partnership, a limited liability company, a limited liability partnership, an association, a joint stock company, a joint venture, an estate, a trust, an unincorporated organization, a governmental unit or any subdivision thereof, including, without limitation, the office of the United States Trustee, or any other entity.

1.85 ~~1.87~~ **Equity Committee**: The official committee of equity security holders appointed in the Chapter 11 Cases.

1.86 ~~1.88~~ **Equity Committee Adversary Proceeding**: The adversary proceeding commenced in the Chapter 11 Cases by the Equity Committee, styled Official

Committee of Equity Security Holders v. Washington Mutual, Inc., Adversary Pro. No. 10-50731 (MFW).

1.87 ~~1.89~~ **Equity Committee Action to Compel**: The action commenced by the Equity Committee on April 26, 2010 in the Thurston County Superior Court in the state of Washington seeking to compel WMI to convene and hold an annual shareholders' meeting for the nomination and election of directors in accordance with Washington state law, which action was removed to the United States Bankruptcy Court for the Western District of Washington on May 13, 2010, and which currently is subject to a pending motion to transfer venue to the Bankruptcy Court.

1.88 ~~1.90~~ **Equity Interest**: The interest of any holder of one or more equity securities of WMI (including, without limitation, voting rights, if any, related to such equity securities) represented by issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in WMI, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest, including, without limitation, unvested restricted stock.

1.89 ~~1.91~~ **FDIC Claim**: The proof of Claim filed by the FDIC Receiver against the Debtors and the Debtors' estates, in an unliquidated amount, which was assigned claim number 2140.

1.90 ~~1.92~~ **FDIC Corporate**: The Federal Deposit Insurance Corporation, in its corporate capacity.

1.91 ~~1.93~~ **FDIC Receiver**: The Federal Deposit Insurance Corporation, in its capacity as receiver for WMB.

1.92 ~~1.94~~ **FDIC Stay Relief Motion**: That certain Motion of the Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank, for an Order Modifying the Automatic Stay, filed by the FDIC Receiver in the Chapter 11 Cases, dated November 4, 2009 [Docket No. 1834], seeking relief from the automatic stay pursuant to section 362 of the Bankruptcy Code in order to exercise rights pursuant to Section 9.5 of the Purchase and Assumption Agreement.

1.93 ~~1.95~~ **Final Order**: An order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court and has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for a new trial, reargument, or rehearing shall then be pending or, (ii) if an appeal, writ of certiorari, new trial, reargument, or rehearing thereof has been sought, (a) such order or judgment shall have been affirmed by the highest court to which such order was appealed, certiorari shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order and (b) the time to take any further appeal, petition for certiorari, or move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy

Rules, may be filed relating to such order shall not prevent such order from being a Final Order, except as provided in the Federal Rules of Appellate Procedure, the Bankruptcy Rules, or the Local Bankruptcy Rules.

1.94 ~~1.96~~ **FSB**: Washington Mutual Bank fsb.

1.95 ~~1.97~~ **General Unsecured Claim**: An Unsecured Claim against the Debtors other than a Senior Notes Claim, a Senior Subordinated Notes Claim, a JPMC Assumed Liability Claim, a WMB Vendor Claim, a WMI Vendor Claim, a CCB-1 Guarantees Claim, a CCB-2 Guarantees Claim, a PIERS Claim, a Non-Subordinated Bank Bondholder Claim, a Convenience Claim, a Subordinated Claim, or a Trustee Claim, including, without limitation, any portion of a larger claim to the extent such portion does not relate to JPMC Assumed Liabilities.

1.96 ~~1.98~~ **Global Settlement Agreement**: That certain Settlement Agreement, ~~to be~~ executed by and among the Debtors, JPMC, the FDIC Receiver, FDIC Corporate, the Settlement Note Holders, and the Creditors' Committee, together with all exhibits annexed thereto, setting forth the compromise and settlement between the parties of, among other things, (i) the WMI Action, (ii) the JPMC Action, (iii) the Turnover Action, (iv) the Rule 2004 Inquiry, (v) the Debtors' Claims, (vi) the JPMC Claims, (vii) the Bankruptcy Stay Motions and the appeals therefrom, (viii) the FDIC Claim, and (ix) the asserted transfer of the Trust Preferred Securities and the consequent issuance of the REIT Series, and the sale, free and clear of all Liens, Claims and encumbrances, of the Plan Contribution Assets, ~~substantially in the form~~ a copy of which is annexed hereto as Exhibit "H".

1.97 ~~1.99~~ **Guarantee Agreements**: The CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, and PIERS Guarantee Agreement.

1.98 ~~1.100~~ **Indentures**: The Senior Notes Indenture, the Senior Subordinated Notes Indenture, and the Junior Subordinated Notes Indenture.

1.99 ~~1.101~~ **Information Demands**: Any and all subpoenas and other demands for documents, testimony and other information issued in connection with any current or future pending or threatened legal proceedings (whether judicial, regulatory, administrative, arbitral, investigative, criminal, civil, or otherwise).

1.100 ~~1.102~~ **Intercompany Claim**: A Claim against any of the WMI Entities held by another of the WMI Entities; provided, however, that "Intercompany Claim" does not include any PIERS Claim.

1.101 ~~1.103~~ **Intercompany Notes**: Those certain intercompany notes set forth on Exhibit "V" to the Global Settlement Agreement.

1.102 ~~1.104~~ **IRC**: The Internal Revenue Code of 1986, as amended from time to time.

1.103 ~~1.105~~ **IRS**: The Internal Revenue Service, an agency of the United States Department of Treasury.

1.104 ~~1.106~~ **JPMC**: JPMorgan Chase Bank, N.A.

1.105 ~~1.107~~ **JPMC Action**: The adversary proceeding commenced in the Chapter 11 Cases by JPMC, styled JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc., et al., Adversary Pro. No. 09-50551 (MFW).

1.106 ~~1.108~~ **JPMC Allowed Unsecured Claim**: Collectively, the JPMC Claims, which shall be deemed an Allowed Claim against WMI and shall be classified with and treated in the same manner as other Allowed General Unsecured Claims pursuant to the Plan; provided, however, that, in the sole and absolute discretion of the Debtors, for purposes of the Global Settlement Agreement, each Allowed Claim constituting the JPMC Allowed Unsecured Claim may be counted as a separate claim for purposes of voting to accept or reject the Plan.

1.107 ~~1.109~~ **JPMC Assumed Liabilities**: Collectively, and except as otherwise set forth in the Global Settlement Agreement, the obligations, undertakings and liabilities expressly assumed by JPMC and the Acquisition JPMC Entities in the Global Settlement Agreement, as follows: (a) to the extent payment or performance of such liability or obligation arising from or relating to the period from and after the effective date of the Global Settlement Agreement, all obligations, undertakings and liabilities relating to such payment or performance, and (b) to the extent payment or performance of such liability or obligation was due during the period prior to the effective date of the Global Settlement Agreement, all obligations, undertakings and liabilities relating to such payment or performance to the extent of, and in the amounts of, the contractual obligations, undertakings and liabilities arising from or relating to such obligations, undertakings and liabilities; provided, however, that, for purposes of clause (b) above, or to the extent that the delay in payment or performance thereof was due to the actions or inactions, as the case may be, of the WMI Entities, “JPMC Assumed Liabilities” shall not include (i) any damages or compensation for any default, failure to perform or delay in the performance or payment of any obligations, undertakings, or liabilities in connection with such assets or agreements, whether or not provided for in any agreement, document, applicable provision of law or otherwise, (ii) any damages, losses, liabilities, claims or causes of action that are based in tort or on any statute, regulation, rule or principle of applicable or common law or promulgated by governmental or regulatory authority or agency, or that otherwise are extra contractual, (iii) any special, exemplary, consequential or punitive damages, or (iv) Taxes other than Taxes that JPMC has specifically agreed to pay pursuant to Section 2.4 of the Global Settlement Agreement.

1.108 ~~1.110~~ **JPMC Assumed Liability Claim**: A Claim arising from or relating to a JPMC Assumed Liability.

1.109 ~~1.111~~ **JPMC Claims**: The proofs of Claim filed by JPMC against the Debtors and the Debtors’ estates, as listed in Exhibit “A” to the Global Settlement Agreement and as resolved in accordance with Section 2.22 of the Global Settlement Agreement.

1.110 ~~1.112~~ **JPMC Entities**: JPMC, collectively with those of its Affiliates that have filed proofs of Claims against the Debtors or that are Acquisition JPMC Entities.

1.111 ~~1.113~~ **JPMC Policies:** All BOLI/COLI policies and the proceeds thereof set forth on Exhibit “N” to the Global Settlement Agreement, and all CCBI split dollar policies set forth on Exhibit “O” to the Global Settlement Agreement.

1.112 ~~1.114~~ **JPMC Rabbi Trust/Policy Claim:** Any Claim against the Debtors and their chapter 11 estates set forth on Schedule 2.9(a) to the Global Settlement Agreement filed by a beneficiary of the JPMC Rabbi Trusts or the JPMC Policies, to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim and to the extent payable, in whole or in part, by the Debtors or the Debtors’ chapter 11 estates.

1.113 ~~1.115~~ **JPMC Rabbi Trusts:** The “rabbi trusts” set forth on Exhibit “M” to the Global Settlement Agreement, including all assets therein.

1.114 ~~1.116~~ **Junior Subordinated Notes Indenture:** That certain Indenture, dated as of April 30, 2001, as supplemented by that certain First Supplemental Indenture, dated as of April 30, 2001, between WMI and The Bank of New York, as Trustee.

1.115 ~~1.117~~ **Lakeview Plan:** That certain Retirement Income Plan for the Salaried Employees of Lakeview Savings Bank, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

1.116 ~~1.118~~ **Lien:** Any charge against or interest in property to secure payment of a debt or performance of an obligation.

1.117 ~~1.119~~ **Liquidating Trust:** The Entity to be created on or after the Confirmation Date in accordance with the provisions of Article XXVIII hereof and the Liquidating Trust Agreement, for the benefit of holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, Allowed PIERS Claims, ~~Allowed~~ Non-Subordinated Bank Bondholder Claims, Allowed Subordinated Claims and, in certain circumstances, Preferred Equity Interests and REIT Series, in accordance with the terms and provisions of the Plan.

1.118 ~~1.120~~ **Liquidating Trust Agreement:** The Liquidating Trust Agreement, substantially in the form contained in the Plan Supplement, pursuant to which the Liquidating Trustee shall manage and administer the Liquidating Trust Assets and distribute the proceeds thereof, if any.

1.119 ~~1.121~~ **Liquidating Trust Assets:** From and after the Effective Date, all Assets of the Debtors (including, without limitation, certain Plan Contribution Assets) except (i) Cash to be distributed by the Reorganized Debtors as Disbursing Agent to holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims (to the extent applicable), Allowed Priority Non-Tax Claims, Allowed Convenience Claims, Allowed WMI Vendor Claims, Allowed Trustee Claims, and the fees and expenses owed to certain Creditors’ professionals pursuant to Section 43.18 herein, in each case as of the Effective Date, (ii) Cash necessary to reimburse the Reorganized Debtors for fees and expenses incurred in connection with initial distributions made by the Reorganized Debtors as Disbursing Agent, (iii) Creditor Cash on the Effective Date, (iv) the equity interests in WMI Investment (all the assets of which,

for the avoidance of doubt, shall be contributed to the Liquidating Trust, including any Intercompany Claims), WMMRC and WMB, and (v) Cash received on account of the Rights Offering.

1.120 ~~1.122~~ **Liquidating Trust Beneficiaries:** The holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, Allowed PIERS Claims, ~~Allowed~~ Non-Subordinated Bank Bondholder Claims, and, in certain circumstances, Allowed Subordinated Claims, Preferred Equity Interests and REIT Series, to the extent such holders have received Liquidating Trust Interests under the Plan (and any transferee thereof, and any subsequent transferee of any transferor of Liquidating Trust Interests).

1.121 ~~1.123~~ **Liquidating Trust Claims Reserve:** Any Liquidating Trust Assets allocable to, or retained on account of, Disputed Claims, even if held in commingled accounts.

1.122 ~~1.124~~ **Liquidating Trustee:** William C. Kosturos and such additional trustee(s) as may be appointed by the Trust Advisory Board in accordance with applicable law.

1.123 ~~1.125~~ **Liquidating Trust Interests:** The beneficial interests in the Liquidating Trust allocable to certain holders of Allowed Claims and Equity Interests (and any transferee thereof, and any subsequent transferee of any transferor of Liquidating Trust Interests) in accordance with the terms and conditions of Article XXVIII of the Plan, including, without limitation, the BB Liquidating Trust Interests; provided, however, that (i) the BB Liquidating Trust Interests shall only be distributed to holders of ~~Allowed~~ Non-Subordinated Bank Bondholder Claims and (ii) for purposes of distributing Liquidating Trust Interests, “Pro Rata Share” shall not include the BB Liquidating Trust Interests.

1.124 ~~1.126~~ **Local Bankruptcy Rules:** The Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, as amended from time to time.

1.125 ~~1.127~~ **Non-Subordinated Bank Bondholder Claims:** Bank Bondholder Claims, to the extent they are not Subordinated Bank Bondholder Claims.

1.126 ~~1.128~~ **Other Benefit Plan Claim:** Any Claim against the Debtors set forth on Schedule 2.9(c) to the Global Settlement Agreement filed by a beneficiary of a benefit plan listed on Exhibit “P” to the Global Settlement Agreement, to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim.

1.127 ~~1.129~~ **Other Subordinated Claim:** A Claim determined pursuant to a Final Order to be subordinated in accordance with section 510(b), to the extent that such Claim related to the purchase or sale of a debt security (rather than an equity security), or 510(c) of the Bankruptcy Code; provided, however, that “Other Subordinated Claim” shall not include Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed JPMC Assumed Liability Claims, Allowed WMB Vendor Claims, Allowed WMI Vendor Claims, Allowed Convenience Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, Allowed PIERS Claims, and Allowed Trustee Claims; and provided further that, any Claim related to the purchase or sale of an equity security that is subordinated in accordance with

section 510(b) of the Bankruptcy Code shall be classified with and receive the treatment provided for the REIT Series, Preferred Equity Interests, or Common Equity Interests, as appropriate.

1.128 ~~1.130~~ **Owl Creek Parties:** Owl Creek Asset Management, L.P., on behalf of Owl Creek I, L.P., Owl Creek II, L.P., Owl Creek Overseas Fund, Ltd., Owl Creek Socially Responsible Investment Fund, Ltd., Owl Creek Asia I, L.P., Owl Creek Asia II, L.P., Owl Creek Asia Master Fund, Ltd. and any other Affiliates who own securities issued by and/or have direct or indirect Claims against WMI.

1.129 ~~1.131~~ **Penalty Claim:** A Claim for a fine, penalty, forfeiture, or for multiple, exemplary, or punitive damages, or otherwise not predicated upon compensatory damages, that is subject to subordination in accordance with section 726(a)(4) of the Bankruptcy Code or otherwise, as determined pursuant to a Final Order.

1.130 ~~1.132~~ **Person:** An individual, partnership, corporation, limited liability company, cooperative, trust, unincorporated organization, association, joint venture, government, or agency or political subdivision thereof, or any other form of legal entity.

1.131 ~~1.133~~ **Petition Date:** September 26, 2008, the date on which each of the respective Debtors filed its voluntary petition for relief commencing the Chapter 11 Cases.

1.132 ~~1.134~~ **PIERS Claim:** An Unsecured Claim arising from or related to the PIERS Trust Agreement, the PIERS Guarantee Agreement and the Junior Subordinated Notes Indenture, on account of the PIERS Common Securities or the PIERS Preferred Securities.

1.133 ~~1.135~~ **PIERS Common Securities:** The common securities set forth on Exhibit “C” hereto.

1.134 ~~1.136~~ **PIERS Guarantee Agreement:** That certain Guarantee Agreement, dated as of April 30, 2001, as amended by that certain Amendment No. 1 to the Guarantee Agreement, dated as of May 16, 2001, between WMI, as Guarantor, and The Bank of New York, as Guarantee Trustee.

1.135 ~~1.137~~ **PIERS Preferred Securities:** The preferred securities set forth on Exhibit “C” hereto.

1.136 ~~1.138~~ **PIERS Trust Agreement:** That certain Amended and Restated Declaration of Trust, Washington Mutual Capital Trust 2001, dated as of April 30, 2001.

1.137 ~~1.139~~ **PIERS Subscription Rights:** The 4,000,000 Subscription Rights allocated to holders of PIERS Claims, to be purchased pursuant to the Rights Offering on the terms and subject to the conditions set forth in Article XXXIV of the Plan, ~~the amount of which Subscription Rights shall be disclosed by the Debtors pursuant to a written notice prior to the date of the hearing on the Disclosure Statement.~~

1.138 ~~1.140~~ **PIERS Trustee:** Wells Fargo Bank, National Association, solely in its capacity as successor in interest to The Bank of New York Mellon Trust Company, solely in

its capacity as successor in interest to The Bank of New York, or its duly appointed successor, as Trustee and as Guarantee Trustee, solely in its capacity as trustee with regard to the Junior Subordinated Notes Indenture and the PIERS Guarantee Agreement.

[1.139](#) ~~1.141~~ **Plan:** This Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code, including, without limitation, the exhibits and schedules hereto, as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

[1.140](#) ~~1.142~~ **Plan Contribution Assets:** All right, title and interest of the WMI Entities, the JPMC Entities, and the FDIC Receiver and FDIC Corporate in and to the assets set forth on Exhibit “G” to the Global Settlement Agreement, which shall be sold, pursuant to the Plan and as required by the Global Settlement Agreement, free and clear of all Liens, Claims and encumbrances.

[1.141](#) ~~1.143~~ **Plan Supplement:** A separate volume, to be filed with the clerk of the Bankruptcy Court, including, among other documents, forms of (i) the Liquidating Trust Agreement, (ii) the Reorganized Debtors By-laws, (iii) the Reorganized Debtors’ Certificates of Incorporation, and (iv) a list of executory contracts and unexpired leases to be rejected pursuant to Section 36.1 of the Plan which, in each case, shall be in form and substance satisfactory to the Settlement Note Holders and the Creditors’ Committee. The Plan Supplement (containing drafts or final versions of the foregoing documents) shall be filed with the clerk of the Bankruptcy Court as soon as practicable (but in no event later than fifteen (15) days) prior to the Ballot Date, or on such other date as the Bankruptcy Court establishes.

[1.142](#) ~~1.144~~ **Postpetition Interest Claim:** A Claim against any of the Debtors or the Debtors’ estates for interest accrued in respect of an outstanding obligation or liability that is the subject of an Allowed Claim during the period from Petition Date up to and including the date of final payment in full of such Allowed Claim, calculated at the contract rate set forth in any agreement related to such Allowed Claim or, if no such rate or contract exists, at the federal judgment rate, provided that interest shall continue to accrue only on the then outstanding and unpaid ~~portion of such obligation or liability, including any Postpetition Interest Claim thereon,~~ [that is the subject of an](#) Allowed Claim.

[1.143](#) ~~1.145~~ **Preferred Equity Interest:** An Equity Interest represented by an issued and outstanding share of preferred stock of WMI prior to or on the Petition Date, including, without limitation, those certain (i) Series K Perpetual Non-Cumulative Floating Rate Preferred Stock and (ii) Series R Non-Cumulative Perpetual Convertible Preferred Stock, but not including the REIT Series.

[1.144](#) ~~1.146~~ **Priority Non-Tax Claim:** A Claim entitled to priority in payment pursuant to section 507(a)(4), 507(a)(5), 507(a)(7), or 507(a)(9) of the Bankruptcy Code.

[1.145](#) ~~1.147~~ **Priority Tax Claim:** A Claim of a governmental unit against the Debtors of the kind entitled to priority in payment pursuant to sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.146 ~~1.148~~ **Privileges:** All attorney-client privileges, work product protections, and other immunities or protections from disclosure held by the Debtors.

1.147 ~~1.149~~ **Pro Rata Share:** With respect to Allowed Claims (i) within the same Class, the proportion that an Allowed Claim bears to the sum of all Allowed Claims within such Class, and (ii) among all Classes, the proportion that a Class of Allowed Claims bears to the sum of all Allowed Claims, without regard to subordination; provided, however, that, notwithstanding the foregoing, for purposes of distributing Creditor Cash and Liquidating Trust Interests, “Pro Rata Share” shall not include Administrative Expense Claims, Priority Tax Claims, Priority Non-Tax Claims, JPMC Assumed Liability Claims, WMB Vendor Claims, WMI Vendor Claims, Non-Subordinated Bank Bondholder Claims, Convenience Claims, Subordinated Claims and Trustee Claims. With respect to redistributions of Liquidating Trust Interests to holders of Allowed Subordinated Claims, the proportion that an Allowed Subordinated Claim bears to the sum of all Allowed Subordinated Claims. With respect to Equity Interests (i) within the same Class, the proportion that an Equity Interest bears to the sum of all Equity Interests within such Class, and (ii) among all Classes, the proportion that a Class of Equity Interests bears to the sum of all Equity Interests; provided, however, that, notwithstanding the foregoing, for purposes of redistributing Liquidating Trust Interests, “Pro Rata Share” shall not include Dime Warrants or Common Equity Interests.

1.148 ~~1.150~~ **Purchase and Assumption Agreement:** That certain Purchase and Assumption Agreement, Whole Bank, dated September 25, 2008, between the FDIC Receiver, FDIC Corporate, and JPMC, as amended, modified or supplemented prior to the date hereof.

1.149 ~~1.151~~ **Qualified Holder:** A holder of an Allowed General Unsecured Claim who is (i) a qualified institutional buyer and (ii) holds Allowed General Unsecured Claims in an aggregate amount in excess of \$4,000,000.

1.150 ~~1.152~~ **Qualified Plan Claim:** Any Claim against the Debtors and their chapter 11 estates set forth on Schedule 2.10 to the Global Settlement Agreement filed by any Person arising from or relating to the WaMu Pension Plan or the Lakeview Plan, to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim.

1.151 ~~1.153~~ **Receivership:** WMB’s receivership.

~~1.154 **Record Date:** The date or dates established by the Bankruptcy Court in the Disclosure Statement Order for the purpose of determining the holders of Allowed Claims entitled to vote on and receive distributions pursuant to the Plan.~~

1.152 ~~1.155~~ **Registry Funds:** The funds deposited into the registry of the Bankruptcy Court with respect to the American Savings Litigation.

1.153 ~~1.156~~ **REIT Series:** Those certain (i) Series I Perpetual Non-Cumulative Fixed-to-Floating Preferred Stock, (ii) Series J Perpetual Non-Cumulative Fixed Rate Preferred Stock, (iii) Series L Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred Stock, (iv) Series M Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred Stock, and (v) Series N Perpetual Non-Cumulative Fixed-to-Floating Rate Preferred Stock.

1.154 ~~1.157~~ **Related Actions:** The “Related Actions,” as defined in the Global Settlement Agreement.

1.155 ~~1.158~~ **Related Persons:** With respect to any Entity, such predecessors, successors and assigns (whether by operation of law or otherwise) and their respective present and former Affiliates and each of their respective current and former members, partners, equity holders, officers, directors, employees, managers, shareholders, partners, financial advisors, attorneys, accountants, investment bankers, consultants, agents and professionals (including, without limitation, any and all professionals retained by WMI or the Creditors’ Committee in the Chapter 11 Cases either (a) pursuant to an order of the Bankruptcy Court other than ordinary course professionals or (b) as set forth on Schedule 3.1(a) to the Global Settlement Agreement), or other representatives, nominees or investment managers, each acting in such capacity, and any Entity claiming by or through any of them (including their respective officers, directors, managers, shareholders, partners, employees, members and professionals), but excluding the “Excluded Parties,” as such term is defined in the Global Settlement Agreement.

1.156 ~~1.159~~ **Released Claims:** Collectively, to the extent provided in the Global Settlement Agreement, ~~and except as otherwise provided herein or in the Global Settlement Agreement,~~ (a) any and all WMI Released Claims, JPMC Released Claims, FDIC Released Claims, Settlement Note Released Claims and Creditors’ Committee Released Claims, in each case to the extent provided and defined in the Global Settlement Agreement and (b) any and all Claims released or deemed to be released pursuant to the Plan, in each case pursuant to clauses (a) and (b) above, to the extent any such Claims arise in, relate to or have been or could have been asserted (i) in the Chapter 11 Cases, the Receivership or the Related Actions, (ii) that otherwise arise from or relate to any act, omission, event or circumstance relating to any WMI Entity, ~~WMB,~~ or any current or former subsidiary ~~or Affiliate~~ of any WMI Entity ~~or of WMB,~~ or (iii) that otherwise arise from or relate to the Receivership, the Purchase and Assumption Agreement, the Chapter 11 Cases, the 363 Sale and Settlement as defined in the Global Settlement Agreement, the Plan and the negotiations and compromises set forth in the Global Agreement and the Plan, excluding however, in the case of clauses (a) and (b) hereof, and subject to the provisions of Section 3.8 of the Global Settlement Agreement, any and all claims that the JPMC Entities ~~may have against FDIC Receiver, the Receivership or the FDIC Corporate under, the Receivership, the FDIC Receiver and the FDIC Corporate are entitled to assert against each other or any other defenses thereto pursuant to the Purchase and Assumption Agreement, which claims and defenses shall continue to be governed by~~ the Purchase and Assumption Agreement, and any and all claims held by Entities against WMB, FDIC Corporate, and/or FDIC Receiver in the Receivership; provided, however that “Released Claims” shall not include any avoidance action or claim objection regarding an Excluded Party or the WMI Entities, WMB, each of the Debtors’ estates, the Reorganized Debtors and their respective Related Persons.

1.157 ~~1.160~~ **Released Parties:** Collectively, each of the WMI Entities, WMB, each of the Debtors’ estates, the Reorganized Debtors, the Creditors’ Committee and each of its members in their capacity as members of the Creditors’ Committee, the Trustees, the Liquidating Trust, the Liquidating Trustee, the JPMC Entities, the Settlement Note Holders, the FDIC Receiver and FDIC Corporate, and each of the foregoing parties’ respective Related Persons.

1.158 ~~1.161~~ **Reorganized Common Stock:** The 5,600,000 shares of duly authorized common stock of Reorganized WMI to be issued as of the Effective Date, ~~the number and par value of which shall be determined by the Debtors, and shall be disclosed by the Debtors pursuant to a written notice prior to the date of the hearing on the Disclosure Statement with a par value of \$25.00 per share.~~

1.159 ~~1.162~~ **Reorganized Debtors:** The Debtors from and after the Effective Date.

1.160 ~~1.163~~ **Reorganized Debtors By-Laws:** The respective by-laws of the Reorganized Debtors, which by-laws shall be in substantially the form included in the Plan Supplement and shall be in form and substance reasonably satisfactory to the ~~Backstop Purchasers~~ Settlement Note Holders and the Creditors' Committee.

1.161 ~~1.164~~ **Reorganized Debtors Certificates of Incorporation:** The respective Certificates of Incorporation of the Reorganized Debtors, which certificates shall be in substantially the form included in the Plan Supplement and shall be in form and substance reasonably satisfactory to the ~~Backstop Purchasers~~ Settlement Note Holders and the Creditors' Committee.

1.162 ~~1.165~~ **Reorganized WMI:** WMI, on and after the Effective Date, which shall include 100% of the equity interests of WMI Investment, WMMRC and WMB.

1.163 ~~1.166~~ **Rights Offering:** The offering of the Subscription Rights to holders of Allowed PIERS Claims, as described in Article XXXIV of the Plan.

1.164 ~~1.167~~ **Rights Offering Agent:** Kurtzman Carson Consultants.

1.165 ~~1.168~~ **Rights Offering Expiration Date:** ~~[TBD]~~ The date that is six (6) months from the date of the Effective Date.

1.166 ~~1.169~~ **Rights Offering Record Date:** The Voting Record Date.

1.167 ~~1.170~~ **Rights Offering Trust Account:** The trust account or similarly segregated account or accounts maintained by the Debtors in accordance with Section 34.4 of the Plan, which account shall be separate and apart from the Debtors' general operating funds and/or any other funds subject to any Lien or any cash collateral arrangement, and which account shall be for the sole benefit of Reorganized WMI.

1.168 ~~1.171~~ **Rule 2004 Inquiry:** That certain discovery authorized by the Bankruptcy Court and conducted by the Debtors, pursuant to Bankruptcy Rule 2004, in order to facilitate the Debtors' inquiry into the existence of potential additional claims and causes of action of the Debtors and the Debtors' chapter 11 estates against JPMC.

1.169 ~~1.172~~ **Rule 2019 Appeal:** The appeal filed on December 14, 2009 by the WMI Noteholders Group from the Bankruptcy Court order, dated December 2, 2009, granting JPMC's Motion to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Rule 2019 of the Federal Rules of Bankruptcy.

[1.170](#) ~~1.173~~ **Schedules**: Collectively, the schedules of assets and liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code, Bankruptcy Rule 1007, and the Official Bankruptcy Forms in the Chapter 11 Cases, as may have been amended or supplemented through the Confirmation Date pursuant to Bankruptcy Rule 1007.

[1.171](#) ~~1.174~~ **Senior Notes**: The promissory notes and debentures issued and delivered by WMI in accordance with the terms and conditions of the Senior Notes Indenture and set forth on Exhibit “D” hereto.

[1.172](#) ~~1.175~~ **Senior Notes Claim**: An Unsecured Claim arising from or relating to the Senior Notes.

[1.173](#) ~~1.176~~ **Senior Notes Indenture**: That certain Senior Debt Securities Indenture, dated as of August 10, 1999, as supplemented by that certain First Supplemental Indenture and Second Supplemental Indenture, dated as of August 1, 2002 and November 20, 2002, respectively, between WMI and The Bank of New York, as Trustee.

[1.174](#) ~~1.177~~ **Senior Notes Indenture Trustee**: The Bank of New York Mellon Trust Company, solely in its capacity as successor in interest to The Bank of New York, solely in its capacity as successor in interest to Harris Trust and Savings Bank, as Trustee, or its duly appointed successor, solely in its capacity as indenture trustee with regard to the Senior Notes Indenture.

[1.175](#) ~~1.178~~ **Senior Subordinated Notes**: The promissory notes and debentures issued and delivered by WMI in accordance with the terms and conditions of the Senior Subordinated Notes Indenture and set forth on Exhibit “E” hereto.

[1.176](#) ~~1.179~~ **Senior Subordinated Notes Claim**: An Unsecured Claim arising from or relating to the Senior Subordinated Notes.

[1.177](#) ~~1.180~~ **Senior Subordinated Notes Indenture**: That certain Subordinated Debt Securities Indenture, dated as of April 4, 2000, as supplemented by that certain First Supplemental Indenture and Second Supplemental Indenture, dated as of August 1, 2002 and March 16, 2004, respectively, between WMI and The Bank of New York, as Trustee.

[1.178](#) ~~1.181~~ **Senior Subordinated Notes Indenture Trustee**: Law Debenture Trust Company of New York, solely in its capacity as successor in interest to The Bank of New York Mellon Trust Company, solely in its capacity as successor in interest to The Bank of New York, solely in its capacity as successor in interest to Harris Trust and Savings Bank, as Trustee, or its duly appointed successor, solely in its capacity as indenture trustee with regard to the Senior Subordinated Notes Indenture.

[1.179](#) ~~1.182~~ **Settlement Note Holders**: Each of the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties, and the Aurelius Parties, and certain funds managed by such parties.

1.180 ~~1.183~~ **Stock Trading Order:** That certain Final Order Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors' Estates, dated November 18, 2008, entered by the Bankruptcy Court in the Chapter 11 Cases [Docket No. 315].

1.181 ~~1.184~~ **Subordinated Bank Bondholder Claims:** Bank Bondholder Claims, to the extent determined pursuant to a Final Order to be subordinated in accordance with section 510(b) of the Bankruptcy Code.

1.182 ~~1.185~~ **Subordinated Claim:** A Penalty Claim, an Other Subordinated Claim, or a Subordinated Bank Bondholder Claim.

1.183 ~~1.186~~ **Subordination Model:** The model developed by Alvarez & Marsal LLC for the Debtors, a copy of which is attached hereto as Exhibit "G," which implements the Debtors' interpretation of the respective subordination provisions in the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and PIERS Guarantee Agreement; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code; provided further that any disagreement with the priorities or distributions set forth in the Subordination Model shall be raised prior to, and decided at, the Confirmation Hearing, and all issues with respect to contractual subordination not resolved at the Confirmation Hearing shall be governed pursuant to the Subordination Model.

1.184 ~~1.187~~ **Subscription Expiration Date:** The Ballot Date, which shall be the final date by which holders of Subscription Rights, as of the Rights Offering Record Date, may elect to subscribe to the Rights Offering.

1.185 ~~1.188~~ **Subscription Form:** The form to be used by holders of Subscription Rights to exercise such Subscription Rights.

1.186 ~~1.189~~ **Subscription Purchase Price:** ~~The price per share of Additional Common Stock offered for purchase pursuant to the Rights Offering, which price shall be disclosed by the Debtors pursuant to a written notice prior to the date of the hearing on the Disclosure Statement~~ \$25.00 per share.

1.187 ~~1.190~~ **Subscription Right:** The right to subscribe for one share of Additional Common Stock at the Subscription Purchase Price on the terms and subject to the conditions set forth in Article XXXIV of the Plan.

1.188 ~~1.191~~ **Tax Authority:** A federal, state, local, or foreign government, or agency, instrumentality, or employee thereof, court, or other body (if any) charged with the administration of any law relating to Taxes.

1.189 ~~1.192~~ **Taxes:** All (i) federal, state, local, or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits, and estimated taxes, and (ii) interest, penalties, fines, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (i) hereof.

1.190 ~~1.193~~ **Tax Refunds:** To the extent of the Debtors' rights, title and interest therein in whatever capacity, all refunds of Taxes of the Debtors and any consolidated, combined or unitary tax group of which the Debtors are members for taxable periods ended on or before December 31, 2009, including all of the Debtors' rights, title and interest in and with respect to any "Net Tax Refunds" as defined in the Global Settlement Agreement, including, without limitation, any interest received with respect to such refunds.

1.191 ~~1.194~~ **Tax Return:** A return, declaration, form, election letter, report, statement, estimate, information return, or other information filed or required to be filed with respect to any Taxes, including any schedule or attachment thereto or amendment thereof, including any claim for a Tax Refund.

1.192 ~~1.195~~ **Texas Litigation:** That certain litigation styled American National Insurance Company v. FDIC, Case No. 09-1743 (RMC), with respect to which the United States District Court for the District of Columbia entered an order granting motions to dismiss filed by JPMC and the FDIC Receiver.

1.193 ~~1.196~~ **Transferred Intellectual Property:** The intellectual property listed on Exhibit "W" to the Global Settlement Agreement.

1.194 ~~1.197~~ **Treasury Regulations:** The United States Department of Treasury regulations promulgated under the IRC.

1.195 ~~1.198~~ **Trust Advisory Board:** The trust advisory board provided for in the Liquidating Trust Agreement, to be selected jointly by the Debtors, the Creditors' Committee, and the Settlement Note Holders, which board shall have an oversight function with respect to the Liquidating Trust, and the composition of which may change only in accordance with the Liquidating Trust Agreement.

1.196 ~~1.199~~ **Trustee Claims:** The Claims of the Senior Notes Indenture Trustee, Senior Subordinated Notes Indenture Trustee, CCB-1 Trustee, CCB-2 Trustees, PIERS Trustee, and Trust Preferred ~~Trustee~~ Trustees, pursuant to the Senior Notes Indenture, Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and PIERS Guarantee Agreement, and Trust Preferred Securities documents, respectively, for reasonable fees and expenses, including, without limitation, reasonable attorneys' fees and expenses.

1.197 **Trustee Distribution Expenses:** The reasonable, direct, out-of-pocket costs and expenses incurred by the Trustees in connection with making distributions pursuant to the Plan.

1.198 ~~1.200~~ **Trustees:** The Senior Notes Indenture Trustee, Senior Subordinated Notes Indenture Trustee, CCB-1 Trustee, CCB-2 Trustees, PIERS Trustee, and Trust Preferred ~~Trustee~~Trustees.

1.199 ~~1.201~~ **Trust Preferred Securities:** Collectively, those certain (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 I 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, and (vi) Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities.

1.200 ~~1.202~~ **Trust Preferred ~~Trustee~~Trustees:** Wilmington Trust Company, solely in its capacity as Property Trustee~~and~~, Delaware Trustee, Transfer Agent and Registrar for Washington Mutual Preferred Funding Trust I, Washington Mutual Preferred Funding Trust II, Washington Mutual Preferred Funding Trust III and Washington Mutual Preferred Funding Trust IV, ~~and~~Wilmington Trust (Cayman) Ltd., solely in its capacity as Preferred Securities Paying Agent, Securities Registrar and Transfer Agent for Washington Mutual Preferred Funding (Cayman) I ~~Ltd., with regard to the Trust Preferred Securities, Ltd. and Maples Finance Limited as Original Trustee for Washington Mutual Preferred Funding (Cayman) I Ltd.~~

1.201 ~~1.203~~ **Turnover Action:** The adversary proceeding commenced in the Chapter 11 Cases by the Debtors, styled Washington Mutual, Inc., et al. v. JPMorgan Chase Bank, N.A., Adversary Pro. No. 09-50934 (MFW).

1.202 ~~1.204~~ **Unidentified Intellectual Property:** The trademarks, patents, domain names and copyrighted materials (whether or not the subject of registration) that were used by WMB by license or otherwise, or were available for WMB's use, prior to the Petition Date, but are not listed on Exhibits "W" or "Y" to the Global Settlement Agreement.

1.203 ~~1.205~~ **Unsecured Claim:** A Claim against the Debtors, other than an Administrative Expense Claim, a Priority Tax Claim, a Priority Non-Tax Claim, a Convenience Claim, a Trustee Claim or a Subordinated Claim.

1.204 ~~1.206~~ **Vendor Escrow:** The escrow administered by WMI, or its successor in interest, containing Fifty Million Dollars (\$50,000,000.00) paid by JPMC pursuant to the terms of the Global Settlement Agreement, which funds shall be used in connection with the satisfaction of Allowed WMI Vendor Claims and, upon payment of all such Claims and all fees and expenses associated with such escrow, which remaining funds shall be distributed equally to WMI and JPMC.

1.205 ~~1.207~~ **Visa Claims:** Any Claim against the Debtors set forth on Schedule 2.15(a) to the Global Settlement Agreement filed in connection with the Visa Shares or any litigation or agreement relating thereto, and the Claims asserted by VISA U.S.A. Inc. in its proof of claim filed against the Debtors and the Debtors' chapter 11 cases, Claim No. 2483, pertaining

to the VISA Strategic Agreement to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim.

1.206 ~~1.208~~ **Visa Shares:** The 3.147 million Class B shares of Visa Inc. held by WMI and set forth on the Schedules and/or WMI's books and records as of the Petition Date.

1.207 ~~1.209~~ **Voting Nominee:** The bank, broker, or other voting nominee of each holder of Subscription Rights.

1.208 **Voting Record Date:** The date established by the Bankruptcy Court in the Disclosure Statement Order for the purpose of determining the holders of Allowed Claims and Equity Interests entitled to vote on the Plan.

1.209 ~~1.210~~ **WaMu Pension Plan:** That certain WaMu Pension Plan, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

1.210 ~~1.211~~ **WMB:** Washington Mutual Bank.

1.211 ~~1.212~~ **WMB Intellectual Property:** The intellectual property listed on Exhibit "X" to the Global Settlement Agreement.

~~1.213~~ ~~**WMB Recipient:** The FDIC Receiver, for and on behalf of the Receivership.~~

1.212 ~~1.214~~ **WMB Vendor Claim:** Any Claim against the Debtors and their chapter 11 estates filed by a vendor with respect to services, software licenses or goods provided to WMB and its subsidiaries (whether prior or subsequent to JPMC's acquisition of the assets of WMB) pursuant to a contract or written agreement between WMB and/or its subsidiaries and such vendor.

1.213 ~~1.215~~ **WMI:** Washington Mutual, Inc., a Debtor in these Chapter 11 Cases.

1.214 ~~1.216~~ **WMI Accounts:** The accounts as set forth on Exhibit "E" to the Global Settlement Agreement that are not Disputed Accounts.

1.215 ~~1.217~~ **WMI Action:** The litigation commenced by the Debtors against the FDIC, styled Washington Mutual, Inc. and WMI Investment Corp. v. FDIC, Case No. 09-00533, in the United States District Court for the District of Columbia.

1.216 ~~1.218~~ **WMI Entities:** WMI, WMI Investment, Ahmanson Obligation Company, H.S. Loan Corporation, Marion Insurance Company, WAMU 1031 Exchange, WM Mortgage Reinsurance Company, Inc., WM Citation Holdings, LLC, Washington Mutual Finance Group, LLC, Soundbay Leasing LLC, WMGW Delaware Holdings LLC, WMI Rainier LLC and Washington Mutual Capital Trust 2001.

1.217 ~~1.219~~ **WMI Intellectual Property:** The intellectual property listed on Exhibit “Y” to the Global Settlement Agreement.

1.218 ~~1.220~~ **WMI Investment:** WMI Investment Corp., a Debtor in these Chapter 11 Cases and, as applicable, WMI Investment Corp. as a reorganized entity from and after the Effective Date.

1.219 ~~1.221~~ **WMI Medical Plan:** Washington Mutual, Inc. Flexible Benefits Plan.

1.220 ~~1.222~~ **WMI Medical Plan Claim:** Any Claim against the Debtors and their chapter 11 estates filed by a beneficiary of the WMI Medical Plan, to the extent such Claim constitutes an Allowed JPMC Assumed Liability Claim.

1.221 ~~1.223~~ **WMI Policies:** The BOLI/COLI policies and the proceeds thereof set forth on Exhibit “R” to the Global Settlement Agreement.

1.222 ~~1.224~~ **WMI Rabbi Trust:** The “rabbi trust” listed on Exhibit “Q” to the Global Settlement Agreement, including all assets therein.

1.223 ~~1.225~~ **WMI Vendor Claim:** Any Claim against WMI asserted by a vendor with respect to services, software licenses or goods asserted to have been provided by the counterparty to or for the benefit of WMB or any of its subsidiaries or minority investments operations prior to the Petition Date pursuant to an agreement between WMI and such vendor.

1.224 ~~1.226~~ **WMI/WMB Intercompany Claim:** Any Claim against WMI, WMB, or one of WMB’s subsidiaries held by WMI, WMB, or one of WMB’s subsidiaries.

1.225 ~~1.227~~ **WMMRC:** WM Mortgage Reinsurance Company.

1.226 ~~1.228~~ **Other Definitions:** Unless the context otherwise requires, any capitalized term used and not defined herein or elsewhere in the Plan that is defined in the Bankruptcy Code shall have the meaning assigned to that term in the Bankruptcy Code. Unless otherwise specified, (a) all section, schedule, or exhibit references in the Plan are to the respective section in, article of, or schedule or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time and (b) all references to dollars are to the lawful currency of the United States of America. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. In computing any period of time prescribed or allowed by the Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE II

COMPROMISE AND SETTLEMENT OF DISPUTES

2.1 **Compromise, Settlement and Sale:** Pursuant to sections 363, 365, 1123(a)(5) and 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019, the Plan incorporates, and is expressly conditioned upon the approval and effectiveness of, the sale, free and clear of all Liens, Claims and encumbrances, of the Debtors' rights to and interests in certain of the Plan Contribution Assets and the compromise and settlement by and among the Debtors, JPMC, the FDIC Receiver, FDIC Corporate and the Settlement Note Holders, all as set forth in the Global Settlement Agreement. The Global Settlement Agreement is incorporated into this Plan by reference as if fully set forth herein and, subject to the occurrence of the Effective Date and execution of the Global Settlement Agreement, represents a full, final and complete compromise, settlement, and release of the issues in dispute among the Debtors, JPMC, the FDIC Receiver, FDIC Corporate and the Settlement Note Holders, including, among other issues, resolution of all Related Actions. Without limiting the foregoing, the following describes certain of the principal provisions of the Global Settlement Agreement, but nothing in this Plan shall be construed to, or is intended to, limit or diminish the benefits to be received by, or rights of, any of the parties pursuant to the Global Settlement Agreement; provided, however, that, in the event of any inconsistency between the Global Settlement Agreement, the Plan or the Confirmation Order, the documents shall control in the following order of priority: (i) Confirmation Order, (ii) Global Settlement Agreement and (iii) Plan.

(a) **WMI Accounts and Disputed Accounts.** In partial consideration for the assets sold pursuant to the Global Settlement Agreement and the releases and other benefits provided to the Released Parties pursuant to this Plan, (1) the JPMC Entities, the FDIC Receiver, and FDIC Corporate shall (i) waive any and all claims, rights and liabilities with respect to the WMI Accounts and the Disputed Accounts and (ii) take such actions, if any, as may be reasonably requested by WMI, including, without limitation, (A) filing with the Bankruptcy Court such notices or pleadings setting forth the waiver of any and all interest in the WMI Accounts and the Disputed Accounts and (B) seeking dismissals referred to in Section 2.6(b) of the Global Settlement Agreement, (2) the FDIC Receiver and FDIC Corporate shall waive and release any and all rights to seize or set off the WMI Accounts and the Disputed Accounts and any funds contained therein in accordance with Section 9.5 of the Purchase and Assumption Agreement, including, without limitation, by withdrawing, with prejudice, the FDIC Stay Relief Motion, and (3) JPMC shall pay to WMI or such other of the WMI Entities as WMI shall designate, the amounts contained in the Disputed Accounts and the WMI Accounts as of the effective date of the Global Settlement Agreement, net of ~~such amount representing~~ eighty percent (80%) of ~~tax~~the amounts received by WMI during the period from the Petition Date up to and including the date hereof attributable to refunds of Taxes deposited into the Disputed Accounts and the WMI Accounts (including the interest component of any such refunds and interest, if any, earned thereon), free and clear of all ~~liens~~Liens, Claims, interests and encumbrances of any Person. In addition, JPMC, as successor to WMB, shall (i) release any security interest in or ~~lien~~Lien upon the Admin Account and the monies contained therein and (ii) release and otherwise transfer the Admin Account and the funds contained therein in accordance with the direction of WMI.

(b) Tax Matters. In partial consideration for the releases and other benefits provided under the Plan, WMI, the FDIC Receiver, and JPMC shall jointly direct all Tax Authorities to pay refunds of “Pre-2009 Group Taxes” (as defined in the Global Settlement Agreement) to an escrow account, the custodian of which will distribute such Tax Refunds in accordance with the terms and procedures set forth in the Global Settlement Agreement. If any such Pre-2009 Group Tax refund is paid directly to any party, such party will deposit such refund in the Refund Escrow Account (as defined in the Global Settlement Agreement).

(c) Transfer of Assets to JPMC. In further consideration for the satisfaction, settlement, release, and discharge of, and in exchange for, the JPMC Action and the JPMC Claims, and the payment by JPMC of the amounts specified in the Global Settlement Agreement, the WMI Entities, the FDIC Receiver and the Receivership shall sell, transfer, and assign to the JPMC Entities, and the JPMC Entities shall acquire, pursuant to the Plan and sections 363 and 365 of the Bankruptcy Code, any and all right, title and interest any of the WMI Entities, the FDIC Receiver and the Receivership may have in (i) the Trust Preferred Securities, (ii) the WMI Medical Plan, any outstanding checks made out to WMI, including pharmacy rebates in connection with contracts associated with or attributable to the WMI Medical Plan and an amount equal to the pharmacy rebates received by the WMI Entities from and after the Petition Date, currently estimated to be approximately Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00), (iii) the JPMC Rabbi Trusts and the JPMC Policies, (iv) the WaMu Pension Plan and the Lakeview Plan and all of the sponsor’s interest in the assets contained in any trusts or otherwise associated with such plans (subject to the correction and satisfaction of certain potential defects and remediation obligations, as set forth in the Global Settlement Agreement), (v) the Anchor Litigation, (vi) the Visa Shares and the VISA Strategic Agreement (as defined in the Global Settlement Agreement), (vii) the Transferred Intellectual Property, the WMB Intellectual Property and the Unidentified Intellectual Property, (viii) JPMC Wind Investment Portfolio LLC and (ix) the Bonds, in each case under clauses (i) through (ix) inclusively, free and clear of all ~~liens, claims~~ Liens, Claims, interests and encumbrances of any Entity, except for any claim that is an Allowed JPMC Assumed Liability Claim.

(d) JPMC Claims. The JPMC Allowed Unsecured Claim shall be deemed an Allowed Claim against WMI. The JPMC Allowed Unsecured Claim shall be classified with and treated in the same manner as other Allowed General Unsecured Claims under the Plan, including, without limitation, with respect to distributions pursuant to the Plan; provided, however, that, in partial consideration for the releases and other benefits provided to JPMC pursuant to the Plan, JPMC shall waive any distribution JPMC otherwise would be entitled to receive on account of the JPMC Allowed Unsecured Claim.

(e) Transfer of Assets to the Debtors. In further consideration for the satisfaction, settlement, release and discharge of, and in exchange for, the Turnover Action and the Rule 2004 Inquiry, and as further consideration for the releases and other benefits provided to JPMC pursuant to this Plan, and as set forth in the Global Settlement Agreement, the JPMC Entities shall sell, transfer, and assign to the WMI Entities, and the WMI Entities shall acquire, pursuant to the Plan and sections 363 and 365 of the Bankruptcy Code, any and all right, title and interest any of the JPMC Entities may have in (i) the WMI Rabbi Trust and the WMI Policies, (ii) the stock of H.S. Loan Corporation, (iii) the Registry Funds and the American Savings

Escrow Funds, and (iv) the WMI Intellectual Property, in each case, free and clear of all ~~liens~~Liens, ~~claims~~Claims, interests and encumbrances of any Entity.

(f) Additional Consideration to the Debtors: As additional consideration for the asset sale and compromise and settlement embodied in the Global Settlement Agreement, and as further consideration for the releases and other benefits provided to JPMC pursuant to this Plan:

(1) JPMC shall pay WMI an additional Twenty-Five Million Dollars (\$25,000,000.00) for the Visa Shares, WMI shall retain all dividends with respect thereto received prior to the effective date of the Global Settlement Agreement, and JPMC shall assume certain related litigation liabilities (as set forth in the Global Settlement Agreement);

(2) JPMC shall pay all obligations under the Intercompany Notes in the amounts set forth in Exhibit "V" to the Global Settlement Agreement, and shall forgive all obligations of the WMI Entities to the extent set forth in the Global Settlement Agreement, which Intercompany Notes shall be cancelled upon payment thereof;

(3) As set forth in more detail in the Global Settlement Agreement, JPMC shall cause its affiliates to continue providing loan servicing with respect to certain loans and the remittal of checks and payments received in connection therewith;

(4) As set forth in the Global Settlement Agreement, JPMC shall assume the BKK Liabilities, and shall defend the Debtors against and reimburse the Debtors for any distribution on account of the BKK Proofs of Claims not otherwise covered by the BKK-Related Policies and/or reimbursed by the BKK-Related Carriers, as defined in the Global Settlement Agreement;

(5) JPMC shall assume the JPMC Assumed Liabilities in connection with the assets it receives pursuant to the Global Settlement Agreement and, on or after the Effective Date, JPMC shall pay or fund the payment of Allowed JPMC Assumed Liability Claims; and

(6) JPMC shall pay or fund the payment of Allowed WMB Vendor Claims and shall pay the sum of Fifty Million Dollars (\$50,000,000.00) to be placed by the Debtors in an escrow and used for satisfaction of Allowed WMI Vendor Claims.

(g) Additional Consideration to the FDIC. In further consideration for the satisfaction, settlement, release and discharge of, and in exchange for, the FDIC Claim:

(1) The ~~WMB-Recipient~~FDIC Receiver shall receive distributions in accordance with Section 2.4 of the Global Settlement Agreement; and

(2) The FDIC Receiver, FDIC Corporate and the Receivership shall receive the releases set forth in the Global Settlement Agreement and Article XLIII herein.

(h) Settlement with REIT Series Holders. In consideration for the releases by the REIT Series holders of any and all claims arising out of, related to, or resulting from, among other things, the issuance, sale or assignment of the Trust Preferred Securities, the commitments to or exchange event ordered by the Office of Thrift Supervision or any capital or other commitment, disclosure or non-disclosure with respect thereto, the assignment of the Trust Preferred Securities subsequent thereto, and any and all claims in any way related to the Trust Preferred Securities or the REIT Series, on the Effective Date, JPMC shall pay to the Disbursing Agent, for distribution to the REIT Series holders (i) Fifty Million Dollars (\$50,000,000.00) or (ii) at the election of JPMC, registered and otherwise tradable shares of common stock of JPMC having a value as of the Effective Date in the amount of Fifty Million Dollars (\$50,000,000.00).

(i) Releases. The releases provided in Article XLIII herein are integral to obtaining the value provided under the Global Settlement Agreement and the releases under this Plan constitute an essential component of the compromises reached and are not severable from the other provisions of this Plan.

ARTICLE III

PROVISIONS FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

3.1 Administrative Expense Claims: On the later to occur of (i) the Effective Date and (ii) the date on which an Administrative Expense Claim shall become an Allowed Claim, the Disbursing Agent shall (a) pay to each holder of an Allowed Administrative Expense Claim, in Cash, the full amount of such Allowed Administrative Expense Claim or (b) satisfy and discharge such Allowed Administrative Expense Claim in accordance with such other terms no more favorable to the claimant than as may be agreed upon by and between the holder thereof and the Disbursing Agent; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors shall be paid in full and performed by the Disbursing Agent in the ordinary course of business in accordance with the terms and subject to the conditions of any agreement governing, instrument evidencing, or other document relating to such transactions; and provided, further, that, if any such ordinary course expense is not billed, or a request for payment is not made, within ninety (90) days after the Effective Date, such ordinary course expense shall be barred and the holder thereof shall not be entitled to a distribution pursuant to the Plan.

3.2 Professional Compensation and Reimbursement Claims: All Entities awarded compensation or reimbursement of expenses by the Bankruptcy Court in accordance with section 328, 330, or 331 of the Bankruptcy Code or entitled to priorities established pursuant to section 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code, shall be paid in full, in Cash, in the amounts allowed by the Bankruptcy Court (i) on or as soon as reasonably practicable following the later to occur of (a) the Effective Date and (b) the date upon which the Bankruptcy Court order allowing such Claim becomes a Final Order or (ii) upon such

other terms no more favorable to the claimant than as may be mutually agreed upon between such claimant and the Disbursing Agent; provided, however, that, except as provided herein, each professional must file its application for final allowance of compensation for professional services rendered and reimbursement of expenses on or prior to the Administrative Claim Bar Date. The Disbursing Agent is authorized to pay compensation for professional services rendered and reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

3.3 **Priority Tax Claims:** Each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed Priority Tax Claim, distributions in an amount equal to the full amount of such Allowed Priority Tax Claim. At the option and discretion of the Debtors, which option shall be exercised, in writing, on or prior to the commencement of the Confirmation Hearing, such payment shall be made (i) in full, in Cash, on or as soon as reasonably practicable following the later to occur of (a) the Effective Date and (b) the date on which such claim becomes an Allowed Claim, (ii) in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, in full, in Cash, in equal quarterly installments commencing on the first (1st) Business Day following the Effective Date and continuing over a period not exceeding five (5) years from and after the Petition Date, together with interest accrued thereon at the applicable non-bankruptcy rate, subject to the sole option of the Disbursing Agent to prepay the entire amount of the Allowed Priority Tax Claim, or (iii) by mutual agreement of the holder of such Allowed Priority Tax Claim and the Disbursing Agent.

3.4 **Statutory Fees:** All fees payable under section 1930 of chapter 123 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or as soon as reasonably practicable following the Effective Date.

ARTICLE IV

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

Claims and Equity Interests are classified as follows:

4.1	Class 1	Priority Non-Tax Claims
4.2	Class 2	Senior Notes Claims
4.3	Class 3	Senior Subordinated Notes Claims
4.4	Class 4	WMI Medical Plan Claims
4.5	Class 5	JPMC Rabbi Trust/Policy Claims
4.6	Class 6	Other Benefit Plan Claims
4.7	Class 7	Qualified Plan Claims
4.8	Class 8	WMB Vendor Claims
4.9	Class 9	Visa Claims
4.10	Class 10	Bond Claims
4.11	Class 11	WMI Vendor Claims
4.12	Class 12	General Unsecured Claims
4.13	Class 13	Convenience Claims
4.14	Class 14	CCB-1 Guarantees Claims
4.15	Class 15	CCB-2 Guarantees Claims

4.16	Class 16	PIERS Claims
4.17	Class 17	Non-Subordinated Bank Bondholder Claims
4.18	Class 18	Subordinated Claims
4.19	Class 19	REIT Series
4.20	Class 20	Preferred Equity Interests
4.21	Class 21	Dime Warrants
4.22	Class 22	Common Equity Interests

<u>4.1</u>	<u>Class 1</u>	<u>Priority Non-Tax Claims</u>
<u>4.2</u>	<u>Class 2</u>	<u>Senior Notes Claims</u>
<u>4.3</u>	<u>Class 3</u>	<u>Senior Subordinated Notes Claims</u>
<u>4.4</u>	<u>Class 4</u>	<u>WMI Medical Plan Claims</u>
<u>4.5</u>	<u>Class 5</u>	<u>JPMC Rabbi Trust/Policy Claims</u>
<u>4.6</u>	<u>Class 6</u>	<u>Other Benefit Plan Claims</u>
<u>4.7</u>	<u>Class 7</u>	<u>Qualified Plan Claims</u>
<u>4.8</u>	<u>Class 8</u>	<u>WMB Vendor Claims</u>
<u>4.9</u>	<u>Class 9</u>	<u>Visa Claims</u>
<u>4.10</u>	<u>Class 10</u>	<u>Bond Claims</u>
<u>4.11</u>	<u>Class 11</u>	<u>WMI Vendor Claims</u>
<u>4.12</u>	<u>Class 12</u>	<u>General Unsecured Claims</u>
<u>4.13</u>	<u>Class 13</u>	<u>Convenience Claims</u>
<u>4.14</u>	<u>Class 14</u>	<u>CCB-1 Guarantees Claims</u>
<u>4.15</u>	<u>Class 15</u>	<u>CCB-2 Guarantees Claims</u>
<u>4.16</u>	<u>Class 16</u>	<u>PIERS Claims</u>
<u>4.17</u>	<u>Class 17</u>	<u>Non-Subordinated Bank Bondholder Claims</u>
<u>4.18</u>	<u>Class 18</u>	<u>Subordinated Claims</u>
<u>4.19</u>	<u>Class 19</u>	<u>REIT Series</u>
<u>4.20</u>	<u>Class 20</u>	<u>Preferred Equity Interests</u>
<u>4.21</u>	<u>Class 21</u>	<u>Dime Warrants</u>
<u>4.22</u>	<u>Class 22</u>	<u>Common Equity Interests</u>

ARTICLE V

PROVISION FOR TREATMENT OF PRIORITY NON-TAX CLAIMS (CLASS 1)

5.1 **Payment of Allowed Priority Non-Tax Claims:** Unless otherwise mutually agreed upon by the holder of an Allowed Priority Non-Tax Claim and the Debtors, on the later of the Effective Date and the date such Allowed Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is practicable, the Disbursing Agent shall pay to each holder of an Allowed Priority Non-Tax Claim, in Cash, the full amount of such Allowed Priority Non-Tax Claim, in full satisfaction, settlement, release, and discharge of, and in exchange for such Allowed Priority Non-Tax Claim.

ARTICLE VI

PROVISION FOR TREATMENT OF SENIOR NOTES CLAIMS (CLASS 2)

6.1 **Treatment of Senior Notes Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 6.2 below, each holder of an Allowed Senior Notes Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed Senior Notes Claim and Postpetition Interest Claim (which, for the avoidance of doubt, shall ~~not~~ have been finally determined to not be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein), subject to the ~~lien~~Lien or priority rights of the Senior Notes Indenture Trustee, such holder's Pro Rata Share of (i) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed Senior Notes Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim. In addition, in accordance with the Subordination Model attached hereto as Exhibit "G", each holder of an Allowed Senior Notes Claim shall be entitled to receive on account of such Allowed Senior Notes Claim and, irrespective of whether all Allowed Claims are paid in full, such holder's Postpetition Interest Claim, redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests. The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code, except with respect to redistribution of Reorganized Common Stock to holders of Allowed Senior Notes Claims, which will have been specifically waived by such holders, as set forth below.

6.2 **Right of Election:** On the Ballot, each holder of an Allowed Senior Notes Claim shall be provided the right to elect, in its sole and absolute discretion, to receive Reorganized Common Stock (subject to adjustment based upon the amount of Reorganized Common Stock elected by holders of Allowed General Unsecured Claims and subject to dilution on account of the Rights Offering), in lieu of some or all of the Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan, in each instance, subject to the ~~lien~~Lien or priority rights of the Senior Notes Indenture Trustee; provided, however, that (a) each holder of an Allowed Senior Notes Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder's Pro Rata Share of all Allowed Senior Notes Claims and Allowed General Unsecured Claims; (b) if all Allowed Senior Notes Claims and Postpetition Interest Claims on account of Allowed Senior Notes Claims are paid in full, in Cash on the Effective Date, then

holders of Allowed Senior Notes Claims who elected to receive Reorganized Common Stock shall not receive such stock and their election rights shall automatically be deemed cancelled; and (c) to the extent that all Allowed Senior Notes Claims and/or Postpetition Interest Claims on account of Allowed Senior Notes Claims are not paid in full, in Cash on the Effective Date, then holders of Allowed Senior Notes Claims who elected to receive Reorganized Common Stock shall only be entitled to receive Reorganized Common Stock with an aggregate value equal to any unpaid portion of their Allowed Senior Notes Claims and Postpetition Interest Claims in accordance with the Subordination Model attached hereto as Exhibit “G”; provided, however, that each holder of an Allowed Senior Notes Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder’s Pro Rata Share of (i) all Allowed Senior Notes Claims and Allowed General Unsecured Claims plus (ii) if such stock is being elected on account of Postpetition Interest Claims, all Postpetition Interest Claims in respect of Allowed Senior Notes Claims and Allowed General Unsecured Claims. To the extent a holder of an Allowed Senior Notes Claim elects to receive Reorganized Common Stock, such holder’s distribution of Creditor Cash or Cash to be received on account of Liquidating Trust Interests, as the case may be, shall be reduced on a dollar-for-dollar basis by the value of the Reorganized Common Stock so elected (valued as of the ~~Confirmation~~Effective Date), so that the ultimate recovery percentage for each holder of an Allowed Senior Notes Claim is the same, regardless of whether a holder elects to receive Reorganized Common Stock. Failure by any holder of an Allowed Senior Notes Claim to elect to exercise rights provided in this Section 6.2 on or before the Ballot Date shall constitute a deemed waiver and relinquishment of such rights by such holder as well as a deemed waiver and relinquishment by such holder to receive redistributions of Reorganized Common Stock (but not a waiver or relinquishment of rights with respect to Cash, Creditor Cash or Liquidating Trust Interests) pursuant to the enforcement of applicable contractual subordination provisions in accordance with the Subordination Model attached hereto as Exhibit “G”. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

6.3 **Limitation on Recovery:** Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed Senior Notes Claim in accordance with Section 6.1 of the Plan, in the event that the sum of (i) distributions of Reorganized Common Stock (valued as of the ~~Confirmation~~Effective Date), Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with Sections 6.1 and 6.2 and (ii) redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with the enforcement, pursuant to section 510(a) of the Bankruptcy Code, of contractual subordination provisions, as set forth in the Subordination Model attached hereto as Exhibit “G”, are equal to or in excess of one hundred percent (100%) of such holder’s Allowed Senior Notes Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit “G”.

ARTICLE VII

PROVISION FOR TREATMENT OF SENIOR SUBORDINATED NOTES CLAIMS (CLASS 3)

7.1 **Treatment of Senior Subordinated Notes Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 7.2 below, each holder of an Allowed Senior Subordinated Notes Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed Senior Subordinated Notes Claim and Postpetition Interest Claim (which, for the avoidance of doubt, shall ~~not~~ have been finally determined to not be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein), subject to the ~~lien~~Lien or priority rights of the Senior Subordinated Notes Indenture Trustee, such holder's Pro Rata Share of (i) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed Senior Subordinated Notes Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim; provided, however, that any distribution to holders of Allowed Senior Subordinated Notes Claims of (a) Creditor Cash and (b) Cash received on account of Liquidating Trust Interests, but not Reorganized Common Stock (to the extent elected pursuant to Section 7.2), shall be redistributed, subject to Bankruptcy Rule 3021 and subject to any ~~lien~~Lien or priority rights of the Senior Subordinated Notes Indenture Trustee, in accordance with the priorities set forth in the Subordination Model attached hereto as Exhibit "G". In addition, in accordance with the Subordination Model attached hereto as Exhibit "G", each holder of an Allowed Senior Subordinated Notes Claim shall be entitled to receive on account of such Allowed Senior Subordinated Notes Claim and, irrespective of whether all Allowed Claims are paid in full, such holder's Postpetition Interest Claim, redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests. The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code.

7.2 **Right of Election:** On the Ballot, each holder of an Allowed Senior Subordinated Notes Claim shall be provided the right to elect, in its sole and absolute discretion, to receive Reorganized Common Stock (to the extent remaining after distribution to holders of Allowed Senior Notes Claims and Allowed General Unsecured Claims and subject to dilution on account of the Rights Offering), in lieu of some or all of the Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan, in each instance, subject to the ~~lien~~Lien or priority rights of the Senior

Subordinated Notes Indenture Trustee; provided, however, that each holder of an Allowed Senior Subordinated Notes Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder's Pro Rata Share of all Allowed Senior Subordinated Notes Claims. To the extent a holder of an Allowed Senior Subordinated Notes Claim elects to receive Reorganized Common Stock, such holder's distribution of Creditor Cash or Cash to be received on account of Liquidating Trust Interests, as the case may be, shall be reduced on a dollar-for-dollar basis by the value of the Reorganized Common Stock so elected (valued as of the ConfirmationEffective Date), so that the ultimate recovery percentage for each holder of an Allowed Senior Subordinated Notes Claim is the same, regardless of whether a holder elects to receive Reorganized Common Stock. Failure by any holder of an Allowed Senior Subordinated Notes Claim to elect to exercise rights provided in this Section 7.2 on or before the Ballot Date shall constitute a deemed waiver and relinquishment of such rights by such holder. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

7.3 **Limitation on Recovery:** Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed Senior Subordinated Notes Claim in accordance with Section 7.1 of the Plan, in the event that the sum of (i) distributions of Reorganized Common Stock (valued as of the ConfirmationEffective Date), Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with Sections 7.1 and 7.2, (ii) redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with the enforcement, pursuant to section 510(a) of the Bankruptcy Code, of contractual subordination provisions, as set forth in the Subordination Model attached hereto as Exhibit "G", and (iii) redistributions of Cash received on account of Liquidating Trust Interests in accordance with the provisions of Section 6.3 herein are equal to or in excess of one hundred percent (100%) of such holder's Allowed Senior Subordinated Notes Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

ARTICLE VIII

PROVISION FOR TREATMENT OF WMI MEDICAL PLAN CLAIMS (CLASS 4)

8.1 **Treatment of WMI Medical Plan Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all WMI Medical Plan Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE IX

PROVISION FOR TREATMENT OF JPMC RABBI TRUST/POLICY CLAIMS (CLASS 5)

9.1 **Treatment of JPMC Rabbi Trust/Policy Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all JPMC Rabbi Trust/Policy Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE X

PROVISION FOR TREATMENT OF OTHER BENEFIT PLAN CLAIMS (CLASS 6)

10.1 **Treatment of Other Benefit Plan Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all Other Benefit Plan Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE XI

PROVISION FOR TREATMENT OF QUALIFIED PLAN CLAIMS (CLASS 7)

11.1 **Treatment of Qualified Plan Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all Qualified Plan Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE XII

PROVISION FOR TREATMENT OF WMB VENDOR CLAIMS (CLASS 8)

12.1 **Treatment of WMB Vendor Claims:** Commencing on the Effective Date, JPMC shall pay or otherwise satisfy all Allowed WMB Vendor Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE XIII

PROVISION FOR TREATMENT OF VISA CLAIMS (CLASS 9)

13.1 **Treatment of Visa Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all Visa Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE XIV

PROVISION FOR TREATMENT OF BOND CLAIMS (CLASS 10)

14.1 **Treatment of Bond Claims:** Commencing on the Effective Date, JPMC shall pay or fund the payment of all Bond Claims, in full satisfaction, release and exchange of such Claims.

ARTICLE XV

PROVISION FOR TREATMENT OF WMI VENDOR CLAIMS (CLASS 11)

15.1 **Treatment of WMI Vendor Claims:** Commencing on the Effective Date, each holder of an Allowed WMI Vendor Claim shall receive, in full satisfaction, release and exchange of such holder's WMI Vendor Claim, payment in Cash from the Vendor Escrow.

ARTICLE XVI

PROVISION FOR TREATMENT OF GENERAL UNSECURED CLAIMS (CLASS 12)

16.1 **Treatment of General Unsecured Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 16.2 below, each holder of an Allowed General Unsecured Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed General Unsecured Claim and Postpetition Interest Claim ~~(which, for the avoidance of doubt, shall not have been finally determined to be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein)~~, such holder's Pro Rata Share of (i) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed General Unsecured Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim; provided, however, that, pursuant to the terms of the Global Settlement Agreement, and as partial consideration for the releases set forth in Article XLIII herein, upon the Effective Date, JPMC shall be deemed to have waived its right to receive any distribution on account of the JPMC Allowed Unsecured Claim, including, without limitation, the right to elect to receive Reorganized Common Stock, pursuant to Section 16.2 below. The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code.

16.2 **Right of Election:** On the Ballot, each holder of Allowed General Unsecured Claims who is a Qualified Holder shall be provided the right to elect, in its sole and absolute discretion, to receive Reorganized Common Stock (subject to adjustment based upon the amount of Reorganized Common Stock elected by holders of Allowed Senior Notes Claims and subject to dilution on account of the Rights Offering), in lieu of some or all of the Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan; provided, however, that each holder of an Allowed General Unsecured Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder's Pro Rata Share of all Allowed Senior Notes Claims and Allowed General Unsecured Claims. To the extent a Qualified Holder elects to receive Reorganized Common Stock, such holder's distribution of Creditor Cash or Cash to be received on account of Liquidating Trust Interests, as the case may be, shall be reduced on a dollar-for-dollar basis by the value of the Reorganized Common Stock so elected (valued as of the ConfirmationEffective Date), so that the ultimate recovery percentage for each holder of an Allowed General Unsecured Claim is the same, regardless of whether a holder elects to receive Reorganized Common Stock. Failure by any Qualified Holder to elect to exercise rights provided in this Section 16.2 on or before the Ballot Date shall constitute a deemed waiver and relinquishment of such rights by such holder. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

16.3 **Limitation on Recovery:** Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed General Unsecured Claim in accordance with Section 16.1 of the Plan, in the event that the sum of the distributions of Reorganized Common Stock (valued as of the ConfirmationEffective Date), Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with Section 16.1 and 16.2 are equal to or in excess of one hundred percent (100%) of such holder's Allowed General Unsecured Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

16.4 **Allowed Claims of Fifty Thousand Dollars (\$50,000.00) or More/Election to be Treated as a Convenience Claim:** Notwithstanding the provisions of Section 16.1 of the Plan, any holder of an Allowed General Unsecured Claim, other than a General Unsecured Claim that is a component of a larger General Unsecured Claim, portions of which may be held by such or any other holder of an Allowed Claim, whose Allowed General Unsecured Claim is more than Fifty Thousand Dollars (\$50,000.00), and who elects to reduce the amount of such Allowed General Unsecured Claim to Fifty Thousand Dollars (\$50,000.00), shall, at such holder's option, be entitled to receive, based on such Allowed General Unsecured Claim as so reduced, distributions pursuant to Section 17.1 hereof. Such election shall be deemed to be a vote in favor of the Plan and the releases set forth in Article XLIII of the Plan. Such election must be made on the Ballot and be received by the Debtors on or prior to the Ballot Date. Any election made after the Ballot Date shall not be binding upon the Debtors

unless the Ballot Date is expressly waived, in writing, by the Debtors; provided, however, that, under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

ARTICLE XVII

PROVISION FOR TREATMENT OF CONVENIENCE CLAIMS (CLASS 13)

17.1 **Treatment of Convenience Claims:** On the later of the Effective Date and the date such Allowed Convenience Claim becomes an Allowed Claim, or as soon thereafter as is practicable, the Disbursing Agent shall pay to each holder of an Allowed Convenience Claim, in Cash, the full amount of such Allowed Convenience Claim, in full satisfaction, settlement, release, and discharge of, and in exchange for such Allowed Convenience Claim.

ARTICLE XVIII

PROVISION FOR TREATMENT OF CCB-1 GUARANTEES CLAIMS (CLASS 14)

18.1 **Treatment of CCB-1 Guarantees Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 18.2 below, each holder of an Allowed CCB-1 Guarantees Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed CCB-1 Guarantees Claim and Postpetition Interest Claim (which, for the avoidance of doubt, shall ~~not~~ have been finally determined to not be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein), subject to the ~~lien~~Lien or priority rights of the CCB-1 Trustee, such holder's Pro Rata Share of (i) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed CCB-1 Guarantees Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim; provided, however, that any distribution to holders of Allowed CCB-1 Guarantees Claims of (a) Creditor Cash and (b) Cash received on account of Liquidating Trust Interests, but not Reorganized Common Stock (to the extent elected pursuant to Section 18.2) shall be redistributed, subject to Bankruptcy Rule 3021 and subject to the ~~lien~~Lien or priority rights of the CCB-1 Trustee, in accordance with the priorities set forth in the Subordination Model attached hereto as Exhibit "G". In addition, in accordance with the Subordination Model attached hereto as Exhibit "G", each holder of an Allowed CCB-1 Guarantees Claim shall be entitled to receive on account of such Allowed CCB-1 Guarantees Claim and, irrespective of whether all Allowed Claims are paid in full, such holder's Postpetition Interest Claim, redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests. The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior

Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code.

18.2 **Right of Election**: On the Ballot, each holder of an Allowed CCB-1 Guarantees Claim shall be provided the right to elect, in its sole and absolute discretion, to receive Reorganized Common Stock (to the extent remaining after distribution to holders of Allowed Senior Notes Claims, Allowed General Unsecured Claims, and Allowed Senior Subordinated Notes Claims and subject to dilution on account of the Rights Offering), in lieu of some or all of the Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan, in each instance, subject to the ~~lien~~Lien or priority rights of the CCB-1 Trustee; provided, however, that each holder of an Allowed CCB-1 Guarantees Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder's Pro Rata Share of all Allowed CCB-1 Guarantees Claims and Allowed CCB-2 Guarantees Claims. To the extent a holder of an Allowed CCB-1 Guarantees Claim elects to receive Reorganized Common Stock, such holder's distribution of Creditor Cash or Cash to be received on account of Liquidating Trust Interests, as the case may be, shall be reduced on a dollar-for-dollar basis by the value of the Reorganized Common Stock so elected (valued as of the ~~Confirmation~~Effective Date), so that the ultimate recovery percentage for each holder of an Allowed CCB-1 Guarantees Claim is the same, regardless of whether a holder elects to receive Reorganized Common Stock. Failure by any holder of an Allowed CCB-1 Guarantees Claim to elect to exercise rights provided in this Section 18.2 on or before the Ballot Date shall constitute a deemed waiver and relinquishment of such rights by such holder. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

18.3 **Limitation on Recovery**: Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed CCB-1 Guarantees Claim in accordance with Section 18.1 of the Plan, in the event that the sum of (i) distributions of Reorganized Common Stock (valued as of the Effective Date), Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with Sections 18.1 and 18.2, (ii) redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with the enforcement, pursuant to section 510(a) of the Bankruptcy Code, of contractual subordination provisions, as set forth in the Subordination Model attached hereto as Exhibit "G", (iii) redistributions of Cash received on account of Liquidating Trust Interests in accordance with the provisions of Sections 6.3 or 7.3 herein and (iv) distributions from the Receivership are equal to or in excess of one hundred percent (100%) of such holder's Allowed CCB-1 Guarantees Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

ARTICLE XIX

PROVISION FOR TREATMENT OF CCB-2 GUARANTEES CLAIMS (CLASS 15)

19.1 **Treatment of CCB-2 Guarantees Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 19.2 below, each holder of an Allowed CCB-2 Guarantees Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed CCB-2 Guarantees Claim and Postpetition Interest Claim (which, for the avoidance of doubt, shall ~~not~~ have been finally determined to not be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein), subject to the lienLien or priority rights of the CCB-2 Trustees, such holder's Pro Rata Share of (i) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed CCB-2 Guarantees Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim; provided, however, that any distribution to holders of Allowed CCB-2 Guarantees Claims of (a) Creditor Cash and (b) Cash received on account of Liquidating Trust Interests, but not Reorganized Common Stock (to the extent elected pursuant to Section 19.2), shall be redistributed, subject to Bankruptcy Rule 3021 and subject to the lienLien or priority rights of the CCB-2 Trustees, in accordance with the priorities set forth in the Subordination Model attached hereto as Exhibit "G". In addition, in accordance with the Subordination Model attached hereto as Exhibit "G", each holder of an Allowed CCB-2 Guarantees Claim shall be entitled to receive on account of such Allowed CCB-2 Guarantees Claim and, irrespective of whether all Allowed Claims are paid in full, such holder's Postpetition Interest Claim, redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests. The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code.

19.2 **Right of Election:** On the Ballot, each holder of an Allowed CCB-2 Guarantees Claim shall be provided the right to elect, in its sole and absolute discretion, to receive Reorganized Common Stock (to the extent remaining after distribution to holders of Allowed Senior Notes Claims, Allowed General Unsecured Claims, and Allowed Senior Subordinated Notes Claims and subject to dilution on account of the Rights Offering), in lieu of some or all of the Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan, in each instance, subject to the lienLien or priority rights of the CCB-2 Trustees; provided, however, that each

holder of an Allowed CCB-2 Guarantees Claim may only elect to receive that percentage of Reorganized Common Stock that equals such holder's Pro Rata Share of all Allowed CCB-1 Guarantees Claims and Allowed CCB-2 Guarantees Claims. To the extent a holder of an Allowed CCB-2 Guarantees Claim elects to receive Reorganized Common Stock, such holder's distribution of Creditor Cash or Cash to be received on account of Liquidating Trust Interests, as the case may be, shall be reduced on a dollar-for-dollar basis by the value of the Reorganized Common Stock so elected (valued as of the ~~Confirmation~~Effective Date), so that the ultimate recovery percentage for each holder of an Allowed CCB-2 Guarantees Claim is the same, regardless of whether a holder elects to receive Reorganized Common Stock. Failure by any holder of an Allowed CCB-2 Guarantees Claim to elect to exercise rights provided in this Section 19.2 on or before the Ballot Date shall constitute a deemed waiver and relinquishment of such rights by such holder. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

19.3 **Limitation on Recovery:** Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed CCB-2 Guarantees Claim in accordance with Section 19.1 of the Plan, in the event that the sum of (i) distributions of Reorganized Common Stock (valued as of the Effective Date), Creditor Cash and Cash received on account Liquidating Trust Interests in accordance with Sections 19.1 and 19.2, (ii) redistributions of Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with the enforcement, pursuant to section 510(a) of the Bankruptcy Code, of contractual subordination provisions, as set forth in the Subordination Model attached hereto as Exhibit "G", (iii) redistributions of Cash received on account of Liquidating Trust Interests in accordance with the provisions of Sections 6.3 or 7.3 and (iv) distributions from the Receivership are equal to or in excess of one hundred percent (100%) of such holder's Allowed CCB-2 Guarantees Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

ARTICLE XX

PROVISION FOR TREATMENT OF PIERS CLAIMS (CLASS 16)

20.1 **Treatment of PIERS Claims:** Commencing on the Effective Date, and subject to the right of election described in Section 20.2 below, each holder of an Allowed PIERS Claim shall receive, in full satisfaction, release and exchange of such holder's Allowed PIERS Claim and Postpetition Interest Claim (which, for the avoidance of doubt, shall ~~not~~ have been finally determined to not be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein), subject to the ~~lien~~Lien or priority rights of the PIERS Trustee, such holder's Pro Rata Share of (i) Reorganized Common Stock (to the extent remaining after distribution to holders of Allowed Senior Notes Claims, Allowed General Unsecured Claims, Allowed Senior Subordinated Notes Claims, Allowed CCB-1

Guarantees Claims, and Allowed CCB-2 Guarantees Claims and subject to dilution on account of the Rights Offering), (ii) Creditor Cash and (ii) Liquidating Trust Interests, in an aggregate amount equal to (a) such holder's Allowed PIERS Claim and (b) in the event that all Allowed Claims are paid in full, such holder's Postpetition Interest Claim; provided, however, that notwithstanding the foregoing, the contractual subordination rights of Entities who hold PIERS Preferred Securities shall be preserved and enforced hereunder pursuant to section 510(a) of the Bankruptcy Code and any distribution on account of the PIERS Common Securities of (i) Reorganized Common Stock, (ii) Creditor Cash and (ii) Cash on account of Liquidating Trust Interests shall be redistributed, subject to Bankruptcy Rule 3021 and subject to the ~~lien~~Lien and priority rights of the PIERS Trustee, to Entities who hold PIERS Preferred Securities, until such time as such Entities' Allowed PIERS Claims and Postpetition Interest Claims have been satisfied in accordance with the terms and provisions of the PIERS Trust Agreement; and provided further that, any distribution to holders of Allowed PIERS Claims of (a) Creditor Cash and (b) Cash received on account of Liquidating Trust Interests, but not Reorganized Common Stock, shall be redistributed, subject to Bankruptcy Rule 3021 and subject to the ~~lien~~Lien or priority rights of the PIERS Trustee, in accordance with the priorities set forth in the Subordination Model attached hereto as Exhibit "G". The relative priorities among holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed General Unsecured Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, and Allowed PIERS Claims, and the order in which such holders are entitled to receive payment of their Allowed Claims and Postpetition Interest Claims, including, without limitation, on account of contractual subordination provisions, are set forth in more detail in the Subordination Model attached hereto as Exhibit "G"; provided, however, that, to the extent that the priorities set forth in the Subordination Model conflict with the contractual subordination provisions of the Senior Subordinated Notes Indenture, CCB-1 Guarantee Agreements, CCB-2 Guarantee Agreements, Junior Subordinated Notes Indenture and/or PIERS Guarantee Agreement, the contractual subordination provisions of such Indentures and Guarantee Agreements shall govern and shall be enforced pursuant to section 510(a) of the Bankruptcy Code.

20.2 Right of Election: On the Ballot, each holder of an Allowed PIERS Claim shall be provided the right to elect, in its sole and absolute discretion, to receive additional Creditor Cash, Cash on account of Liquidating Trust Interests, or Reorganized Common Stock (to the extent remaining after distribution to holders of Allowed Senior Notes Claims, Allowed General Unsecured Claims, Allowed Senior Subordinated Notes Claims, Allowed CCB-1 Guarantees Claims, and Allowed CCB-2 Guarantees Claims and subject to dilution on account of the Rights Offering), as the case may be, in lieu of some or all of the Reorganized Common Stock, Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, that such holder otherwise is entitled to receive pursuant to the Plan, in each instance, subject to the ~~lien~~Lien or priority rights of the PIERS Trustee; provided, however, that, to the extent that there is an imbalance between the amount of Creditor Cash or Cash on account of Liquidating Trust Interests, as the case may be, and the number of Reorganized Common Stock shares elected by holders of Allowed PIERS Claims, either the Creditor Cash, Cash on account of Liquidating Trust Interests or Reorganized Common Stock shares elected shall be reduced, on a Pro Rata Share basis, to each holder to eliminate such imbalance. The ultimate recovery percentage for each holder of an Allowed PIERS Claim shall be the same, regardless of whether a holder elects to receive more or less Reorganized Common Stock. Failure by any holder of an Allowed PIERS Claim to elect to exercise rights provided in this Section 20.2 on or before the Ballot Date

shall constitute a deemed waiver and relinquishment of such rights by such holder. Any election made after the Ballot Date shall not be binding upon the Debtors unless the Ballot Date is waived, in writing, by the Debtors; provided, however, that under no circumstance may such waiver by the Debtors occur on or after the Effective Date.

20.3 **Limitation on Recovery**: Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed PIERS Claim in accordance with Section 20.1 of the Plan, in the event that the sum of (i) distributions of Reorganized Common Stock (valued as of the Effective Date), Creditor Cash and Cash received on account of Liquidating Trust Interests in accordance with Sections 20.1 and 20.2 and (ii) redistributions of Cash received on account of Liquidating Trust Interests in accordance with the provisions of Sections 6.3, 7.3, 18.3, or 19.3 are equal to or in excess of one hundred percent (100%) of such holder's Allowed PIERS Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of Allowed Claims or Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

20.4 **Subscription Rights**: In addition to the foregoing, ~~on the Effective Date~~, each holder of an Allowed PIERS Claim shall receive its Pro Rata Share of PIERS Subscription Rights, to be exercised pursuant to the terms of the Rights Offering, as set forth in Article XXXIV of the Plan.

ARTICLE XXI

PROVISION FOR TREATMENT OF NON-SUBORDINATED BANK BONDHOLDER CLAIMS (CLASS 17)

21.1 **Treatment of Non-Subordinated Bank Bondholder Claims**: ~~Each holder of an Allowed Non-Subordinated Bank Bondholder Claim shall receive~~ If Class 17 votes to accept the Plan (in accordance with Section 30.2 herein), then, in full satisfaction, release and exchange of ~~such holder's Allowed~~ the Non-Subordinated Bank Bondholder Claims, the Non-Subordinated Bank Bondholder Claims shall be deemed Allowed Claims and each holder of a Non-Subordinated Bank Bondholder Claim; shall receive such holder's Pro Rata Share of BB Liquidating Trust Interests (which interests, in the aggregate, represent a right to receive ~~5.5% of WMI's share~~ 5.357% of the Homeownership Carryback Refund Amount, as defined and set forth in Section 2.4 of the Global Settlement Agreement, subject to a cap of One Hundred Fifty Million Dollars (\$150,000,000.00) in the aggregate); subject to contractual subordination rights among the holders of Non-Subordinated Bank Bondholder Claims. If Class 17 votes to reject the Plan (in accordance with Section 30.2 herein), the sole amount of reserve for distribution to the holders of Non-Subordinated Bank Bondholder Claims if, pursuant to a Final Order of the Bankruptcy Court, such Claims are determined to be Allowed Claims, shall be the BB Liquidating Trust Interests.

ARTICLE XXII

PROVISION FOR TREATMENT OF SUBORDINATED CLAIMS (CLASS 18)

22.1 **Treatment of Subordinated Claims:** In the event that all Allowed Claims and Postpetition Interest Claims in respect of Allowed Claims (in each case, other than Subordinated Claims) are paid in full, the Liquidating Trust Interests shall be redistributed, and holders of Allowed Subordinated Claims shall be entitled to receive their Pro Rata Share of Liquidating Trust Interests in an aggregate amount equal to each holder's Allowed Subordinated Claim and Postpetition Interest Claim ~~(which, for the avoidance of doubt, shall not have been finally determined to be subject to any avoidance, reduction, setoff, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaim, cross claim, defense, disallowance, impairment, objection, or challenge under applicable law or regulation by any person, except as otherwise provided herein).~~

22.2 **Limitation on Recovery:** Notwithstanding anything contained herein to the contrary, including, without limitation, the distributions to be made to a holder of an Allowed Subordinated Claim in accordance with Section 22.1 of the Plan, in the event that the sum of distributions of Cash received on account of Liquidating Trust Interests in accordance with Section 22.1 are equal to or in excess of one hundred percent (100%) of such holder's Allowed Subordinated Claim and Postpetition Interest Claim, then the Cash received on account of Liquidating Trust Interests that is distributable to such holder in excess of such one hundred percent (100%) shall be deemed redistributed to holders of the Equity Interests or the Disbursing Agent for and on behalf of holders of Disputed Claims in accordance with the Subordination Model attached hereto as Exhibit "G".

ARTICLE XXIII

PROVISION FOR TREATMENT OF REIT SERIES (CLASS 19)

23.1 **Treatment of REIT Series:** In the event that all Allowed Claims and Postpetition Interest Claims in respect of Allowed Claims are paid in full (including with respect to Allowed Subordinated Claims), the Liquidating Trust Interests shall be redistributed, and holders of the REIT Series shall be entitled to receive their Pro Rata Share of Liquidating Trust Interests, to be shared on a pari passu basis with holders of Preferred Equity Interests. In addition, and separate and distinct from the distribution to be provided to holders of the REIT Series from the Debtors, pursuant to the Global Settlement Agreement, and in exchange for the releases set forth in the Global Settlement Agreement and in Article XLIII herein, on the Effective Date, JPMC shall pay or transfer to the Disbursing Agent for distribution to each holder of a REIT Series such holder's Pro Rata Share of (i) Fifty Million Dollars (\$50,000,000.00) Cash or (ii) at the election of JPMC, shares of common stock of JPMC having a value as of the Effective Date in the amount of Fifty Million Dollars (\$50,000,000.00).

23.2 **Cancellation of REIT Series:** Notwithstanding the provisions of Section 23.1 hereof, on the Effective Date, all REIT Series shall be deemed extinguished and the certificates and all other documents representing such Equity Interests shall be deemed cancelled and of no force and effect. For the avoidance of doubt, this Section 23.2 shall have no effect on,

and shall not result in the extinguishment or cancellation of, the Trust Preferred Securities that are being transferred to JPMC pursuant to the Global Settlement Agreement.

ARTICLE XXIV

PROVISION FOR TREATMENT OF PREFERRED EQUITY INTERESTS (CLASS 20)

24.1 **Treatment of Preferred Equity Interests:** In the event that all Allowed Claims and Postpetition Interest Claims in respect of Allowed Claims are paid in full (including with respect to Allowed Subordinated Claims), the Liquidating Trust Interests shall be redistributed, and holders of Preferred Equity Interests shall be entitled to receive their Pro Rata Share of Liquidating Trust Interests, to be shared on a pari passu basis with holders of the REIT Series.

24.2 **Cancellation of Preferred Equity Interests:** Notwithstanding the provisions of Section 24.1 hereof, on the Effective Date, all Preferred Equity Interests shall be deemed extinguished and the certificates and all other documents representing such Equity Interests shall be deemed cancelled and of no force and effect.

ARTICLE XXV

PROVISION FOR TREATMENT OF DIME WARRANTS (CLASS 21)

25.1 **Cancellation of Dime Warrants:** Holders of Dime Warrants shall receive no distribution under the Plan. On the Effective Date, all Dime Warrants shall be deemed extinguished and the certificates and all other documents representing such Equity Interests shall be deemed cancelled and of no force and effect.

ARTICLE XXVI

PROVISION FOR TREATMENT OF COMMON EQUITY INTERESTS (CLASS 22)

26.1 **Cancellation of Common Equity Interests:** Holders of Common Equity Interests shall receive no distribution under the Plan. On the Effective Date, all Common Equity Interests shall be deemed extinguished and the certificates and all other documents representing such Equity Interests shall be deemed cancelled and of no force and effect.

ARTICLE XXVII

PROVISION FOR TREATMENT OF DISPUTED CLAIMS

27.1 **Objections to Claims; Prosecution of Disputed Claims:** The Liquidating Trustee shall object to, and shall assume any pending objection filed by the Debtors to, the allowance of Claims filed with the Bankruptcy Court with respect to which it disputes liability, priority or amount, including, without limitation, objections to Claims that have been assigned and the assertion of the doctrine of equitable subordination with respect thereto. All objections, affirmative defenses and counterclaims shall be litigated to Final Order; provided, however, that the Liquidating Trustee shall have the authority to file, settle, compromise or

withdraw any objections to Claims or Equity Interests. Unless otherwise ordered by the Bankruptcy Court, to the extent not already objected to by the Debtors, the Liquidating Trustee shall file and serve all objections to Claims as soon as practicable, but, in each instance, not later than one hundred eighty (180) days following the Effective Date or such later date as may be approved by the Bankruptcy Court.

27.2 **Estimation of Claims:** On and after the Effective Date, and unless otherwise limited by an order of the Bankruptcy Court, the Liquidating Trustee may at any time request the Bankruptcy Court to estimate for final distribution purposes any contingent, unliquidated or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors previously objected to or sought to estimate such Claim, and the Bankruptcy Court will retain jurisdiction to consider any request to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Unless otherwise provided in an order of the Bankruptcy Court, in the event that the Bankruptcy Court estimates any contingent, unliquidated or Disputed Claim, the estimated amount shall constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court; provided, however, that, if the estimate constitutes the maximum limitation on such Claim, the Liquidating Trustee may elect to pursue supplemental proceedings to object to any ultimate allowance of such Claim; and, provided, further, that the foregoing is not intended to limit the rights granted by section 502(j) of the Bankruptcy Code. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another; provided, however, that in no event shall any such procedure increase or expand payment or performance from JPMC for any JPMC Assumed Liabilities.

27.3 **Payments and Distributions on Disputed Claims:**

(a) **Disputed Claims Holdback:** From and after the Effective Date, and until such time as each Disputed Claim has been compromised and settled, estimated by the Bankruptcy Court in an amount constituting the allowed amount, or allowed or disallowed by Final Order of the Bankruptcy Court, the Liquidating Trustee shall retain, for the benefit of each holder of a Disputed Claim, Creditor Cash (which the Disbursing Agent shall transfer to the Liquidating Trustee) and Liquidating Trust Interests, and any dividends, gains or income attributable thereto, in an amount equal to the Pro Rata Share of distributions that would have been made to the holder of such Disputed Claim if it were an Allowed Claim in an amount equal to the lesser of (i) the liquidated amount set forth in the filed proof of Claim relating to such Disputed Claim, (ii) the amount in which the Disputed Claim shall be estimated by the Bankruptcy Court pursuant to section 502 of the Bankruptcy Code constitutes and represents the maximum amount in which such Claim may ultimately become an Allowed Claim, or (iii) such other amount as may be agreed upon by the holder of such Disputed Claim and the Liquidating Trustee. Any Creditor Cash and Liquidating Trust Interests retained and held for the benefit of a holder of a Disputed Claim shall be treated as a payment and reduction on account of such Disputed Claim for purposes of computing any additional amounts to be paid in Cash or distributed in Liquidating Trust Interests in the event the Disputed Claim ultimately becomes an Allowed Claim. Such Creditor Cash and any dividends, gains or income paid on account of the Liquidating Trust Interests retained for the benefit of holders of Disputed Claims shall be

retained by the Liquidating Trust for the benefit of such holders pending determination of their entitlement thereto under the terms of the Plan.

(b) Allowance of Disputed Claims: At such time as a Disputed Claim becomes, in whole or in part, an Allowed Claim, the Liquidating Trustee shall distribute to the holder thereof the distributions, if any, to which such holder is then entitled under the Plan, together with any earnings that has accrued on the amount of Cash so retained (net of any expenses, including any taxes, relating thereto), but only to the extent that such earnings are attributable to the amount of the Allowed Claim. Such distribution, if any, shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim becomes a Final Order, but in no event more than ninety (90) days thereafter. The balance of any Cash and Liquidating Trust Interests previously retained but not distributed to a Disputed Claim holder shall be included in future calculations of Cash and Liquidating Trust Interests, respectively, to holders of Allowed Claims.

(c) Tax Treatment of Retained Assets: The Liquidating Trustee shall treat any Assets retained pursuant to this Section 27.3 as part of the Liquidating Trust Claims Reserve.

ARTICLE XXVIII

THE LIQUIDATING TRUST

28.1 Execution of Liquidating Trust Agreement: On or before the Effective Date, the Debtors and the Liquidating Trustee shall execute the Liquidating Trust Agreement, and shall take all other necessary steps to establish the Liquidating Trust and the Liquidating Trust Interests therein, which shall be for the benefit of the Liquidating Trust Beneficiaries, as provided in Sections 6.1, 7.1, 16.1, 18.1, 19.1, 20.1 and 21.1, and, in certain circumstances, 22.1, 23.1 and 24.1 of the Plan, whether their Claims are Allowed before, on or after the Effective Date. In the event of any conflict between the terms of this Section 28.1 and the terms of the Liquidating Trust Agreement, the terms of this Section 28.1 shall govern. The Liquidating Trust Agreement may provide powers, duties, and authorities in addition to those explicitly stated herein, but only to the extent that such powers, duties, and authorities do not affect the status of the Liquidating Trust as a “liquidating trust” for United States federal income tax purposes.

28.2 Purpose of the Liquidating Trust: The Liquidating Trust shall be established for the sole purpose of liquidating and distributing its assets, in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

28.3 Liquidating Trust Assets: The Liquidating Trust shall consist of the Liquidating Trust Assets. On the Effective Date, the Debtors shall transfer all of the Liquidating Trust Assets to the Liquidating Trust. The Liquidating Trust Assets may be transferred subject to certain liabilities, as provided in the Plan or the Liquidating Trust Agreement. Such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar Tax, pursuant to section 1146(a) of the Bankruptcy Code. Upon delivery of the Liquidating Trust Assets to the Liquidating Trust, the Debtors and their predecessors, successors

and assigns, and each other Entity released pursuant to Section 43.5 herein shall be discharged and released from all liability with respect to the delivery of such distributions. In addition, the Liquidating Trust shall assume all of WMI's rights and obligations pursuant to Section 2.4 of the Global Settlement Agreement, and WMI shall have no further liability or obligations thereunder, to the extent that the transfer to the Liquidating Trust shall not impose any additional obligations or liabilities on JPMC.

28.4 **Administration of the Liquidating Trust:** The Liquidating Trust shall be administered by the Liquidating Trustee according to the Liquidating Trust Agreement and the Plan. In the event of any inconsistency between the Plan and the Liquidating Trust Agreement, the Liquidating Trust Agreement shall govern.

28.5 **The Liquidating Trustee:** In the event the Liquidating Trustee dies, is terminated, or resigns for any reason, the Trust Advisory Board shall designate a successor; provided, however, that under no circumstance shall the Liquidating Trustee be a director or officer with respect to any Entity over which the Liquidating Trust has control.

28.6 **Role of the Liquidating Trustee:** In furtherance of and consistent with the purpose of the Liquidating Trust and the Plan, and subject to the terms of the Confirmation Order, the Plan and the Liquidating Trust Agreement, and the oversight of the Trust Advisory Board, the Liquidating Trustee shall, among other things, have the following rights, powers and duties, in each case subject to the Global Settlement Agreement: (i) to hold, manage, convert to Cash, and distribute the Liquidating Trust Assets, including prosecuting and resolving the Claims belonging to the Liquidating Trust, (ii) to hold the Liquidating Trust Assets for the benefit of the Liquidating Trust Beneficiaries, whether their Claims are Allowed on or after the Effective Date, (iii) in the Liquidating Trustee's reasonable business judgment, to investigate, prosecute, settle and/or abandon rights, causes of action, or litigation of the Liquidating Trust, (iv) to monitor and enforce the implementation of the Plan, (v) to file all tax and regulatory forms, returns, reports, and other documents required with respect to the Liquidating Trust, (vi) in the Liquidating Trustee's reasonable business judgment, to object to Claims, and manage, control, prosecute, and/or settle on behalf of the Liquidating Trust, objections to Claims on account of which the Liquidating Trustee (as Disbursing Agent) will be responsible (if Allowed) for making distributions under the Plan, (vii) to take all actions necessary and create any document necessary to implement the Plan, (viii) to hold, manage, and distribute Cash or non-Cash Liquidating Trust Assets obtained through the exercise of its power and authority, (ix) to act as a signatory to the Debtors for all purposes, including those associated with the novation of contracts or other obligations arising out of the sales of the Debtors' assets, and (x) to take all necessary actions and file all appropriate motions to obtain an order closing the Chapter 11 Cases. In all circumstances, the Liquidating Trustee shall comply with all of the Debtors' obligations under the Global Settlement Agreement and in accordance with applicable law, and otherwise shall act in the best interests of all Liquidating Trust Beneficiaries and in furtherance of the purpose of the Liquidating Trust. Under no circumstance may the Liquidating Trustee serve on the Board of Directors of any Affiliate of the Liquidating Trust.

28.7 **Liquidating Trustee's Tax Power for Debtors:**

(a) Following the Effective Date, the Liquidating Trustee shall prepare and file (or cause to be prepared and filed), on behalf of the Debtors, all Tax Returns required to be filed or that the Liquidating Trustee otherwise deems appropriate, including the filing of amended Tax Returns or requests for refunds for all taxable periods ended on or before December 31, 2009.

(b) For all taxable periods ended on or before December 31, 2009, the Liquidating Trustee shall have full and exclusive authority and responsibility in respect of all Taxes of the Debtors (including, without limitation, as the common parent or other agent of any consolidated, combined or unitary tax group of which the Debtors were the agent), to the same extent as if the Liquidating Trustee was the Debtor-in-Possession. Without limiting the foregoing, each of the Debtors shall execute, on or prior to the Effective Date, a power of attorney authorizing the Liquidating Trustee to correspond with any Authority on behalf of such Debtor and to sign, collect, negotiate, settle, and administer Tax payments and Tax Returns.

(c) In furtherance of the transfer of the Liquidating Trust Assets to the Liquidating Trust on the Effective Date, the Liquidating Trust shall be entitled to all Tax Refunds of the Debtors (and the Liquidating Trust bears responsibility for (i) all Tax liabilities of the Debtors for taxable years ended on or before December 31, 2009, to the extent not discharged by the Plan or provided for payment in the Plan or the Global Settlement Agreement and (ii) WMI's obligations pursuant to Section 2.4 of the Global Settlement Agreement), it being understood that the Liquidating Trustee only shall have whatever rights WMI itself has pursuant to the terms of the Global Settlement Agreement and the Liquidating Trustee shall be contractually bound to all restrictions in the Global Settlement Agreement with respect to tax filings.

28.8 **Transferability of Liquidating Trust Interests:** The Debtors shall cause the Liquidating Trust Interests to be transferable (either by book-entry or by certificate); provided, however, that, (i) if so certificated, ~~(i)~~ the form of certificate, if applicable, shall carry a legend, in substance and form reasonably satisfactory to the Creditors' Committee and the Settlement Note Holders, setting forth that the interest in such certificate and the holder thereof as to such interest are governed by the terms and provisions of the Plan, and (ii) on or after February 14, 2011, if the Liquidating Trustee, with consent of the Trust Advisory Board and upon advice of counsel, determines that a class of Liquidating Trust Interests may be subject to registration pursuant to Section 12 of the Securities Exchange Act of 1934, as amended, the Liquidating Trustee shall pursue relief from such registration by obtaining either an exemptive order, a no-action letter or an interpretive letter from the Securities and Exchange Commission or its staff or, absent its ability to achieve that objective or in lieu thereof, shall register such class pursuant to Section 12 of such statute (it being understood and agreed that the Liquidating Trustee shall be authorized, among other things, to register such class and to seek relief from one or more of the requirements then applicable subsequent to such registration and to de-register such class); and provided, further, that, notwithstanding the foregoing, (1) the Liquidating Trustee may disregard any transfer of ~~certificates~~ Liquidating Trust Interests if sufficient necessary information (as determined by the Liquidating Trustee), including applicable tax-related information, is not provided by such transferee to the Liquidating Trustee and (2) transfers to non-United States Entities will not be permitted unless either (a) a ruling has been obtained from the Internal Revenue Service or an opinion from the Liquidating Trustee's counsel

(to the good faith satisfaction of the Liquidating Trustee) that stated interest income and any other income from tax refunds expected to be received or recognized by the Liquidating Trust are of a type and character that is eligible for exemption from U.S. withholding, or (b) the requirement in the preceding clause has been waived by the Liquidating Trustee (with the consent of the Trust Advisory Board).

28.9 **Cash:** The Liquidating Trustee may invest Cash (including any earnings thereon or proceeds therefrom) as permitted by section 345 of the Bankruptcy Code; provided, however, that such investments are investments permitted to be made by a Liquidating Trust within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings, or other controlling authorities.

28.10 **Distribution of Liquidating Trust Assets:** The Liquidating Trustee is required to distribute to the holders of Allowed Claims on account of their Liquidating Trust Interests, on a quarterly basis, all unrestricted Cash on hand (including any Cash received from the Debtors on the Effective Date, and treating any permissible investment as Cash for purposes of this Section 28.10), except such amounts (i) as have been reserved on account of Disputed Claims, or are otherwise part of the Liquidating Trust Claims Reserve, in accordance with Section 27.3 of the Plan, (ii) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during liquidation, (iii) as are necessary to pay reasonable incurred or anticipated expenses (including, but not limited to, any Taxes imposed on or payable by the Debtors or the Liquidating Trust or in respect of the Liquidating Trust Assets), or (iv) as are necessary to satisfy other liabilities incurred or anticipated by the Liquidating Trust in accordance with the Plan, the Global Settlement Agreement, or the Liquidating Trust Agreement; provided, however, that the Liquidating Trustee shall not be required to make a distribution pursuant to this Section 28.10 unless and until the aggregate, net amount of unrestricted Cash available for distribution (taking into account the above listed exclusions) is at least Twenty-Five Million Dollars (\$25,000,000.00) or such lesser amount as the Liquidating Trustee determines would make distribution impracticable, in accordance with applicable law.

28.11 **Costs and Expenses of the Liquidating Trust:** The reasonable costs and expenses of the Liquidating Trust, including the fees and expenses of the Liquidating Trustee and its retained professionals, shall be paid out of the Liquidating Trust Assets. Fees and expenses incurred in connection with the prosecution and settlement of any Claims shall be considered costs and expenses of the Liquidating Trust.

28.12 **Compensation of the Liquidating Trustee:** The individual(s) serving as or comprising the Liquidating Trustee shall be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar roles.

28.13 **Retention of Professionals/Employees by the Liquidating Trustee:** The Liquidating Trustee may retain and compensate attorneys, other professionals, and employees to assist in its duties as Liquidating Trustee on such terms as the Liquidating Trustee deems appropriate without Bankruptcy Court approval. The Liquidating Trustee may assume existing contracts and/or leases that WMI is party to, including, without limitation, employment agreements, or may enter into new arrangements on substantially similar terms. Without limiting

the foregoing, the Liquidating Trustee may retain any professional that represented parties in interest in the Chapter 11 Cases.

28.14 Federal Income Tax Treatment of the Liquidating Trust:

(a) Liquidating Trust Assets Treated as Owned by Creditors: For all United States federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Liquidating Trust Beneficiaries) shall treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as (1) a transfer of the Liquidating Trust Assets (subject to any obligations relating to those assets) directly to the Liquidating Trust Beneficiaries and, to the extent Liquidating Trust Assets are allocable to Disputed Claims, to the Liquidating Trust Claims Reserve, followed by (2) the transfer by such beneficiaries to the Liquidating Trust of the Liquidating Trust Assets (other than the Liquidating Trust Assets allocable to the Liquidating Trust Claims Reserve) in exchange for Liquidating Trust Interests. Accordingly, the Liquidating Trust Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Liquidating Trust Assets (other than such Liquidating Trust Assets as are allocable to the Liquidating Trust Claims Reserve, discussed below). The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

(b) Tax Reporting.

(1) The Liquidating Trustee shall file Tax Returns for the Liquidating Trust treating the Liquidating Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Section 28.14. The Liquidating Trustee also will annually send to each holder of a Liquidating Trust Interest a separate statement regarding the receipts and expenditures of the Liquidating Trust as relevant for U.S. federal income tax purposes and will instruct all such holders to use such information in preparing their U.S. federal income tax returns or to forward the appropriate information to such holder's underlying beneficial holders with instructions to utilize such information in preparing their U.S. federal income tax returns. The Liquidating Trustee shall also file (or cause to be filed) any other statement, return or disclosure relating to the Liquidating Trust that is required by any governmental unit.

(2) On or before the Effective Date, the Debtors shall provide the Liquidating Trustee with a good-faith valuation of the Tax Refunds as of the Effective Date. The Liquidating Trustee will then in good faith value all other Liquidating Trust Assets, and shall make all such values (including the Tax Refund values) available from time to time, to the extent relevant, and such values shall be used consistently by all parties to the Liquidating Trust (including, without limitation, the Debtors, the Liquidating Trustee, and Liquidating Trust Beneficiaries) for all United States federal income tax purposes.

(3) Allocations of Liquidating Trust taxable income among the Liquidating Trust Beneficiaries (other than taxable income allocable to the Liquidating Trust Claims Reserve) shall be determined by reference to the manner in which an amount of cash representing such taxable income would be distributed (were such cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all its assets (valued at their tax book value, and other than assets allocable to the Liquidating Trust Claims Reserve) to the holders of the Liquidating Trust Interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, taxable loss of the Liquidating Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purpose of this paragraph shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the IRC, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

(4) Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidating Trustee of a private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee shall (A) timely elect to treat any Liquidating Trust Claims Reserve as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9, and (B) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All parties (including the Liquidating Trustee, the Debtors, and the Liquidating Trust Beneficiaries) shall report for United States federal, state and local income tax purposes consistently with the foregoing.

(5) The Liquidating Trustee shall be responsible for payment, out of the Liquidating Trust Assets, of any Taxes imposed on the trust or its assets, including the Liquidating Trust Claims Reserve. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Liquidating Trust Claims Reserve is insufficient to pay the portion of any such Taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims, such Taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims, or (ii) to the extent such Disputed Claims have subsequently been resolved, deducted from any amounts otherwise distributable by the Liquidating Trustee as a result of the resolution of such Disputed Claims.

(6) The Liquidating Trustee may request an expedited determination of Taxes of the Liquidating Trust, including the Liquidating Trust Claims Reserve, or the Debtors under section 505(b) of the Bankruptcy Code for all Tax Returns filed for, or on behalf of, the Liquidating Trust or the Debtors for all taxable periods through the dissolution of the Liquidating Trust.

(c) Tax Withholdings by Liquidating Trustee. The Liquidating Trustee may withhold and pay to the appropriate Taxing Authority all amounts required to be withheld pursuant to the IRC or any provision of any foreign, state or local tax law with respect to any payment or distribution to the holders of Liquidating Trust Interests. All such amounts withheld and paid to the appropriate Taxing Authority shall be treated as amounts distributed to such holders of Liquidating Trust Interests for all purposes of the Liquidating Trust Agreement. The Liquidating Trustee shall be authorized to collect such tax information from the holders of Liquidating Trust Interests (including, without limitation, social security numbers or other tax identification numbers) as in its sole discretion deems necessary to effectuate the Plan, the Confirmation Order, and the Liquidating Trust Agreement. In order to receive distributions under the Plan, all holders of Liquidating Trust Interests (including, without limitation, holders of Allowed Senior Notes Claims, Allowed Senior Subordinated Notes Claims, Allowed CCB-1 Guarantees Claims, Allowed CCB-2 Guarantees Claims, ~~and~~ Allowed PIERS Claims, Non-Subordinated Bank Bondholder Claims and REIT Series) will need to identify themselves to the Liquidating Trustee and provide tax information and the specifics of their holdings, to the extent the Liquidating Trustee deems appropriate. This identification requirement may, in certain cases, extend to holders who hold their securities in street name. The Liquidating Trustee may refuse to make a distribution to any holder of a Liquidating Trust Interest that fails to furnish such information in a timely fashion, until such information is delivered; provided, however, that, upon the delivery of such information by a holder of a Liquidating Trust Interest, the Liquidating Trustee shall make such distribution to which the holder of the Liquidating Trust Interest is entitled, without interest; and, provided further that, if the Liquidating Trustee fails to withhold in respect of amounts received or distributable with respect to any such holder and the Liquidating Trustee is later held liable for the amount of such withholding, such holder shall reimburse the Liquidating Trustee for such liability.

(d) Dissolution. The Liquidating Trustee and the Liquidating Trust shall be discharged or dissolved, as the case may be, at such time as (i) all of the Liquidating Trust Assets have been distributed pursuant to the Plan and the Liquidating Trust Agreement, (ii) the Liquidating Trustee determines, in its sole discretion, that the administration of any remaining Liquidating Trust Assets is not likely to yield sufficient additional Liquidating Trust proceeds to justify further pursuit, or (iii) all distributions required to be made by the Liquidating Trustee under the Plan and the Liquidating Trust Agreement have been made; provided, however, in no event shall the Liquidating Trust be dissolved later than three (3) years from the Effective Date unless the Bankruptcy Court, upon motion within the six-month period prior to the third (3rd) anniversary (or within the six-month period prior to the end of an extension period), determines that a fixed period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the Liquidating Trustee and the Trust Advisory Board that any further extension would not adversely affect the status of the trust as a liquidating trust for United States federal

income tax purposes) is necessary to facilitate or complete the recovery and liquidation of the Liquidating Trust Assets. If at any time the Liquidating Trustee determines, in reliance upon such professionals as the Liquidating Trustee may retain, that the expense of administering the Liquidating Trust so as to make a final distribution to its beneficiaries is likely to exceed the value of the assets remaining in the Liquidating Trust, the Liquidating Trustee may apply to the Bankruptcy Court for authority to (i) reserve any amount necessary to dissolve the Liquidating Trust, (ii) donate any balance to a charitable organization (A) described in section 501(c)(3) of the IRC, (B) exempt from United States federal income tax under section 501(a) of the IRC, (C) not a “private foundation”, as defined in section 509(a) of the IRC, and (D) that is unrelated to the Debtors, the Liquidating Trust, and any insider of the Liquidating Trustee, and (iii) dissolve the Liquidating Trust.

28.15 Indemnification of Liquidating Trustee: The Liquidating Trustee or the individual(s) comprising the Liquidating Trustee, as the case may be, and the Liquidating Trustee’s agents and professionals, shall not be liable to the Liquidating Trust Beneficiaries for actions taken or omitted in their capacity as, or on behalf of, the Liquidating Trustee, except those acts arising out of their own willful misconduct or gross negligence, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all actions or inactions in their capacity as, or on behalf of, the Liquidating Trustee, except for any actions or inactions involving willful misconduct or gross negligence. Any indemnification claim of the Liquidating Trustee (and the other parties entitled to indemnification under this subsection) shall be satisfied solely from the Liquidating Trust Assets and shall be entitled to a priority distribution therefrom, ahead of the Liquidating Trust Interests and any other claim to or interest in such assets. The Liquidating Trustee shall be entitled to rely, in good faith, on the advice of its retained professionals.

28.16 Privileges and Obligation to Respond to Ongoing Investigations: All Privileges shall be transferred, assigned, and delivered to the Liquidation Trust, without waiver, and shall vest in the Liquidating Trustee (and any other individual the Liquidating Trustee may designate, as well as any other individual designated in the Liquidating Trust Agreement). Pursuant to Federal Rule of Evidence 502(d) (to the extent Rule 502(d) is relevant notwithstanding the fact that the Debtors, the Liquidating Trustee, the FDIC Receiver and JPMC are joint holders of certain attorney-client privileges, work product protections, or other immunities or protections from disclosure), no Privileges shall be waived by disclosure to the Liquidating Trustee of the Debtors’ information subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure, or by disclosure among the Debtors, the Liquidating Trustee, the FDIC Receiver, and/or JPMC of information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure jointly held by the Debtors, the FDIC Receiver, the Liquidating Trustee and/or JPMC. The Liquidating Trustee shall be obligated to respond, on behalf of the Debtors, to all Information Demands, including, without limitation and by way of example, any Information Demands made in connection with (a) the investigation by the United States Attorney for the Western District of Washington, (b) the action entitled “Washington Mutual, Inc. Securities, Derivative and ERISA Litigation,” Case No. 2:08-md-1919, and (c) other proceedings described more specifically in the Disclosure Statement. ~~JPMC and the~~ The FDIC Receiver and JPMC shall take reasonable steps to cooperate with the Liquidating Trustee in responding to Information Demands, and such cooperation shall include, for example, taking all steps

necessary to maintain and avoid waiver of any and all Privileges (including, without limitation, any Privileges that are shared jointly among or between any of the parties). The Liquidating Trustee may waive Privileges that are held solely by the Debtors and/or the Liquidating Trust, but not jointly held with the FDIC Receiver and/or JPMC, in the event and to the extent ~~he~~the Liquidating Trustee determines in good faith that doing so is in the best interests of the ~~Liquidation~~Liquidating Trust and its beneficiaries. The Liquidating Trustee, the FDIC Receiver and JPMC may disclose information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure that are jointly held with the FDIC Receiver and/or JPMC only (i) upon written permission from the Liquidating Trustee, the FDIC Receiver and JPMC, as the case may be; (ii) pursuant to an order of a court of competent jurisdiction, subject to the procedure described in the next sentence insofar as it applies; or (iii) as otherwise required by law, subject to the procedure described in the next sentence insofar as it applies. If the Liquidating Trustee, the FDIC Receiver or JPMC receives a request from a third party to disclose information that is subject to attorney-client privileges, work product protections, or other immunities or protections from disclosure that are jointly held with the Liquidating Trustee, the FDIC Receiver and/or JPMC, the party or parties who receives such request will (w) pursue all reasonable steps to maintain the applicable privileges or protections from disclosure, including, if necessary, to maintain the privileges or protections from disclosure by seeking a protective order against and/or otherwise objecting to the production of such material, (x) notify the Liquidating Trustee, FDIC Receiver and/or JPMC, as the case may be, (y) allow the Liquidating Trustee, the FDIC Receiver and/or JPMC, as the case may be, reasonable time under the circumstances to seek a protective order against and/or otherwise object to the production of such material, and (z) unless required by law, not disclose the materials in question unless and until any objection raised by the Liquidating Trustee, the FDIC Receiver and/or JPMC is resolved in favor of disclosure.

ARTICLE XXIX

PROSECUTION AND EXTINGUISHMENT OF CLAIMS HELD BY THE DEBTORS

29.1 **Prosecution of Claims:** Except as settled and released herein, from and after the Effective Date, the Liquidating Trustee shall have the exclusive right and power to litigate any Claim or Cause of Action that constituted an Asset of the Debtors or Debtors in Possession, including, without limitation, any avoidance or recovery action under section 541, 542, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code and any other cause of action, right to payment, or claim that may be pending on the Effective Date or instituted by the Debtors or Debtors in Possession thereafter, to a Final Order, and the Liquidating Trustee may compromise and settle such claims, upon approval of the Bankruptcy Court. The net proceeds of any such litigation or settlement (after satisfaction of all costs and expenses incurred in connection therewith) shall be transferred to the Liquidating Trust for distribution in accordance with the Plan and the Liquidating Trust Agreement.

ARTICLE XXX

ACCEPTANCE OR REJECTION OF THE PLAN; EFFECT OF REJECTION BY ONE OR MORE CLASSES OF CLAIMS OR EQUITY INTERESTS

30.1 **Impaired Classes to Vote:** Each holder, as of the Voting Record Date, of a Claim or Equity Interest in an impaired Class not otherwise deemed to have rejected or accepted the Plan in accordance with Sections 31.3 and 31.4 of the Plan shall be entitled to vote separately to accept or reject the Plan.

30.2 **Acceptance by Class of Creditors:** An impaired Class of holders of Claims shall have accepted the Plan if the Plan is accepted by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan.

30.3 **Cramdown:** In the event that any impaired Class of Claims or Equity Interests shall fail to accept, or be deemed to reject, the Plan in accordance with section 1129(a) of the Bankruptcy Code, the Debtors reserve the right to (i) request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code or (ii) subject to the consent of the Creditors' Committee and, in the event it affects any of JPMC's rights, obligations or liabilities, JPMC, amend the Plan.

ARTICLE XXXI

IDENTIFICATION OF CLAIMS AND EQUITY INTERESTS IMPAIRED AND NOT IMPAIRED BY THE PLAN

31.1 **Impaired and Unimpaired Classes:** Claims in Classes 1, 4 through 11, and 13 are not impaired under the Plan. Claims and Equity Interests in Classes 2, 3, 12, and 14 through 22 are impaired under the Plan.

31.2 **Impaired Classes Entitled to Vote on Plan:** The Claims and Equity Interests in Classes 2, 3, 12, and 14 through 20 are impaired and receiving distributions pursuant to the Plan, and are therefore entitled to vote to accept or reject the Plan.

31.3 **Equity Interests Deemed to Reject:** The Equity Interests in Classes 21 and 22 are not entitled to receive any distribution or retain their Equity Interests pursuant to the Plan, are deemed to reject the Plan, and are not entitled to accept or reject the Plan, pursuant to section 1126(g) of the Bankruptcy Code.

31.4 **Claims Deemed to Accept:** The Claims in Classes 1, 4 through 11, and 13 are not impaired pursuant to the Plan, are deemed to accept the Plan, and are not entitled to accept or reject the Plan, pursuant to section 1126(f) of the Bankruptcy Code.

31.5 **Controversy Concerning Impairment:** In the event of a controversy as to whether any Class of Claims or Equity Interests is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

ARTICLE XXXII

PROVISIONS GOVERNING DISTRIBUTIONS

32.1 **Time and Manner of Distributions:** Except as otherwise provided herein, distributions under the Plan shall be made to each holder of an Allowed Claim or Equity Interest as follows:

(a) **Initial Distributions of Creditor Cash:** Within ten (10) Business Days following the Effective Date, the Disbursing Agent shall distribute, or cause to be distributed, to each holder of an Allowed Senior Notes Claim, an Allowed Senior Subordinated Notes Claim, an Allowed General Unsecured Claim, an Allowed CCB-1 Guarantees Claim, an Allowed CCB-2 Guarantees Claim, or an Allowed PIERS Claim, such Creditor's share, if any, of Creditor Cash, as determined pursuant to Article VI, Article VII, Article VIII, Article XVI, Article XVIII, Article XIX, and Article XX hereof.

(b) **Allocation of Liquidating Trust Interests:** Within ten (10) Business Days after creation of the Liquidating Trust, the Disbursing Agent shall allocate, or cause to be allocated, to the Liquidating Trustee on behalf of holders of Disputed Claims, and to each holder of an Allowed Senior Notes Claim, an Allowed Senior Subordinated Notes Claim, an Allowed General Unsecured Claim, an Allowed CCB-1 Guarantees Claim, an Allowed CCB-2 Guarantees Claim, an Allowed PIERS Claim, ~~an Allowed~~ a Non-Subordinated Bank Bondholder Claim, and Postpetition Interest Claims in respect of the foregoing, such holder's share, if any, of Liquidating Trust Interests, as determined pursuant to Article VI, Article VII, Article VIII, Article XVI, Article XVIII, Article XIX, and Article XX hereof. In addition, in the event that all Allowed Claims and Postpetition Interest Claims are paid in full, the Liquidating Trust Interests shall be redistributed to holders of Subordinated Claims and, after such Allowed Claims and Postpetition Interest Claims are paid in full, holders of the REIT Series and Preferred Equity Interests, as set forth in Sections 22.1, 23.1 and 24.1 of the Plan.

(c) **Distribution of Cash to Holders of Certain Other Claims:** Except as otherwise provided herein, on or as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such claim becomes an Allowed Claim, the Disbursing Agent shall distribute, or cause to be distributed, to each holder of an Allowed Administrative Expense Claim, an Allowed Priority Tax Claim (to the extent applicable), an Allowed Priority Non-Tax Claim, an Allowed WMI Vendor Claim, an Allowed Convenience Claim, or an Allowed Trustee Claim, such holder's share of Cash, as determined pursuant to Article III, Article V, Article XV, Article XVII and Section 32.12 hereof.

32.2 **Timeliness of Payments:** Any payment or distribution to be made pursuant to the Plan shall be deemed to be timely made if made within ten (10) days after the date specified in the Plan. Whenever any distribution to be made under this Plan shall be due on a day other than a Business Day, such distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on the date due.

32.3 **Distributions by the Disbursing Agent:** All distributions under the Plan shall be made by the Disbursing Agent. The Disbursing Agent shall be deemed to hold all

property to be distributed hereunder in trust for the Entities entitled to receive the same. The Disbursing Agent shall not hold an economic or beneficial interest in such property.

32.4 **Manner of Payment under the Plan:** Unless the Entity receiving a payment agrees otherwise, any payment in Cash to be made by the Disbursing Agent shall be made, at the election of the payor, by check drawn on a domestic bank or by wire transfer from a domestic bank; provided, however, that no Cash payment shall be made to a holder of an Allowed Claim or Equity Interest until such time, if ever, as the amount payable thereto is equal to or greater than Ten Dollars (\$10.00).

32.5 **Delivery of Distributions:** Subject to the provisions of Rule 9010 of the Bankruptcy Rules, and except as provided in Section 32.4 of the Plan, distributions and deliveries to holders of Allowed Claims or Equity Interests shall be made at the address of each such holder as set forth on the Schedules filed with the Bankruptcy Court, unless superseded by the address set forth on proofs of Claim or Equity ~~Interest~~Interests filed by such holders, or at the last known address of such holder if no proof of Claim is filed or if the Debtors have been notified in writing of a change of address; provided, however, that initial distributions paid by the Disbursing Agent for the benefit of holders of Senior Notes Claims, Senior Subordinated Notes Claims, CCB-1 Guarantees Claims, CCB-2 Guarantees Claims, PIERS Claims, and REIT Series shall be made to the appropriate Trustee under the respective governing documents for such obligations, with the REIT Series distributions to be made to the Trust Preferred Trustees for distribution to holders of the REIT Series. Each such Trustee shall, in turn, administer the ~~distribution~~initial distributions to the holders of Allowed Claims in accordance with the Plan and the applicable indentures. The Trustees shall not be required to give any bond or surety or other security for the performance of their duties unless otherwise ordered by the Bankruptcy Court. The Trustees shall only be required to make distributions in accordance with the terms of the Plan and shall have no liability for actions taken in accordance with the Plan or in reliance upon information provided to the Trustees in accordance with the Plan, except for liabilities resulting from their own gross negligence or willful misconduct. Subsequent distributions to holders of Senior Notes Claims, Senior Subordinated Notes Claims, CCB-1 Guarantees Claims, CCB-2 Guarantees Claims, PIERS Claims, and REIT Series on account of Liquidating Trust Interests (or such holders' transferees) that have identified themselves to the Liquidating Trustee will be the responsibility of the Liquidating Trustee as Disbursing Agent. The Liquidating Trustee, with the consent of the applicable Trustee(s) not to be unreasonably withheld, may engage a special paying agent to assist with subsequent distributions in respect of Liquidating Trust Interests. Notwithstanding the foregoing, all distributions are subject to the Lien and priority rights of the Trustees.

32.6 **Undeliverable Distributions:**

(a) **Holding of Undeliverable Distributions:** If any distribution to any holder is returned to the Disbursing Agent as undeliverable, no further distribution shall be made to such holder unless and until the Disbursing Agent is notified, in writing, of such holder's then-current address. Undeliverable distributions shall remain in the possession of the Disbursing Agent until such time as a distribution becomes deliverable. All Entities ultimately receiving undeliverable Cash shall not be entitled to any interest or other accruals of any kind. Nothing

contained in the Plan shall require the Disbursing Agent to attempt to locate any holder of an Allowed Claim or Equity Interest.

(b) **Failure to Claim Undeliverable Distributions:** On or about the first (1st) anniversary of the Effective Date, the Disbursing Agent shall file a list with the Bankruptcy Court setting forth the names of those Entities for which distributions have been made hereunder that have been returned as undeliverable as of the date thereof. Any holder of an Allowed Claim or Equity Interest on such list that does not assert its rights pursuant to the Plan to receive a distribution within two (2) years from and after the Effective Date shall have its entitlement to such undeliverable distribution discharged and shall be forever barred from asserting any entitlement pursuant to the Plan against the Reorganized Debtors, the Liquidating Trust, or their respective property. In such case, any consideration held for distribution on account of such Claim or Equity Interest shall revert to the Disbursing Agent for redistribution to holders of Allowed Claims and Equity Interests in accordance with the terms and provisions hereof.

32.7 **Withholding and Reporting Requirements:** Any party issuing any instrument or making any distribution under the Plan shall comply with all applicable withholding and reporting requirements imposed by any United States federal, state or local tax law or Tax Authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements. Notwithstanding the above, each holder of an Allowed Claim or Equity Interest that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any Taxes imposed on such holder by any governmental unit, including income, withholding and other tax obligations, on account of such distribution. Any party issuing any instrument or making any distribution under the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such Tax obligations and, if any party issuing any instrument or making any distribution under the Plan fails to withhold with respect to any such holder's distribution, and is later held liable for the amount of such withholding, the holder shall reimburse such party. The Disbursing Agent may require, as a condition to the receipt of a distribution, that the holder complete the appropriate Form W-8 or Form W-9, as applicable to each holder. If the holder fails to comply with such a request within one hundred eighty (180) days, such distribution shall be deemed an unclaimed distribution.

32.8 **Time Bar to Cash Payments:** Checks issued by the Disbursing Agent on account of Allowed Claims or Equity Interests shall be null and void if not negotiated within ninety (90) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the Disbursing Agent by the holder of the Allowed Claim or Equity Interest with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made on or before the later of (i) the first (1st) anniversary of the Effective Date or (ii) ninety (90) days after the date of issuance of such check, if such check represents a final distribution hereunder on account of such Claim or Equity Interest. After such date, all Claims and Equity Interests in respect of voided checks shall be discharged and forever barred and the Disbursing Agent shall retain all monies related thereto for the sole purpose of redistribution to holders of Allowed Claims and Equity Interests in accordance with the terms and provisions hereof.

32.9 **Distributions After Effective Date:** Distributions made after the Effective Date to holders of Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made in accordance with the terms and provisions of Article XXXII of the Plan.

32.10 **Setoffs:** The Disbursing Agent may, pursuant to applicable bankruptcy or non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account thereof (before any distribution is made on account of such Claim by the Disbursing Agent), the claims, rights, and causes of action of any nature that one or more of the Debtors, Debtors in Possession, or the Reorganized Debtors may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, Debtors in Possession, or the Reorganized Debtors of any such claims, rights, and causes of action that the Debtors, Debtors in Possession, or the Reorganized Debtors may possess against such holder; and, provided, further, that nothing contained herein is intended to limit the ability of any Creditor to effectuate rights of setoff or recoupment preserved or permitted by the provisions of sections 553, 555, 559, or 560 of the Bankruptcy Code or pursuant to the common law right of recoupment.

32.11 **Allocation of Plan Distributions Between Principal and Interest:** To the extent that any Allowed Claim entitled to a distribution under the Plan consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to such other amounts.

32.12 **Certain Trustee Fees and Expenses:** In the event that the Debtors and the Creditors' Committee agree, in their joint and absolute discretion, as to the Trustee Claims incurred during the period from the Petition Date up to and including the Effective Date, such Trustee Claims shall be paid in Cash by the Disbursing Agent on the Effective Date, ~~or as soon as practicable thereafter, but in no event more than ninety (90) days after the Effective Date,~~ without the need for the Trustees to file an application for allowance thereof with the Bankruptcy Court; provided, however, that each member of the Creditors' Committee shall not participate in the Creditors' Committee vote regarding the reasonableness of its own fees and expenses. In the event that either the Debtors or the Creditors' Committee disagree with a Trustee as to the reasonableness of all or a portion of the fees and expenses requested by such Trustee, such Trustee may, at its sole discretion, request that the Bankruptcy Court (i) determine the reasonableness and allowance of such contested amounts and (ii) direct the Disbursing Agent to pay such additional amounts determined to be reasonable, if any, and the Debtors, Creditors' Committee, and any other Creditor or party in interest may object thereto. With respect to any undisputed portion of such Trustee's fees and expenses, such claims shall be deemed Allowed Claims, and the Debtors shall direct the Disbursing Agent to pay such undisputed fees and expenses to the Trustee on the Effective Date. To the extent that the Disbursing Agent fails to pay any Trustee Claim in full, whether as a result of the Creditors' Committee's or the Debtors' objection as to reasonableness, the Bankruptcy Court's determination as to reasonableness, or a Trustee's determination not to request payment therefor, such Trustee shall have the right to assert its Lien and priority rights pursuant to the applicable Indenture or Guarantee Agreement

for payment of any unpaid amount upon any payment or other distribution to be made in accordance with the provisions contained herein. Notwithstanding the foregoing, the Disbursing Agent shall be responsible and, upon presentation of supporting documentation in form and substance satisfactory to the Disbursing Agent, shall satisfy the ~~reasonable direct out of pocket costs and expenses incurred by the Trustees in connection with making distributions pursuant to the Plan~~ Trustee Distribution Expenses; provided, however, that, under no circumstance shall the Disbursing Agent be responsible for any indemnification obligation, cost, or expense of any of the Trustees associated with the gross negligence or willful misconduct of a Trustee in making any such distribution.

32.13 **Distribution Record Date:** ~~On the~~ For purposes of distributions, on the Distribution Record Date, registers of the respective Trustees shall be closed and the Trustees shall have no obligation to recognize, and shall not recognize, any transfers of Claims arising under or related to the Indentures or the Guarantee Agreements occurring from and after the Distribution Record Date.

ARTICLE XXXIII

MEANS OF IMPLEMENTATION

33.1 **Incorporation and Enforcement of the Settlement Agreement:** The Plan incorporates by reference the terms of the Global Settlement Agreement, including, without limitation, (i) the Debtors' agreement to sell, free and clear of all ~~claims~~ Claims, rights, interests, and ~~liens~~ Liens, certain of the Plan Contribution Assets to the JPMC Entities, (ii) JPMC's obligations to pay certain consideration for such sale, including, without limitation, JPMC's agreement to pay or fund the payment of the JPMC Assumed Liabilities and certain other Claims, and to waive certain of its Claims against the Debtors, (iii) JPMC's obligation to transfer certain of the Plan Contribution Assets to the Debtors, (iv) the FDIC Receiver's transfer of any interest it or the Receivership might have in any Plan Contribution Assets, and (v) the agreement among the parties to resolve certain pending Claims and litigation, including the Related Actions, pursuant to the terms of the Global Settlement Agreement and the Plan.

33.2 **Intercompany Claims:** Intercompany Claims shall be extinguished, unless otherwise agreed or resolved between the parties to a given Intercompany Claim, resolved by the Global Settlement Agreement or released by operation of the Plan. Any such transaction may be effected without any further action by the stockholders of any of the Debtors or the Debtors in Possession.

33.3 **Merger/Dissolution/Consolidation:** On or as of the Effective Date or as soon as practicable thereafter, and without the need for any further action, the Reorganized Debtors may, in their sole and absolute discretion, (i) cause either or both of the Reorganized Debtors to be merged, dissolved, or otherwise consolidated, (ii) cause the transfer of assets between or among the Reorganized Debtors, or (iii) engage in any other transaction in furtherance of the Plan.

33.4 **Cancellation of Existing Securities and Agreements:** Except as provided herein, on the latest to occur of (i) the Effective Date, (ii) the entry of a Final Order

resolving all Claims in the Chapter 11 Cases, and (iii) the final distribution made to holders of Allowed Claims in accordance with Article XXXII of the Plan, any document, agreement, or instrument evidencing any Claim or Equity Interest shall be deemed automatically cancelled and terminated without further act or action under any applicable agreement, law, regulation, order, or rule and the obligations of the Debtors under such documents, agreements, or instruments evidencing such Claims and Equity Interests shall be discharged; provided, however, that the Indentures and Guarantee Agreements shall continue in effect for the purposes of (i) allowing the Trustees to make distributions pursuant to the Plan and to perform such other necessary functions with respect thereto, (ii) permitting the Trustees to maintain and assert any right or Lien for reasonable fees, costs, expenses and indemnities under the Indentures and Guarantee Agreements, (iii) effectuating the applicable subordination provisions of such documents, (iv) enabling the noteholders to receive distributions and (v) enabling the Trustees to make applications in accordance with Section 32.12 of the Plan; and, provided, further, that, except as otherwise provided herein, nothing in this Plan shall impair, affect, or adversely affect the related transactions and the rights of the parties thereto. Notwithstanding any of the foregoing, nothing contained herein shall be deemed to impair, waive or extinguish any rights of the Trustees with respect to any rights contained in the respective Indentures or Guarantee Agreements; provided, however, that , upon payment in full of the respective Trustee Claims and Trustee Distribution Expenses in accordance with the Plan, the rights of the Trustees to seek payment from or assert claims against the Debtors for amounts owed under the respective Indentures or Guarantee Agreements shall be discharged as provided in this Plan.

33.5 Claims of Subordination: Except as specifically provided herein, to the fullest extent permitted by applicable law, on the latest to occur of (i) the Effective Date, (ii) the entry of a Final Order resolving all Claims in the Chapter 11 Cases, and (iii) the final distribution made to holders of Allowed Claims in accordance with Article XXXII of the Plan, all Claims and Equity Interests, and all rights and claims between or among holders of Claims and Equity Interests relating in any manner whatsoever to Claims or Equity Interests, based upon any contractual, equitable or legal subordination rights, will be terminated and discharged in the manner provided in this Plan, and all such Claims, Equity Interests and rights so based, and all such contractual, equitable and legal subordination rights to which any Entity may be entitled will be irrevocably waived. To the fullest extent permitted by applicable law, the rights afforded and the distributions that are made in respect of any Claims or Equity Interests under this Plan will not be subject to levy, garnishment, attachment or like legal process by any holder of a Claim or Equity Interest by reason of any contractual, equitable or legal subordination rights, so that, notwithstanding any such contractual, equitable or legal subordination rights, each holder of a Claim or Equity Interest shall have and receive the benefit of the rights and distributions set forth in this Plan.

33.6 Surrender of Instruments: Except to the extent evidenced by electronic entry, as a condition of receiving any distribution under the Plan, each holder of a certificated instrument or note must surrender such instrument or note to the appropriate Trustee or the Disbursing Agent or its designee. Any holder of such instrument or note that fails to (i) surrender such instrument or note or (ii) execute and deliver an affidavit of loss and/or indemnity reasonably satisfactory to the appropriate Trustee or the Disbursing Agent before the first (1st) anniversary of the Effective Date shall be deemed to have forfeited all rights and Claims and may not participate in any distribution under the Plan. Any distribution so forfeited shall become

the property of the Disbursing Agent for distribution to holders of Allowed Claims in accordance with the terms and provisions hereof.

33.7 **Issuance of Reorganized Common Stock and Additional Common Stock:** The issuance by Reorganized WMI of the Reorganized Common Stock and Additional Common Stock on the Effective Date is hereby authorized without the need for any further corporate action and without any further action by holders of Claims or Equity Interests.

33.8 **Exemption from Securities Laws:** To the maximum extent provided by section 1145 of the Bankruptcy Code and applicable non-bankruptcy law, ~~except with respect to the Additional Common Stock purchased pursuant to the Backstop Commitment Agreement,~~ the issuance under the Plan of the Reorganized Common Stock, the Additional Common Stock, and the Subscription Rights will be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder.

33.9 **Hart-Scott-Rodino Compliance:** Any shares of Reorganized Common Stock or Additional Common Stock to be distributed under the Plan to any Entity required to file a Premerger Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended, shall not be distributed until the notification and waiting periods applicable under such Act to such Entity shall have expired or been terminated.

33.10 **Fractional Stock or Other Distributions:** Notwithstanding anything to the contrary contained herein, no fractional shares of Reorganized Common Stock or Additional Common Stock shall be distributed, and no Cash payments of fractions of cents will be made. Fractional dollars shall be rounded down to the nearest whole dollar. Fractional shares of stock shall be rounded down to the nearest whole unit. No Cash will be paid in lieu of such fractional shares of stock or dollars.

ARTICLE XXXIV

RIGHTS OFFERING

34.1 **Issuance of Subscription Rights:** Pursuant to Section 20.4 of the Plan, each holder of an Allowed PIERS Claim shall receive certain Subscription Rights (as set forth therein), entitling such holder to purchase its Pro Rata Share of Additional Common Stock, if such holder ~~(except as otherwise permitted in the Backstop Commitment Agreement) possesses the right to purchase at least the minimum amount prescribed by the Backstop Commitment Agreement,~~ based on its Pro Rata Share of Subscription Rights, is entitled to subscribe for shares of Additional Common Stock for an aggregate Subscription Price of at least Two Million Dollars (\$2,000,000). The Additional Common Stock shall be issued on the Effective Date or as soon thereafter as is practicable. Each eligible holder of Subscription Rights shall have the right, but not the obligation, to participate in the Rights Offering as provided herein, and shall be entitled to acquire all or any portion of its Pro Rata Share of Additional Common Stock. Pursuant to the Rights Offering, a minimum aggregate number of shares of Additional Common Stock having a value of Fifty One Hundred Million Dollars (~~\$50,000,000.00~~ 100,000,000.00) shall be available for purchase by all eligible holders of Subscription Rights; ~~provided, however, that such number of shares may be increased in accordance with the Backstop Commitment Agreement, with such~~

~~increased amount to be fixed and disclosed by the Debtors by written notice prior to the hearing on the Disclosure Statement.~~

34.2 **Subscription Period:** The Rights Offering shall commence on the date Ballots and Subscription Forms are mailed to Voting Nominees on behalf of holders of Allowed PIERS Claims. On or prior to the Subscription Expiration Date, each Voting Nominee, on behalf of each respective holder of Subscription Rights intending and eligible to participate in the Rights Offering, must affirmatively communicate to the Rights Offering Agent such holder's election to exercise Subscription Rights. ~~Unexercised Subscription Rights shall be treated as acquired by the Backstop Purchasers, and any exercise of such Subscription Rights by any Entity other than the Backstop Purchasers shall be null and void, and the Debtors shall not be obligated to honor any such purported exercise received after the Subscription Expiration Date, regardless of when the documents relating to such exercise were sent or to whom.~~

34.3 **Subscription Purchase Price:** Each Voting Nominee, on behalf of each respective holder of Subscription Rights intending to participate in the Rights Offering, shall be required to pay, by no later than one (1) Business Day after the Subscription Expiration Date, the Subscription Purchase Price for each share of Additional Common Stock elected by such holder, in accordance with the provisions of Section 34.4 hereof.

34.4 **Exercise of Subscription Rights:** In order to exercise Subscription Rights, each holder thereof must (i) be a holder of an Allowed PIERS Claim as of the Rights Offering Record Date, (ii) ~~meet the other eligibility requirements set forth in the Backstop Commitment Agreement~~be entitled, based upon its Pro Rata Share of Subscription Rights, to subscribe for shares of Additional Common Stock having an aggregate purchase price of at least Two Million Dollars (\$2,000,000), (iii) make the election to exercise all or a portion of such rights on the Subscription Form in a specified amount, (iv) return such Subscription Form to such holder's Voting Nominee for electronic transmission to the Rights Offering Agent, so that such information is actually received by the Rights Offering Agent on or before the Subscription Expiration Date, and (v) pay to the Voting Nominee an amount equal to the Subscription Purchase Price multiplied by the number of shares of Additional Common Stock such holder is electing to purchase, so that the Voting Nominee can forward such funds to the Debtors, so that the funds are received by the Debtors no later than one (1) Business Day after the Subscription Expiration Date. If the Rights Offering Agent and/or the Debtors for any reason do not timely receive from a Voting Nominee, on behalf of a given holder of Subscription Rights, (i) information regarding such holder's election to exercise its Subscription Rights and (ii) immediately available funds as set forth above, such holder shall be deemed to have relinquished and waived its right to participate in the Rights Offering. The payments made in accordance with the Rights Offering shall be deposited and held by the Debtors in the Rights Offering Trust Account. The Rights Offering Trust Account will be a segregated account, maintained by the Debtors exclusively for the purpose of administration of the Rights Offering until the Effective Date or such other later date, at the option of the Reorganized Debtors. The Debtors shall not use such funds for any other purpose and shall not encumber or permit such funds to be encumbered with any Lien or similar encumbrance.

34.5 **General Procedures Governing Exercise of Subscription Rights:** Each eligible holder of Subscription Rights as of the Rights Offering Record Date may exercise all or

any portion of such holder's Subscription Rights pursuant to the Subscription Form; provided, however, that such holder ~~(except as otherwise permitted in the Backstop Commitment Agreement)~~ must be eligible to purchase ~~and must subscribe for shares of Additional Common Stock having an aggregate Subscription Purchase Price of~~ at least the minimum amount prescribed ~~in the Backstop Commitment Agreement~~ above. The valid exercise of Subscription Rights shall be irrevocable. In order to facilitate the exercise of the Subscription Rights, on the commencement date of the Rights Offering, the Debtors will mail a Subscription Form to each ~~holder~~ Voting Nominee on behalf of holders of Subscription Rights as of the Rights Offering Record Date, together with appropriate instructions for the proper completion, due execution, and timely delivery of the Subscription Form, as the case maybe, as well as instructions for payment. The Debtors may adopt such additional detailed procedures consistent with the provisions of this Article XXXIV to more efficiently administer the exercise of the Subscription Rights.

34.6 ~~**Undersubscription/Backstop of the Rights Offering:** Subject to the terms and conditions of the Backstop Commitment Agreement, any shares of Additional Common Stock not purchased by holders of Subscription Rights pursuant to the Rights Offering may be purchased by the Backstop Purchasers at the Subscription Purchase Price. To the extent applicable, and as set forth in the Backstop Commitment Agreement, the Debtors shall notify the Backstop Purchasers of the number of shares of Additional Common Stock not purchased pursuant to the Rights Offering. Pursuant to the terms and subject to the conditions of the Backstop Commitment Agreement, if they are so committed, the Backstop Purchasers shall pay to the Debtors, by wire transfer of immediately available funds, prior to the Effective Date, or shall direct the Disbursing Agent to deduct from such Entities' initial distribution of Creditor Cash, Cash in an amount equal to the Subscription Purchase Price multiplied by the number of shares of Additional Common Stock not purchased. The Debtors shall deposit such payment into the Rights Offering Trust Account. The Backstop Purchasers shall not be entitled to purchase the Additional Common Stock at a discount, nor shall the Backstop Purchasers be entitled to any fee in connection with their commitments and obligations set forth in the Backstop Commitment Agreement.~~ **Oversubscription:** Each eligible holder of Subscription Rights that exercises its Subscription Rights in full will also have an over-subscription right to purchase any shares of Additional Common Stock not purchased by other eligible holders of Subscription Rights pursuant to the Rights Offering, at the Subscription Purchase Price. Holders of Subscription Rights may exercise such over-subscription right only if such holders were eligible to and exercised their initial Subscription Rights in full. If holders of Subscription Rights exercise their over-subscription right for more shares of Additional Common Stock than are available to be purchased pursuant to the over-subscription right, the Debtors will allocate the shares of Additional Common Stock pro rata among those over-subscribing holders.

34.7 **Distribution of the Additional Common Stock:** On the Effective Date, or as soon as reasonably practicable thereafter, the Rights Offering Agent shall facilitate the distribution of the Additional Common Stock purchased pursuant to the Rights Offering.

34.8 **No Interest:** No interest shall be paid to Entities exercising Subscription Rights on account of amounts paid in connection with such exercise.

34.9 **Disputes/Defects Regarding Exercise of Subscription Rights:** All questions concerning the timeliness, viability, form, and eligibility of any exercise of Subscription Rights shall be determined by the Debtors, whose good-faith determinations shall be final and binding. The Debtors, in their reasonable discretion, may waive any defect or irregularity, or permit a defect or irregularity to be corrected within such times as they may determine, or reject the purported exercise of any Subscription Rights. Elections shall be deemed not to have been received or accepted until all irregularities have been waived or cured within such time as the Debtors determine in their reasonable discretion. The Debtors will use commercially reasonable efforts to give notice to any Voting Nominee or holder of Subscription Rights regarding any defect or irregularity in connection with any purported exercise of Subscription Rights, and may permit such defect or irregularity to be cured within such time as the Debtors may determine in good faith to be appropriate; provided, however, that neither the Debtors nor the Disbursing Agent nor the Rights Offering Agent shall incur any liability for failure to give such notification.

34.10 **Return of Unused Funds:** To the extent that any portion of the amount paid to the Rights Offering Agent by a Voting Nominee on behalf of a holder of Subscription Rights on account of the Rights Offering is not used to purchase Additional Common Stock, the Debtors or the Reorganized Debtors, as the case may be, will return such ratable portion to the Voting Nominee on behalf of the applicable holder within ten (10) Business Days of a determination that such funds will not be used. In addition, if the Rights Offering is cancelled or otherwise has not been consummated by the Rights Offering Expiration Date, the Debtors or the Reorganized Debtors, as the case may be, will return any payments made pursuant to the Rights Offering to the Voting Nominees on behalf of each applicable holder of Subscription Rights within ten (10) Business Days thereafter.

ARTICLE XXXV

CREDITORS' COMMITTEE/EQUITY COMMITTEE

35.1 **Dissolution of the Creditors' Committee:** On the first (1st) Business Day thirty (30) days following the Effective Date, and provided that payments to holders of Unsecured Claims have been made in accordance with Article XXXII of the Plan, the Creditors' Committee shall be dissolved, and the members thereof shall be released and discharged of and from all further authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Cases, and the retention or employment of the Creditors' Committee's attorneys, financial advisors, and other agents, if any, shall terminate other than for purposes of filing and prosecuting applications for final allowances of compensation for professional services rendered and reimbursement of expenses incurred in connection therewith; provided, however, that the Creditors' Committee may, at its own discretion, continue or resume its duties arising from or relating to (i) any pending litigation or contested matter to which the Creditors' Committee is a party, (ii) any appeal filed regarding confirmation of the Plan, (iii) obligations arising under confidentiality agreements, joint interest agreements, and protective orders, if any, entered during the Chapter 11 Cases that remain in full force and effect according to their terms, (iv) applications for fees and expenses of members of the Creditors' Committee and requests for compensation and reimbursement of expenses pursuant to section 503(b) of the Bankruptcy Code for making a substantial contribution in any of the Chapter 11 Cases, and (v)

motions, appeals or other litigation seeking the enforcement of the provisions of the Plan and the transactions contemplated hereunder or in the Confirmation Order; and provided further that the Debtors or the Reorganized Debtors, as the case may be, shall continue to compensate the Creditors' Committee's attorneys, financial advisors, and other agents, if any, for any of the post-Effective Date activities identified in this Section 35.1 of the Plan.

35.2 **Dissolution of the Equity Committee:** On the first (1st) Business Day following the Effective Date, the Equity Committee shall be dissolved and the members thereof shall be released and discharged of and from all further authority, duties, responsibilities, and obligations related to and arising from and in connection with the Chapter 11 Cases, and the retention or employment of the Equity Committee's attorneys, financial advisors, and other agents, if any, shall terminate other than for purposes of filing and prosecuting applications for final allowances of compensation for professional services rendered and reimbursement of expenses incurred in connection therewith.

ARTICLE XXXVI

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

36.1 **Rejection or Assumption of Remaining Executory Contracts and Unexpired Leases:** Pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, all prepetition executory contracts and unexpired leases that exist between one or both of the Debtors and any Entity, and which have not expired by their own terms on or prior to the Confirmation Date, shall be deemed rejected by the Debtors as of the Effective Date, except for any executory contract or unexpired lease that (i) has been assumed and assigned or rejected pursuant to an order of the Bankruptcy Court entered prior to the Effective Date or (ii) that is specifically designated as a contract or lease to be assumed or assumed and assigned on the schedules to the Plan Supplement, including, without limitation, any executory contract or unexpired lease sold, accepted, or transferred to one of the JPMC Entities pursuant to the terms of the Global Settlement Agreement; provided, however, that the Debtors reserve the right, on or prior to the Confirmation Date, to amend such schedules to delete any executory contract or unexpired lease therefrom or add any executory contract or unexpired lease thereto, in which event such executory contract(s) or unexpired lease(s) shall be deemed to be, as the case may be, either rejected, assumed, or assumed and assigned as of the Effective Date. The Debtors shall serve notice of any executory contract and unexpired lease to be rejected or assumed or assumed and assigned through the operation of this Section 36.1 by including schedules of such contracts and leases in the Plan Supplement. To the extent there are any amendments to such schedules, the Debtors shall provide notice of any such amendments to the parties to the executory contracts and unexpired leases affected thereby. The listing of a document on the schedules to the Plan Supplement shall not constitute an admission by the Debtors that such document is an executory contract or an unexpired lease or that the Debtors have any liability thereunder.

36.2 **Approval of Rejection or Assumption of Executory Contracts and Unexpired Leases:** Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection, assumption, or assumption and assignment, as the case may be, of executory contracts and

unexpired leases pursuant to Section 36.1 of the Plan or pursuant to the Global Settlement Agreement.

36.3 **Inclusiveness:** Unless otherwise specified on the schedules to the Plan Supplement, each executory contract and unexpired lease listed or to be listed therein shall include any and all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument, or other document is listed on such schedule.

36.4 **Cure of Defaults:** Except to the extent that different treatment has been agreed to by the non-debtor party or parties to any executory contract or unexpired lease to be assumed or assumed and assigned pursuant to Section 36.1 of the Plan, the Debtors shall, pursuant to the provisions of sections 1123(a)(5)(G) and 1123(b)(2) of the Bankruptcy Code and consistent with the requirements of section 365 of the Bankruptcy Code, within at least twenty (20) days prior to the Confirmation Hearing, file with the Bankruptcy Court and serve by first class mail on each non-debtor party to such executory contracts or unexpired leases to be assumed pursuant to Section 36.1 of the Plan, a notice, which shall list the cure amount as to each executory contract or unexpired lease to be assumed or assumed and assigned. The parties to such executory contracts or unexpired leases will have twenty (20) days from the date of service of such notice to file and serve any objection to the cure amounts listed by the Debtors. If there are any objections filed, the Bankruptcy Court shall hold a hearing on a date to be set by the Bankruptcy Court. Notwithstanding Section 36.1 of the Plan, the Debtors shall retain their rights to reject any of their executory contracts or unexpired leases that are subject to a dispute concerning amounts necessary to cure any defaults through the Effective Date.

36.5 **Rejection Damage Claims:** If the rejection of an executory contract or unexpired lease by the Debtors hereunder results in damages to the other party or parties to such contract or lease, any claim for such damages, if not heretofore evidenced by a filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtors, or their properties or agents, successors, or assigns, including, without limitation, the Reorganized Debtors and the Liquidating Trust, unless a proof of Claim is filed with the Bankruptcy Court and served upon attorneys for the Debtors or the Liquidating Trustee, as the case may be, on or before thirty (30) days after the latest to occur of (i) the Confirmation Date, and (ii) the date of entry of an order by the Bankruptcy Court authorizing rejection of a particular executory contract or unexpired lease.

36.6 **Indemnification and Reimbursement Obligations:** For purposes of the Plan, (i) the obligations of the Debtors to indemnify and reimburse their directors or officers; ~~except to the extent set forth on Exhibit BB to the Global Settlement Agreement,~~ that were directors or officers, respectively, on or prior to the Petition Date shall be deemed rejected as of the Effective Date and such parties' rights to assert rejection damage claims, if any, shall be governed by Section 36.5 of the Plan and (ii) indemnification obligations of the Debtors arising from ~~services as conduct of~~ officers and directors during the period from and after the Petition Date shall be Administrative Expense Claims.

36.7 **Termination of Benefit Plans:** Notwithstanding anything contained in the Plan to the contrary, the Debtors shall be authorized, but not required, to terminate all Benefit Plans, in accordance with the terms and provisions of the documents and instruments relating thereto and applicable law, at such time as determined by the Debtors in their sole discretion; provided, however, that, until the transfer or termination of any Benefit Plan, the Debtors and the Reorganized Debtors, as the case may be, shall (a) continue to perform any and all of their administrative obligations thereunder and (b) with respect to Benefit Plans subject to Title IV of ERISA, continue to make any required minimum funding contributions and pay applicable Pension Benefit Guaranty Corporation insurance premiums; and, provided, further, that, upon termination thereof, the Debtors or the Reorganized Debtors, as the case may be, shall provide administrative services in connection with the operation and wind down of the Benefit Plans; and, provided, further, that the continuation of any Benefit Plan by the Debtors or the Reorganized Debtors, as the case may be, from and after the Confirmation Date, including, without limitation, the provision of administrative services in connection with the operation and wind down of such Benefit Plan, shall not constitute an assumption of such Benefit Plans in accordance with section 365 of the Bankruptcy Code; and, provided, further, that the failure to perform any obligation under the Benefit Plans or to provide administrative services in connection with the wind down of the Benefit Plans shall be without prejudice to (i) any Entity to assert such failure gives rise to an Administrative Expense Claim and (ii) the Debtors or the Liquidating Trustee to contest the assertion thereof. For the avoidance of doubt, the foregoing shall not apply to any employee benefit or welfare plan to be maintained by the Reorganized Debtors or the Liquidating Trustee, as the case may be, in the ordinary course of business after the Effective Date for the benefit of employees actively employed by the Reorganized Debtors or the Liquidating Trustee.

36.8 **Termination of Vendor Stipulation:** On the Effective Date, that certain Stipulation By and Between Debtors and JPMorgan Chase Bank, N.A. Concerning Certain Contracts, dated October 16, 2008, shall be terminated and deemed of no further force and effect, except as specifically provided in Section 2.14 of the Global Settlement Agreement.

ARTICLE XXXVII

RIGHTS AND POWERS OF DISBURSING AGENT

37.1 **Exculpation:** From and after the Effective Date, the Disbursing Agent shall be exculpated by all Entities, including, without limitation, holders of Claims and Equity Interests and other parties in interest, from any and all claims, causes of action, and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Disbursing Agent by the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law, except for actions or omissions to act arising out of the gross negligence or willful misconduct of such Disbursing Agent. No holder of a Claim or an Equity Interest or other party in interest shall have or pursue any claim or cause of action against the Disbursing Agent for making payments in accordance with the Plan or for implementing the provisions of the Plan.

37.2 **Powers of the Disbursing Agent:** Except as may be provided otherwise hereunder, the Disbursing Agent shall be empowered to (i) take all steps and execute all

instruments and documents necessary to effectuate the Plan, (ii) make distributions contemplated by the Plan, (iii) comply with the Plan and the obligations thereunder, and (iv) exercise such other powers as may be vested in the Disbursing Agent pursuant to order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

37.3 Fees and Expenses Incurred From and After the Effective Date:

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent from and after the Effective Date and any reasonable compensation and expense reimbursement claims, including, without limitation, reasonable fees and expenses of counsel, incurred by the Disbursing Agent, shall be paid in Cash without further order of the Bankruptcy Court.

ARTICLE XXXVIII

CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN

38.1 Conditions Precedent to Confirmation of the Plan: Confirmation of the Plan is subject to satisfaction of the following conditions precedent:

(a) **Required Orders:** The Clerk of the Bankruptcy Court shall have entered an order or orders (including, without limitation, the Disclosure Statement Order and the Confirmation Order):

- (1) approving the Disclosure Statement as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code;
- (2) authorizing the solicitation of votes with respect to the Plan;
- (3) determining that all votes are binding and have been properly tabulated as acceptances or rejections of the Plan;
- (4) confirming and giving effect to the terms and provisions of the Plan, including the releases in Article XLIII of the Plan;
- (5) approving the Global Settlement Agreement in accordance with its terms including, but not limited to the releases of the Released Parties;
- (6) determining that all applicable tests, standards and burdens in connection with the Plan have been duly satisfied and met by the Debtors and the Plan;
- (7) approving the documents in the Plan Supplement;
- (8) authorizing the Debtors to execute, enter into, and deliver the documents in the Plan Supplement, and to execute, implement and

take all actions otherwise necessary or appropriate to give effect to the transactions contemplated by the Plan, the documents in the Plan Supplement, and the Global Settlement Agreement;

(9) determining that the compromises and settlements set forth in the Global Settlement Agreement and this Plan are appropriate, reasonable and approved; and

(10) ordering the sale of the Plan Contribution Assets to be sold to the JPMC Entities or the Debtors, as applicable, pursuant to the Global Settlement Agreement, free and clear of all rights, ~~claims~~Claims, interests and ~~liens~~Liens, and finding that the parties acquired such assets in good faith under the meaning of, and subject to the protections of, section 363(m) and pursuant to section 1123(a)(5) of the Bankruptcy Code.

(b) Form of Orders: The Confirmation Order and this Plan each is in a form and substance ~~reasonably~~ satisfactory to the Debtors, the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate.

(c) Confirmation Order: The Confirmation Order includes (i) determinations that all of the settlements and compromises contained in the Plan and the Global Settlement Agreement satisfy applicable standards under sections 365, 1123(b)(3) and 1129 of the Bankruptcy Code and Bankruptcy Rule 9019, and (ii) the releases and injunctions set forth in Article XLIII of the Plan.

38.2 **Waiver of Conditions Precedent to Confirmation**: To the extent practicable and legally permissible, each of the conditions precedent in Section 38.1 hereof may be waived, in whole or in part, by the Debtors, subject to the approval of the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate. Any such waiver of a condition precedent may be effected at any time by filing a notice thereof with the Bankruptcy Court executed by the Debtors, the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate.

ARTICLE XXXIX

CONDITIONS PRECEDENT TO EFFECTIVE DATE OF THE PLAN

39.1 **Conditions Precedent to Effective Date of the Plan**: The occurrence of the Effective Date and the substantial consummation of the Plan are subject to satisfaction of the following conditions precedent:

(a) Satisfaction of Certain Settlement Agreement Conditions: The satisfaction of the "Conditions to Effective Date" set forth in Sections 7.2(a), (b), (c) and (e) of the Global Settlement Agreement.

(b) Entry of the Confirmation Order: The Clerk of the Bankruptcy Court shall have entered the Confirmation Order, in form and substance reasonably satisfactory to the Debtors, the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and

the FDIC Receiver and FDIC Corporate, in accordance with section 1129 of the Bankruptcy Code, and the Confirmation Order shall have become a Final Order.

(c) Execution of Documents; Other Actions: All other actions and documents necessary to implement the Plan shall have been effected or executed.

39.2 **Waiver of Conditions Precedent:** To the extent practicable and legally permissible, each of the conditions precedent in Section 39.1 hereof may be waived, in whole or in part, by the Debtors, subject to the approval of the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate. Any such waiver of a condition precedent may be effected at any time by filing a notice thereof with the Bankruptcy Court executed by the Debtors, the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate.

ARTICLE XL

RETENTION OF JURISDICTION

40.1 **Retention of Jurisdiction:** The Bankruptcy Court shall retain and have exclusive jurisdiction over any matter arising under the Bankruptcy Code, arising in or related to the Chapter 11 Cases or the Plan, or that relates to the following:

(a) to resolve any matter related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Claim arising therefrom, including those matters related to the amendment after the Effective Date of the Plan to add any executory contract or unexpired lease to the list of executory contracts and unexpired leases to be rejected;

(b) to enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, including, without limitation, the Global Settlement Agreement, unless any such agreements or documents contain express enforcement and dispute resolution provisions to the contrary, in which case, such provisions shall govern;

(c) to determine any and all motions, adversary proceedings, applications, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Debtors, the Reorganized Debtors, or the Liquidating Trustee prior to or after the Effective Date;

(d) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(e) to hear and determine any timely objection to any Claim or Equity Interest, whether such objection is filed before or after the Confirmation Date, including any objection to the classification of any Claim or Equity Interest, and to allow, disallow, determine,

liquidate, classify, estimate, or establish the priority of or secured or unsecured status of any Claim or Equity Interest, in whole or in part;

(f) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, reversed, or vacated;

(g) to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

(h) to consider any modification of the Plan, to cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

(i) to hear and determine all applications for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date;

(j) to hear and determine disputes arising in connection with or relating to the Plan or the Global Settlement Agreement, or the interpretation, implementation, or enforcement of the Plan or the Global Settlement Agreement, or the extent of any Entity's obligations incurred in connection with or released under the Plan or the Global Settlement Agreement, unless such agreements or documents contain express enforcement or dispute resolution provisions to the contrary, in which case such provisions should govern;

(k) to issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation or enforcement of the Plan or the Global Settlement Agreement;

(l) to determine any other matter that may arise in connection with or that is related to the Plan, the Disclosure Statement, the Confirmation Order, the Global Settlement Agreement, or any contract, instrument, release, or other agreement or document created in connection therewith, unless such agreements or documents contain express enforcement or dispute resolution provisions, in which case, such provisions should govern;

(m) to hear and determine matters concerning state, local, and federal Taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including, without limitation, any matter relating to the Tax Refunds, and any request by the Debtors or by the Liquidating Trustee, as applicable, for an expedited determination of Tax under section 505(b) of the Bankruptcy Code with respect to the Debtors, the Liquidating Trust, or the Liquidating Trust Claims Reserve, as applicable);

(n) to hear any other matter or for any purpose specified in the Confirmation Order that is not inconsistent with the Bankruptcy Code; and

(o) to enter a final decree closing the Chapter 11 Cases;

provided, however, that the foregoing is not intended to (i) expand the Bankruptcy Court's jurisdiction beyond that allowed by applicable law, (ii) grant the Bankruptcy Court jurisdiction over disputes between JPMC and the FDIC Receiver and/or FDIC Corporate under the Purchase

and Assumption Agreement, (iii) impair the rights of an Entity to (a) invoke the jurisdiction of a court, commission, or tribunal with respect to matters relating to a governmental unit's police and regulatory powers and (b) contest the invocation of any such jurisdiction; and provided, further, that the invocation of such jurisdiction, if granted, shall not extend to the allowance or priority of Claims or the enforcement of any money judgment against the Debtors, the Reorganized Debtors, or the Liquidating Trust, as the case may be, entered by such court, commission, or tribunal, and (iv) impair the rights of an Entity to (a) seek the withdrawal of the reference in accordance with 28 U.S.C. § 157(d) and (b) contest any request for the withdrawal of reference in accordance with 28 U.S.C. § 157(d).

ARTICLE XLI

MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

41.1 **Modification of Plan:** The Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, in the event any amendment or modification would materially adversely affect the substance of the economic provisions set forth in the Plan or the Global Settlement Agreement, to amend or modify the Plan, the Plan Supplement, or any exhibit to the Plan at any time prior to the entry of the Confirmation Order, subject in each case to the consent of the Creditors' Committee, the JPMC Entities, the Settlement Note Holders and the FDIC Receiver and FDIC Corporate; provided, however, that, for the avoidance of doubt, it is understood and agreed that any change to the definition of JPMC Assumed Liabilities or to the releases in Article XLIII of the Plan, or to the assets or benefits to be received by JPMC pursuant to the Global Settlement Agreement would be material to the JPMC Entities. Upon entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan, subject in each case to the terms of the Global Settlement Agreement. A holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder.

41.2 **Revocation or Withdrawal:**

(a) The Plan may be revoked or withdrawn prior to the Confirmation Date by the Debtors.

(b) If the Plan is revoked or withdrawn prior to the Confirmation Date, or if the Plan does not become effective for any reason whatsoever, then the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claim by the Debtors or any other Entity, or to prejudice in any manner the rights of the Debtors or any other Entity in any further proceeding involving the Debtors.

41.3 **Amendment of Plan Documents:** From and after the Effective Date, the authority to amend, modify, or supplement the Plan Supplement, the Exhibits to the Plan Supplement and the Exhibits to the Plan, and any document attached to any of the foregoing,

shall be as provided in such Plan Supplement, Exhibit to the Plan Supplement, or Exhibit to the Plan and their respective attachments, as the case may be.

41.4 **No Admission of Liability.**

(a) The submission of this Plan is not intended to be, nor shall it be construed as, an admission or evidence in any pending or subsequent suit, action, proceeding or dispute of any liability, wrongdoing, or obligation whatsoever (including as to the merits of any claim or defense) by any Entity with respect to any of the matters addressed in this Plan.

(b) None of this Plan (including, without limitation, the Exhibits hereto), or any settlement entered, act performed or document executed in connection with this Plan: (i) is or may be deemed to be or may be used as an admission or evidence of the validity of any claim, or any allegation made in any of the Related Actions or of any wrongdoing or liability of any Entity; (ii) is or may be deemed to be or may be used as an admission or evidence of any liability, fault or omission of any Entity in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; (iii) is or may be deemed to be or used as an admission or evidence against the Reorganized Debtors, the Debtors, or any other Person or Entity with respect to the validity of any Claim; or (iv) is or may be deemed to be used as an admission or evidence of the jurisdiction of any court to adjudicate claims or matters relating to the Receivership. None of this Plan or any settlement entered, act performed or document executed in connection with this Plan shall be admissible in any proceeding for any purposes, except to carry out the terms of this Plan, and except that, once confirmed, any Entity may file this Plan in any action for any purpose, including, but not limited to, in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense of counterclaim.

ARTICLE XLII

CORPORATE GOVERNANCE AND MANAGEMENT OF THE REORGANIZED DEBTORS

42.1 **Corporate Action:** On the Effective Date, all matters provided for under the Plan that would otherwise require approval of the stockholders or directors of one or more of the Debtors or Reorganized Debtors, including, without limitation, the authorization to issue or cause to be issued the Reorganized Common Stock, the Additional Common Stock, and the Subscription Rights, the adoption of the Reorganized Debtors Certificates of Incorporation and the Reorganized Debtors By-Laws, and the election or appointment, as the case may be, of directors and officers of the Reorganized Debtors pursuant to the Plan, shall be authorized and approved in all respects, in each case without further action under applicable law, regulation, order, or rule, including, without limitation, any action by the stockholders of the Debtors or the Reorganized Debtors, as the case may be. The cancellation of all Equity Interests and other matters provided under the Plan involving the corporate structure of the Reorganized Debtors or corporate action by the Reorganized Debtors shall be deemed to have occurred, be authorized, and shall be in effect without requiring further action under applicable law, regulation, order, or rule, including, without limitation, any action by the stockholders of the Debtors or the

Reorganized Debtors. Without limiting the foregoing, from and after the Confirmation Date, the Debtors and the Reorganized Debtors shall take any and all actions deemed appropriate in order to consummate the transactions contemplated herein, and, notwithstanding any provision contained in the Debtors' articles of incorporation and by-laws to the contrary, such Entities shall not require the affirmative vote of holders of Equity Interests in order to take any corporate action including to (i) compromise and settle claims and causes of action of or against the Debtors and their chapter 11 estates and (ii) dissolve, merge, or consolidate with any other Entity.

42.2 **Reincorporation:** Prior to the Effective Date, WMI shall reincorporate from the State of Washington to the State of Delaware.

42.3 **Amendment of Articles of Incorporation and By-Laws:** The articles of incorporation and by-laws of the Debtors shall be amended as of the Effective Date to provide substantially as set forth in the Reorganized Debtors Certificates of Incorporation and the Reorganized Debtors By-Laws, each of which shall in form and substance be satisfactory to the ~~Backstop Purchasers~~ Settlement Note Holders and reasonably satisfactory to the Creditors' Committee. The Reorganized Debtors Certificates of Incorporation and the Reorganized Debtors By-Laws, to the extent applicable, shall prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code.

42.4 **Directors of the Reorganized Debtors:** On the Effective Date, the boards of directors of each of the Reorganized Debtors shall each consist of seven (7) persons and will be comprised as follows: (i) the chief executive officer of Reorganized WMI and (ii) six (6) individuals selected by the ~~Backstop Purchasers~~ Creditors' Committee; provided, however, that the first annual election of the boards of directors shall take place within six (6) months after the Effective Date. The initial directors shall be disclosed prior to the Confirmation Hearing. In the event that, during the period from the Confirmation Hearing up to and including the Effective Date, circumstances require the substitution of one (1) or more persons selected to serve on the boards of directors of the Reorganized Debtors, the ~~Backstop Purchasers~~ Creditors' Committee shall choose such substitute and the Debtors shall file a notice thereof with the Bankruptcy Court and, for purposes of section 1129 of the Bankruptcy Code, any such replacement person, designated in accordance with the requirements of the immediately preceding sentence, shall be deemed to have been selected and disclosed prior to the Confirmation Hearing.

42.5 **Officers of the Reorganized Debtors:** The board of directors of the Reorganized Debtors shall elect officers of the Reorganized Debtors as of or after the Effective Date.

42.6 **Shareholders' Agreement:** Reorganized WMI and its shareholders (and their shares of Reorganized Common Stock and Additional Common Stock) shall be subject to, and bound by, a shareholders' agreement, which shall in form and substance be reasonably satisfactory to the ~~Backstop Purchasers~~ Settlement Note Holders and the Creditors' Committee.

ARTICLE XLIII

MISCELLANEOUS PROVISIONS

43.1 **Title to Assets:** Except as otherwise provided by the Plan and the Global Settlement Agreement, on the Effective Date, title to all assets and properties encompassed by the Plan shall vest in the Reorganized Debtors, the Liquidating Trust, the JPMC Entities or the ~~WMB Recipient~~FDIC Receiver, as the case may be, free and clear of all Liens and in accordance with sections 363 and 1141 of the Bankruptcy Code, and the Confirmation Order shall be a judicial determination of discharge of the liabilities of the Debtors and the Debtors in Possession except as provided in the Plan.

43.2 **Discharge and Release of Claims and Termination of Equity Interests.**

(a) Except as expressly provided in the Plan or the Confirmation Order, all distributions and rights afforded under the Plan and the treatment of Claims and Equity Interests under the Plan shall be, and shall be deemed to be, in exchange for, and in complete satisfaction, settlement, discharge and release of, all Claims and any other obligations, suits, judgments, damages, debts, rights, remedies, causes of action or liabilities of any nature whatsoever, and of all Equity Interests, or other rights of a holder of an Equity Interest, relating to any of the Debtors or the Reorganized Debtors or any of their respective assets, property and estates, or interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or other obligations, suits, judgments, damages, debts, rights, remedies, causes of action or liabilities, or Equity Interests or other rights of a holder of an equity security or other ownership interest. Upon the Effective Date, the Debtors and the Reorganized Debtors shall (i) be deemed discharged under section 1141(d)(1)(A) of the Bankruptcy Code and released from any and all Claims and any other obligations, suits, judgments, damages, debts, rights, remedies, causes of action or liabilities, and any Equity Interests or other rights of a holder of an equity security or other ownership interest, of any nature whatsoever, including, without limitation, liabilities that arose before the Effective Date (including prior to the Petition Date), and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) a proof of Claim based upon such debt is filed or deemed filed under section 501 of the Bankruptcy Code, (b) a Claim based upon such debt is allowed under section 502 of the Bankruptcy Code (or is otherwise resolved), or (c) the holder of a Claim based upon such debt voted to accept the Plan and (ii) terminate and cancel all rights of any equity security holder in any of the Debtors and all Equity Interests.

(b) Except as provided in the Plan or the Confirmation Order, all Entities shall be precluded from asserting against any and each of the Released Parties, and any and each of their respective assets, property and estates, any other or further Claims, or any other obligations, suits, judgments, damages, debts, rights, remedies, causes of action or liabilities of any nature whatsoever, and of all Equity Interests, or other rights of a holder of an Equity Interest, relating to any of the Debtors or the Reorganized Debtors or any of their respective assets, property and estates, including any interest accrued on such Claims from and after the Petition Date, and regardless of whether any property will have been distributed or retained pursuant to the Plan on account of such Claims or other obligations, suits, judgments, damages,

debts, rights, remedies, causes of action or liabilities, or Equity Interests or other rights of a holder of an equity security or other ownership interest. In accordance with the foregoing, except as expressly provided in the Plan or the Confirmation Order, the Confirmation Order shall constitute a judicial determination, as of the Effective Date, of the discharge and release of all such Claims or other obligations, suits, judgments, damages, debts, rights, remedies, causes of action or liabilities, and any Equity Interests, or other rights of a holder of an equity interest and termination of all rights of any such holder in any of the Debtors, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void and extinguish any judgment obtained against any of the Released Parties, and their respective assets, property and estates at any time, to the extent such judgment is related to a discharged Claim, debt or liability or terminated right of any holder of any Equity Interest in any of the Debtors. As of the Effective Date, and in consideration for the value provided under the Global Settlement Agreement to effectuate the Plan, each holder of a Claim or Equity Interest in any Class under this Plan shall be and hereby is deemed to release and forever waive and discharge as against each and any of the Released Parties, and their respective assets, property and estates, all such Claims and Equity Interests.

(c) In furtherance of the foregoing, and except for the JPMC Assumed Liabilities, Allowed WMB Vendor Claims, and Allowed WMI Vendor Claims, to the extent provided in the Global Settlement Agreement, none of the JPMC Entities or any of their Related Persons shall have any liability for, and the Debtors on behalf of themselves and their respective estates and Related Persons hereby release the JPMC Entities and each of their Related Persons from liability for, any and all Claims that (i) are or were property of the Debtors, their estates, or their respective Related Persons or (ii) were or could have been brought in any of the Related Actions.

43.3 Injunction on Claims: Except as otherwise expressly provided in the Plan, the Confirmation Order or such other order of the Bankruptcy Court that may be applicable, all Entities, and each Related Person of such Entities, who have held, hold or may hold Claims or any other debt or liability that is discharged or Equity Interests or other right of equity interest that is terminated or cancelled pursuant to the Plan or the Global Settlement Agreement, or who have held, hold or may hold Claims or any other debt or liability that is discharged or released pursuant to Sections 43.2 or 43.6 hereof, respectively, are permanently enjoined, from and after the Effective Date, from (a) commencing or continuing, directly or indirectly, in any manner, any action or other proceeding (including, without limitation, any judicial, arbitral, administrative or other proceeding) of any kind on any such Claim or other debt or liability or Equity Interest that is terminated or cancelled pursuant to the Plan against any of the Released Parties or any of their respective assets, property or estates, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against any of the Released Parties or any of their respective assets, property or estates, (c) creating, perfecting, or enforcing any encumbrance of any kind against any of the Released Parties or any of their respective assets, property or estates, and (d) except to the extent provided, permitted or preserved by sections 553, 555, 556, 559 or 560 of the Bankruptcy Code or pursuant to the common law right of recoupment, asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from any of the Released Parties or any of their respective assets, property or estates, with respect to any such Claim or other

debt or liability that is discharged or Equity Interest or other right of equity interest that is terminated or cancelled pursuant to the Plan; provided, however, that such injunction shall not preclude the United States of America, any state or any of their respective police or regulatory agencies from enforcing their police or regulatory powers; and, provided, further, that, except in connection with a properly filed proof of Claim, the foregoing proviso does not permit the United States of America, any State or any of their respective police or regulatory agencies from obtaining any monetary recovery from any of the Released Parties or any of their respective assets, property or estates, with respect to any such Claim or other debt or liability that is discharged or Equity Interest or other right of equity interest that is terminated or cancelled pursuant to the Plan, including, without limitation, any monetary claim or penalty in furtherance of a police or regulatory power; and, provided, further that, subject to Section 3.8 of the Global Settlement Agreement, such injunction shall not preclude the JPMC Entities, the Receivership, the FDIC Receiver and the FDIC Corporate from pursuing any and all claims against ~~the FDIC Receiver, the Receivership, or the FDIC Corporate~~ under each other or any other defenses thereto pursuant to the Purchase and Assumption Agreement. Such injunction shall extend to all successors and assigns of the Released Parties and their respective assets, property and estates.

43.4 **Integral to Plan:** Each of the discharge, injunction and release provisions provided in this Article XLIII is an integral part of the Plan and is essential to its implementation. Each of the Released Parties shall have the right to independently seek the enforcement of the discharge, injunction and release provisions set forth in this Article XLIII.

43.5 **Releases by the Debtors:** Except as otherwise expressly provided in the Plan, the Confirmation Order, or the Global Settlement, on the Effective Date, for good and valuable consideration, each of the Debtors and the Reorganized Debtors on its own behalf and as representative of its respective estate, and each of its respective Related Persons, and on behalf of the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Beneficiaries and the Disbursing Agent, and each of their respective Related Persons, shall be deemed to have and hereby does irrevocably and unconditionally, fully, finally and forever waive, release, acquit, and discharge the Released Parties and each of their respective Related Persons, from any and all Claims or Causes of Action that the Debtors, the Reorganized Debtors, the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Beneficiaries, and the Disbursing Agent, and their respective Related Persons, or any of them, or anyone claiming through them, on their behalf or for their benefit, have or may have or claim to have, now or in the future, against any Released Party or any of their respective Related Persons that are Released Claims or otherwise are based upon, relate to, or arise out of or in connection with, in whole or in part, any act, omission, transaction, event or other circumstance relating to the Debtors, the Affiliated Banks, or any of their respective Related Persons, taking place or existing on or prior to the Effective Date, and/or any Claim, act, fact, transaction, occurrence, statement, or omission in connection with or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees.

43.6 **Releases by Holders of Claims and Equity Interests.** Except as otherwise expressly provided in the Plan, the Confirmation Order, or the Global Settlement

Agreement, on the Effective Date, for good and valuable consideration, each Entity that has held, currently holds or may hold a Released Claim or any Equity Interest that is terminated, and each of its respective Related Persons, on their own behalf and on behalf of anyone claiming through them, on their behalf, or for their benefit, shall be deemed to have and hereby does irrevocably and unconditionally, fully, finally and forever waive, release, acquit and discharge each and all of the Released Parties from any and all Released Claims in connection with or related to any of the Debtors, the Reorganized Debtors, the Affiliated Banks, or their respective subsidiaries, assets, liabilities, operations, property or estates, the Chapter 11 Cases or the Plan or the Disclosure Statement, the assets to be received by JPMC pursuant to the Global Settlement Agreement, the Plan Contribution Assets, the Debtors' Claims, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement, the WMI/WMB Intercompany Claims, any intercompany claims on the books of WMI or WMB related to the WaMu Pension Plan or the Lakeview Plan, claims related in any way to the Trust Preferred Securities (including, without limitation, the creation of the Trust Preferred Securities, the financing associated therewith, the requested assignment of the Trust Preferred Securities by the Office of Thrift Supervision and the transfer and the asserted assignment of the Trust Preferred Securities subsequent thereto), and/or any claim, act, fact, transaction, occurrence, statement, or omission in connection with or alleged in the Actions or in the Texas Litigation, or that could have been alleged in respect of the foregoing or other similar proceeding, including, without limitation, any such claim demand, right, liability, or cause of action for indemnification, contribution or any other basis in law or equity for damages, costs or fees incurred by the releasors herein arising directly or indirectly from or otherwise relating thereto; **provided, however, that each Entity that has submitted a Ballot may elect, by checking the appropriate box on its Ballot, not to grant the releases set forth in Section 43.6 of the Plan with respect to those Released Parties other than (i) the Debtors, (ii) the Reorganized Debtors, (iii) the Trustees, and (iv) the Creditors' Committee and its members in such capacity and for their actions as members, their respective Related Persons, and their respective predecessors, successors and assigns (whether by operation of law or otherwise), in which case, such Entity that so elects to not grant the releases will not receive a distribution hereunder; and provided, further, that, because the Plan and the Global Settlement Agreement, and the financial contributions contained therein, are conditioned upon the aforementioned releases, and, as such, these releases are essential for the successful reorganization of the Debtors, pursuant to the Confirmation Order, those Entities that opt out of the releases provided hereunder shall be bound and shall receive the distributions they otherwise would be entitled to receive pursuant to the Plan.**

43.7 **Injunction Related to Releases.** Except as provided in the Plan, the Confirmation Order, or the Global Settlement Agreement, as of the Effective Date, (i) all Entities that hold, have held, or may hold a Released Claim or Equity Interest relating to any of the Debtors or the Reorganized Debtors or any of their respective assets, property and estates, that is released pursuant to Section 43.6 of the Plan, (ii) all other parties in interest, and (iii) each of the Related Persons of each of the foregoing entities, are, and shall be, permanently, forever and completely stayed, restrained, prohibited, barred and enjoined from taking any of the following actions, whether directly or indirectly, derivatively or otherwise, on account of or based on the subject matter of such discharged Released Claims or such Equity Interests: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding (including, without

limitation, any judicial, arbitral, administrative or other proceeding) in any forum; (ii) enforcing, attaching (including, without limitation, any prejudgment attachment), collecting, or in any way seeking to recover any judgment, award, decree, or other order; (iii) creating, perfecting or in any way enforcing in any matter, directly or indirectly, any Lien; (iv) setting off, seeking reimbursement or contributions from, or subrogation against, or otherwise recouping in any manner, directly or indirectly, any amount against any liability or obligation owed to any Entity released under Section 43.6 hereof; and (v) commencing or continuing in any manner, in any place of any judicial, arbitration or administrative proceeding in any forum, that does not comply with or is inconsistent with the provisions of the Global Settlement Agreement, the Plan or the Confirmation Order.

43.8 **Exculpation:** The Released Parties, members of the Plan Administration Committee and Plan Investment Committee of the WaMu Savings Plan, and each of their Related Persons shall not have or incur any liability to any Entity for any act taken or omitted to be taken in connection with the Chapter 11 Cases (including any actions taken by the Creditors' Committee after the Effective Date), the formulation, preparation, dissemination, implementation, confirmation or approval of the Plan or any compromises or settlements contained therein, the Disclosure Statement related thereto, the Global Settlement Agreement, or any contract, instrument, release or other agreement or document provided for or contemplated in connection with the consummation of the transactions set forth in the Plan and the Global Settlement Agreement; provided, however, that the foregoing provisions of this Section 43.8 shall not affect the liability of any Entity that otherwise would result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct. Any of the foregoing parties in all respects shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

43.9 **Bar Order:** Each and every Entity is permanently enjoined, barred and restrained from instituting, prosecuting, pursuing or litigating in any manner any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown, direct or derivative, whether asserted or unasserted, against any of the Released Parties, based upon, related to, or arising out of or in connection with any of the Released Claims, the Debtors' Claims, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement (other than any rights or claims the JPMC Entities, the Receivership, the FDIC Receiver or the FDIC Corporate may have under the Purchase and Assumption Agreement), confirmation and consummation of the Plan, the negotiation and consummation of the Global Settlement Agreement, or any claim, act, fact, transaction, occurrence, statement or omission in connection with or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred arising directly or indirectly from or otherwise relating to the Related Actions, either directly or indirectly by any Person for the direct or indirect benefit of any Released Party arising from or related to the claims, acts, facts, transactions, occurrences, statements or omissions that are, could have been or may be alleged in the Related Actions or any other action brought or that might be brought by, through, on behalf of, or for the benefit of any of the Released Parties (whether arising under federal, state or foreign law, and regardless of where asserted).

43.10 **Deemed Consent:** By submitting a Ballot and receiving a distribution under or any benefit pursuant to this Plan and not electing to withhold consent to the releases of the applicable Released Parties set forth in Section 43.6 of the Plan, or by order of the Bankruptcy Court, each holder of a Claim or Equity Interest shall be deemed, to the fullest extent permitted by applicable law, to have specifically consented to the releases set forth in Section 43.6 of the Plan.

43.11 **No Waiver:** Notwithstanding anything to the contrary contained in Sections 43.5 and 43.6 hereof, the releases and injunctions set forth in such sections shall not, and shall not be deemed to, limit, abridge or otherwise affect the rights of the Reorganized Debtors, the Creditors' Committee, the Liquidating Trustee, the JPMC Entities, the FDIC Receiver, FDIC Corporate or the Settlement Note Holders to enforce, sue on, settle or compromise the rights, claims and other matters expressly retained by any of them.

43.12 **Supplemental Injunction:** Notwithstanding anything contained herein to the contrary, all Entities, including Entities acting on their behalf, who currently hold or assert, have held or asserted, or may hold or assert, any Released Claims or Equity Interests against any of the Released Parties based upon, attributable to, arising out of or relating to any Claim against or Equity Interest in any of the Debtors, whenever and wherever arising or asserted, whether in the U.S. or anywhere else in the world, whether sounding in tort, contract, warranty, statute, or any other theory of law, equity or otherwise, shall be, and shall be deemed to be, permanently stayed, restrained and enjoined from taking any action against any of the Released Parties for the purpose of directly or indirectly collecting, recovering or receiving any payment or recovery with respect to any Released Claims or Equity Interests arising prior to the Effective Date (including prior to the Petition Date), including, but not limited to:

(a) Commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Released Claim or Equity Interest against any of the Released Parties or the assets or property of any Released Party;

(b) Enforcing, attaching, collecting or recovering, by any manner or means, any judgment, award, decree or order against any of the Released Parties or the assets or property of any Released Party with respect to any such Released Claim or Equity Interest;

(c) Creating, perfecting or enforcing any Lien of any kind against any of the Released Parties or the assets or property of any Released Party with respect to any such Released Claim or Equity Interest;

(d) Except as otherwise expressly provided in the Plan, the Confirmation Order, or the Global Settlement Agreement, asserting, implementing or effectuating any setoff, right of subrogation, indemnity, contribution or recoupment of any kind against any obligation due to any of the Released Parties or against the property of any Released Party with respect to any such Released Claim or Equity Interest; and

(e) **Taking any act, in any manner, in any place whatsoever, that does not conform to, or comply with, the provisions of the Plan, the Confirmation Order, or the Global Settlement Agreement relating to such Released Claim or Equity Interest;**

provided, however, that the Debtors' compliance with the formal requirements of Bankruptcy Rule 3016 shall not constitute an admission that the Plan provides for an injunction against conduct not otherwise enjoined under the Bankruptcy Code.

43.13 **Term of Existing Injunctions or Stays:** Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Cases pursuant to sections 105, 362, or 525 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until entry of an order in accordance with Section 43.22 of the Plan or such other Final Order of the Bankruptcy Court; provided, however, that the terms of the Stock Trading Order shall remain in full force and effect forever, including, without limitation, with respect to any violation thereof on or before the Effective Date.

43.14 **Payment of Statutory Fees:** All fees payable pursuant to section 1930 of title 28 of the United States Code, and, if applicable, any interest payable pursuant to section 3717 of title 31 of the United States Code, as determined by the Bankruptcy Court, shall be paid on the Effective Date or thereafter as and when they become due or otherwise pursuant to an agreement between the Reorganized Debtors and the United States Department Justice, Office of the United States Trustee, until such time as the Chapter 11 Cases are closed in accordance with the provisions of Section 43.22 of the Plan.

43.15 **Post-Effective Date Fees and Expenses:** From and after the Effective Date, the Reorganized Debtors shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, retain professionals and pay the reasonable professional fees and expenses incurred by the Reorganized Debtors related to implementation and consummation of the Plan without further approval from the Bankruptcy Court.

43.16 **Exemption from Transfer Taxes:** Pursuant to sections 106, 1141 and 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under or in connection with the Plan or the Global Settlement Agreement, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan or the Global Settlement Agreement, including, without limitation, the Reorganized Common Stock, the Additional Common Stock, the Subscription Rights, the Trust Preferred Securities, and any merger agreements or agreements of consolidation, deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the Global Settlement Agreement shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use or other similar Tax. The Confirmation Order shall direct all state and local government officials and agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any instrument or other document issued or transferred pursuant to the Plan, without the payment of any such tax or government assessment.

43.17 **Withdrawal of Equity Committee Proceedings:** On the Effective Date, the Equity Committee Adversary Proceeding and, to the extent it has been transferred to the Bankruptcy Court, the Equity Committee Action to Compel, and any other proceeding or action instituted by the Equity Committee (including any appeal), shall be deemed withdrawn, with prejudice, without any further action.

43.18 **Payment of Fees and Expenses of Certain Creditors:** ~~Except to the extent paid pursuant to the Backstop Commitment Agreement, within~~ Within ten (10) Business Days of receiving a detailed invoice with respect thereto, but in no event more than ninety (90) days after the Effective Date, the Disbursing Agent shall pay all reasonable fees and expenses incurred by (i) Fried, Frank, Harris, Shriver & Jacobson LLP, (ii) Blank Rome LLP, (iii) White & Case LLP, (iv) Kasowitz, Bensen, Torres & Friedman LLP, and (v) Zolfo Cooper on behalf of certain Creditors who hold claims against the Debtors, during the period from the Petition Date through and including the Effective Date, in connection with the Chapter 11 Cases, the Global Settlement Agreement, the Plan, or the transactions contemplated therein (including, without limitation, investigating, negotiating, documenting, and completing such transactions and enforcing, attempting to enforce, and preserving any right or remedy contemplated under the Global Settlement Agreement and in the Chapter 11 Cases), without the need for any of these professionals to file an application for allowance thereof with the Bankruptcy Court. In the event that the Disbursing Agent disagrees with the reasonableness of all or a portion of any such invoice, the Creditors may, in their sole discretion, request that the Bankruptcy Court (i) determine the reasonableness and allowance of such contested amounts and (ii) direct the Disbursing Agent to pay such additional amounts determined to be reasonable, if any, and the Disbursing Agent, Creditors' Committee, and any other Creditor or party in interest may object thereto.

43.19 **Severability:** If, prior to the Confirmation Date, any term or provision of the Plan shall be held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall, with the consent of the Debtors, have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation; provided, however, that, any holding, alteration or interpretation that alters, amends or modifies the definition of JPMC Assumed Liabilities or the releases provided in the Plan or the assets or benefits to be provided to JPMC pursuant to the Global Settlement Agreement absent JPMC's express written consent (which may be withheld, delayed, or conditioned in JPMC's sole discretion) shall render the remainder of the terms and provisions of the Plan and the Global Settlement Agreement of no force or effect. Except with respect to the foregoing proviso, the Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted, is valid and enforceable pursuant to its terms.

43.20 **Governing Law:** Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent that an exhibit hereto or any document to be entered into in connection herewith provides otherwise, the rights, duties, and obligations arising under

this Plan shall be governed by, and construed and enforced in accordance with, the Bankruptcy Code and, to the extent not inconsistent therewith, the laws of the State of New York, without giving effect to principles of conflicts of laws.

43.21 **Notices**: All notices, requests, and demands to or upon the Debtors, the Debtors in Possession, the Reorganized Debtors, or the Liquidating Trustee to be effective shall be in writing, including by facsimile transmission, and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

To the Debtors or the Debtors in Possession:

Washington Mutual, Inc.
925 Fourth Avenue, Suite 2500
Seattle, Washington 98104
Attention: General Counsel
Telephone: (206) 432-8731
Facsimile: (206) 432-8879

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Brian S. Rosen, Esq.
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

43.22 **Closing of Case**: The Liquidating Trustee shall, promptly upon the full administration of the Chapter 11 Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court.

43.23 **Section Headings**: The section headings contained in this Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

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43.24 **Inconsistencies**: To the extent of any inconsistency between the information contained in the Disclosure Statement and the terms and provisions of the Plan, the terms and provisions contained herein shall govern.

Dated: Seattle, Washington
May ~~16~~21, 2010

WASHINGTON MUTUAL, INC.

By: ~~/s/~~
Name: William C. Kosturos
Title: Chief Restructuring Officer

WMI INVESTMENT CORP.

By: ~~/s/~~
Name: William C. Kosturos
Title: President & Chief Executive Officer

Mark D. Collins (No. 2981)
Chun I. Jang (No. 4790)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

Marcia L. Goldstein, Esq.
Brian S. Rosen, Esq.
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

ATTORNEYS TO THE DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

CCB-1 GUARANTEES CLAIMS

<u>Trust</u>	<u>Notes Issuance</u>	<u>Maturity Date</u>	<u>Allowed Principal</u>	<u>Allowed Accrued Interest¹</u>	<u>Allowed Total Amount</u>	<u>Estimated Postpetition Interest²</u>
CCB Capital Trust IV	\$7,732,000	October 8, 2033	\$7,732,000	\$97,777.67	\$7,829,777.67	\$594,059 <u>622,946.14</u>
CCB Capital Trust V	\$10,310,000	January 23, 2034	\$10,310,000	\$103,244.98	\$10,413,244.98	\$744,551 <u>777,714.00</u>
CCB Capital Trust VII	\$7,732,000	July 23, 2034	\$7,732,000	\$73,982.29	\$7,805,982.29	\$522,241 <u>544,223.82</u>
CCB Capital Trust VIII	\$7,732,000	July 23, 2034	\$7,732,000	\$78,851.03	\$7,810,851.03	\$506,632 <u>577,287.03</u>

¹ This amount includes interest accrued as of the Petition Date, and does not include any postpetition interest to which such Claim holders may be entitled.

² This amount includes the estimated amount of interest accrued and OID accretion from the Petition Date through an expected Effective Date of July 31, 2010. Each holder's Postpetition Interest Claim will continue to accrue until the date that such holder's Allowed CCB-1 Guarantees Claim and related Postpetition Interest Claim are paid in full.

EXHIBIT B

CCB-2 GUARANTEES CLAIMS

<u>Trust</u>	<u>Notes Issuance</u>	<u>Maturity Date</u>	<u>Allowed Principal</u>	<u>Allowed Accrued Interest</u> ³	<u>Allowed Total Amount</u>	<u>Estimated Postpetition Interest</u> ⁴
HFC Capital Trust I	\$9,300,000	June 8, 2031	\$9,300,000	\$284,022.00	\$9,584,022.00	\$ 1,748,839 <u>1,935,805.56</u>
CCB Capital Trust VI	\$10,310,000	April 15, 2034	\$10,310,000	\$113,743.93	\$10,423,743.93	\$ 743,942 <u>777,354.98</u>
CCB Capital Trust IX	\$15,464,000	March 30, 2035	\$15,464,000	\$223,025.24	\$15,687,025.24	\$ 1,705,636 <u>1,589,775.12</u>

³ This amount includes interest accrued as of the Petition Date, and does not include any postpetition interest to which such Claim holders may be entitled.

⁴ This amount includes the estimated amount of interest accrued and OID accretion from the Petition Date through an expected Effective Date of July 31, 2010. Each holder's Postpetition Interest Claim will continue to accrue until the date that such holder's Allowed CCB-2 Guarantees Claim and related Postpetition Interest Claim are paid in full.

EXHIBIT C

PIERS CLAIMS

<u>Notes Issuance</u>	<u>Maturity Date</u>	<u>Allowed Principal</u>	<u>Allowed Accrued Interest</u> ⁵	<u>Allowed Total Amount</u>	<u>Estimated Postpetition Interest</u> ⁶
5.375% Junior Subordinated Deferrable Interest Debentures					
Preferred Securities	May 1, 2041	\$756,230,623.24	\$9,443,576.39	\$765,674,199.63	\$ 118,931,796.12 <u>4,760,307.88</u>
Common Securities ⁷	May 1, 2041	\$23,387,254.01	\$292,052.86	\$23,679,306.87	\$ 3,678,095.85 <u>348.13</u>

⁵ This amount includes interest accrued as of the Petition Date, and does not include any postpetition interest to which such Claim holders may be entitled.

⁶ This amount includes the estimated amount of interest accrued and OID accretion from the Petition Date through an expected Effective Date of July 31, 2010. Each holder's Postpetition Interest Claim will continue to accrue until the date that such holder's Allowed PIERS Claim and related Postpetition Interest Claim are paid in full.

⁷ These securities are owned by WMI.

EXHIBIT D

SENIOR NOTES CLAIMS

Notes Issuance	Maturity Date	Allowed Principal	Allowed Accrued Interest⁸	Allowed Total Amount	Estimated Postpetition Interest⁹
4.0% Notes	January 15, 2009	\$804,984,292.60	\$6,351,912.45	\$811,336,205.05	\$59,770,435.61, <u>784,280.80</u>
4.2% Notes	January 15, 2010	\$504,220,132.10	\$4,178,270.72	\$508,398,402.82	\$39,392,224.40, <u>787,180.45</u>
5.5% Notes	August 24, 2011	\$361,181,452.96	\$1,766,795.55	\$362,948,248.51	\$36,903,823.38, <u>416,380.45</u>
5.0% Notes	March 22, 2012	\$374,791,867.96	\$208,722.22	\$375,000,590.18	\$35,233,135.36, <u>386,182.13</u>
5.25% Notes	September 15, 2017	\$726,744,896.63	\$1,171,426.67	\$727,916,323.30	\$71,643,851.74, <u>196,790.90</u>
Floating Rate Notes	August 24, 2009	\$358,645,000.00	\$911,252.44	\$359,556,252.44	\$7,364,853.39 <u>3,865.86</u>
Floating Rate Notes	January 15, 2010	\$175,500,000.00	\$1,099,878.10	\$176,599,878.10	\$4,968,613.08 <u>0,490.42</u>
Floating Rate Notes	March 22, 2012	\$363,350,000.00	\$141,454.17	\$363,491,454.17	\$8,828,447.91 <u>7,543.08</u>
Floating Rate Notes	September 17, 2012	\$446,815,000.00	\$359,267.16	\$447,174,267.16	\$11,590,717.11, <u>723,829.20</u>

⁸ This amount includes interest accrued as of the Petition Date, and does not include any postpetition interest to which such Claim holders may be entitled.

⁹ This amount includes the estimated amount of interest accrued and OID accretion from the Petition Date through an expected Effective Date of July 31, 2010. Each holder's Postpetition Interest Claim will continue to accrue until the date that such holder's Allowed Senior Notes Claim and related Postpetition Interest Claim are paid in full.

EXHIBIT E

SENIOR SUBORDINATED NOTES CLAIMS

<u>NOTES ISSUANCE</u>	<u>MATURITY DATE</u>	<u>ALLOWED PRINCIPAL</u>	<u>ALLOWED ACCRUED INTEREST</u>¹⁰	<u>ALLOWED TOTAL AMOUNT</u>	<u>ESTIMATED POSTPETITION ON INTEREST</u>¹¹
8.250% NOTES	APRIL 1, 2010	\$451,870,530.25	\$18,133,500.00	\$470,004,030.25	\$ 69,300,390 76, <u>036,653.51</u>
4.625% NOTES	APRIL 1, 2014	\$729,187,229.50	\$16,449,467.71	\$745,636,697.21	\$ 63,427,602 66, <u>756,249.61</u>
7.250% NOTES	NOVEMBER 1, 2017	\$437,962,198.47	\$12,862,043.75	\$450,824,242.22	\$ 59,583,343 64, <u>243,164.61</u>

¹⁰ This amount includes interest accrued as of the Petition Date, and does not include any postpetition interest to which such Claim holders may be entitled.

¹¹ This amount includes the estimated amount of interest accrued and OID accretion from the Petition Date through an expected Effective Date of July 31, 2010. Each holder's Postpetition Interest Claim will continue to accrue until the date that such holder's Allowed Senior Subordinated Notes Claim and related Postpetition Interest Claim are paid in full.

EXHIBIT F

BENEFIT PLANS

Legacy Non-Qualified Deferred Compensation Plans - DEFINED CONTRIBUTION

<u>Abbreviation</u>	<u>Full Name</u>
Bowery Savings - DCP	Bowery Savings - Deferred Compensation Plan
H.F. Ahmanson & Co. - CAP	Capital Accumulation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - CDCP	1989 Contingent Deferred Compensation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - EDCP	Elective Deferred Compensation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - LCCAP	Loan Consultant Capital Accumulation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - LCEDCP	Loan Agents' Elective Deferred Compensation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - ODCAP	Outside Directors' Capital Accumulation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - ODEDCP	Outside Directors' Elective Deferred Compensation Plan of H. F. Ahmanson & Company

Legacy Non-Qualified Deferred Compensation Plans - DEFINED BENEFIT

<u>Abbreviation</u>	<u>Full Name</u>
H.F. Ahmanson & Co. - EDCP CAP	PROVISIONS WITHIN THE: Elective Deferred Compensation Plan of H. F. Ahmanson & Company & Capital Accumulation Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - ELIP	Executive Life Insurance Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - HSB ODRP	Ahmanson / Home Savings Bank Outside Directors Retirement Plan
H.F. Ahmanson & Co. - ODRP	Outside Director Retirement Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - SERP	Supplemental Executive Retirement Plan of H. F. Ahmanson & Company
H.F. Ahmanson & Co. - SSERP	Senior Supplemental Executive Retirement Plan of H. F. Ahmanson & Company

WMI Non-Qualified Deferred Compensation Plans

<u>Abbreviation</u>	<u>Full Name</u>
Washington Mutual, Inc. - DCP	Washington Mutual, Inc. - Deferred Compensation Plan
Washington Mutual, Inc. - SERP	Washington Mutual, Inc. - Supplemental Executive Retirement Plan
Washington Mutual, Inc. - SERAP	Washington Mutual, Inc. - Supplemental Executive Retirement Accumulation Plan
Washington Mutual, Inc. - ETRIP	Washington Mutual, Inc. - Executive Target Retirement Income Plan

Individual Contracts

<u>Abbreviation</u>	<u>Full Name</u>
H.F. Ahmanson & Co. - AHM Supplemental (collection of individual contracts)	HFA AHM Supplemental - Hazel Legg
H.F. Ahmanson & Co. - Individual Contracts	HFA AHM Supplemental - Anna Varosy HFA Individual Contract - John Holoman HFA Individual Contract - Charles Roussin HFA Individual Contract - Bruce Manley HFA Individual Contract - William Wiley

Split Dollar Plans

<u>Abbreviation</u>	<u>Full Name</u>
HFA ELIP	Executive Life Insurance Plan of H. F. Ahmanson & Company
HFA SELIP	Senior Executive Life Insurance Plan of H. F. Ahmanson & Company

EXHIBIT G
WATERFALL RECOVERY MATRIX

Washington Mutual, Inc.
Waterfall Recovery Matrix

		Senior Notes	Subordinated Notes	CCB Guarantees ⁽¹⁾	PIERs	General Unsecured Creditors
Recovery ^{(2), (3), (6)}	Tranche 1	Prepetition Claim	-	-	-	Pro Rata Share Based on Prepetition Claims ⁽⁴⁾
	Tranche 2	Post-Petition Interest Claim	Prepetition Claim & Post-Petition Interest Claim	-	-	Pro Rata Share Based on Prepetition Claims ⁽⁴⁾
	Tranche 3	-	-	Prepetition Claim & Post-Petition Interest Claim	-	Pro Rata Share Based on Prepetition Claims ⁽⁴⁾
	Tranche 4	-	-	-	Prepetition Claim	Pro Rata Share Based on Prepetition Claims ⁽⁴⁾
	Tranche 5	-	-	-	Post-Petition Interest Claim	Post-Petition Interest Claim ⁽⁵⁾

Notes:

- (1) CCB Guarantees include HFC Capital Trust I, CCB Capital Trust IV, CCB Trust V, CCB Trust VI, CCB Capital Trust VII, CCB Capital Trust VIII and CCB Capital Trust IX.
- (2) Within each tranche eligible claims share pro rata based on size of claim. No percentage recovery for an eligible claim will be higher than another percentage recovery for an eligible claim within the same Tranche, and all eligible claims within the Tranche will be fully satisfied concurrently, except with respect to the initial distribution of Reorganized WMI. The percentage recovery of any creditor who elects to receive the stock of Reorganized WMI will be adjusted in subsequent distributions to ensure recovery percentages are the same for all creditors in each tranche.
- (3) Eligible claims in Tranches will be paid in order with Tranche 1 claims receiving disbursements first and Tranche 5 claims receiving disbursements last. Tranche 1 eligible claims must be satisfied in full prior to Tranche 2 eligible claims receiving disbursements and so forth, except with respect to the distribution of equity in the Reorganized WMI which is not subject to absolute priority.
- (4) Pro Rata share of General Unsecured Claims are calculated by (a) determining the fraction in which the numerator equals the amount of General Unsecured Claims and the denominator equals the total amount of prepetition claims, and (b) by multiplying that by total cash distributed within the Tranche. The cash distributed within the Tranche is the lesser of (i) the amount necessary to satisfy all claims within the Tranche or (ii) the amount of cash available.
- (5) If it is provided for in an applicable contract or by law.
- (6) ~~Post-petition interest shall only accrue on the then outstanding and unpaid amount of any Allowed Claim entitled to post-petition interest.~~

EXHIBIT H

GLOBAL SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT (the “*Agreement*”), dated as of May ~~20~~21, 2010, by and among (a) Washington Mutual, Inc. (“*WMI*”) and WMI Investment Corp. (“*WMIIC*” and, collectively with WMI, the “*Debtors*”), (b) JPMorgan Chase Bank, N.A. (“*JPMC*” and, collectively with those of JPMC’s affiliates that have filed proofs of claim against the Debtors and the Debtors’ chapter 11 estates or that are Acquisition JPMC Entities, as defined below, the “*JPMC Entities*”), (c) Federal Deposit Insurance Corporation, in its capacity as receiver for Washington Mutual Bank (“*FDIC Receiver*”), (d) Federal Deposit Insurance Corporation, in its corporate capacity (“*FDIC Corporate*”), (e) Appaloosa Management L.P. (“*Appaloosa*”), on behalf of Appaloosa Investment L.P. I, Palomino Fund Ltd., Thoroughbred Fund, L.P., and Thoroughbred Master Ltd. (collectively, and with Appaloosa, the “*Appaloosa Parties*” and each, an “*Appaloosa Party*”), (f) Centerbridge Partners, L.P. (“*Centerbridge*”), on behalf of Centerbridge Credit Advisors, LLC and Centerbridge Special Credit Advisors, LLC (collectively, and with Centerbridge, the “*Centerbridge Parties*,” and each, a “*Centerbridge Party*”), (g) Owl Creek Asset Management, L.P. (“*Owl Creek*”), on behalf of Owl Creek I, L.P., Owl Creek II, L.P., Owl Creek Overseas Fund, Ltd., Owl Creek Socially Responsible Investment Fund, Ltd., Owl Creek Asia I, L.P., Owl Creek Asia II, L.P., and Owl Creek Asia Master Fund, Ltd. (collectively, and with Owl Creek, the “*Owl Creek Parties*” and each, an “*Owl Creek Party*”), (h) Aurelius Capital Management, LP (“*Aurelius*”), on behalf of Aurelius Capital ~~Master, Ltd., Partners, LP and Aurelius Convergence Master, Ltd., ACP Master, Ltd.~~Investment, LLC and other managed fund entities (collectively, and with Aurelius, the “*Aurelius Parties*” and each, an “*Aurelius Party*”) and (i) the ~~statutory~~official committee of unsecured creditors appointed in the Debtors’ chapter 11 cases (the “*Creditors’ Committee*”). The signatories hereto are referred to hereinafter collectively as the “*Parties*” or individually as a “*Party*”. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in Article I below.

RECITALS

1. ~~A.~~ On September 25, 2008, the Office of Thrift Supervision (the “OTS”), by order number 2008-36, closed Washington Mutual Bank (“*WMB*”), appointed the FDIC Receiver as receiver for WMB and advised that the FDIC Receiver was immediately taking possession of WMB’s assets.

2. ~~B.~~ On or about September 25, 2008, the FDIC Receiver, FDIC Corporate and JPMC entered into that certain Purchase and Assumption Agreement, Whole Bank, dated September 25, 2008, as amended, modified or supplemented prior to the date hereof (the “*Purchase and Assumption Agreement*”). JPMC has asserted various claims for indemnity against each of the FDIC Receiver and FDIC Corporate arising from the Purchase and Assumption Agreement, including, but not limited to, (1) claims for indemnity for and against any and all potential losses, claims or liabilities arising from or related to the mortgage origination and sale/securitization activities of WMB and its affiliates, including, without limitation, liabilities associated with the Complaint filed in the litigation styled Deutsche Bank National Trust Co. v. FDIC, No.

09-cv-01656 (RMC), currently pending in the D.C. District Court, as defined below, and (2) other claims for indemnity under Section 12.1(a)(9) of the Purchase and Assumption Agreement.

3. ~~E.~~ On September 26, 2008 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, as amended (the “**Bankruptcy Code**”), with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”). By order, dated October 3, 2008, the Debtors’ chapter 11 cases are being jointly administered and are styled as In re Washington Mutual, Inc., et al., No. 08-12229 (MFW) (the “**Chapter 11 Cases**”).

4. ~~D.~~ On December 30, 2008, the Debtors ~~timely~~ filed with the FDIC Receiver a proof of claim against WMB’s receivership (the “**Receivership**” and, collectively with the FDIC Receiver and FDIC Corporate, sometimes hereinafter referred to as the “**FDIC Parties**”), asserting claims on behalf of the Debtors’ chapter 11 estates (the “**Debtors’ Claims**”). By letter, dated January 23, 2009, and entitled “*Notice of Disallowance*”, the FDIC Receiver disallowed the Debtors’ Claims.

5. ~~E.~~ On March 20, 2009, the Debtors commenced litigation (the “**WMI Action**”) against the FDIC by filing a Complaint, styled Washington Mutual, Inc. and WMI Investment Corp. v. FDIC, Case No. 09-00533, in the United States District Court for the District of Columbia (the “**D.C. District Court**”), challenging the FDIC Receiver’s disallowance of the Debtors’ Claims, and asserting, among other claims, a claim for the Disputed Accounts, as defined below, as deposits and several causes of action to avoid preferential or fraudulent transfers pursuant to the Bankruptcy Code and other applicable federal and state laws. On June 11, 2009, FDIC Corporate filed a motion to dismiss the claims asserted against FDIC Corporate and the FDIC Receiver filed an answer and counterclaims asserting claims against the Debtors and a motion to dismiss certain aspects of the Debtors’ complaint in the WMI Action. On July 13, 2009, the FDIC Receiver amended its counterclaims and added JPMC as an additional counterclaim defendant. JPMC and certain holders of funded indebtedness of WMB (collectively, the “**Bank Creditors**”) have intervened, and the Creditors’ Committee has moved to intervene, in the WMI Action. By order, dated January 7, 2010, the D.C. District Court ordered, among other things, that all proceedings in the WMI Action shall be stayed pending a determination by the Bankruptcy Court in the JPMC Action and the Turnover Action, each as defined below, as well as any pending or subsequent appeals.

6. ~~F.~~ On March 24, 2009, JPMC commenced litigation against the Debtors by filing a Complaint, styled JPMorgan Chase Bank, N.A. v. Washington Mutual, Inc., et al., Adversary Pro. No. 09-5-50551(MFW), in the Bankruptcy Court, asserting claims against the Debtors with respect to assets that JPMC claims to have acquired pursuant to the Purchase and Assumption Agreement (the “**JPMC Action**”) and named the FDIC Receiver as an additional defendant. On May 29, 2009, the Debtors filed an answer and counterclaims. JPMC filed a motion to dismiss such counterclaims, which motion was denied by the Bankruptcy Court on August 24, 2009. The Creditors’ Committee and the Bank Creditors have intervened in the JPMC Action.

7. ~~G.~~ On April 27, 2009, the Debtors commenced litigation against JPMC by filing a Complaint, styled Washington Mutual, Inc. et al. v. JPMorgan Chase Bank, N.A., Adversary Pro. No. 09-50934(MFW), in the Bankruptcy Court, seeking to recover the Disputed Accounts (the “**Turnover Action**”). JPMC filed a motion to dismiss the Turnover Action, which motion to dismiss was denied by the Bankruptcy Court on June 24, 2009. On July 6, 2009, JPMC filed an answer, counterclaims and a crossclaim that named the FDIC Receiver as an additional defendant in the Turnover Action. On July 27, 2009, the FDIC Receiver filed an answer to JPMC’s crossclaim. On August 11, 2009, JPMC filed an amended answer and counterclaims, which also named the FDIC Receiver as a counterclaim defendant. On August 20, 2009, the FDIC Receiver filed an answer to JPMC’s amended counterclaims. By motion, dated May 19, 2009 (the “**SJ Motion**”), the Debtors sought entry of an order granting summary judgment in their favor and directing turnover of the Disputed Accounts to WMI. A hearing to consider the SJ Motion was held on October 22, 2009 and the matter is *sub judice*. The Creditors’ Committee and the Bank Creditors have intervened in the Turnover Action.

8. ~~H.~~ On June 24, 2009, the Bankruptcy Court denied motions by the FDIC Receiver and JPMC to stay or dismiss the Turnover Action and the JPMC Action in favor of proceedings before the D.C. District Court in the WMI Action (the “**Bankruptcy Stay Motions**”). The Bankruptcy Stay Motions are the subject of pending appeals or, in the alternative, motions for leave to appeal to the United States District Court for the District of Delaware (the “**Delaware District Court**”) and to a motion by the FDIC Receiver for certification for immediate appeal to the United States Court of Appeals for the Third Circuit.

9. ~~I.~~ By order, dated January 30, 2009 (the “**Bar Date Order**”), the Bankruptcy Court established March 31, 2009, at 5:00 p.m. (Eastern Time) (the “**Bar Date**”), as the date and time by which all proofs of claim against the Debtors and their chapter 11 estates must be filed with the Bankruptcy Court in the manner and form set forth in the Bar Date Order.

10. ~~J.~~ On or prior to the Bar Date, JPMC and certain of the other JPMC Entities filed proofs of claim against the Debtors and their chapter 11 estates (collectively, the “**JPMC Claims**”), which JPMC Claims are listed on Exhibit “A” hereto. As of the date hereof, the Debtors have not interposed a substantive objection to the JPMC Claims.

11. ~~K.~~ On or prior to the Bar Date, the FDIC Receiver filed the following proof of claim against the Debtors and their chapter 11 estates (collectively, the “**FDIC Claim**”):

<u>1.</u> <u>Claimant</u>	<u>2.</u> <u>Claim No.</u>	<u>3.</u> <u>Debtor</u>	<u>4.</u> <u>Claim Amount</u>
<u>5.</u> Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank	<u>6.</u> 140	<u>7.</u> MI	<u>8.</u> Unliquidated

As of the date hereof, the Debtors have not interposed a substantive objection to the FDIC Claim.

12. ~~L.~~ Proofs of claim have been filed, timely or otherwise, against the Debtors and their chapter 11 estates by holders, including the Bank Creditors, of funded indebtedness against WMB (collectively, the “**Bank Bondholder Claims**”), which Bank Bondholder Claims are listed on Exhibit “B” hereto. The Debtors, as joined by the Creditors’ Committee, have interposed an objection to the Bank Bondholder Claims.

13. ~~M.~~ Each of the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties and the Aurelius Parties manage funds (such funds together with the Appaloosa Parties, the Centerbridge Parties, the Owl Creek Parties and the Aurelius Parties are sometimes hereinafter collectively referred to as the “**Settlement Note Holders**”) which hold, as of the date hereof, among other assets, claims against and/or equity interests in the Debtors and/or their chapter 11 estates (collectively, the “**Settlement Note Holdings**”), including, without limitation, the REIT Series, all as set forth on Exhibit “C” annexed hereto. On or prior to the Bar Date, proofs of claim or interests were filed ~~with respect~~ relating to the Settlement Note Holdings held as of the date such proofs of claim were filed.

14. ~~N.~~ The Debtors have provided each of the Settlement Note Holders, and each of the Settlement Note Holders acknowledges that it has received, information and documentation necessary and sufficient to address the merits of the transactions contemplated herein and the execution and delivery of this Agreement.

15. ~~O.~~ From and after the Petition Date, the Debtors and JPMC have cooperated to, among other things, (1) determine the respective ownership of assets and responsibility for any corresponding liabilities, (2) facilitate the Debtors’ distillation of financial information and (3) prepare and file, with the assistance of the FDIC Receiver, consolidated tax returns for WMI, WMB and certain of their respective subsidiaries and Affiliates.

16. ~~P.~~ By order, dated June 24, 2009, the Bankruptcy Court authorized and permitted the Debtors to conduct discovery pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) in order to facilitate the Debtors’ inquiry into the existence of potential additional claims and causes of action of the Debtors and the Debtors’ chapter 11 estates against JPMC (the “**Rule 2004 Inquiry**”). By order, dated February 16, 2010, the Bankruptcy Court denied, without prejudice, the

Debtors' request to obtain discovery pursuant to Rule 2004 from certain entities and individuals.

17. ~~Q.~~ The WMI Entities and the JPMC Entities resolved all issues among them relating to the treatment of WaMu Savings Plan and, by order, dated July 27, 2009, the Bankruptcy Court approved such agreement and directed the amendment of the JPMC Action to remove claims and causes of action associated therewith.

18. ~~R.~~ By order, dated December 2, 2009, the Bankruptcy Court granted JPMC's Motion to Compel the Washington Mutual, Inc. Noteholders Group to Comply with Rule 2019 of the Federal Rules of Bankruptcy Procedure. On December 14, 2009, the WMI Noteholders Group filed a notice of appeal therefrom (the "**Rule 2019 Appeal**").

19. ~~S.~~ On December 15, 2009, counsel for WMI sent two letters, entitled (1) "Freedom of Information Act Request" and (2) "Expedited Request for FDIC Exempt Records and Information" (collectively, the "**Record Requests**"). The FOIA/PA Group of FDIC Corporate closed the Freedom of Information Act Request, FDIC Log No. 09-2053, on February 17, 2010.

20. ~~T.~~ Contemporaneous with the execution and delivery of this Agreement, the Debtors have filed with the Bankruptcy Court ~~a proposed amended chapter 11 plan for the Debtors~~ that certain Second Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the United States Bankruptcy Code, dated May 21, 2010 (as the same may be amended or modified from time to time in accordance with the terms hereof and thereof, the "**Plan**") and a disclosure statement in connection therewith (the "**Disclosure Statement**").

21. ~~U.~~ The Parties have concluded that because of, among other things, the complexity, inherent delay and substantial expense of litigating the issues associated with the WMI Action, the JPMC Action, the Turnover Action, the Rule 2004 Inquiry, the Debtors' Claims, the JPMC Claims, the Bankruptcy Stay Motions and the appeals therefrom, the FDIC Claim and the asserted transfer of the Trust Preferred Securities and the consequent issuance of the REIT Series, each as defined below, the length of time necessary to resolve each of the issues presented therein, the complexity and uncertainty involved and the concomitant disruption to the Debtors' efforts to generate distributions for the benefit of the Debtors' creditors and of the FDIC Receiver's efforts to resolve matters with respect to the Receivership, it is in their respective best interests to resolve their disputes and related matters on the terms set forth in this Agreement and as embodied in the Plan. The Debtors further believe that the compromise and settlement provided herein is fair and reasonable, and in the best interests of the Debtors, the Debtors' estates and their creditors.

NOW, THEREFORE, the Parties, in consideration of the promises, covenants and agreements herein described and for other good and valuable consideration

acknowledged by each of them to be satisfactory and adequate, and intending to be legally bound, do hereby mutually agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Recitals. The recitals set forth above are incorporated by reference and are explicitly made a part of this Agreement.

Section 1.2. Definitions. The following definitions shall apply to and constitute part of this Agreement and all schedules, exhibits and annexes hereto:

“Acquisition JPMC Entities” shall mean JPMC in its capacity as the ***“Acquiring Bank”*** pursuant to the Purchase and Assumption Agreement and each former subsidiary of WMB acquired pursuant to the Purchase and Assumption Agreement (including each entity into which such former subsidiary may have been merged, consolidated or liquidated), together with JPMC in its capacity as the ***“Purchaser”*** pursuant to the Purchase and Assumption Agreement.

“Actions” shall mean, collectively, the WMI Action, the JPMC Action, the Turnover Action, the Record Requests, the Rule 2004 Inquiry and the Bankruptcy Stay Motions, together with any and all appeals therefrom, the Rule 2019 Appeal and any proceeding arising from the motions, dated June 23, 2009, to withdraw the reference for the WMI Action and the JPMC Action, respectively.

“Admin Account” shall mean that certain account, Account No. xxxxxx1206, maintained by WMI at WMB and having a balance as of the Petition Date in the approximate amount of Fifty Two Million Six Hundred Thousand Dollars (\$52,600,000.00).

“Affiliate” shall mean, with respect to any specified entity, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified entity.

“Affiliate Managed Fund” shall mean, with respect to any specified entity, a fund, money market account, investment account or other account managed, directly or indirectly by such entity, by an Affiliate of such entity, by such entity’s investment manager, or by an Affiliate of such investment manager.

“Affiliated Banks” shall mean WMB and Washington Mutual Bank fsb (***“FSB”***).

“Allowed Claim” shall have the meaning ascribed to it in the Plan.

“American Savings Litigation” shall mean that certain litigation styled American Savings Bank, F.A. v. United States, No. 92-872C, currently pending in the United States Court of Federal Claims.

“Anchor Litigation” shall mean that certain litigation styled Anchor Savings Bank, FSB v. United States, No. 95-39C, pending in the United States Court of Federal Claims, and as an appeal in the United States Court of Appeals for Federal Circuit as Anchor Savings Bank, FSB v. United States, No. 2008-5175, -5182.

“Assumed Liabilities” shall mean, collectively, and except as otherwise set forth in this Agreement, the obligations, undertakings and liabilities expressly assumed by JPMC and the Acquisition JPMC Entities herein, as follows: (a) to the extent payment or performance of such liability or obligation arising from or relating to the period from and after the Effective Date, all obligations, undertakings and liabilities relating to such payment or performance, and (b) to the extent payment or performance of such liability or obligation was due during the period prior to the Effective Date, all obligations, undertakings and liabilities relating to such payment or performance to the extent of, and in the amounts of, the contractual obligations, undertakings and liabilities arising from or relating to such obligations, undertakings and liabilities; provided, however, that, for purposes of clause (b) above, or to the extent that the delay in payment or performance thereof was due to the actions or inactions, as the case may be, of the WMI Entities, ***“Assumed Liabilities”*** shall not include (i) any damages or compensation for any default, failure to perform or delay in the performance or payment of any obligations, undertakings, or liabilities in connection with such assets or agreements, whether or not provided for in any agreement, document, applicable provision of law or otherwise, (ii) any damages, losses, liabilities, claims or causes of action that are based in tort or on any statute, regulation, rule or principle of applicable or common law or promulgated by governmental or regulatory authority or agency, or that otherwise are extra contractual, or (iii) any special, exemplary, consequential or punitive damages.

“BKK Litigation” shall mean that litigation styled California Dep’t. of Toxic Substances Control, et al. v. American Honda Motor Co, Inc., et al., No. CV05-7746 CAS (JWJ), currently pending in the United States District Court for the Central District of California.

“Bond Indemnity” shall mean that certain General Agreement of Indemnity, dated as of June 14, 1999, executed and delivered by WMI in connection with the issuance of the Bonds.

“Bonded Obligations” shall mean, collectively, those liabilities with respect to which the Bonding Companies issued the Bonds, whether or not such obligations are contingent, unliquidated or disputed.

“Bonding Companies” shall mean, collectively, Safeco Insurance Company and each other insurance or bonding company that issued Bonds pursuant to the Bond Indemnity.

“Bonds” shall mean the bonds issued by the Bonding Companies on behalf of one or more of the Affiliated Banks or their Affiliates, each as identified on

Exhibit “D” hereto, together with the numbers of the respective proofs of claim which have been filed with the Bankruptcy Court in connection therewith.

“**Business Day**” shall mean a day other than a Saturday, a Sunday or any other day on which commercial banks in New York, New York are required or authorized to close by law or executive order.

“**Buus Litigation**” shall mean that certain litigation styled Buus v. Washington Mutual Pension Plan, et al., No. 07-CV-903 (MJP), currently pending in the United States District Court for the Western District of Washington.

“**Claims**” shall mean any and all claims, causes of action, liabilities, obligations, undertakings, damages, losses or other rights or remedies, whether at law or in equity, including, without limitation, all “*claims*” as defined in section 101(5) of the Bankruptcy Code.

“**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code, approving the compromise and settlement set forth in this Agreement and directing the consummation of the transactions contemplated herein, which order shall be in form and substance reasonably satisfactory to the Debtors, JPMC, the FDIC Receiver, FDIC Corporate, the Settlement Note Holders and the Creditors’ Committee.

“**Disputed Accounts**” shall mean the amounts and intercompany balances identified with the account numbers set forth on Exhibit “E” hereto.

“**Effective Date**” shall mean the first (1st) Business Day after the date on which all conditions to effectiveness set forth in Section 7.2 hereof shall have been satisfied or, to the extent not satisfied, waived in writing, in whole or in part, by each of the Parties.

~~“**Excess Refunds**” shall mean the portion of any and all refunds that ordinarily would be payable, transferable or otherwise distributable to the WMB-Recipient or the WMB-Escrow Account but if so distributed would bring the total amount of net refunds of Pre-2009 Group Taxes actually or deemed distributed to the WMB-Escrow Account herein to \$850 million or more.~~

“**ERISA Litigation**” shall mean that certain litigation styled In re Washington Mutual, Inc. ERISA Litigation, No. C07-1874 (MJP), currently pending in the United States District Court for the Western District of Washington.

“**FDIC Escrow Account**” shall mean the account established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

“FDIC Order of Investigation” shall mean any *“Order of Investigation”* (or similarly titled investigative or regulatory action or proceeding) issued or commenced by, or in the name of, the FDIC Receiver or FDIC Corporate (as the case may be) pursuant to applicable provisions of the Federal Deposit Insurance Act, as amended, (including 12 U.S.C. §1818(n) and 12 U.S.C. §1821(d)(2)(l)) relating to any actual or potential investigation based upon, arising from, or in connection with the acts of former officers, directors, advisors and service providers of WMB or FSB (or their respective predecessors, successors or assigns). Without in any way limiting the foregoing, for purposes of this definition, subject matters covered by any such *“Order of Investigation”* shall include, but not be limited to, (a) compliance (or non-compliance) with applicable banking laws, rules and regulations, (b) fraudulent practices related to WMB’s retail banking, mortgage lending, small business lending and credit card operations and activities, (c) employee compensation and benefit arrangements, (d) the capitalization or under-capitalization of WMB, as the case may be, (e) the improper payment of dividends or other payments by WMB or FSB, as the case may be, to WMI and (f) general allegations of fraud, breach of duty or gross negligence.

“FDIC Stay Relief Motion” shall mean the motion, dated November 4, 2009, filed by the FDIC Receiver in the Bankruptcy Court seeking relief from the automatic stay pursuant to section 362 of the Bankruptcy Code in order to exercise rights pursuant to Section 9.5 of the Purchase and Assumption Agreement.

“Final Order” shall mean an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the applicable subject matter which has not been reversed, stayed, modified or amended and as to which (a) any right to appeal or seek certiorari, review, reargument, stay or rehearing has expired and no appeal or petition for certiorari, review, reargument, stay or rehearing is pending, or (b) an appeal has been taken or petition for certiorari, review, reargument, stay or rehearing has been filed and (i) such appeal or petition for certiorari, review, reargument, stay or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay or rehearing was sought or (ii) the time to appeal further or seek certiorari, review, reargument, stay or rehearing has expired and no such further appeal or petition for certiorari, review, reargument, stay or rehearing is pending; provided, however, that the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed relating to such order shall not cause such order to not be a Final Order.

“Group” shall mean (a) for U.S. federal income Tax purposes, any affiliated group of corporations within the meaning of section 1504 of the IRC, and (b) for state, local or foreign Tax purposes, any group of corporations that filed (or was required to file) as a combined, unitary or consolidated group under state, local or foreign Tax laws, with respect to which, for purposes of both clause (a) and clause (b) hereof, (i) any of the WMI Entities (or any predecessors thereof) is or was a member and (ii) WMB (or any predecessor thereof) or any subsidiary of WMB (or any predecessor thereof) as of September 24, 2008 is or was also a member.

“Group Taxes” shall mean any Taxes of the Group, as well as any Taxes imposed by the State of California in 2008 on any member of the U.S. consolidated group of which WMI was the common parent, whether imposed on a separate return basis, or on a combined, unitary or consolidated group basis.

“Homeownership Carryback” shall mean Section 13 of the Worker Homeownership, and Business Assistance Act of 2009.

“Homeownership Carryback Refund Amount” shall mean the amount of U.S. federal income Tax refunds of Pre-2009 Group Taxes that are solely attributable to the Homeownership Carryback less any Homeownership Refund Taxes or any decreases in refunds that would have been receivable without the Homeownership Carryback.

“Homeownership Carryback Threshold” shall mean the amount of Net Tax Refunds that would be a receivable applying the Tax law in effect on the date of calculation, but with the provisions of the IRC amended by the Homeownership Carryback replaced by the provisions of the IRC that would be in effect if the Homeownership Carryback had not been enacted, and without taking into account any Refund Related Group Taxes in excess of the Refund Related Group Taxes that would have been incurred if the IRC had not been amended by the Homeownership Carryback.

“Homeownership Refund Taxes” shall mean Taxes imposed on the Group (or any member of the Group) that would not have been imposed on the Group (or any member of the Group) but for the receipt, by the Group, a member of the Group or any Party to this Agreement, of Tax refunds that are attributable to the Homeownership Carryback.

“IAA/FDIC” shall mean that certain letter agreement, dated November 19, 2008, between the Debtors, the Creditors’ Committee and the FDIC Receiver, as may be amended.

“IAA/JPMC” shall mean that certain Information Access Agreement, dated November 21, 2008, between the Debtors and JPMC, as amended.

“Interchange Litigation” shall mean, collectively, that certain litigation styled (a) In re Payment Card Interchange Fee and Merchant-Discount Antitrust Litigation, Master File No. 1:05-md-1720-JG-JO, currently pending in the United States District Court for the Eastern District of New York and (b) Attridge v. Visa U.S.A. Inc. et al., Case No. CGC-04-436920, currently pending in California Superior Court.

“IRC” shall mean the Internal Revenue Code of 1986, as amended from time to time, and any regulations promulgated thereunder.

“IRS” shall mean the Internal Revenue Service.

“Issuing Trusts” shall mean Washington Mutual Preferred (Cayman) I, Washington Mutual Preferred Funding Trust I, Washington Mutual Preferred Funding Trust II, Washington Mutual Preferred Funding Trust III and Washington Mutual Preferred Funding Trust IV.

“JPMC Allowed Unsecured Claim” shall mean, collectively and in the aggregate, the claims of JPMC set forth in Section 2.22 hereof, which claims shall be classified with and treated in the same manner as other allowed general unsecured claims pursuant to the Plan; provided, however, that, in the sole and absolute discretion of the Debtors, for purposes of this Agreement and the compromise and settlement embodied herein, each Allowed Claim comprising the JPMC Allowed Unsecured Claim may be counted as a separate claim for purposes of voting to accept or reject the Plan.

“JPMC Escrow Account” shall mean the account at JPMorgan Chase Bank, National Association, established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

“Lakeview Plan” shall mean that certain Retirement Income Plan for the Salaried Employees of Lakeview Savings Bank, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

“Net Tax Refunds” shall mean the sum of (a) the amount of refunds of Pre-2009 Group Taxes deposited into the Refund Escrow Account plus (b) the amount of refunds of Pre-2009 Group Taxes actually received on or after the Petition Date by any Party (other than any refunds ~~totaling \$251,383,158 as reflected in~~ deposited in the Disputed Accounts and the WMI Accounts governed by Section 2.1 hereof), any current or future subsidiary of any Party, any entity that is or was a subsidiary of any Party at any time on or after the Petition Date, any entity that is or was an Affiliate at any time on or after the Petition Date of any Party, any successor of any Party (including, for the avoidance of doubt, any liquidating trust established pursuant to the Plan) or any member of any Group that, for whatever reason, has not been deposited in the Refund Escrow Account (treating, for all purposes under this definition of “*Net Tax Refunds*” and for all purposes under Section 2.4 hereof, any credit, offset or abatement of any post-2008 Group Taxes received by any person arising because of an entitlement to a refund of Pre-2009 Group Taxes as a refund of Pre-2009 Group Taxes actually received by such person), and shall be computed net of (i) any Pre-2009 Group Tax Liabilities and any contingency fee relating to such refunds, (ii) any fees and expenses described in the second-to-last sentence of Section 2.4(i) hereof and (iii) any out-of-pocket expenses incurred by WMI or JPMC after the date hereof and solely relating to services performed after the date hereof with respect to outside legal or other tax advisors (which, for the avoidance of doubt, does not include Alvarez & Marsal LLC or any of its Affiliates) that are participating in any proceeding with any Tax Authorities to resolve any issues with Pre-2009 Group Taxes. For the avoidance of doubt, the inclusion of clause (iii) in the preceding sentence shall not reduce the amount that the ~~WMB Recipient~~ FDIC Receiver would be entitled to receive pursuant to the terms and provisions of Section 2.4 hereof.

“Person” shall mean an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives or assignees of any of the foregoing.

“Plan Contribution Assets” shall mean all right, title and interest of the WMI Entities, the JPMC Entities and the FDIC Parties in and to the assets set forth on Exhibit “G” hereto.

“Pre-2009 Group Taxes” shall mean Group Taxes determined, paid or imposed with respect to taxable periods ended on or prior to December 31, 2008 (including, for the avoidance of doubt, amounts that have been paid with respect to such period but may subsequently be refunded by a Tax Authority due to overpayment, a carryback of net operating losses, capital losses or other tax attributes, or a carryforward of net operating losses, capital losses or other tax attributes), and Refund Related Group Taxes. For the purpose of calculations made pursuant to this Agreement, any refund of Pre-2009 Group Taxes shall include both (a) the interest component of any such refund paid by a Tax Authority and (b) any interest otherwise earned on such refund prior to the date on which such refund is deposited into the Refund Escrow Account.

“Pre-2009 Group Tax Liabilities” shall mean any and all Pre-2009 Group Taxes:

(a) which, on or after the Petition Date, have been paid by, or on behalf of, the WMI Entities or any members of the Group (and, for the avoidance of doubt, including as “*payment*” the crediting or offsetting of any refunds of Pre-2009 Group Taxes against any non-Pre-2009 Group Taxes to which the WMI Entities or any members of the Group would otherwise have been entitled);

(b) which are unpaid but have been assessed against either of the WMI Entities (including any predecessor thereof) in their individual capacity or their capacity as common parent, key corporation or the like or any members of the Group, and in each case, such assessment has become final or has been reasonably agreed to with the relevant Taxing Authority pursuant to the procedures set forth in Section 2.4 hereof; or

(c) for which either of the WMI Entities (or any predecessor thereof) or any member of the Group is otherwise liable.

“Purchase Price” shall mean the consideration paid, sold, assigned and transferred by the Acquisition JPMC Entities pursuant to the 363 Sale and Settlement, including, without limitation, (a) the contribution and waiver of distributions with respect to the JPMC Allowed Unsecured Claim, (b) the waiver of any and all right, title and interest the Acquisition JPMC Entities may have in or to the Plan Contribution Assets being retained by the Debtors pursuant to the terms of this Agreement and the Plan, (c)

the assumption of the Assumed Liabilities and (d) the payment of certain Allowed Claims pursuant to the Plan.

“Qualified Plans” shall mean, collectively, the Lakeview Plan and the WaMu Pension Plan.

“Refund Escrow Account” shall mean the account ~~at [BANK]~~ established pursuant to the terms and conditions of that certain Escrow Agreement, the form of which is attached hereto as Exhibit “F”.

“Refund Related Group Taxes” shall mean any U.S. federal income Taxes imposed on the Group or WMB, as a direct result of the allowance or receipt of any refunds, credits or offsets of Pre-2009 Group Taxes (including any interest component of such refunds, credits or offsets) or the carryback of any net operating losses resulting in such refunds, credits or offsets, for which a cash or equivalent payment is made to the IRS either (1) by virtue of the allowance or receipt of such refunds, credits or offsets of Pre-2009 Group Taxes, or (2) on the triggering of any negative basis in the shares of WMB at the time of a deconsolidation of WMB. The maximum amount that shall be considered a Refund Related Group Tax under subsection (2) of this definition is the amount of U.S. federal income Taxes that would be imposed if the negative basis (if any) were no greater than the negative basis that would exist (if any) if the basis of the WMB shares held by WMI on December 31, 2008 were reduced by the total net operating losses used to offset Pre-2009 Group Taxes.

“REIT Series” shall mean, collectively, those certain (a) Series I Perpetual Non-Cumulative Fixed-To-Floating Preferred Stock, (b) Series J Perpetual Non-Cumulative Fixed Rate Preferred Stock, (c) Series L Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock, (d) Series M Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock, and (e) Series N Perpetual Non-Cumulative Fixed-To-Floating Rate Preferred Stock.

“REIT Trust Holders” shall mean those entities which are holders of record of the REIT Series as of the record date for purposes of voting to accept or reject the Plan, including, without limitation, the Settlement Note Holders.

“Related Actions” shall mean the Actions, the Texas Litigation or any claims objection process with respect to the JPMC Claims or the FDIC Claim or any similar proceeding that could have been brought by the Parties against any Releasees in the Bankruptcy Court or such other court of competent jurisdiction prior to the date hereof.

“Released Claims” shall mean, collectively, and except as otherwise provided herein or in the Plan, (a) any and all WMI Released Claims, JPMC Released Claims, FDIC Released Claims, Settlement Note Released Claims and Creditors’ Committee Released Claims, and (b) any and all Claims released or deemed to be released pursuant to the Plan, in each case pursuant to clauses (a) and (b) above, to the

extent any such Claims arise in, relate to or have been or could have been asserted (i) in the Chapter 11 Cases, the Receivership or the Related Actions, (ii) that otherwise arise from or relate to any act, omission, event or circumstance relating to any WMI Entity, ~~WMB~~, or any current or former subsidiary ~~or Affiliate or of~~ any WMI Entity ~~or of WMB~~, or (iii) that otherwise arise from or relate to the Receivership, the Purchase and Assumption Agreement, the Chapter 11 Cases, the 363 Sale and Settlement, the Plan and the negotiations and compromises set forth in this Agreement and the Plan, excluding however, in the case of clauses (a) and (b) hereof, and subject to the provisions of Section 3.8 hereof, any and all claims that the JPMC Entities ~~may have against FDIC Receiver, FDIC Corporate or the Receivership~~ and the FDIC Parties are entitled to assert against each other or any other defenses thereto pursuant to the Purchase and Assumption Agreement, which claims and defenses shall continue to be governed by the Purchase and Assumption Agreement.

“Releasees” shall mean, collectively, the WMI Releasees, the JPMC Releasees, the FDIC Releasees, the Creditors’ Committee Releasees and the Settlement Note Releasees, each as defined below.

“Releasor” shall mean any Person that provides a release to any of the Releasees pursuant to the terms of this Agreement.

“Reorganized Debtors” shall mean WMI and WMIIC, as reorganized.

“Schedules” shall mean the schedules of liabilities, as such schedules have been or may be amended during the period up to and including the Effective Date, filed by the Debtors with the Bankruptcy Court pursuant to Rule 1007(b) of the Federal Rules of Bankruptcy Procedure.

“Tax Authority” shall mean any federal, state, local or foreign government, or agency, instrumentality or employee thereof, court or other body (if any) charged with the administration of any Law relating to Taxes.

“Tax Dispute Resolution Procedure” shall mean the procedures to be used by WMI, JPMC and the ~~WMB Recipient~~ FDIC Receiver to reconcile issues associated with the calculation and estimation of Taxes, all as set forth in Section 2.4(i) hereof.

“Tax Return” shall mean any return, declaration, form, election letter, report, statement, estimates, information return, or other information filed or required to be filed with respect to any Taxes, including any schedule or attachment thereto or amendment thereof, including any claim for a Tax refund.

“Taxes” shall mean (a) all federal, state, local or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits and estimated taxes, and (b) all interest, penalties,

finances, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (a) hereof.

“Texas Litigation” shall mean that certain litigation styled American National Insurance Company v. FDIC, Case No. 09-1743 (RMC), currently pending in the D.C. District Court.

“363 Sale and Settlement” shall mean, collectively, the compromise and settlement set forth herein pursuant to Bankruptcy Rule 9019 and the Plan regarding, among other things, and including, without limitation, agreements with respect to the ownership of the Plan Contribution Assets and the sale, transfer and assignment pursuant to the Plan and sections 363 and 365 of the Bankruptcy Code (a) of any and all right, title and interest any of the WMI Entities may have in (i) the Trust Preferred Securities, (ii) any checks made out to or funds received by WMI, or otherwise for the benefit of the WMI Medical Plan, the JPMorgan Chase Flexible Benefits Plan for Heritage WaMu Active Employees and the JPMorgan Chase Flexible Benefits Plan for Heritage WaMu Retirees, (iii) the JPMC Rabbi Trusts and the JPMC Policies, as defined below, (iv) the WaMu Pension Plan and the Lakeview Plan and all of the sponsor’s interest in the assets contained in any trusts or otherwise associated with such plans, (v) the WMI Medical Plan, (vi) certain intellectual property set forth in Section 2.17 hereof, (vii) the Anchor Litigation, (viii) the Visa Shares, (ix) JPMC Wind Investment Portfolio LLC ~~and~~, (x) the Bonds, and (xi) certain tax refunds as set forth in Section 2.4 hereof, in the case of each of the foregoing (a)(i) through (a)(~~xi~~), to JPMC or its designee, free and clear of all liens, Claims, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of any JPMC Entity, if any, and (b) of any and all right, title and interest of an Acquisition JPMC Entity and any subsidiary or Affiliate of an Acquisition JPMC Entity may have in (i) HS Loan Corporation, (ii) the WMI Rabbi Trust and the WMI Policies, as defined below, ~~and~~ (iii) the intellectual property referred to in Section 2.17 hereof, and (iv) certain tax refunds as set forth in Section 2.4 hereof, in the case of each of (b)(i) through (b)(~~iii~~iv) to the WMI Entities or their designee, free and clear of all liens, Claims, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of the WMI Entities; provided, however, that, in accordance with section 1146 of the Bankruptcy Code, the sales, transfers or assignments contemplated herein pursuant to the 363 Sale and Settlement shall not be subject to any transfer or stamp tax.

“Trust Preferred Holders” shall mean, collectively, all holders of any legal, equitable or beneficial interest in any Trust Preferred Securities, including the holders of record of any REIT Series as of the date on which the Bankruptcy Court approves the Disclosure Statement, including, without limitation, the Settlement Note Holders.

“Trust Preferred Securities” shall mean, collectively, those certain (a) Washington Mutual Preferred Funding (Cayman) I Ltd. 7.25% Perpetual Non-Cumulative Preferred Securities, Series A-1, (b) Washington Mutual Preferred (Cayman) I Ltd. 7.25% Perpetual Non-Cumulative Preferred Securities, Series A-2, (c) Washington

Mutual Preferred Funding Trust I Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, (d) Washington Mutual Preferred Funding Trust II Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, (e) Washington Mutual Preferred Funding Trust III Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities, and (f) Washington Mutual Preferred Funding Trust IV Fixed-to-Floating Rate Perpetual Non-Cumulative Trust Securities.

“Unknown Claims” shall mean any Released Claim, as defined herein, that any Releasor, as defined herein, does not know or suspect to exist in his, her or its favor at the time of giving the release in this Agreement that if known by him, her or it, might have affected his, her or its settlement and release in this Agreement. With respect to any and all Released Claims, each Releasor shall expressly waive or be deemed to have waived, and by operation of the Confirmation Order shall have waived the provisions, rights and benefits of California Civil Code § 1542 (to the extent it applies herein), which provides:

A GENERAL RELEASE DOES NOT EXTEND TO
CLAIMS WHICH THE CREDITOR DOES NOT KNOW
OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
THE TIME OF EXECUTING THE RELEASE, WHICH IF
KNOWN BY HIM OR HER MUST HAVE
MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTORS.

Each Releasor expressly waives, and shall be deemed to have waived, and by operation of the Confirmation Order shall have waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law or foreign law, that is similar, comparable or equivalent in effect to California Civil Code § 1542. The Releasors may hereafter discover facts in addition to or different from those that any of them now knows or believes to be true with respect to the subject matter of the Released Claims, but each Releasor shall expressly have and shall be deemed to have, and by operation of the Confirmation Order shall have fully, finally and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Each Releasor acknowledges and shall be deemed to have acknowledged, and by operation of the Confirmation Order shall have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

“Visa Shares” shall mean the 3.147 million Class B shares of Visa Inc. held by WMI and set forth on the Schedules and/or WMI’s books and records as of the Petition Date.

~~“WMB Escrow Account” shall mean the account at [BANK] established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.~~

~~“WMB Recipient” shall mean the FDIC Receiver for and on behalf of the Receivership.~~

“*WaMu Pension Plan*” shall mean that certain WaMu Pension Plan, which plan is intended to satisfy the tax requirements of Section 401 of the IRC and is sponsored by WMI.

“*WMI Accounts*” shall mean the accounts as set forth on Exhibit “E” hereto that are not Disputed Accounts.

“*WMI Entities*” shall mean WMI, WMIIC, Ahmanson Obligation Company, H.S. Loan Corporation, Marion Insurance Company, WAMU 1031 Exchange, WM Mortgage Reinsurance Company, Inc., WM Citation Holdings, LLC, Washington Mutual Finance Group, LLC, Soundbay Leasing LLC, WMGW Delaware Holdings [LLC](#), [WMI Rainier](#) LLC and Washington Mutual Capital Trust.

“*WMI Medical Plan*” shall mean Washington Mutual, Inc. Flexible Benefits Plan.

“*Washington Mutual Escrow Account*” shall mean the account at Wells Fargo Bank, N.A. established pursuant to the terms and conditions set forth in the Escrow Agreement attached hereto as Exhibit “F”.

Section 1.3. Other Terms. Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any federal, state, local, or foreign law, including any applicable law, will be deemed also to refer to such law as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words “*include*”, “*includes*”, and “*including*” will be deemed to be followed by “*without limitation*”. Pronouns in masculine, feminine, or neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words “*this Agreement*”, “*herein*”, “*hereof*”, “*hereby*”, “*hereunder*”, and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited.

Section 1.4. Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

ARTICLE II SETTLEMENT TERMS

Section 2.1. WMI Accounts and Disputed Accounts. On the Effective Date, and in partial consideration for the assets sold pursuant to the 363 Sale and Settlement, (a) the JPMC Entities and the FDIC Parties shall (i) waive any and all claims, rights and liabilities with respect to the WMI Accounts and the Disputed Accounts, including, without limitation, rights of setoff pursuant to section 553 of the Bankruptcy Code and other applicable law and (ii) take such actions, if any, as may be reasonably requested by WMI, including, without limitation, (A) filing with the Bankruptcy Court such notices or pleadings setting forth the waiver of any and all interest in the WMI Accounts and the Disputed Accounts by the JPMC Entities and the FDIC Parties and (B) seeking the dismissals referred to in Section 2.6(b) hereof, (b) the FDIC Parties shall waive and release any and all rights to seize or set off the WMI Accounts and the Disputed Accounts and any funds contained therein in accordance with Section 9.5 of the Purchase and Assumption Agreement, including, without limitation, by withdrawing, with prejudice, the FDIC Stay Relief Motion, and (c) JPMC shall pay to WMI, or such other of the WMI Entities as WMI shall designate, the amounts contained in the Disputed Accounts and the WMI Accounts as of the Effective Date, net of ~~such amount~~ ~~representing~~ eighty percent (80%) of ~~tax~~the amounts received by WMI during the period from the Petition Date up to and including the date hereof attributable to refunds of Pre-2009 Group Taxes deposited into the Disputed Accounts and the WMI Accounts (including the interest component of any such refunds and interest, if any, earned thereon), free and clear of all liens, Claims, interests and encumbrances of any Person. Without limiting the generality of the foregoing, on and effective as of the Effective Date, JPMC, as successor to WMB, shall (y) release any security interest in or lien upon the Admin Account and the monies contained therein and (z) release and otherwise transfer the Admin Account and the funds contained therein in accordance with the direction of WMI. To ensure allocation of any funds credited to the WMI Accounts and the Disputed Accounts in accordance with the terms and provisions of this Agreement, as soon as practicable following execution and delivery of this Agreement, but in no event later than five (5) Business Days subsequent hereto, JPMC shall take any and all action as is appropriate or as WMI may reasonably request to verify all amounts credited or debited to the WMI Accounts and the Disputed Accounts from and after the Petition Date and shall provide copies of all such documentation to the FDIC Receiver contemporaneously with the delivery thereof to WMI.

Section 2.2. Deposit Account Interest. From and after the date hereof, interest shall continue to accrue or be deemed to accrue on the balances specified for the WMI Accounts and the Disputed Accounts at the greater of (a) three (3) basis points and (b) such other amount as may be quoted by JPMC as applicable to one, three and six month rates, as selected by WMI in its sole and absolute discretion.

Section 2.3. Trust Preferred Securities. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) JPMC or its designee shall be deemed to be the sole legal, equitable, and beneficial owner of the Trust

Preferred Securities for all purposes, (b) the WMI Entities and the FDIC Parties shall be deemed to have sold, transferred, and assigned any and all right, title and interest the WMI Entities may have or may ever have had in the Trust Preferred Securities, free and clear of any Claims, liens, interests and encumbrances of any Person, other than the Claims, interests, liens and encumbrances of JPMC, if any, (c) any obligation of WMI to transfer the Trust Preferred Securities to WMB, including in accordance with that certain Assignment Agreement, effective as of September 25, 2008, between WMI and WMB, shall be deemed to have been fully satisfied by the contribution to WMB of the Trust Preferred Securities as of September 25, 2008 and thereafter sold and transferred to JPMC in accordance with the Purchase and Assumption Agreement, (d) WMI and the FDIC Parties consent to the sale and transfer of such obligations to JPMC and the Trust Preferred Securities shall be deemed to have been transferred by WMI to JPMC in satisfaction of such obligation as of September 26, 2008, (e) with respect to matters related to the Trust Preferred Securities, all persons and entities shall be authorized and directed to take instructions solely from JPMC or its designee with respect to those items as to which the owner is entitled to give instructions, (f) any and all persons and entities shall be authorized and directed to take necessary, proper or advisable actions and all other actions reasonably requested or instructed by JPMC to record, reflect, transfer, vest, assign, convey, and maintain, as necessary, that a transfer of the Trust Preferred Securities was made to WMI (and subsequently by WMI to JPMC) and that JPMC is the sole legal, equitable, and beneficial owner of the Trust Preferred Securities as transferee of WMI, including, without limitation, by: (i) causing the applicable trustees, registrars, paying agents, depository, and transfer agents to amend their records (including the securities registers of each Issuing Trust) to reflect a transfer of the Trust Preferred Securities to WMI and then to WMB, and to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; (ii) causing the trustees and boards of directors of the Issuing Trusts to take all necessary, proper and advisable action to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; and (iii) amending any agreements, articles, or declarations to reflect JPMC as the sole legal, equitable, and beneficial owner of the Trust Preferred Securities; and (g) all claims against the Debtors, the WMI Entities, the Acquisition JPMC Entities and the FDIC Parties with respect to the Trust Preferred Securities shall be released and withdrawn, with prejudice, including any claims under section 365(o) of the Bankruptcy Code or any priority claim under section 507(a)(9) of the Bankruptcy Code.

Section 2.4. Tax Matters. It is the understanding of the Parties that this Section 2.4 allocates (i) the Homeownership Carryback Refund Amount ~~in full to the WMB Recipient and WMI, in general on the basis of thirty one and one half~~thirty-four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) to the ~~WMB-Recipient~~FDIC Receiver and sixty-~~eight~~five and one-~~half~~percent (~~68.5~~hundred seventy-eight thousandths (65.178%) to WMI, and (ii) all other Net Tax Refunds eighty percent (80%) to JPMC and twenty percent (20%) to WMI, and this Section 2.4 shall be interpreted in a manner consistent with this understanding.

(a) Cooperation; Control of Tax Matters.

(i) From and after the date hereof, WMI, JPMC, ~~the WMB Recipient~~ and the FDIC Receiver (on behalf of WMB) shall cooperate with each other to maximize the amount of Net Tax Refunds received (which, for avoidance of doubt, includes taking such actions as necessary to ensure that net operating losses incurred in connection with Pre-2009 Group Taxes shall to the maximum extent possible be carried back in order to maximize Net Tax Refunds). Notwithstanding anything in this Agreement or otherwise to the contrary, WMI and the FDIC Receiver (on behalf of WMB) agree to make and shall make (or cause to be made), if not already made, any elections or filings necessary to ensure that the 2008 tax year shall be the tax year of the Group to which the 5-year carryback available under Section 172(b)(1)(H) of the Internal Revenue Code of 1986, as amended, shall apply (the “*Election*”). Each of WMI and the FDIC Receiver represent that it has not made any election or filing which would make the Election invalid or inoperative in any way.

(ii) From and after the date hereof, subject to the terms and provisions of Section 2.4(a)(iii) hereof, but without otherwise limiting the foregoing, WMI, JPMC and the FDIC Receiver shall jointly control and administer all Pre-2009 Group Tax matters, in respect of all relevant Tax years, that (x) relate to U.S. federal income tax and (y) are reasonably expected to have a material effect on the amount of Net Tax Refunds to which the FDIC Receiver is entitled under this Agreement, provided, however, that the FDIC Receiver's concurrence shall not be required with respect to any settlement offers made or accepted by WMI, on or before May 21, 2010, the principal terms of which have been evidenced in writing (whether or not such offer or acceptance is conditioned upon approval of any supervising authority). For the avoidance of doubt, the preceding sentence shall not apply to give the FDIC Receiver joint control of any proceedings related to any of the predecessor entities listed on Schedule 2.4(a). WMI and JPMC shall jointly control and administer all other Pre-2009 Group Tax matters, in respect of all relevant Tax years. From and after the date hereof, WMI, JPMC and the FDIC Receiver shall consult with and keep one another fully informed on all other Pre-2009 Group Tax matters that are jointly controlled by WMI, JPMC and the FDIC Receiver pursuant to the first sentence of this Section 2.4(a)(ii), and their ongoing discussions with the applicable Tax Authorities in respect of such Group Tax matters. From and after the date hereof, each of WMI and JPMC shall consult with and keep each other fully informed on all other Pre-2009 Group Tax matters and its ongoing discussions with the applicable Tax Authorities, and shall, from time-to-time, inform the FDIC

Receiver of the status of all other Tax proceedings relating to Net Tax Refunds. For purposes of the foregoing, the administration of Pre-2009 Group Tax matters shall include, without limitation, the resolution of all current and pending Tax controversies (both administrative and judicial), the filing of any related carryback claims, elections, and other Tax Returns, and the entering into any other related agreements with a Tax Authority, except to the extent that such actions must be, pursuant to a legal or regulatory requirement, undertaken by the FDIC Receiver on behalf of WMB (or any subsidiary of WMB on or before September 24, 2008). For this purpose, JPMC and WMI will each have the right to participate in any meetings or proceedings related to the resolution of any Tax controversy that relates to the resolution of Pre-2009 Group Tax matters and each Party to this Agreement agrees to execute any forms, including (but not limited to) IRS Forms 2848, to authorize such participation upon the request of either JPMC or WMI; provided, however, in deciding whether to participate in any such meeting or proceeding, JPMC will give due consideration (in consultation with WMI and the FDIC Receiver) to whether participation by JPMC in any such meeting or proceeding would, in JPMC's sole discretion, materially adversely affect the resolution of the Pre-2009 Group Tax matters at issue and related proceedings. Similarly, the FDIC Receiver will have the right to participate in any meetings or proceedings related to the resolution of any Tax controversy that relates to the resolution of Pre-2009 Group Tax matters that are jointly controlled by WMI, JPMC and the FDIC Receiver pursuant to the first sentence of this Section 2.4(a)(ii), and each Party to this Agreement agrees to execute any forms, including (but not limited to) IRS Forms 2848, to authorize such participation upon the request of the FDIC Receiver; provided, however, in deciding whether to participate in any such meeting or proceeding, the FDIC Receiver will give due consideration (in consultation with WMI and JPMC) to whether participation by the FDIC Receiver in any such meeting or proceeding would, in the FDIC Receiver's sole discretion, materially adversely affect the resolution of the Pre-2009 Group Tax matters at issue and related proceedings. Notwithstanding WMI's and JPMC's control over the administration of certain Pre-2009 Group Tax matters, to the extent that any of the foregoing actions must be undertaken by the FDIC Receiver as a result of a legal or regulatory requirement, then the FDIC Receiver shall take any actions that are reasonably requested by WMI and JPMC jointly with respect to Pre-2009 Group Taxes. None of WMI, JPMC and the FDIC Receiver shall, with respect to Taxes, make or change any Tax election, change any annual Tax accounting period, adopt or change any method of Tax accounting, enter into any closing agreement, settle any Tax claim or assessment, surrender any right to claim a Tax refund, offset or other reduction in Tax liability, or consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment relating to any Pre-2009 Group Tax matters unless it obtains the written consent of: (x) in the case of any such action that is to be taken by WMI, JPMC and, to the extent it has joint control over with respect to the matter pursuant to the first sentence of this Section 2.4(a)(ii), the FDIC Receiver; (y) in the case of any such action that is to be taken by JPMC, WMI and, to the extent it has joint control over with respect to the matter pursuant to the first sentence of this Section 2.4(a)(ii), the FDIC Receiver; and (z) in the case of any such action that is to be taken by the FDIC Receiver, each of WMI and JPMC (which, in the case of each of (x), (y) and (z), shall not be unreasonably withheld or delayed).

(iii) From and after the date hereof, to the extent reasonably necessary to administer and resolve any Pre-2009 Group Tax matter, (A) JPMC shall provide each of WMI and the FDIC Receiver access in a reasonable and timely manner to historic WMI or WMB employees with material knowledge of such matters who are currently employees of JPMC, and WMI shall provide each of JPMC and the FDIC Receiver access in a reasonable and timely manner to historic WMI, JPMC or WMB employees with material knowledge of such matters that are currently employees of WMI and (B) JPMC shall provide each of WMI and the FDIC Receiver, and, with respect to each of WMI and the FDIC Receiver, its officers, employees, and representatives (including, without limitation, its legal and tax advisors) with reasonable and timely access to all information, data, and documentation (including, without limitation, tax and accounting records, financial information records and financial information systems, databases, email servers, and other electronic information systems) within its possession or control and reasonably necessary to administer and resolve any Pre-2009 Group Tax matter, and WMI shall provide each of JPMC and the FDIC Receiver, and, with respect to each of JPMC and the FDIC Receiver its officers, employees, and representatives (including, without limitation, its legal and tax advisors) with reasonable and timely access to all information, data, and documentation (including, without limitation, tax and accounting records, financial information records and financial information systems, databases, email servers, and other electronic information systems) within its possession or control and reasonably necessary to administer and resolve any Pre-2009 Group Tax matter. WMI and JPMC, respectively, shall provide such information, data, and documentation in a manner and forum reasonably convenient to each of WMI, JPMC and the FDIC Receiver, and shall permit the other Parties, through their officers, employees, and representatives, to make extracts and copies of such information, data, and documents to the extent reasonably necessary in the administration and resolution of any Pre-2009 Group Tax matter.

(iv) Without in any way limiting the foregoing, the FDIC Receiver (on behalf of WMB) shall fully cooperate with WMI and JPMC with respect to the administration and resolution of all Pre-2009 Group Tax matters, will reasonably provide WMI, the Creditors' Committee and JPMC, through their respective officers, employees, and representatives, the necessary information, data, and documentation (electronic and otherwise and notwithstanding the termination of the IAA/JPMC pursuant to Section 2.20 hereof) within its possession or control in support of such administration and resolution (including providing such documentation in a reasonable location and within a reasonable timeframe), and shall permit WMI and JPMC, through their respective officers, employees, and representatives, to make extracts and copies of such information, data, and documents to the extent reasonably necessary in the administration and resolution of any Pre-2009 Group Tax matter. The Parties agree that any request for information that may reasonably be available both from JPMC and the FDIC Receiver shall first be requested from JPMC.

(v) Without limiting WMI's rights under Section ~~8.8~~8.7 hereof, in the event WMI transfers all or part of its rights under this Section 2.4 to a

liquidating trust pursuant to the Plan, WMI may assign (but is not obligated to assign) any or all of its control rights under this Section 2.4 to such liquidating trust; provided, however, that WMI shall continue to be responsible for all the liabilities and obligations of WMI under Section 2.4 of this Agreement; and, provided, further, however, that, if WMI assigns all of its rights and obligations under this Section 2.4 to a liquidating trust, WMI shall have no further liability or obligations under this Section 2.4 as long as the transfer to the liquidating trust shall not impose any additional liabilities or obligations on JPMC.

(vi) Notwithstanding anything to the contrary in this Agreement, the FDIC Receiver may not assign its rights under this Section 2.4(a) without the prior written consent of WMI and JPMC. Any purported assignment in violation of the preceding sentence shall be null and void.

(b) Receipt and Distribution of Tax Refunds. WMI, the FDIC Receiver and JPMC (as applicable, including on behalf of WMB and any subsidiary acquired by JPMC from the FDIC Receiver on behalf of WMB) shall jointly direct all Tax Authorities to pay any refunds of Pre-2009 Group Taxes to the Refund Escrow Account. In the event that any Party, any current or future subsidiary of any Party, any entity that is or was a subsidiary of any Party at any time on or after the Petition Date, any entity that is or was an Affiliate at any time on or after the Petition Date of any Party, any successor of any Party (including, for the avoidance of doubt, any liquidating trust established pursuant to the Plan), or any member of any Group ~~(other than any refunds reflected in Section 2.1 hereof)~~ has received on or after the Petition Date or hereafter receives any refund of Pre-2009 Group Taxes (other than any refunds deposited in the Disputed Accounts and the WMI Accounts governed by Section 2.1 hereof), the relevant Party shall promptly remit or cause to be remitted the amount of such refunds to the Refund Escrow Account. ~~A list of the refunds of Pre-2009 Group Taxes that have been received by the Parties as of the date hereof is set forth as Schedule 2.4(b).~~ To the extent reasonably determined (as provided in Section 2.4(a)(ii) hereof) by WMI, JPMC and the FDIC Receiver jointly to be necessary for the discharge of Pre-2009 Group Tax Liabilities, WMI, JPMC and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to make remittances to discharge Pre-2009 Group Tax Liabilities.

(i) As soon as practical following JPMC's awareness that any Party, any current or future subsidiary of any Party, any entity that is or was a subsidiary of any Party at any time on or after the Petition Date, any entity that is or was an Affiliate at any time on or after the Petition Date of any Party, any successor of any Party (including, for the avoidance of doubt, any liquidating trust established pursuant to the Plan), or any member of any Group has received a refund of Pre-2009 Group Taxes, other than any refunds ~~totaling \$251,383,158 as reflected in~~ deposited in the Disputed Accounts and the WMI Accounts governed by Section 2.1 hereof (or if already received, following the Effective Date), JPMC will reasonably estimate the following amounts:

(A) The total expected amount of Pre-2009 Group Tax Liabilities (the “*Expected Pre-2009 Group Tax Liabilities*”);

(B) The Homeownership Carryback Threshold;
and

(C) The Homeownership Carryback Refund Amount.

For the avoidance of doubt, any estimated amount of the Homeownership Carryback Threshold shall be calculated net of the Expected Pre-2009 Group Tax Liabilities that have not, at the time of the calculation, been paid.

(ii) (A) Upon receipt of any refund of Pre-2009 Group Taxes, an amount equal to fifty percent (50%) of the interest component of such refund shall be distributed, in aggregate, as applicable to WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver. Such direct distributions shall be made in the proportion to which the refunds to which such interest relates are divided between WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver under this Agreement (it being understood that such interest which relates to the Homeownership Carryback Refund Amount shall be paid thirty-~~one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) to the ~~WMB-Recipient~~FDIC Receiver and sixty-~~eight~~five and one-half ~~hundred seventy-eight thousandths~~ percent (~~68.5~~65.178%) to WMI, except to the extent the interest distributable to the ~~WMB-Recipient~~ constitutes an Excess Refund, in which event it shall be distributed 65.178% to WMI); all other such interest shall be paid eighty percent (80%) to JPMC and twenty percent (20%) to WMI). Such direct distributions to WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver shall be treated, for all computational purposes of this Agreement, as if such distributions were distributions to the Washington Mutual Escrow Account, the JPMC Escrow Account and the ~~WMB~~FDIC Escrow Account, respectively, and released therefrom.

(B) At least quarterly (on or prior to each March 1, June 1, September 1 and December 1), fifty percent (50%) of all amounts earned by the Refund Escrow Account with respect to assets held in such account shall be distributed to WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver in the same proportion that the Net Tax Refunds which were held in the Refund Escrow Account and generated such earnings are expected to be distributed to each of WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver, as determined pursuant to the then-current adjusted estimates of the amount of Net Tax Refunds that will be received and the then-current Homeownership Carryback Threshold that are calculated under Section 2.4(b) of this Agreement and adjusted under Section 2.4(c) of this Agreement. In each case, such direct distributions to WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver shall be treated, for all computational purposes of this Agreement, as if such distributions were distributions to the Washington Mutual Escrow Account, JPMC Escrow Account and the ~~WMB~~FDIC Escrow Account, respectively, and released therefrom.

(iii) Upon estimation of the amounts pursuant to Section 2.4(b)(i) hereof (subject to the Tax Dispute Resolution Procedure), and if any amounts were paid to a Tax Authority pursuant to Section 2.4(g)(iv), JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to pay (A) eighty percent (80%) of any amount of refund received attributable to Pre-2009 Group Taxes to JPMC, and (B) twenty percent (20%) of any amount of refund received attributable to Pre-2009 Group Taxes to WMI, in each case until the gross amounts paid by JPMC and WMI, as the case may be, pursuant to Section 2.4(g)(iv) hereof has been offset by gross amounts paid to JPMC and WMI, as the case may be, pursuant to this Section 2.4(b)(iii) provided, however, that, if any person pursuant to this Section 2.4 shall have not made all or part of a payment required by Section 2.4(g)(iv) hereof, such person will be reimbursed pursuant to this Section 2.4(b)(iii) only up to the amount such person paid pursuant to Section 2.4(g)(iv) hereof. Notwithstanding anything contained herein to the contrary, to the extent that any Pre-2009 Group Tax Liabilities were paid by any Party hereto (or any Affiliate of such Party) other than pursuant to Section 2.4(g) hereof, then JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to reimburse such amount to JPMC, WMI or the FDIC Receiver, as appropriate.

(iv) All amounts in the Refund Escrow Account in excess of the amounts required to be paid pursuant to Sections 2.4(b)(ii) and 2.4(b)(iii) hereof shall be retained in the Refund Escrow Account until the balance of the Refund Escrow Account equals the amount of the Expected Pre-2009 Group Tax Liabilities that have not yet been paid.

(v) Subject to Section 2.4(b)(vii) below, upon estimation of the amounts pursuant to Section 2.4(b)(i) hereof (subject to the Tax Dispute Resolution Procedure), but only after the payments of any amounts pursuant to Sections 2.4(b)(ii) and 2.4(b)(iii) hereof and after taking into account Section 2.4(b)(iv) hereof, to the extent that the net amount of refunds of Pre-2009 Group Taxes paid to the JPMC Escrow Account under this Agreement (such net amount, the “**JPMC Balance**”) is less than eighty percent (80%) of the Homeownership Carryback Threshold (the “**JPMC Amount**”), JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to pay eighty percent (80%) of any incremental refunds of Pre-2009 Group Taxes received to the JPMC Escrow Account, and twenty percent (20%) of any incremental refunds of Pre-2009 Group Taxes received to the Washington Mutual Escrow Account.

(vi) Subject to Section 2.4(b)(vii) below, upon payment of the amounts required pursuant to Section 2.4(b)(v) hereof, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to pay ~~sixty-eight~~five and one ~~half~~hundred seventy-eight thousandths percent (~~68.5~~65.178%) of any incremental refunds of Pre-2009 Group Taxes to the Washington Mutual Escrow Account and ~~thirty-one and one half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) of any incremental refunds of Pre-2009 Group Taxes to the ~~WMB Escrow Account, except to the extent the amount distributable to the WMB Escrow~~

~~Account constitutes an Excess Refund, in which event it shall be paid to the Washington Mutual~~FDIC Escrow Account.

(vii) Notwithstanding anything to the contrary in this Section 2.4 (other than Section 2.4(b)(ii)(A) hereof), any Homeownership Carryback Refund Amount shall be transferred from the Refund Escrow Account sixty-~~eight~~five and one-~~half~~hundred seventy-eight thousandths percent (~~68.565.178~~31.534.822%) to the Washington Mutual Escrow Account and thirty-~~one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.534.822~~68.565.178%) to the ~~WMB Escrow Account (except to the extent the amount transferred to the WMB Escrow Account constitutes an Excess Refund, in which event it shall be transferred to the Washington Mutual Escrow Account)~~FDIC Escrow Account, so that the net amount of refunds of Pre-2009 Group Taxes paid to the ~~WMB~~FDIC Escrow Account shall be equal to ~~the lesser of (w) thirty-one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.534.822~~68.565.178%) of the Homeownership Carryback Refund Amount ~~and (x) Eight Hundred Fifty Million Dollars (\$850,000,000.00)~~, and the net amount of refunds of Pre-2009 Group Taxes paid to the Washington Mutual Escrow Account under this Section 2.4(b)(vii) shall be equal to ~~the sum of (y) sixty-eight~~five and one-~~half~~hundred seventy-eight thousandths percent (~~68.565.178~~31.534.822%) of the Homeownership Carryback Refund Amount ~~plus (z) the excess, if any, of the WMB percentage amount as calculated in clause (w) over Eight Hundred Fifty Million Dollars (\$850,000,000.00).~~

(c) Adjustments to Estimates. As additional information becomes available about the amount of Net Tax Refunds (including whenever additional Pre-2009 Group Tax Liabilities are determined to come into existence), JPMC may, from time-to-time (and at the reasonable request of WMI or the FDIC Receiver, shall), reasonably revise its estimates of figures calculated pursuant to this Section 2.4.

(i) Subject to Section 2.4(c)(iv) below, to the extent that, pursuant to a revised estimate calculated under this Section 2.4(c), the JPMC Balance exceeds the revised estimate of the JPMC Amount (such estimate, the “*Revised JPMC Amount*”), JPMC, WMI and the FDIC Receiver shall jointly direct: (y) the custodian of the JPMC Escrow Account to debit an amount equal to such excess from the JPMC Escrow Account and (z) the custodian of the Washington Mutual Escrow Account to debit an amount equal to twenty-five percent (25%) of such excess from the Washington Mutual Escrow Account, and, in each case, to pay the amounts so debited to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account in the percentages set forth in Section 2.4(b)(vi) hereof.

(ii) Subject to Section 2.4(c)(iv) below, to the extent that the Revised JPMC Amount exceeds the JPMC Balance, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Washington Mutual Escrow Account and the custodian of the ~~WMB~~FDIC Escrow Account (A) to debit an aggregate amount equal to one hundred twenty-five percent (125%) of such excess ~~(I) first from the Washington Mutual Escrow Account to the extent of the net amount of Excess Refunds paid thereto, and (II) thereafter from the Washington Mutual Escrow Account and the WMB~~and the

FDIC Escrow Account in the percentages set forth in Section 2.4(b)(vi) hereof, but as to each only to the extent of the net amount previously allocated to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account, respectively, under Section 2.4(b)(vi) and Section 2.4(b)(vii) hereof (~~excluding therefrom the net amount of any Excess Refunds and,~~ for the avoidance of doubt, taking into account all prior adjustments), and (B) to pay eighty percent (80%) of the amount so debited to the JPMC Escrow Account and twenty percent (20%) of the amount so debited to the Washington Mutual Escrow Account.

(iii) Payments pursuant to this Section 2.4(c) shall be made within five (5) Business Days of the date on which the revised estimate was agreed upon, in writing by JPMC, WMI and the FDIC Receiver, or under the Tax Dispute Resolution Procedure.

(iv) Notwithstanding anything to the contrary in this Section 2.4, (y) no adjustments shall be made to the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account under this Section 2.4(c) that would reduce such accounts below the amounts that were transferred to such accounts under Sections 2.4(b)(vi) and (vii) hereof, based on a revised determination of Homeownership Carryback Refund Amount and (z) to the extent that, pursuant to such revised determination of Homeownership ~~Caryback~~Carryback Refund Amount calculated pursuant to this Section 2.4(c), the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account shall be entitled to additional amounts, such amounts shall be immediately transferred to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account, as applicable.

(d) Final JPMC Amount. Within a reasonable period of time after the date on which both JPMC and WMI reasonably believe that (i) all Net Tax Refunds, including the Homeownership Carryback Refund Amount, have been received and (ii) all Pre-2009 Group Tax liabilities have been satisfied, settled or otherwise discharged, and (iii) the final amount of Net Tax Refunds received has been determined and is not subject to change, JPMC shall reasonably calculate a final value for the JPMC Amount (such calculated final value, the “***Final JPMC Amount***”), a final value for the Homeownership Carryback Threshold and a final value for the Homeownership Carryback Refund Amount. If a Final JPMC Amount is agreed upon or determined under the Tax Dispute Resolution Procedure, then --

(i) Subject to Section 2.4(d)(iv), to the extent that the JPMC Balance exceeds the Final JPMC Amount, JPMC, WMI and the FDIC Receiver shall jointly direct (y) the custodian of the JPMC Escrow Account to debit the JPMC Escrow Account for the amount by which the JPMC Balance exceeds the Final JPMC Amount and (z) the custodian of the Washington Mutual Escrow Account to debit the Washington Mutual Escrow Account for an amount equal to twenty-five (25%) of such excess, and, in each case, to pay the amounts so debited to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account in the percentages set forth in Section 2.4(b)(vi) hereof.

(ii) Subject to Section 2.4(d)(iv), to the extent that the Final JPMC Amount exceeds the JPMC Balance, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Washington Mutual Escrow Account and the custodian of the ~~WMB~~FDIC Escrow Account (A) to debit an aggregate amount equal to one hundred twenty-five percent (125%) of the amount by which the Final JPMC Amount exceeds the JPMC Balance, ~~(I) first from the Washington Mutual Escrow Account to the extent of the net amount of Excess Refunds paid thereto, and (II) thereafter from the Washington Mutual Escrow Account and the WMB~~ and the FDIC Escrow Account in the percentages set forth in Section 2.4(b)(vi) hereof, but as to each only to the extent of the net amount previously allocated to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account, respectively, under Section 2.4(b)(vi), Section 2.4(b)(vii) and Section 2.4(c)(i) hereof (~~excluding therefrom the net amount of any Excess Refunds and,~~ for the avoidance of doubt, taking into account all prior adjustments), and (B) to pay eighty percent (80%) of the amount so debited to the JPMC Escrow Account and twenty percent (20%) of the amount so debited to the Washington Mutual Escrow Account; and

(iii) The payments to be made pursuant to this Section 2.4(d) shall be made within five (5) Business Days of the date on which the calculations made pursuant to this Section 2.4(d) are finalized.

(iv) Notwithstanding anything to the contrary in this Section 2.4, (y) no adjustments shall be made to the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account under this Section 2.4(d) that would reduce such accounts below the amount that would be transferred to such accounts under Section 2.4(b)(vii) hereof, based on the final determination of Homeownership Carryback Refund Amount and (z) to the extent that, pursuant to such revised determination of Homeownership Carryback Refund Amount calculated pursuant to this Section 2.4(d), the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account shall be entitled to additional amounts, such amounts shall be immediately transferred to the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account, as applicable.

(e) Calculations and Estimates. JPMC shall in a reasonable time (and in case of a revised calculation or estimate, within ten (10) Business Days) provide such calculations or estimates undertaken pursuant to this Section 2.4 and the underlying data, substantiation and computations to each of WMI and the FDIC Receiver for review. Each of WMI and the FDIC Receiver shall have a reasonable period to review any such calculations or estimates and such underlying items. WMI, JPMC and the FDIC Receiver shall endeavor in good faith to resolve any differences regarding any calculation or estimate undertaken pursuant to this Section 2.4 without delay. To the extent WMI, JPMC and the FDIC Receiver are unable to resolve any differences regarding a calculation or estimate undertaken pursuant to this Section 2.4, the Parties shall utilize the Tax Dispute Resolution Procedure.

(f) Tax Expenses. Except as otherwise provided herein, each of WMI, JPMC, and the FDIC Receiver ~~and the WMB Recipient~~ shall be responsible for

its own expenses (including, without limitation, all of its outside advisors) incurred in connection with the pursuit or receipt of any refund, credit, offset or abatement of Pre-2009 Group Taxes.

(g) Payment of Pre-2009 Group Tax Liabilities. If, pursuant to the procedure detailed in Section 2.4(a) hereof, it is reasonably determined that an amount of Pre-2009 Group Taxes should be paid or a claim for any amount of Pre-2009 Group Taxes should be settled, and funds are available in the Refund Escrow Account to pay part or all of such Pre-2009 Group Taxes, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Refund Escrow Account to remit the amount of such payment or settlement to the relevant Tax Authority. To the extent that it is reasonably determined pursuant to the procedures detailed in Section 2.4(a) hereof that an amount of Pre-2009 Group Taxes should be paid or a claim for any amount of Pre-2009 Group Taxes should be settled, and funds are not available in the Refund Escrow Account to discharge such payment or provide for such settlement after first making the adjustments provided for by Section 2.4(c) hereof:

(i) First, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Washington Mutual Escrow Account and the custodian of the JPMC Escrow Account to pay from the Washington Mutual Escrow Account and the JPMC Escrow Account, in the percentages set forth in Section 2.4(b)(v) hereof, one-hundred percent (100%) of the amount of the payment or settlement of such Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account up to an aggregate amount equal to the result of dividing (y) the excess of the JPMC Balance over the then-current JPMC Amount, if any, by (z) eighty percent (80%).

(ii) Subject to the provisions of subparagraph (v) of this Section 2.4(g), thereafter, JPMC, WMI and the FDIC Receiver shall (A) ~~first, jointly~~ direct the custodian of the ~~Washington Mutual Escrow Account to pay one hundred percent (100%) of the remaining amount of the payment or settlement of such Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account but not in excess of the net amount of Excess Refunds previously paid to the Washington Mutual Escrow Account, and (B) only thereafter, if necessary, (I) jointly direct the custodian of the WMB~~FDIC Escrow Account to pay thirty-~~one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) of the remaining amount of the payment or settlement of such Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account, and ~~(H)~~(B) jointly direct the custodian of the Washington Mutual Escrow Account to pay sixty-~~eight~~five and one-~~half~~hundred seventy-eight thousandths percent (~~68.5~~65.178%) of the remaining amount of the payment or settlement of such Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account; provided, however, that, in both cases (A) and (B) only until (and so that) the net amount of refunds of Pre-2009 Group Taxes paid to the ~~WMB~~FDIC Escrow Account shall be equal to ~~the lesser of (v) thirty-one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) of the Homeownership Carryback Refund Amount ~~and (w) \$850 million~~, and the net amount of refunds of Pre-2009 Group Taxes paid to the Washington Mutual Escrow Account shall be equal to the sum of (x)

sixty-~~eight~~five and one-~~half~~ hundred seventy-eight thousandths percent (~~68.5~~65.178%) of the Homeownership Carryback Refund Amount, plus (y) twenty-five percent (25%) of the then-current JPMC Amount, ~~plus (z) the excess, if any, of the WMB percentage amount in clause (v) over Eight Hundred Fifty Million Dollars (\$850,000,000.00).~~ .

(iii) Thereafter, JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the Washington Mutual Escrow Account and the custodian of the JPMC Escrow Account to pay from the Washington Mutual Escrow Account and the JPMC Escrow Account, in the percentages set forth in Section 2.4(b)(v) hereof, one-hundred percent (100%) of the amount of the payment or settlement of such Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account until the balance of the JPMC Escrow Account is reduced to zero.

(iv) Thereafter, JPMC shall be responsible for paying eighty percent (80%) of the amount of the payment or settlement of Pre-2009 Group Taxes for which funds are not available in the Refund Escrow Account and WMI shall be responsible for paying twenty percent (20%) of such deficiency.

(v) Notwithstanding anything to the contrary herein, no amounts shall be debited out of the ~~WMB~~FDIC Escrow Account except (without duplication) with respect to (x), distributions made from the ~~WMB~~FDIC Escrow Account to the ~~WMB-Recipient~~FDIC Receiver, (y) thirty-~~one and one half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) of any Homeownership Refund Taxes-~~(after reduction of any net amount of Excess Refunds for such Taxes)~~, and (z) amounts debited from the ~~WMB~~FDIC Escrow Account that need to be debited in order to properly reflect adjustments or modifications to the Homeownership Carryback Threshold or the Homeownership Carryback Refund Amount, or any estimates thereof, if any.

(h) Release of JPMC Escrow Account, Washington Mutual Escrow Account and ~~WMB~~FDIC Escrow Account.

(i) JPMC, WMI and the FDIC Receiver shall jointly direct the custodian of the JPMC Escrow Account, the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account to release all or a portion of the JPMC Escrow Account, the Washington Mutual Escrow Account and the ~~WMB~~FDIC Escrow Account as the case may be, to JPMC, WMI and the ~~WMB-Recipient~~FDIC Receiver, respectively, as soon as is practicable after the earlier to occur of: (A) the date on which all Pre-2009 Group Tax Liabilities are finally determined and paid and the final amount of Net Tax Refunds Received has been determined and is not subject to change; and (B) the date on which JPMC (with respect to the Washington Mutual Escrow Account), WMI (with respect to the JPMC Escrow Account), or JPMC and WMI jointly (with respect to the ~~WMB~~FDIC Escrow Account), consents, in writing, to permit the release of all or such agreed portion of the JPMC Escrow Account, the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account, as applicable (such consent, in each case, not to be unreasonably withheld or delayed); provided, however, that there shall be released from each escrow account at least quarterly (on or prior to each March 1, June 1, September 1

and December 1) fifty percent (50%) of all amounts earned by such escrow account with respect to assets held therein.

(ii) In the event that distributions have been made from the JPMC Escrow Account, the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account, as the case may be, and a provision of this Section 2.4 (including without limitation, Sections 2.4(c) and 2.4(g) hereof) requires that an amount be paid from the JPMC Escrow Account, the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account, as applicable, for which there are insufficient funds in such account, then WMI, JPMC or the ~~WMB-Recipient~~FDIC Receiver, as applicable, shall return such amount to the respective account to allow the account to satisfy its obligations hereunder (and such amount shall thereafter be treated as if it had not been distributed); moreover for the avoidance of doubt, the JPMC Balance shall be determined without regard to distributions from the JPMC Escrow Account to JPMC.

(i) Tax Dispute Resolution Procedure. In the event that WMI or the FDIC Receiver do not consent to the estimates or calculations provided by JPMC, and WMI, JPMC and the FDIC Receiver are unable to resolve their differences as provided in Section 2.4(e) hereof, then WMI, JPMC and the FDIC Receiver will attempt to agree on the appointment of a mutually acceptable tax professional to arbitrate the dispute. If they are unable to agree on a single tax professional, then a panel of three (3) tax professionals shall be selected as follows: each of WMI, JPMC and the FDIC Receiver shall designate a tax professional. Each of WMI, JPMC and the FDIC Receiver shall then present their calculations or estimates (including underlying data, substantiation and computations) to the tax professional or the panel of tax professionals, which will determine (by majority vote in the case of the panel) whether WMI, JPMC or and the FDIC Receiver's calculations or estimates are more reasonable, and calculations or estimates so determined to be more reasonable shall apply for purposes of this Section 2.4 as if agreed upon by WMI, JPMC and the FDIC Receiver. In assessing whether WMI's, JPMC's or the FDIC Receiver's calculations or estimates are more reasonable, the tax professional or the panel of tax professionals shall treat the calculations or estimates submitted by each party with the same level of deference. The fees and expenses of the tax professional or the panel of tax professionals will be paid from the Refund Escrow Account (or, once the Refund Escrow Account is terminated, from the JPMC Escrow Account, the Washington Mutual Escrow Account or the ~~WMB~~FDIC Escrow Account, as the case may be). WMI, JPMC and the FDIC Receiver agree to act as expeditiously as practicably possible in connection with this tax dispute resolution process.

(j) Capital Contributions. WMI, WMB, the FDIC Parties and JPMC shall treat, solely for Tax purposes, all amounts paid, waived, allocated or transferred by WMI to WMB or to JPMC (on behalf of WMB or any subsidiary acquired by it from WMB, and hereby at the direction of the FDIC Parties) pursuant to the terms of this Agreement (other than any amounts paid or properties transferred to JPMC pursuant to this Section 2.4 and Sections ~~2.16 and~~2.15, 2.17 and 2.18 hereof) as capital

contributions from WMI to WMB, and then, as applicable, as a transfer from WMB to JPMC pursuant to the terms and conditions of the Purchase and Assumption Agreement.

(k) WMB-RecipientFDIC Receiver. For the avoidance of doubt, the ~~WMB-Recipient~~FDIC Receiver shall not be responsible for Group Taxes other than (x) thirty-~~one and one-half~~four and eight hundred twenty-two thousandths percent (~~31.5~~34.822%) of any Homeownership Refund Taxes ~~remaining after reduction of any net amount of Excess Refunds by the Homeownership Refund Taxes~~, and (y) Taxes, if any, imposed on interest allocated to WMB or the ~~WMB-Recipient~~FDIC Receiver.

(l) No Double Counting. The Parties intend that the provisions of this Agreement be applied in a manner that prevents any item of refund, credit, offset, abatement, taxes or expenses from being taken into account more than once.

(m) Escrow Tax Treatment. For Tax purposes, the ~~WMB-Recipient~~FDIC Receiver shall be deemed to own the assets in the ~~WMB~~FDIC Escrow Account and shall include as income for Tax purposes any income generated by assets in the ~~WMB~~FDIC Escrow Account. For Tax purposes, JPMC shall be deemed to own the assets in the JPMC Escrow Account and shall include as income for Tax purposes any income generated by assets in the JPMC Escrow Account. For Tax purposes, WMI shall be deemed to own the assets in the Washington Mutual Escrow Account and shall include as income for Tax purposes any income generated by assets in the Washington Mutual Escrow Account. For Tax purposes, the assets in the Refund Escrow Account shall be deemed to be owned by WMI, JPMC and the ~~WMB-Recipient~~FDIC Receiver consistent with the allocation of interest in Section 2.4(b)(ii) hereof. Accordingly, as the owner for Tax purposes, WMI (or any assignee of its ownership rights), JPMC and the ~~WMB-Recipient~~FDIC Receiver shall include as income for Tax purposes the income generated by the assets in the Refund Escrow Account in the same proportion that interest is allocated in Section 2.4(b)(ii) hereof, during the relevant period.

Section 2.5. Withdrawal of Claims.

(a) Chapter 11 Claims. Except as expressly provided herein or pursuant to the terms and provisions of the Plan, from and after the Effective Date, JPMC, the FDIC Receiver and FDIC Corporate shall take such action as may be reasonably requested by WMI to (a) cause the withdrawal, with prejudice, or the expungement of the JPMC Claims and the FDIC Claim and (b) assist the Debtors in the prosecution of any objections to the proofs of claim filed against the WMI Entities by creditors of WMB, including, without limitation, by filing with the Bankruptcy Court or such other court of competent jurisdiction with respect to the Bank Bondholder Claims a notice or other pleading stating that the claims and causes of action asserted by the FDIC Parties and the Receivership against the Debtors in the FDIC Claim and/or the WMI Action represent all claims and causes of action of the FDIC Parties and the Receivership against the Debtors and that the claims similar in nature which are asserted in the Bank Bondholder Claims, including, without limitations, fraudulent transfer claims, breach of

fiduciary claims, corporate veil piercing or alter ego claims, substantive consolidation, securities fraud, and the undercapitalization of, failure to support and looting of WMB, are derivative in nature of the claims of the Receivership and of the claims set forth in the FDIC Claim and the WMI Action. Without in any way limiting the foregoing, on the Effective Date, the Debtors shall direct Kurtzman Carson Consultants, LLC ("**KCC**"), the Bankruptcy Court appointed claims agent in the Debtors' ~~chapter~~[Chapter 11](#) ~~eases~~[Cases](#), to remove from the claims registry of the Debtors' ~~chapter~~[Chapter 11](#) ~~eases~~[Cases](#) the FDIC Claim and the JPMC Claims except as expressly set forth herein and pursuant to the terms and provisions of the Plan.

(b) Receivership Claims. Except as expressly provided herein or pursuant to the terms and provisions of the Plan, from and after the Effective Date, the Debtors and JPMC shall take such action as may be reasonably requested by the FDIC Receiver to cause the withdrawal, with prejudice, or the expungement of the Debtors' Claims. Notwithstanding the foregoing, and for the avoidance of doubt, nothing contained herein shall result in the withdrawal, with prejudice, or the expungement of any ~~right~~[rights, claims](#) or ~~claim~~[defenses](#) that the JPMC Entities [or the FDIC Parties](#) may have pursuant to the Purchase and Assumption Agreement.

Section 2.6. Stay and Dismissal of Actions.

(a) As soon as practicable subsequent to the execution and delivery of this Agreement by each of the Parties, but in no event later than five (5) Business Days subsequent thereto, the Debtors, the FDIC Parties and JPMC shall take any and all action as is appropriate to (i) stay the Related Actions, including any pending appeals, (ii) maintain the status quo of the JPMC Entities, the FDIC Parties and the Debtors in each of the Related Actions as of the execution of this Agreement, and (iii) ensure that no action (including separate litigation and any objection to such proofs of claim) is undertaken or commenced inconsistent with seeking a stay of and maintaining the status quo of the Related Actions; provided, however, that any such stay shall terminate on the first (1st) Business Day following termination of this Agreement. The Debtors, the FDIC Receiver, FDIC Corporate and JPMC acknowledge that this Section 2.6(a) is not intended to alter, affect or modify the rights, claims, defenses or substantive positions of any of the Debtors, the FDIC Receiver, FDIC Corporate or the JPMC Entities in the Related Actions.

(b) As soon as practicable following the Effective Date, but in no event later than five (5) Business Days subsequent thereto, JPMC, the FDIC Parties and the Debtors shall take any and all action as is appropriate or as another Party may reasonably request to cause the respective clerk's office to record the dismissal, with prejudice, of each of the Actions, including, without limitation, filing with the District Court and the Bankruptcy Court, as applicable, a Stipulation of Dismissal With Prejudice, substantially in the forms annexed hereto as Exhibit "H", "I" and "J", respectively, and the filing of appropriate notices withdrawing any pending appeals.

(c) As soon as practicable following the Effective Date, but in no event later than five (5) Business Days subsequent thereto, the Debtors shall withdraw the Record Requests and waive any rights that they may have to administrative appeals or litigation with respect to the Record Requests.

Section 2.7. Texas Litigation. As soon as practicable following the execution and delivery of this Agreement by all of the Parties, but in no event later than fifteen (15) Business Days subsequent thereto, WMI and the FDIC Parties shall use their reasonable best efforts to ~~obtain~~seek rulings from the D.C. District Court and, to the extent necessary or desirable, the Bankruptcy Court or the relevant appellate court, (a) enjoining the plaintiffs in the Texas Litigation and any other plaintiffs who have brought or may in the future bring such claims from taking any action inconsistent with the Debtors' and the FDIC Receiver's ownership and exclusive control of such claims and causes of action (including resolutions of such claims and causes of action), including, without limitation, prosecution of the Texas Litigation, and (b) enjoining any other Person from instituting or prosecuting any claims on behalf of WMI, WMB or the Receivership. Upon the Effective Date, or as soon thereafter as is practicable following entry of an order of the D.C. District Court and/or the Bankruptcy Court or an appellate court consistent with clauses (a) and (b) above, solely to the extent that a final non-appealable judgment has not been entered previously against the plaintiffs in the Texas Litigation as of such date, WMI and the FDIC Parties shall take any and all actions reasonably requested by WMI, the FDIC Parties or JPMC to dismiss, with prejudice, the Texas Litigation by taking any and all action as is appropriate, including without limitation, filing with the D.C. District Court a Stipulation of Dismissal With Prejudice, substantially in the form annexed hereto as Exhibit "K", and appealing any order of the D.C. District Court providing less than all of the relief contemplated by this Section 2.7; provided, however, that it shall not be a breach hereunder if, the Debtors and the FDIC Receiver having used their reasonable best efforts, the D.C. District Court, the Bankruptcy Court or any appellate court nevertheless (1) determines that the claims and causes of action being asserted in the Texas Litigation are, in whole or in part, not property of the Debtors and the Debtors' ~~chapter~~Chapter 11 ~~eases~~Cases and allows the current plaintiffs in the Texas Litigation to continue prosecuting the claims asserted therein, in whole or in part, or (2) does not grant the relief referred to in clauses (a) and (b) of this Section 2.7.

Section 2.8. WMI Medical Plan. On the Effective Date, and pursuant to the 363 Sale and Settlement, (a) JPMC shall be deemed to have assumed, as of September 25, 2008, sponsorship and (i) be the sole legal, equitable and beneficial owner of the WMI Medical Plan and its assets for all purposes and the WMI Entities shall be deemed to have sold, transferred and assigned any and all right, title and interest the WMI Entities may have in such assets, free and clear of the liens, Claims, interests and encumbrances of any Person, other than the liens, Claims, interests and encumbrances, if any, of JPMC, (ii) assumed all duties, responsibilities, liabilities and obligations associated with sponsorship, of the WMI Medical Plan and the employee welfare plan and arrangement obligations as set forth on Exhibit "L" hereto, including, without

limitation, any and all Assumed Liabilities and other post-Petition Date liabilities to pay retiree obligations in connection with the WMI Medical Plan (including medical and term life insurance and other post employment benefits), and (iii) shall satisfy the liabilities and obligations to pay or provide any and all benefits accrued from and after September 25, 2008 in connection with the WMI Medical Plan and the employee welfare plan and arrangement obligations as set forth on Exhibit “L” hereto, (b) to the extent any beneficiaries of the WMI Medical Plan have filed a proof of claim against the Debtors and the Debtors’ chapter 11 estates, JPMC shall pay or fund the payment of the Assumed Liabilities portion of any and all such Claims, to the extent such portion of any such Claim becomes an Allowed Claim; provided, however, that JPMC shall not be obligated to make duplicative payments to such beneficiaries on account of clauses (a)(iii) and (b) hereof, and (c) WMI shall (i) transfer all its right, title and interest in and to any outstanding checks made out to WMI, including pharmacy rebates in connection with contracts associated with or attributable to the WMI Medical Plan and (ii) pay to JPMC an amount equal to the pharmacy rebates in connection with contracts associated with or attributable to the WMI Medical Plan and received by the WMI Entities from and after the Petition Date, currently estimated to be approximately Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00). Nothing contained herein to the contrary shall preclude JPMC, as sponsor, from amending, modifying or changing the aforementioned plans from and after the Effective Date to the extent permitted by law and the terms of such plans.

Section 2.9. Non-Qualified Benefit Plans and Assets/Employee Issues.

(a) On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (i) all assets in the Rabbi Trusts set forth on Exhibit “M” hereto (the “**JPMC Rabbi Trusts**”), all BOLI/COLI policies and the proceeds thereof set forth on Exhibit “N” hereto and all CCBI split dollar policies set forth on Exhibit “O” hereto (the policies identified on Exhibits “N” and “O” hereto are sometimes hereinafter collectively referred to as the “**JPMC Policies**”) and all rights thereunder shall be deemed to be and forever determined to be the property of JPMC, (ii) the WMI Entities shall be deemed to have relinquished any claims that the WMI Entities may have asserted with respect to the assets set forth on Exhibits “M”, “N” and “O” and the WMI Entities shall be deemed to have sold, transferred and assigned any and all right, title and interest the WMI Entities may have or may have had in such assets, free and clear of all liens, Claims, interests and encumbrances, other than the liens, Claims, interests and encumbrances, if any, of JPMC and of those Persons who have filed proofs of claim against the Debtors and the Debtors’ chapter 11 estates, as set forth on Schedule 2.9(a) hereto, (iii) the WMI Entities shall take such actions as may be reasonably requested by JPMC to cause third parties, including, without limitation, the issuers of the JPMC Policies to recognize and reflect on their books and records that JPMC is the owner of or the beneficiary of, as the case may be, the JPMC Rabbi Trusts and the JPMC Policies and JPMC shall be authorized and expressly permitted to exercise all ownership rights related to the JPMC Policies, including, without limitation, surrender or liquidation rights, (iv) the WMI Entities shall take such action as may be reasonably requested by JPMC to

cause the trustees of the JPMC Rabbi Trusts to terminate the JPMC Rabbi Trusts and to distribute the assets contained in such JPMC Rabbi Trusts to JPMC, including, but not limited to, using their reasonable best efforts to obtain dismissal of the Second and Third Claims for declaratory relief set forth in the complaint, dated March 11, 2010, filed in the litigation styled Union Bank v. JPMorgan Chase Bank, N.A., Adversary Pr. No. 10-50788 (MFW), currently pending in the Bankruptcy Court, (v) subject to JPMC becoming the owner of the JPMC Policies and receiving the assets contained in the JPMC Rabbi Trusts, and subject to JPMC's receipt of a release of claims (in form reasonably acceptable to JPMC and the WMI Entities) in favor of JPMC and the WMI Entities from the beneficiaries of the arrangements identified on Exhibit "P" hereto, but it shall not be a breach hereunder if such releases are not provided, JPMC shall (A) satisfy the obligation to pay or provide any and all benefits with respect to the arrangements that are identified on Exhibit "P" hereto (but, to the extent of applicable laws, may change the form and time of payment of benefits), (B) pay or provide for such benefits in a manner consistent with Section 409A of the IRC (to the extent applicable) and (C) irrespective of whether the above-referenced releases are received, to the extent that any beneficiaries of the JPMC Rabbi Trusts and the JPMC Policies have filed proofs of claim in connection therewith against the Debtors and their chapter 11 estates, pay or fund the payment of the Assumed Liabilities portion of any and all such Claims, as set forth on Schedule 2.9(a) hereto, to the extent such portion of any such Claim becomes an Allowed Claim and to the extent payable, in whole or in part, by the Debtors or the Debtors' chapter 11 estates; provided, however, that JPMC shall not be obligated to make duplicative payments to such beneficiaries on account of clauses (B) and (C) hereof, and (vi) the WMI Entities shall use their reasonable efforts and otherwise cooperate with JPMC in obtaining the receipt of a release of claims in favor of JPMC and the WMI Entities from the beneficiaries of the arrangements that are identified on Exhibit "P" hereto. To the extent necessary, on the Effective Date, the automatic stay, extant pursuant to section 362 of the Bankruptcy Code, shall be deemed modified *nunc pro tunc* to the Petition Date to permit JPMC to cause the surrender of any such policies or the liquidation of any assets contained in such rabbi trusts. For the avoidance of doubt, except with respect to Assumed Liabilities, nothing contained in this Section 2.9(a) or otherwise in this Agreement is intended to require, and this Agreement shall not be interpreted in any way (y) as requiring JPMC to assume any "*nonqualified deferred compensation plan*", as defined in Section 409A(d)(1) of the IRC, sponsored or maintained by the WMI Entities, WMB or the JPMC Rabbi Trusts and that any obligation of JPMC to make payments or provide benefits pursuant to this Section 2.9(a) shall be a new obligation of JPMC or (z) as requiring the WMI Entities to assume any liabilities or obligations arising at any time from and after the Effective Date, including any liabilities (other than Assumed Liabilities) arising from the requirement of the release described in subsection (v) above, or the failure or refusal of any Person to provide such a release.

(b) On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (i) all assets in the Rabbi Trust set forth on Exhibit "Q" hereto (the "**WMI Rabbi Trust**"), all BOLI/COLI policies and the proceeds thereof set forth on Exhibit "R" hereto (the "**WMI Policies**"), shall be deemed to be and forever

determined to be the property of WMI, and the JPMC Entities will be deemed to have sold, transferred and assigned any and all right, title and interest the JPMC Entities may have in such assets, free and clear of all liens, Claims, interests and encumbrances, (ii) the JPMC Entities shall take such action as may be reasonably requested by WMI to cause third parties, including, without limitation, trustees of the WMI Rabbi Trust and the issuers of the WMI Policies to recognize and reflect on their books and records that WMI is the owner of or the beneficiary of, as the case may be, the WMI Rabbi Trusts and the WMI Policies and WMI shall be authorized and expressly permitted to exercise all ownership rights related to the WMI Rabbi Trust and the WMI Policies, including, without limitation, surrender or liquidation rights, and (iii) any liabilities to the third-party beneficiaries of such assets or policies, including, without limitation, insureds, co-insureds or beneficiaries of the WMI Rabbi Trust or the WMI Policies for deferred compensation or other plans in the WMI Rabbi Trust and the WMI Policies which such assets relate shall remain liabilities of WMI's chapter 11 estate.

(c) Other Benefit Plans. With respect to the Benefit Plans listed on Exhibit "P" hereto, on and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (i) JPMC shall assume the Assumed Liabilities with respect to such plans and the obligations to the beneficiaries of such plans, including, without limitation, the obligations to now pay the amounts, if any, that may be outstanding to such beneficiaries from and after September 25, 2008, (ii) the JPMC Entities shall waive any and all claims the JPMC Entities may have against the WMI Entities in connection with such benefit plans or such obligations, including pursuant to assignments, rights of subrogation or otherwise, and (iii) to the extent that any beneficiaries of such plans have filed proofs of claim against the Debtors and their chapter 11 estates, JPMC shall pay or fund the payment of the Assumed Liabilities portion of any and all such Claims, as set forth on Schedule 2.9(c) hereto, to the extent such portion of any such Claim becomes an Allowed Claim; provided, however, that JPMC shall not be obligated to make duplicate payments on account of clauses (ii) and (iii) hereof.

(d) Employee Wages and Other Payments. On the Effective Date, WMI shall pay to JPMC Five Hundred Eight Thousand One Hundred Fifty Four Dollars (\$508,154.00) attributable to amounts paid by JPMC to employees of WMI for services rendered to WMI during the period prior to the Petition Date.

Section 2.10. Qualified Plans. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) WMI shall (i) adopt an amendment to the Qualified Plans, substantially in the form annexed hereto as Exhibit "S", to provide that (A) JPMC or its designee is a contributing employer with respect to the WaMu Pension Plan as of September 25, 2008, and (B) JPMC or its designee is the Qualified Plans sponsor as of the Effective Date; (ii) assign its rights and obligations under Qualified Plans trust agreements to JPMC or its designee, subject to the consent of the trustee substantially in the form annexed hereto as Exhibit "T"; (iii) assign to JPMC or its designee as sponsor of the Qualified Plans, as of the Effective Date, all rights and obligations with respect to (A) the Master Trust Agreement between WMI and JPMorgan Chase Bank, dated December 1, 2004, (B) the Pension Plan Administration Service

Agreement, dated April 7, 2004, between WMI and Excellerate HRO (successor by assignment from Towers, Perrin, Forster & Crosby, Inc.), as amended, (C) any and all investment management contracts with respect to the management of the assets of the Qualified Plans, and (D) any other administrative services contracts related to the Qualified Plans not otherwise enumerated herein, (iv) reasonably cooperate with JPMC or its designee to correct all outstanding operational and form defects of the Qualified Plans and filings inconsistent with this Agreement, if any, that exist as of the Effective Date, including (A) taking such reasonable actions as may be necessary to assist JPMC's correction of any such defects, including by providing information reasonably requested by JPMC, and (B) cooperating with JPMC on any responses to pending audit requests with respect to the Qualified Plans and WMI's implementation of any remediation requirements issued by the IRS, the United States Department of Labor or the Pension Benefit Guaranty Corporation with respect to such audits of the Qualified Plans, and (v) cooperate with JPMC or its designee by taking such actions as may be reasonably necessary to facilitate direct or bilateral discussions between JPMC and any governmental, regulatory or taxing authorities regarding any audits or investigations of the Qualified Plans, including by providing JPMC, at JPMC's sole cost and expense, with copies of all correspondence and documents, including memoranda, e-mails and notes received or prepared in connection with or reflecting any meetings or conversations with the IRS, the United States Department of Labor, the Pension Benefit Guaranty Corporation or any other governmental or regulatory authority or agency regarding the Qualified Plans, (b) JPMC shall (i) be responsible for responding to pending and subsequent audit requests with respect to the Qualified Plans and any remediation requirements issued by the IRS, the United States Department of Labor or the Pension Benefit Guaranty Corporation with respect to the Qualified Plans, (ii) waive and release any and all claims and rights, other than claims and rights arising under this Agreement, with respect to the Qualified Plans against WMI and its chapter 11 estate, including, without limitation, intercompany claims and prepaid pension relating to the funding of the Qualified Plans, (iii) be responsible for correcting all outstanding operational and form defects of the Qualified Plans and filings inconsistent with this Agreement, if any, that exist as of the Effective Date, including operational and form defects that existed or arose prior to September 25, 2008, (iv) during the six (6) month period following the Effective Date, provide information reasonably requested by WMI to permit WMI to monitor JPMC's correction of the defects related to the Qualified Plans, if any, (v) effective for events occurring on or after September 25, 2008, and to the extent not covered by insurance policies, indemnify and hold WMI, the Plan Investment Committee (the "**PIC**") and the Plan Administration Committee (the "**PAC**") harmless from any and all claims for any liability that WMI, the PIC, and/or the PAC may incur as a result of any and all actions or inactions with respect to the Qualified Plans during the period from and after September 25, 2008, whether or not taken by WMI, the PIC and/or the PAC, to the extent that JPMC participated in or approved such actions or inactions, as the case may be, and provided that such actions or inactions, as the case may be, do not constitute a breach of any duty of loyalty by, or the gross negligence or the willful misconduct on the part of, WMI, the PIC and/or the PAC, as the case may be, and (vi) to the extent that any Persons filed proofs of claim against the Debtors and their chapter 11 estates arising

from or relating to the Qualified Plans, JPMC shall pay or fund the payment of the Assumed Liabilities portion of any and all such Claims, as set forth on Schedule 2.10 hereto, to the extent such portion of any such Claim becomes an Allowed Claim, and (c) the FDIC Receiver and WMB shall be deemed to have waived and released any and all claims and rights with respect to the Qualified Plans against WMI and its chapter 11 estate, including, without limitation, intercompany claims and prepaid pension relating to the funding of the Qualified Plans. Notwithstanding anything contained herein to the contrary, WMI shall cooperate with JPMC by taking such actions as may be necessary to inform JPMC of the terms and conditions of any settlement of the Buus Litigation and shall provide JPMC and the FDIC Receiver with a copy of the agreement setting forth the terms of any settlement of the Buus Litigation prior to the execution thereof. JPMC shall support and take such action as is reasonably requested by WMI to consummate any settlement of the Buus Litigation as provided for in this Agreement, provided that such settlement does not deplete the assets or increase the liabilities associated with the WaMu Pension Plan by more than Twenty Million Dollars (\$20,000,000.00) in the aggregate (excluding administrative costs); provided, however, that WMI shall not execute any agreement setting forth the terms of any settlement of the Buus Litigation or agree to a plan of allocation with respect to the compromise and settlement of the Buus Litigation without the prior written consent of JPMC, which consent shall not be unreasonably withheld.

Section 2.11. D&O and Tower Insurance ~~Program~~Programs.

(a) Priority of Coverage. The Parties agree that, (i) with respect to the first Sixty Million Dollars (\$60,000,000.00) of coverage under those insurance policies that constitute the Washington Mutual Financial Institution Blended Liability Program for the policy period May 1, 2007 to May 1, 2008 (the “2007-08 Blended Tower”), as identified on Schedule 2.11(a) hereto, WMI, WMI’s present and former officers and directors and employees (collectively, the “Insured Parties”) shall be entitled, as their respective interests may exist under applicable law, to a priority recovery as against any right of recovery the JPMC ~~Parties~~Entities and the FDIC Parties may have, for all claims made by or on behalf of any Insured Party against the policies and bonds governing in the 2007-08 Blended Tower, such priority amount to be used in connection with the defense and settlement of the Buus Litigation and the ERISA Litigation, and (ii) to the extent that payment is made by one of the insurers in such 2007-08 Blended Tower to any Party other than WMI, prior to the reconciliation and determination of all other claims made by any Insured Party under the 2007-08 Blended Tower, such funds paid to and received by such other Party shall be deemed held by such Party in trust for the benefit of WMI until a determination of all claims covered by such policies and bonds in the 2007-08 Blended Tower. With respect to the balance of coverage afforded pursuant those certain insurance programs providing Directors’ and Officers’ Liability, Bankers Professional Liability, Financial Institution Bond, Fiduciary Liability and Employment Practices Liability coverage to WMI and its Affiliates and subsidiaries as specified (the “**Tower Insurance Programs**”), including, without limitation, the policies and bonds for the policy periods May 1, 2007 to May 1, 2008 and May 1, 2008 to May 1, 2009 that are

set forth on Schedule 2.11(a) hereto, and similar insurance programs for earlier policy periods. ~~To the extent that payment is made by one of the carriers in such blended insurance program to any party other than WMI, prior to the reconciliation and determination of all claims made by any Insured Party or its present and former officers and directors and employees, such funds shall be deemed held by such party until a determination of all claims covered by such policy.~~ With respect to the balance of coverage afforded pursuant to the Tower Insurance Programs, the rights of the insureds, their successors or actual or prospective claimants shall not be altered by the terms and provisions of this Agreement and WMI and the FDIC Receiver shall have such rights to pursue recoveries from the Tower Insurance Programs as are provided under the policies, bonds and applicable law in connection therewith. The right of the Insured Parties to a priority recovery under the 2007-08 Blended Tower (i) shall not preclude the FDIC Receiver from taking such action as may be appropriate, including, without limitation, filing suit against insurers in the 2007-08 Blended Tower, to preserve any potential rights of recovery under the 2007-08 Blended Tower, but solely to the extent consistent with the provisions of this Section 2.11(a), and (ii) shall terminate upon the earlier to occur of (A) final dismissal of the Buus Litigation and the ERISA Litigation and (B) the exhaustion of the first Sixty Million Dollars (\$60,000,000.00) of coverage from any combination of policies in the 2007-08 Blended Tower through the actual payment of defense and settlement costs associated with the Buus Litigation and the ERISA Litigation.

(b) Bank Loss. Any insurance or bond claim under the Tower Insurance Programs asserting a claim arising from harm or loss to WMB which arose or was discovered, in whole or in part, on or prior to September 25, 2008 (a “**Bank Loss**”) shall be deemed to be property of the FDIC Receiver and the Receivership. Without limiting the foregoing, Bank Loss shall include, without limitation, those claims for which proofs of loss were submitted to the insurers under the Tower Insurance Programs 2007/08 Financial Institution Bond coverage as follows: July 18, 2008 (C.I.P. Mortgage Company), September 17, 2008 (Encino, California); September 18, 2008 (Campbell Pruneyard, California), October 3, 2008 (Newport Beach, California), October 3, 2008 (Overlake Park), and October 3, 2008 (Woodland Hills, Winnetka, California). The JPMC Entities and the WMI Entities agree to take such actions as may be reasonably requested by the FDIC Receiver to (i) ensure that any payments from any insurer occurring on or after the Effective Date and resulting from a Bank Loss be paid directly to the FDIC Receiver or the Receivership and (ii) cooperate with the FDIC Receiver in pursuing recovery from the insurers under the Tower Insurance Programs. Upon the Effective Date, the Debtors shall pay to the FDIC Receiver amounts, if any, that the Debtors have received prior to such date with respect to any of the foregoing Bank Losses. Within five (5) Business Days of the Effective Date, WMI shall provide to the FDIC Receiver or its counsel copies of any correspondence, notice of circumstances, notice of claim, proof of loss or other communication with any insurer under the Tower Insurance Programs and relating to a Bank Loss that are in the possession of WMI or its representatives, and thereafter, WMI shall forward promptly to the FDIC Receiver or its counsel copies of any such communications made or received by WMI or its representatives.

(c) JPMC Entitlement. Notwithstanding the provisions of Section 2.11 (a) hereof, solely to the extent that (a) JPMC assumes litigation liabilities as set forth in this Agreement which may be the subject of the Tower Insurance Programs and (b) JPMC is required to make payments as a result thereof, such payments shall be treated pari passu with the claims of WMI and the FDIC Parties, its present and former officers and directors and employees against the Tower Insurance Programs; provided, however, that under no circumstances shall JPMC be entitled to seek recovery under the Tower Insurance Programs with respect to claims arising from or relating to the Buus Litigation; and, provided, further, that, JPMC shall have no right to seek recovery under any D&O insurance policy or component of any insurance program, including, without limitation, the Tower Insurance Programs, or otherwise.

Section 2.12. H.S. Loan Corporation. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, JPMC shall be deemed to have sold, transferred and assigned all of its right, title and interest in and to the stock of H.S. Loan Corporation (approximately 1.33%) to WMI as part of the Purchase Price.

Section 2.13. Goodwill Litigation.

(a) American Savings Litigation. On the Effective Date, and as part of the Purchase Price, (i) the JPMC Entities, the FDIC Receiver and FDIC Corporate shall be deemed to have waived and released, as of September 26, 2008, any and all rights and claims associated with the claims, causes of action, damages, liabilities and recoveries associated with the American Savings Litigation, including, without limitation, any rights and claims to (A) any funds deposited into the registry of the Bankruptcy Court with respect to the American Savings Litigation (the “**Registry Funds**”), and (B) any funds held in escrow pursuant to that Escrow Agreement, dated December 20, 1996, by and among WMI, Keystone Holdings Partners, L.P., Escrow Partners, L.P. and The Bank of New York, and (ii) the JPMC Entities and the FDIC Parties shall file such notices as may be reasonably requested by WMI evidencing this Agreement with respect to the American Savings Litigation, including, without limitation, filing with the Bankruptcy Court such notice as may be reasonably requested by WMI evidencing the JPMC Entities’ and the FDIC Parties’ waiver and release of their respective rights to the Registry Funds.

(b) Anchor Litigation. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (i) the WMI Entities, the FDIC Receiver and FDIC Corporate shall be deemed to have sold, transferred and assigned, as of September 26, 2008, to JPMC any and all right, title and interest such Parties may have in the Anchor Litigation, free and clear of the liens, Claims, interests and encumbrances of any Person, including, without limitation, any liens, Claims, interests and encumbrances of holders of Litigation Tracking Warrants as set forth in the 2003 Amended and Restated Warrant Agreement, dated as of March 11, 2003, between WMI and Mellon Investor Services LLC, other than the liens, Claims, interests and encumbrances, if any, of JPMC, (ii) the WMI Entities, the FDIC Receiver and FDIC Corporate shall be deemed to have waived and released any and all rights and claims

associated with the claims, causes of action, damages, liabilities and recoveries associated with the Anchor Litigation and (iii) the WMI Entities shall file such notices as may be reasonably requested by JPMC evidencing this Agreement with respect to the Anchor Litigation.

Section 2.14. Vendor Claims.

(a) Effective Date Actions. On the Effective Date, and as part of the Purchase Price, JPMC shall (i) waive, or contribute and assign for distribution in accordance with the Plan and Section 2.22 hereof, any and all claims JPMC has against WMI in connection with JPMC's payment of prepetition claims of vendors against WMI, WMB or their respective subsidiaries and Affiliates (or its purchase of such claims), whether by subrogation, assignment or otherwise, (ii) pay or otherwise satisfy any proofs of claim filed against the Debtors and the Debtors' chapter 11 estates by vendors with respect to services, software licenses or goods provided to WMB and its subsidiaries (whether prior or subsequent to JPMC's acquisition of the assets of WMB) pursuant to contracts or written agreements between WMB and/or its subsidiaries and such vendors (to the extent such portion of any such Claim becomes an Allowed Claim and to the extent payable, in whole or in part, by the Debtors or the Debtors' chapter 11 estates), (iii) pay to WMI Fifty Million Dollars (\$50,000,000), which funds (A) shall be placed into an escrow administered by WMI (the "**Vendor Escrow**"), (B) shall be used by WMI in connection with the satisfaction of Claims asserted against WMI by vendors with respect to services, software licenses or goods asserted to have been provided by the counterparties to or for the benefit of WMB or any of its subsidiaries or minority investments operations prior to the Petition Date pursuant to agreements between WMI and such vendors to the extent such portion of any such Claim becomes an Allowed Claim and to the extent payable, in whole or in part, by the Debtors or the Debtors' chapter 11 estates (the "**WMI Vendor Claims**") and (C) to the extent that any funds remain in such escrow following (1) the payment or satisfaction of all WMI Vendor Claims (including, without limitation, the withdrawal, with prejudice, of all related proofs of claim) and (2) the payment of all fees and expenses associated with such escrow, shall be distributed equally to WMI and JPMC and (iv) cooperate, to the extent reasonably requested by WMI, to enable the Debtors to (A) identify all such Claims and proofs of claim filed by vendors against the Debtors and the Debtors' chapter 11 estates in connection therewith, (B) cause the withdrawal, with prejudice, of all such proofs of claim and (C) direct KCC to remove from the claims registry of the Debtors' ~~chapter~~[Chapter](#) 11 ~~eases~~[Cases](#) such proofs of claim and (4) provide for releases (whether in the Plan or otherwise) in favor of the Debtors and JPMC, and to the extent of applicable law, the FDIC Receiver and the Receivership, in connection with the WMI Vendor Claims. The Debtors shall use their good faith efforts to pay and fully resolve any WMI Vendor Claim, despite potential arguments that all or a portion of the WMI Vendor Claim is comprised of (i) services, software licenses or goods that were provided to WMB, rather than WMI, or (ii) liabilities associated with a WMI Vendor Claim are not reflected on the books and records of WMI.

(b) Pre-Effective Date Actions. The Confirmation Order or such prior order as may be entered by the Bankruptcy Court shall provide that (i) all right, title and interest in the contracts listed on Exhibit “U” hereto and all of the assets acquired thereunder shall be deemed to have been the assets of WMB and sold to Acquisition JPMC Entities pursuant to the Purchase and Assumption Agreement and, effective as of the Effective Date, the WMI Entities shall be deemed to have waived any and all claims and rights to the contracts listed on Exhibit “U” hereto and all of the assets acquired thereunder, (ii) to the extent applicable, as soon as practicable following the execution and delivery of this Agreement by all of the Parties, WMI shall take such action as is appropriate to cause the sale, assumption and assignment and transfer, pursuant to sections 363 and 365 of the Bankruptcy Code, the aforementioned contracts and corresponding assets, free and clear of any liens, Claims, interests and encumbrances of any Person, other than the liens, Claims, interests and encumbrances, if any, of JPMC, and JPMC shall assume all obligations including the curing of any defaults thereunder (whether such obligations and defaults arise before or after the Petition Date), with respect to the contracts listed on Exhibit “U” hereto, and (iii) WMI and JPMC shall cooperate to obtain all third party consents, if any, required to effectuate the assumption and assignment of such contracts; provided, however, that it shall not be a breach hereunder if the Bankruptcy Court declines to provide for the relief referred to herein or the consents are not provided as contemplated herein. For the avoidance of doubt, Claims asserted against WMI with respect to services, software licenses or goods provided to WMB or its subsidiaries prior to the Petition Date by vendors with respect to the contracts listed on Exhibit “U” hereto shall be paid or otherwise satisfied from funds deposited into the Vendor Escrow.

Without in any way limiting the foregoing, nothing contained in this Section 2.14 shall relieve or otherwise diminish JPMC’s and WMI’s rights and obligations pursuant to that certain Stipulation By and Between Debtors and JPMorgan Chase Bank, N.A. Concerning Certain Contracts, dated October 16, 2008 (the “**Vendor Stipulation**”). The Vendor Stipulation shall remain in full force and effect until the Effective Date and any and all rights and obligations of JPMC pursuant to the Vendor Stipulation arising from the acts or omissions of JPMC prior to the Effective Date shall survive the Effective Date and shall not be released by the terms of this Agreement.

Section 2.15. VISA Shares/VISA Strategic Agreement.

(a) Sales of VISA Shares. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) in addition to the amounts provided in Section 2.1 hereof, JPMC shall pay to WMI Twenty Five Million Dollars (\$25,000,000.00), (b) WMI shall be deemed to have sold, assigned and transferred to JPMC, or its designee, any and all of WMI’s right, title and interest in and to the Visa Shares, free and clear of the liens, Claims, interests and encumbrances of any Person other than the liens, Claims, interests and encumbrances, if any, of JPMC, (c) WMI shall retain, and JPMC shall waive and release any claims to, any and all dividends with respect to the Visa Shares received by WMI prior to the Effective Date, (d) the Parties, other than the JPMC Entities, shall waive and release any claims to ownership of the Visa

Shares or future dividends associated therewith, (e) JPMC shall assume all liabilities and obligations of (i) the WMI Entities arising from or relating to the Interchange Litigation, other than claims, liabilities and obligations associated with directors' and officers' liability in connection with the Interchange Litigation, (ii) WMI as set forth in that certain Loss Sharing Agreement, dated July 1, 2007, by and among Visa U.S.A. Inc., Visa International Service Association, VISA, Inc., and the members signatory thereto, as amended by that certain Amended and Restated Loss Sharing Agreement, dated December 16, 2008, by and among Visa U.S.A. Inc., Visa International Service Association, VISA Inc. and the members signatory thereto, and (iii) WMI as set forth in that certain Interchange Judgment Sharing Agreement, dated as of July 1, 2007, by and among the signatories thereto, as amended by that certain Amended and Restated Interchange Judgment Sharing Agreement, dated December 16, 2008, by and among the signatories thereto, and (f) JPMC shall pay or fund the payment of the Assumed Liabilities portion of any and all proofs of claim relating to the foregoing, as set forth on Schedule 2.15(a) hereto, to the extent such portion of any such Claim becomes an Allowed Claim; provided, however, that JPMC shall not be obligated to make duplicative payments to the holders of such Claims on account of clauses (e) and (f) hereof.

(b) VISA Strategic Agreement. On the Effective Date, and pursuant to the 363 Sale and Settlement, (i) the WMI Entities shall be deemed to have sold, transferred and assigned to JPMC or its designee, free and clear of all liens, Claims and encumbrances, all of the WMI Entities' right, title and interest in, and all claims, and actions arising under or related to (whether arising prior to subsequent to the Petition Date), that certain Amended and Restated Strategic Agreement, dated as of September 26, 2005, between Provident Financial Corporation and its subsidiaries and VISA U.S.A. Inc., as amended and restated from time to time, (the "**VISA Strategic Agreement**"), (ii) JPMC shall assume the Assumed Liabilities of the WMI Entities pursuant to the VISA Strategic Agreement (including available defenses) with respect to the Claims asserted by VISA U.S.A. Inc. in its proof of claim, filed against the Debtors and the Debtors' ~~chapter~~ Chapter 11 ~~cases~~ Cases, Claim No. 2483, pertaining to the VISA Strategic Agreement (the "**VISA Claim**"), (iii) the Debtors shall object to the VISA Claim and, to the extent not withdrawn, with prejudice, JPMC shall defend the Debtors with respect to such objection, and (iv) JPMC shall pay or fund the VISA Claim to the extent such Claim becomes an Allowed Claim; provided, however, that JPMC shall not be obligated to make duplicative payments on account of clauses (ii) and (iii) hereof.

With respect to the VISA Claim, the WMI Entities: (i) acknowledge that JPMC believes, based upon available information, that meritorious defenses exist which support objection to and disallowance of claims asserted therein; and (ii) agree not to, without obtaining JPMC's prior written consent, which consent shall not be unreasonably withheld, (a) commence or continue any claim objection proceedings, or (b) enter into, or seek Bankruptcy Court approval of, any settlement agreement with VISA U.S.A. Inc.

Section 2.16. Intercompany Obligations. On and effective as of the Effective Date, and as partial consideration for the assets sold pursuant to the 363 Sale and Settlement, (a) JPMC shall pay all obligations of WMB, WMB's subsidiaries or

JPMC under the Revolving Notes set forth on Exhibit “V” annexed hereto, together with all interest which has accrued thereon from and after September 25, 2008, and (b) the JPMC Entities shall forgive all obligations of the WMI Entities, which shall thereupon be deemed to be fully discharged and cancelled. The FDIC Parties shall have no liability with respect to such obligations.

Section 2.17. Sale/Retention of Intellectual Property and Other Intangible Assets. On the Effective Date, and pursuant to the 363 Sale and Settlement, (a) the Confirmation Order shall confirm, that (i) all of the WMI Entities’ right, title and interest in and to the intellectual property listed on Exhibit “W” hereto (the “**Transferred Intellectual Property**”) shall be deemed to have been sold, transferred and assigned by the WMI Entities to JPMC or its designee on the Effective Date, free and clear of any liens, Claims, interests and encumbrances of any Person, other than the liens, Claims, interests and encumbrances, if any, of JPMC, (ii) all right, title and interest in and to the intellectual property listed on Exhibit “X” hereto (the “**WMB Intellectual Property**”) was sold to the Acquisition JPMC Entities pursuant to the Purchase and Assumption Agreement, (iii) all right, title and interest in and to the intellectual property listed on Exhibit “Y” hereto (the “**WMI Intellectual Property**”) was and remains assets of WMI and its estate, and (iv) all of the WMI Entities’ right, title and interest, if any, in and to trademarks, patents, domain names and copyrighted materials (whether or not the subject of registration) that were used by WMB by license or otherwise, or were available for WMB’s use, prior to the Petition Date, but are not listed on Exhibits “W” or “Y” hereto (the “**Unidentified Intellectual Property**”) shall be deemed to have been sold, transferred assigned by the WMI Entities to JPMC or its designee on the Effective Date, (b) the WMI Entities shall waive any and all claims and rights to all WMB Intellectual Property and, to the extent applicable, be deemed to have sold, assigned and transferred pursuant to sections 363 and 365 of the Bankruptcy Code to JPMC or its designee, any and all of the WMI Entities right, title and interest in and to the Transferred Intellectual Property, the WMB Intellectual Property and the Unidentified Intellectual Property, (c) the WMI Entities shall be deemed to have granted to the JPMC Entities a non-exclusive, non-transferable, royalty-free license to use the Transferred Intellectual Property, the Unidentified Intellectual Property and the WMI Intellectual Property during the period from September 25, 2008 until the Effective Date, (d) the JPMC Entities shall waive any and all claims and rights to all WMI Intellectual Property, and to the extent applicable, be deemed to have sold, assigned and transferred to WMI or its designee any and all of any of the JPMC Entities right, title and interest in and to the WMI Intellectual Property, (e) the JPMC Entities shall be deemed to have granted to the WMI Entities a non-exclusive, non-transferable, royalty-free license to use the WMB Intellectual Property during the period from September 25, 2008 until the Effective Date, (f) WMI and JPMC shall cooperate and take all actions reasonably necessary to effectuate the determinations, waivers, assignments, licenses and transfers contemplated by this Section 2.17, and, to the extent that any testimony is reasonably requested from WMI by JPMC to register and enforce JPMC’s rights in the Transferred Intellectual Property and the WMB Intellectual Property solely in the name of JPMC, the same shall be provided by WMI at JPMC’s sole cost and expense, and (g) the WMI Entities shall limit their use of wamuinc.net to the

domain portion of email addresses for employees of the WMI Entities during the period from the Effective Date through the six (6) month anniversary of the date of entry of an order of the Bankruptcy Court closing the Chapter 11 Cases, and thereafter, will discontinue all use of wamuinc.net.

Section 2.18. Wind Investment. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, WMIIC shall be deemed to have sold, transferred and assigned to JPMC, or its nominee, any and all of WMIIC's right, title and interest in and to JPMC Wind Investment Portfolio LLC. The WMI Entities and the Acquisition JPMC Entities shall cooperate and take all actions reasonably necessary to effectuate the assignment and transfer contemplated by this Section 2.18.

Section 2.19. Loan Servicing. From and after the Effective Date, JPMC shall (a) cause such of its Affiliates to continue to service the loans identified on Exhibit "Z" hereto (the "**Loans**") pursuant to the servicing agreements identified on Exhibit "AA" hereto (the "**Servicing Agreements**"), (b) cause such of its Affiliates to remit to WMI all checks and/or payments received in connection with those loans in its possession and (c) promptly (i) remit to WMI all servicing advances that JPMC is holding with respect to such loans and (ii) provide WMI an accounting with respect to each of the foregoing. Notwithstanding the foregoing, any dispute that may arise relating to the servicing of such loans during the period from and after the Effective Date shall be brought pursuant to such servicing agreements and this Agreement is not intended to create any additional rights, obligations or remedies. The Parties acknowledge and agree that (y) the Loans are the only loans that are or will be, from and after the Effective Date, serviced by the JPMC Entities (or their Affiliates) for the WMI Entities (or their Affiliates or their successors in interest) and that the Service Agreements are the only servicing agreements between the JPMC Entities (or their Affiliates) and the WMI Entities (or their Affiliates) and (z) with the exception of the obligations set forth in this Section 2.19, the JPMC Entities (and their Affiliates) shall have no further obligations or liability to any of the WMI Entities (or their Affiliates) with respect to or in any way related to the servicing of any loans for the WMI Entities (or their Affiliates).

Section 2.20. IAA Agreements.

(a) IAA/JPMC. From and after the date of execution of this Agreement by the WMI Entities and JPMC, the IAA/JPMC shall be deemed amended under its current terms to provide for the extension of the term set forth therein (a) up to and including the entry of an order of the Bankruptcy Court approving the Disclosure Statement in accordance with section 1125 of the Bankruptcy Code and (b) either (i) further extended through the later to occur of (A) date of entry of an order of the Bankruptcy Court closing the Chapter 11 Cases and (B) December 31, 2011; provided, however, that such extension shall be solely for the limited purposes of providing the Debtors, or their successors in interest, as the case may be, with access to documents reasonably necessary (1) to comply with pending or future requests in any litigation or governmental investigation, (2) in connection with any objection by the Debtors, or their successors in interest, as the case may be, to any claim in the Chapter 11 Cases, so long

as such objection is interposed on or prior to January 31, 2011, and (3) with respect to the Debtors' administration and resolution of all Pre-2009 Group Tax matters in accordance with the terms and provisions of this Agreement or (ii) rather than extending the expiration of the IAA/JPMC in accordance with subsections (b)(i)(A) and (B) above, JPMC, at its sole option, discretion and expense, may elect to make available for inspection and copying by WMI any or all of the books and records to which WMI has access under the IAA/JPMC, including all electronic records, through and up to twelve (12) months following the Effective Date. If so elected, WMI and JPMC shall agree on a third party provider which, subject to confidentiality limitations, shall have such access as may reasonably be required to copy the records (including electronic records and backup tapes) designated by WMI, and JPMC shall be relieved of any further obligations or undertaking to the WMI Entities with respect thereto.

(b) IAA/FDIC. From and after the date of execution of this Agreement by the Debtors, the Creditors' Committee and the FDIC Receiver, the IAA/FDIC shall be deemed amended under its current terms to provide for an expiration upon the earlier to occur of (i) entry of an order of the Bankruptcy Court closing the Chapter 11 Cases and (ii) the closing of the Receivership.

Section 2.21. BKK Litigation.

(a) Liabilities and Policies. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) JPMC shall assume any and all liabilities and obligations of the WMI Entities (other than WMI Rainier LLC) for remediation or clean-up costs and expenses (and excluding tort and tort related liabilities, if any), in excess of applicable and available insurance, arising from or relating to (i) the BKK Litigation, (ii) the Amended Consent Decree, dated March 6, 2006, entered in connection therewith, and (iii) that certain Amended and Restated Joint Defense, Privilege and Confidentiality Agreement, dated as of February 28, 2005, by and among the BKK Joint Defense Group, as defined therein (collectively, the "**BKK Liabilities**"), (b) JPMC shall pay or fund the payment of BKK Liabilities to the extent such BKK Liabilities are not covered by insurance policies (the "**BKK-Related Policies**") issued by the insurance carriers (the "**BKK-Related Carriers**"), set forth in Schedule 2.21 annexed hereto, (c) the WMI Entities and the FDIC Receiver shall provide JPMC with a corporate resolution, in a form reasonably acceptable to JPMC, duly authorized by the WMI Entities and the FDIC Receiver, as the case may be, authorizing JPMC to act as their exclusive agent with respect to all rights and benefits to which the WMI Entities or the FDIC Receiver are entitled under the BKK-Related Policies and to resolve the BKK Liabilities on behalf of the WMI Entities, (d) the WMI Entities shall cooperate with JPMC in the negotiation of any agreements or settlements with the BKK-Related Carriers or any third parties related to the BKK Liabilities and execute any documents which may be reasonably necessary to effectuate the terms of this Section 2.21 or such agreements or settlements, (e) subject to the consent of the BKK-Related Carriers, if legally required, the WMI Entities and the FDIC Receiver agree that JPMC, rather than any of the WMI Entities or the FDIC Receiver, shall be entitled to recover from the BKK-Related Carriers any costs and expenses, including any costs and expenses related to any judgments or

settlements, incurred by any of the WMI Entities or WMB prior to the Effective Date, related to, or in the defense of claims related to, the BKK Liabilities and hereby assign all such rights to JPMC, (f) the WMI Entities agree to provide JPMC with notice of any claim made or suit filed against any of the WMI Entities relating to the BKK Liabilities within thirty (30) days following receipt of such claim or suit, (g) JPMC shall indemnify the WMI Entities (other than WMI Rainier LLC) for the BKK Liabilities to the extent that such liabilities are not covered by the BKK-Related Policies and defend the WMI Entities (other than WMI Rainier LLC) with regard to the BKK Liabilities to the extent that the WMI Entities (other than WMI Rainier LLC) are not defended under the BKK-Related Policies, (h) the WMI Entities agree (i) that JPMC has sole discretion to retain counsel of its choice to defend any claims or suits pursuant to its obligations under this Section 2.21, (ii) that JPMC may retain common counsel to defend both it and the WMI Entities, and (iii) to waive any actual or potential conflicts of interest in order to permit JPMC to use common counsel. As of the Effective Date, the WMI Entities shall assign for themselves and their successors in interest to JPMC all claims for contribution, equitable indemnity and cost recovery that they have or may have in the future related to the BKK Liabilities. The FDIC Receiver agrees that all of the BKK-Related Policies and all rights belonging to WMB under the BKK-Related Policies, were assigned or otherwise transferred to JPMC pursuant to the Purchase and Assumption Agreement. The FDIC Receiver agrees to (x) execute any documents which may be necessary to effectuate the terms of the Purchase and Assumption Agreement with regard to the BKK-Related Policies, (y) file, as reasonably requested by JPMC, statements in support of the assignment in any appropriate court of law, and (z) execute any documents reasonably necessary to effectuate any agreement with the BKK-Related Carriers or with any third parties, including any settlement agreements, relating to the BKK-Related Policies or the BKK Liabilities.

(b) Claims Objections and Reimbursement. The Debtors agree to object to the proofs of claim filed against the Debtors and the Debtors' chapter 11 estates and numbered 2138, 2213, 2233, 2405, 2467, 2693 and 3148 (collectively, the "**BKK Proofs of Claim**"). To the extent the BKK Proofs of Claim are not withdrawn, with prejudice, JPMC shall defend the Debtors against and reimburse the Debtors for any distribution which the Debtors become obligated to make and make on account of remediation or clean-up costs and expenses contained in such BKK Proofs of Claim and not otherwise covered by the BKK-Related Policies and/or reimbursed by the BKK-Related Carriers. The Debtors shall cooperate to enable counsel selected by JPMC to defend against such BKK Proofs of Claim. All other provisions of subsection (a) of the Section 2.21 providing for the use of the BKK-Related Policies are applicable to this Section 2.21(b).

(c) Non-Transferability. Nothing in this Section 2.21 is intended to transfer to JPMC any liabilities of the WMI Entities not specified in this Section 2.21 or any liabilities of WMI Rainier LLC.

Section 2.22. Allowance of Certain JPMC Claims. On and effective as of the Effective Date, the JPMC Claims shall constitute the JPMC Allowed Unsecured

Claim and shall be classified with and treated in the same manner as other allowed general unsecured claims under the Plan, including, without limitation, with respect to distributions pursuant to Plan; provided, however, that, notwithstanding the foregoing, on and effective as of the Effective Date, the JPMC Entities shall be deemed to have contributed all amounts distributable or payable to the JPMC Entities pursuant to the Plan on account of the JPMC Allowed Unsecured Claim to the Debtors in exchange for certain of the releases identified in the Plan.

Section 2.23. Bond Indemnity Matters. On and effective as of the Effective Date, and pursuant to the 363 Sale and Settlement, (a) all of the WMI Entities' right, title and interest in and to the Bonds, if any, shall be deemed to be and forever determined to be the property of JPMC and the WMI Entities will be deemed to have sold, transferred, and assigned any and all right, title and interest the WMI Entities may have in the Bonds, free and clear of the liens, Claims, interests and encumbrances of any Person other than the liens, Claims, interests and encumbrances, if any, of JPMC, (b) JPMC shall assume all Assumed Liabilities of the WMI Entities related to the Bonding Companies (including, without limitation, Safeco Insurance Company), the Bonded Obligations and the Bond Indemnity and (c) to the extent that any of the Bonding Companies have filed proofs of claim against the Debtors and their chapter 11 estates, JPMC shall pay or fund the payment of the Assumed Liabilities portion of any and all such Claims, as set forth on Schedule 2.23 hereto, to the extent such portion of any such Claim becomes an Allowed Claim; provided, however, that JPMC shall not be obligated to make duplicate payments on account of clauses (b) and (c) hereof.

Section 2.24. Plan Releases Matters. The Plan shall provide, to the fullest extent legally permissible, that any Person, including, without limitation, each REIT Trust Holder, receiving a distribution pursuant to the Plan shall release, and shall be deemed to have released, the JPMC Entities, the FDIC Receiver, FDIC Corporate and the Receivership from any and all Released Claims and any other Claims such Person may have arising from or relating to the claims or interests for which such party is receiving such distribution; provided, however, that, as set forth in Section 3.8 hereof, nothing is or shall be intended, nor shall it be construed, to release ~~the FDIC Receiver or FDIC Corporate from~~ any claims or ~~rights~~defenses that the JPMC Entities and the FDIC Parties may have pursuant to the Purchase and Assumption Agreement. The Plan shall also provide that the Debtors shall seek to bind those entities that opt out of the releases provided in the Plan. The releases that will be obtained through the Plan are essential to the success of the reorganization and necessary to make the Plan feasible. Without limiting the foregoing, in consideration for the waiver and release of the JPMC Entities from any and claims resulting from, among other things, the issuance or assignment of the Trust Preferred Securities or any commitment, disclosure or non-disclosure with respect thereto, the declaration of any Exchange Event, as defined in the offering materials relating to the Trust Preferred Securities, with respect to the Trust Preferred Securities by the Office of Thrift Supervision, the assignment of the Trust Preferred Securities subsequent thereto, and any and all claims in any way related to the Trust Preferred Securities or the REIT Series, pursuant to the Plan, on the Effective Date, (a)

JPMC shall (i) pay to the REIT Trust Holders Fifty Million Dollars (\$50,000,000.00) or (ii) at the election of JPMC, distribute to the REIT Trust Holders shares of common stock of JPMC having a value as of the Effective Date in the amount of Fifty Million Dollars (\$50,000,000.00) and (b) each REIT Trust Holder receiving its pro rata share of such consideration shall execute and deliver, or be deemed to have executed and delivered, a release for the benefit of JPMC with respect to the foregoing events.

Section 2.25. Checks, Funds, Rebatelements and Reimburselements. On and effective as of the Effective Date, pursuant to the 363 Sale and Settlement, and except as otherwise expressly set forth herein, including, without limitation, pursuant to Section 2.4 hereof, the WMI Entities, the FDIC Receiver and the JPMC Entities shall waive and release any and all claims and rights to checks or funds received by the other Party at any time from and after the Petition Date and made out to “*Washington Mutual*”, “*WaMu*”, “*WAMU*”, “*WMT*”, “*WMB*” or other similar nomenclature; provided, however, that, within twenty (20) Business Days from the execution and delivery hereof, the WMI Entities, the FDIC Receiver and the JPMC Entities shall provide to the other Party a list setting forth the amounts received by each such Party and referenced above; and, provided, further, that, to the extent that any JPMC Entities have received any amounts from communications carriers that represent funds for overcharges, refunds or rebates, which relate to activity during the period prior to the Petition Date, such JPMC Entities shall (a) pay to WMI any such amounts received or (b) pay or fund the payment of any Claims of such communications carriers to the extent such Claims become Allowed Claims.

~~Section 2.26. Distributions with Respect to FDIC Claim. On and effective as of the Effective Date, and pursuant to Section 2.4 hereof and the Plan, FDIC Receiver shall be entitled to receive distributions in an amount up to Eight Hundred Fifty Million Dollars (\$850,000,000.00), to the extent received by WMI, from the Homeownership Carryback Refund Amount.~~

~~Section 2.26.~~ Section 2.27. No Pass-Through Liability. This Agreement shall not create, and the terms and provisions shall not be construed to create, any additional liability on the part of the FDIC Parties as a result of the transfer of assets and assumption of liabilities set forth herein, including, without limitation, liability arising as a result of claims for setoff, recoupment, indemnification, contribution or subrogation.

~~Section 2.27.~~ Section 2.28. Orders of Investigation. On and effective as of the Effective Date, (a) except with ~~regard to the Persons set forth on Exhibit “BB” hereto (the “Excluded Parties”), each~~ respect to the WMI Releasees, as defined in Section 3.1 hereof, the FDIC Parties may enforce any existing FDIC Order of Investigation shall be deemed to have been withdrawn, with prejudice, rescinded and otherwise null and void and of no force and effect and (b) each of the Persons or issue, file or serve any additional or replacement FDIC Order of Investigation against any Person, and (b) each of the WMI Releasees set forth on any such FDIC Order of Investigation, ~~other than the Excluded Parties,~~ shall be relieved of any and all obligations to comply with or other requirements set forth therein or under applicable law, if any.

Section 2.28. ~~Section 2.29.~~ Allocation of Consideration Received by FDIC Receiver. ~~The FDIC Receiver has not filed claims against any present or former WMI or WMB directors or officers and none of those Persons are Parties to this Agreement. Nonetheless, pursuant~~ Pursuant to this Agreement, the FDIC Receiver is releasing potential claims against certain ~~of those individuals~~ present or former WMI or WMB directors or officers (the “*Potential Claims*”). The FDIC Receiver ~~acknowledges that the value, at this time, of the Potential Claims is negligible in comparison to the value of the remaining claims that the FDIC Receiver is compromising by this Agreement (the “Remaining Claims”), and that the consideration that the FDIC Receiver is receiving by this Agreement is entirely or almost entirely a result of the release of the Remaining Claims. Accordingly, no more than Ten Million Dollars (\$10,000,000.00)~~ has allocated no more than One Hundred Twenty Five Million Dollars (\$125,000,000.00) of the consideration to be received by the FDIC Receiver pursuant to the Plan and Sections 2.4 and 2.26 ~~of the Agreement may be allocated~~ hereof to the FDIC Receiver’s release of the Potential Claims.

Section 2.29. ~~Section 2.30.~~ WMB Claims and Distributions. The Debtors and the ~~WMB Recipient~~ FDIC Receiver acknowledge and agree that (a) the Plan provides a distribution (contingent on the occurrence of certain conditions) to Bank Creditors in the amount of five and three hundred fifty-seven thousandths percent (5.357%) of the Homeownership Carryback Refund Amount, with a cap of One Hundred Fifty Million Dollars (\$150,000,000.00) (the “Bank Creditor Distribution”), on account of and in complete and full satisfaction of purported claims of ~~the~~ Bank Creditors against WMI (other than claims ~~which~~ that are otherwise subordinated pursuant to section 510 of the Bankruptcy Code), including, without limitation, the Bank Bondholder Claims, to the extent it is determined by Final Order that such claims, including the Bank Bondholder Claims, are Allowed Claims against the Debtors and the Debtors’ chapter 11 estates, (b) the Bank Creditor Distribution shall ~~only~~ be paid ~~if and~~ when WMI receives its ~~complete~~ distribution of the Homeownership Carryback Refund Amount in accordance with Section 2.4 hereof, (c) as set forth in Sections 2.5 and 4.6 hereof, the Bank Bondholder Claims are derivative in nature of the claims and causes of action asserted by the FDIC Parties and the Receivership in the FDIC Claim and the WMI Action and (d) the claims and causes of action that have or may be asserted by the FDIC Parties and the Receivership against the Debtors and the Debtors’ chapter 11 estates are being released, discharged or settled as a result of this Agreement and the Plan.

ARTICLE III RELEASES AND BAR ORDER

Section 3.1. Release of WMI Entities. On and effective as of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, except as expressly provided in this Agreement and the Plan, the JPMC Entities, the Creditors’ Committee, the FDIC Parties and each of the Settlement Note Holders, each of their respective subsidiaries and Affiliates and the predecessors, successors and assigns of any of them and any other Person that claims or might claim through, on behalf of or for the

benefit of any of the foregoing whether directly or derivatively (including, without limitation, by or through the Receivership or otherwise) (collectively, the “**Non-Debtor Releasors**”), shall be deemed to have irrevocably and unconditionally, fully, finally, and forever waived, released, acquitted and discharged the WMI Entities, WMB, each of the Debtors’ estates, the Reorganized Debtors, their respective past or present parent entities, subsidiaries, Affiliates, directors, officers, employees, professionals, including, without limitation, any and all professionals retained by WMI or the Creditors’ Committee in the Chapter 11 Cases either (a) pursuant to an order of the Bankruptcy Court other than ordinary course professionals or (b) as set forth on Schedule 3.1(a) hereto (collectively, the “**Retained Professionals**”), and the predecessors, successors and assigns of any of them, ~~other than WMB and the Excluded Parties~~ (collectively, but excluding the Persons set forth on Exhibit “BB” hereto (the “**Excluded Parties**”), the “**WMI Releasees**”) from any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including Unknown Claims), whether asserted or unasserted, which the Non-Debtor Releasors, or any of them, or anyone claiming through them, on their behalf or for their benefit have or may have or claim to have, now or in the future, against any WMI Releasee that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with any of WMI’s assets or any assets to be received by WMI as provided herein, the Plan Contribution Assets, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement, the Intercompany Claims, the WMI Accounts, the Disputed Accounts (including, without limitation, any rights of setoff, recoupment, banker’s liens, or similar rights a Non-Debtor Releasor may have against funds in the Disputed Accounts or the WMI Accounts), any intercompany claims on the books of WMI or WMB related to the WaMu Pension Plan and the Lakeview Plan and claims related in any way to the Trust Preferred Securities (including, without limitation, the creation of the Trust Preferred Securities, the retention of the Trust Preferred Securities and the transfer of WMI’s interest therein to JPMC), or any claim, act, fact, transaction, occurrence, statement or omission in connection with, or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred by the Non-Debtor Releasors arising directly or indirectly from or otherwise relating to the Actions (the “**WMI Released Claims**”).

Notwithstanding anything contained in this Section 3.1 or elsewhere to the contrary, (a) the foregoing is not intended to release, nor shall it have the effect of releasing, (i) the WMI Releasees from the performance of their obligations in accordance with this Agreement, the written agreements set forth on Schedule 3.1 (b) hereto and entered into among either of the WMI Entities, on the one hand, and any of the Non-Debtor Releasors, on the other hand, during the period subsequent to the Petition Date ~~and (ii) any of the Excluded Parties~~, (ii) with respect to the FDIC Parties only, and subject to the terms and provisions of Section 3.6 hereof, any Person (other than any Person serving as a current director or officer of WMI or WMB or their subsidiaries or Affiliates) from any enforcement or regulatory action by the FDIC Parties or such other claims or causes of action which the FDIC Parties have against the Excluded Parties, (iii) with respect to the FDIC Parties only, and solely to the extent of an action commenced by or for the benefit

of a WMI Releasee, any claims or rights that the FDIC Parties may have to intervene in any such action solely to assert that such action is a derivative action that, as a matter of law, belongs to the FDIC Parties, and not for purposes of obtaining an affirmative recovery against such WMI Releasee with regard to the WMI Released Claims and (iv) any avoidance action or claim objection regarding an Excluded Party or a WMI Releasee,

(b) each Non-Debtor Releasor shall retain the right to assert any and all WMI Released Claims by way of setoff, contribution, contributory or comparative fault or in any other defensive manner in the event that such Non-Debtor Releasor or any other person or entity (but solely as a defense against the claims of such person or entity and not for purposes of obtaining an affirmative recovery) and such WMI Released Claim shall be determined in connection with any such litigation as if the provisions of this Section 3.1 were not effective, and (c) solely to the extent any governmental authority obtains or enters an order directing restitution for the criminal or otherwise wrongful acts ~~of the Excluded Parties~~, (i) such orders shall be for the benefit of the FDIC Receiver as successor to WMB and (ii) if WMI or JPMC receives any payment in respect of any such order, such entity shall (1) hold such amounts in trust for the FDIC Receiver as successor to WMB, (2) promptly notify the FDIC Receiver of its receipt of such payment and (3) remit such funds to the FDIC Receiver for the benefit of the Receivership.

Section 3.2. Release of the JPMC Entities. On and effective as of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, except as expressly provided in this Agreement and the Plan, the WMI Entities, each of the Debtors' estates, the Reorganized Debtors, the FDIC Parties, the Creditors' Committee, each of the Settlement Note Holders and each of their respective subsidiaries and Affiliates and the predecessors, successors and assigns of any of them and any other Person that claims or might claim through, on behalf of or for the benefit of any of the foregoing, whether directly or derivatively (including, without limitation, by or through the Debtors, the Receivership or otherwise) (collectively, the "***Non-JPMC Releasors***"), shall be deemed to have irrevocably and unconditionally, fully, finally and forever waived, released, acquitted and discharged the JPMC Entities, the Acquisition JPMC Entities and any of their respective past or present parent entities, subsidiaries, Affiliates, directors, officers, employees, professionals and the predecessors, successors and assigns of any of them (collectively, the "***JPMC Releasees***"), from any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including Unknown Claims), whether asserted or unasserted, which the Non-JPMC Releasors, or any of them, or anyone claiming through them, on their behalf or for their benefit, have or may have or claim to have, now or in the future, against any JPMC Releasee that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with any assets to be received by JPMC as provided herein, the Plan Contribution Assets, the Debtors' Claims, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement, the Intercompany Claims, any intercompany claims on the books of WMI or WMB related to the WaMu Pension Plan or the Lakeview Plan and claims related in any way to the Trust Preferred Securities (including, without limitation, the creation of the Trust

Preferred Securities, the financing associated therewith, the requested assignment of the Trust Preferred Securities by the Office of Thrift Supervision and the transfer and the asserted assignment of the Trust Preferred Securities subsequent thereto) or any claim, act, fact, transaction, occurrence, statement or omission in connection with or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred by the Non-JPMC Releasors arising directly or indirectly from or otherwise relating to the Related Actions (the “**JPMC Released Claims**”). Notwithstanding anything contained in this Section 3.2 or elsewhere to the contrary, (a) the foregoing is not intended to release, nor shall it have the effect of releasing, JPMC from the performance of its obligations in accordance with this Agreement, the written agreements set forth on Schedule 3.2 hereto and entered into among any of the JPMC Entities, on the one hand, and either of the WMI Entities, on the other hand, during the period subsequent to the Petition Date ~~and~~, (b) each Non-JPMC Releasor shall retain the right to assert any and all JPMC Released Claims by way of setoff, contribution, contributory or comparative fault or in any other defensive manner in the event that such Non-JPMC Releasor is sued on any JPMC Released Claim by a JPMC Releasee or any other person or entity (but solely as a defense against the claims of such person or entity and not for purposes of obtaining an affirmative recovery) and such JPMC Released Claim shall be determined in connection with any such litigation as if the provisions of this Section 3.2 were not effective and (c) subject to the provisions of Section 3.8 hereof, the foregoing is not intended to release, nor shall it have the effect of releasing, any rights, claims or defenses that the FDIC Parties may have pursuant to the Purchase and Assumption Agreement.

Section 3.3. Release of the FDIC Parties. On and effective as of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, except as expressly provided in this Agreement and the Plan, the WMI Entities, each of the Debtors’ estates, the Reorganized Debtors, the JPMC Entities, the Creditors’ Committee, each of the Settlement Note Holders and each of their respective subsidiaries and Affiliates and the predecessors, successors and assigns of any of them and any other Person that claims or might claim through, on behalf of or for the benefit of any of the foregoing, whether directly or derivatively (collectively, the “**Non-FDIC Releasors**”) shall be deemed to have irrevocably and unconditionally, fully, finally, and forever waived, released, acquitted and discharged the FDIC Receiver, FDIC Corporate, the Receivership, their respective past or present parent entities, subsidiaries, Affiliates, directors, officers, employees, professionals and the predecessors, successors and assigns of any of these (collectively, the “**FDIC Releasees**”) from any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including Unknown Claims), whether asserted or unasserted, which the Non-FDIC Releasors, or any of them, or anyone claiming through them, on their behalf or for their benefit, have or may have or claim to have, now or in the future, against any FDIC Releasee that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with the Plan

Contribution Assets, the Debtors' Claims, ~~the Purchase and Assumption Agreement~~, the JPMC Claims, the Intercompany Claims, ~~the Purchase and Assumption Agreement~~, any intercompany claims on the books of WMI or WMB related to the WaMu Pension Plan or the Lakeview Plan and claims related in any way to the Trust Preferred Securities (including, without limitation, the creation of the Trust Preferred Securities, the financing associated therewith, the requested assignment of the Trust Preferred Securities by the Office of Thrift Supervision and the transfer and the asserted assignment of the Trust Preferred Securities subsequent thereto) or any claim, act, fact, transaction, occurrence, statement, or omission in connection with or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred by the Non-FDIC Releasors arising directly or indirectly from or otherwise relating to the Related Actions, other than any claims or rights that the JPMC Entities may have against the FDIC ~~Releases~~Releasees pursuant to the Purchase and Assumption Agreement (collectively, the "***FDIC Released Claims***"). Notwithstanding anything contained in this Section 3.3 or elsewhere to the contrary, (a) the foregoing is not intended to release, nor shall it have the effect of releasing, the FDIC Parties from the performance of their obligations in accordance with this Agreement and the written agreements set forth on Schedule 3.3 hereto and entered into among the FDIC Receiver, FDIC Corporate or the Receivership, on the one hand, and either of the WMI Entities, on the other hand, during the period subsequent to the Petition Date, or with respect to the Purchase and Assumption Agreement, (b) each Non-FDIC Releasor shall retain the right to assert any and all FDIC Released Claims by way of setoff, contribution, contributory or comparative fault or in any other defensive manner in the event that such Non-FDIC Releasor is sued on any FDIC Released Claim by an FDIC Releasee or any other person or entity (but solely as a defense against the claims of such person or entity and not for purposes of obtaining an affirmative recovery) and such FDIC Released Claim shall be determined in connection with any such litigation as if the provisions of this Section 3.3 were not effective, (c) subject to the provisions of Section 3.8 hereof, the foregoing is not intended to release, nor shall it have the effect of releasing, any rights or claims, ~~whether for indemnity or otherwise~~, that the JPMC Entities may have pursuant to the Purchase and Assumption Agreement, and (d) the foregoing is not intended to release, nor shall it have the effect of releasing, any Releasee or any Person of claims that may be held or asserted by the Federal Deposit Insurance Corporation, in any capacity (including, without limitation, as regulator or as receiver for any failed depository institution other than WMB), to the extent that any such claims are unrelated to the Debtors, the Chapter 11 Cases, the Actions, the WMI Claims or the FDIC Claim.

Section 3.4. Release of the Settlement Note Holders. On and effective as of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, except as expressly provided in this Agreement and the Plan, the WMI Entities, each of the Debtors' estates, the Reorganized Debtors, the JPMC Entities, the FDIC Parties, the Creditors' Committee, each of their respective subsidiaries and Affiliates and the predecessors, successors and assigns of any of them and any other Person that claims or

might claim through, on behalf of or for the benefit of any of the foregoing, whether directly or derivatively (including, without limitation, by or through the Receivership or otherwise) (collectively, the “**Non-Settlement Note Releasors**”) shall be deemed to have irrevocably and unconditionally, fully, finally, and forever waived, released, acquitted and discharged the Settlement Note Holders, their respective past or present parent entities, subsidiaries, Affiliates, directors, officers, employees, professionals and the predecessors, successors and assigns of any of these (collectively, the “**Settlement Note Releasees**”) from any and all claims, demands, rights, liabilities or causes of action, of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including, Unknown Claims), whether asserted or unasserted, which the Non-Settlement Note Releasors, or any of them, or anyone claiming through them, on their behalf or for their benefit, have or may have or claim to have, now or in the future, against any Settlement Note Releasee that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with the Plan Contribution Assets, the Debtors’ Claims, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement, the creation of the Trust Preferred Securities, the financing associated therewith, the requested assignment of the Trust Preferred Securities by the Office of Thrift Supervision, the transfer and the asserted assignment of the Trust Preferred Securities subsequent thereto, the Chapter 11 Cases and the negotiation, confirmation and consummation of the Plan and this Agreement or any claim, act, fact, transaction, occurrence, statement, or omission in connection with or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred by the Non-Settlement Note Releasors arising directly or indirectly from or otherwise relating to the Related Actions (collectively, the “**Settlement Note Released Claims**”). Notwithstanding anything contained in this Section 3.4 or elsewhere to the contrary, (a) the foregoing is not intended to release, nor shall have the effect of releasing, the Settlement Note Holders from the performance of their obligations in accordance with this Agreement, the written agreements set forth on Schedule 3.4 hereto and entered into among any of the Settlement Note Holders, on the one hand, and either of the WMI Entities, on the other hand, during the period subsequent to the Petition Date and (b) each Non-Settlement Note Releasor shall retain the right to assert any and all Settlement Note Released Claims by way of setoff, contribution, contributory or comparative fault or in any other defensive manner in the event that such Non-Settlement Note Releasor is sued on any Settlement Note Released Claim by a Settlement Note Releasee or any other person or entity (but solely as a defense against the claims of such person or entity and not for purposes of obtaining an affirmative recovery) and such Settlement Note Released Claim shall be determined in connection with any such litigation as if the provisions of this Section 3.4 were not effective.

Section 3.5. Release of Creditors’ Committee. On and effective as of the Effective Date, and without the need for the execution and delivery of additional documentation or the entry of any additional orders of the Bankruptcy Court, the WMI Entities, each of the Debtors’ estates, the Reorganized Debtors, the JPMC Entities, the

FDIC Parties, each of the Settlement Note Holders, each of their respective subsidiaries and Affiliates and the predecessors, successors and assigns of any of them and any other Person that claims or might claim through, on behalf of or for the benefit of any of the foregoing whether directly or derivatively (including, without limitation, by or through the Receivership, the Debtors or otherwise) (the “**Non-Creditors’ Committee Releasors**”), shall be deemed to have irrevocably and unconditionally, fully, finally, and forever waived, released, acquitted and discharged the Creditors’ Committee, the members of the Creditors’ Committee, and their respective past or present members, subsidiaries, Affiliates, directors, officers, employees, professionals and the predecessors, successors and assigns of any of them (the “**Creditors’ Committee Releasees**”) from any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including Unknown Claims), whether asserted or unasserted, which the Non-Creditors’ Committee Releasors, or any of them, or anyone claiming through them, on their behalf or for their benefit have or may have or claim to have, now or in the future, against any Creditors’ Committee Releasee that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with any of WMI’s assets or any assets to be received by WMI, its constituencies, or the Creditors’ Committee’s constituencies as provided herein, the Plan Contribution Assets, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement, the Intercompany Claims, the Disputed Accounts and the WMI Accounts (including, without limitation, any rights of setoff, recoupment, banker’s liens, or similar rights a Non-Creditors’ Committee Releasor may have against funds in the Disputed Accounts and the WMI Accounts), any intercompany claims on the books of WMI or WMB related to the WaMu Pension Plan and the Lakeview Plan and claims related in any way to the Trust Preferred Securities (including, without limitation, the creation of the Trust Preferred Securities, the retention of the Trust Preferred Securities and the transfer of WMI’s interest therein to JPMC), or any claim, act, fact, transaction, occurrence, statement or omission in connection with, or alleged or that could have been alleged in the Related Actions, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred by the Non-Creditors’ Committee Releasors arising directly or indirectly from or otherwise relating to the Actions (the “**Creditors’ Committee Released Claims**”). Notwithstanding anything contained in this Section 3.5 or elsewhere to the contrary, (a) the foregoing is not intended to release, nor shall it have the effect of releasing, the Creditors’ Committee Releasees from the performance of their obligations in accordance with this Agreement, the written agreements set forth on Schedule 3.5 hereto and entered into among any of the Creditors’ Committee Releasees, on the one hand, and any of the Non-Creditors’ Committee Releasors, on the other hand, during the period subsequent to the Petition Date and (b) each Non-Creditors’ Committee Releasor shall retain the right to assert any and all Creditors’ Committee Released Claims by way of setoff, contribution, contributory or comparative fault or in any other defensive manner in the event that such Non-Creditors’ Committee Releasor or any other person or entity (but solely as a defense against the claims of such person or entity and not for purposes of obtaining an affirmative recovery)

and such Creditors' Committee Released Claim shall be determined in connection with any such litigation as if the provisions of this Section 3.5 were not effective.

~~Section 3.6. — Judgment Reduction/Indemnity for WMI Released Claims.~~

Section 3.6. (a) Relief for Indemnification and Contribution Claims.

Without in any way limiting the scope of Section 3.1 hereof, each ~~Non-Debtor Releasor~~ of the FDIC Parties further agrees that, from and after the Effective Date, if (a) any claim or cause of action is commenced, asserted, continued or pursued by, on behalf of, or for the benefit of any of the ~~Non-Debtor Releasors against any Person other than the WMI Releasees and~~ FDIC Parties against any Person, including, without limitation, any Excluded Party, for claims or causes of action relating to the period prior to the Effective Date, (b) a judgment or settlement is obtained in connection therewith requiring payment by such Person to any of the FDIC Parties or otherwise (the “FDIC Judgment or Settlement”), and (c) as a direct or indirect result thereof, any Person seeks and successfully obtains, by way of judgment, award, settlement (with consent of the FDIC Parties, which consent shall not be unreasonably withheld) or otherwise, directly or indirectly, any contribution or indemnity from any of the WMI Releasees based upon, arising from, or related to the ~~WMI Released Claims or any transaction underlying any WMI Released Claim, then, no~~ FDIC Judgment or Settlement, then, such Non-Debtor Releasor FDIC Party shall not execute on, collect on, obtain a lien based upon, or otherwise perfect or use in any manner any ~~judgment or settlement in its favor~~ FDIC Judgment or Settlement unless the ~~Non-Debtor Releasor~~ FDIC Party first reduces the ~~judgment or settlement~~ FDIC Judgment or Settlement amount or otherwise structures such ~~judgment or settlement~~ FDIC Judgment or Settlement, by agreement or otherwise, such that ~~all liability of the WMI Releasees based upon contribution or indemnity is eliminated. Nothing contained in this Section 3.6(a) shall require any Non-Debtor Releasor~~ none of the WMI Releasees shall be required to make any payment on such contribution or indemnification or, directly or indirectly, any payment of any portion of the FDIC Judgment or Settlement that exceeds amounts paid or to be paid from available insurance coverage, including, without limitation, any insurance under the Tower Insurance Programs. The specific action or inaction taken by any of the FDIC Parties as may be required by this Section 3.6 shall be at the discretion of such FDIC Parties so long as such action or inaction, as the case may be, shall be effective to relieve all of the WMI Releasees of such contribution or indemnification claims in a manner consistent with this Section 3.6. Nothing contained in this Section 3.6 shall (x) require any FDIC Party to pay or otherwise be responsible for any attorneys' fees or other costs of litigation incurred by any WMI Releasee, all such fees and costs being the sole responsibility and obligation of the WMI Releasee.

~~(b) — Without in any way limiting the scope of Sections 3.1 or 3.6(a) hereof, each Non-Debtor Releasor further agrees that, in the event: (1) any of the Non-Debtor Releasors commences, asserts, continues or pursues an action, suit, or other proceeding against any of the Excluded Parties or any agent of any of the WMI Releasees (an “Excluded Party Target”) with respect to any WMI Released Claim (the “Excluded Party Target Claims”), (2) the Excluded Party Target has a claim for contribution or~~

~~indemnity against any of the WMI Releasees with respect to costs and expenses incurred by the Excluded Party Target in connection with such Excluded Party Target Claim, and (3) a final judgment or Final Order is entered by a court of competent jurisdiction requiring the payment of any contribution or indemnity amount by any of the WMI Releasees with respect to costs and expenses incurred by the Excluded Party Target in connection with such Excluded Party Target Claim (the “**Target Indemnification Amount**”), then (y) if the Excluded Party Target Claims are the sole claims against an Excluded Party Target in a given suit or other proceeding giving rise to a Target Indemnification Amount (a “**Pure Target Claim Over**”), the Non-Debtor Releasor commencing, asserting, continuing or pursuing any action, suit or other proceeding shall indemnify the applicable WMI Releasee for the Target Indemnification Amount, but only to the extent of any actual payments made to the Excluded Party Target by the WMI Releasee, or (z) if the Excluded Party Target Claims are not the sole claims against an Excluded Party Target in a given suit or other proceeding giving rise to a Target Indemnification Amount, the Non-Debtor Releasor commencing, asserting, continuing or pursuing any action, suit or other proceeding shall indemnify the applicable WMI Releasee for a *per capita* share of the Target Indemnification Amount (as determined by dividing the Target Indemnification Amount by the number of separately represented parties or groups of parties giving rise to the Target Indemnification Amount in that suit or other proceeding), but only to the extent of the *per capita* share of actual payments made to the Excluded Party Target by the WMI Releasee. In connection with any action or proceeding against an WMI Releasee with respect to any claim for contribution or indemnity, the WMI Releasee agrees to use its best good faith efforts to defeat such claim; provided, however, that, in a Pure Target Claim Over, the Non-Debtor Releasor commencing, asserting, continuing or pursuing any action, suit or other proceeding shall have the right (but not the duty) to elect to direct the defense by such WMI Releasee of the claim for contribution or indemnity (a “**Defense Election**”). **Nothing contained in this Section 3.6(b) shall require any Non-Debtor Releasor to pay or otherwise be responsible for any attorneys’ fees or other costs of litigation incurred by any WMI Releasee in defense of a claim for contribution or indemnity against any WMI Releasee, all such fees and costs being the sole responsibility and obligation of the WMI Releasee; provided, however, that, in the event of a Defense Election, the Non-Debtor Releasor commencing, asserting, continuing or pursuing any action, suit or other proceeding shall act reasonably in directing the defense of a claim for contribution or indemnity.**~~

~~(c) — Notwithstanding anything contained in Sections 3.6(a) and (b) to the contrary, the foregoing shall not impact, or otherwise interfere with, any rights of the JPMC Entities to pursue claims, causes of action and other remedies available, including, without limitation, rights of indemnification, in accordance with the terms and provisions of the Purchase and Assumption Agreement.~~ (y) to the extent that the FDIC Parties comply with the provisions of this Section 3.6, require any of the FDIC Parties to indemnify, reimburse or pay any loss or obligation of any WMI Releasees, the Excluded Parties or any other Person, and (z) be construed to relieve any of the Debtors’ insurers, including, without limitation, any insurers in the Tower Insurance Programs, of any of their obligations under their insurance policies or applicable law.

Section 3.7. Bar Order. The effectiveness of the compromise and settlement set forth herein is conditioned upon, among other things, the Bankruptcy Court entering the Confirmation Order, each of which shall, inter alia, provide that each and every Person who is not a Releasor hereunder is permanently enjoined, barred and restrained from instituting, prosecuting, pursuing or litigating in any manner any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character or nature whatsoever, in law or in equity, known or unknown (including Unknown Claims), whether asserted or unasserted, against any of the WMI Releasees, the JPMC Releasees, the FDIC Releasees, the Creditors' Committee Releasees or the Settlement Note Releasees, that are Released Claims or otherwise are based upon, related to, or arise out of or in connection with the Debtors' Claims, the JPMC Claims, the FDIC Claim, the Purchase and Assumption Agreement (other than any rights ~~or~~, claims or defenses the JPMC Entities or the FDIC Parties may have pursuant to the Purchase and Assumption Agreement), confirmation and consummation of the Plan, the negotiation and consummation of this Agreement or any claim, act, fact, transaction, occurrence, statement or omission in connection with or alleged or that could have been alleged in the Related Actions or other similar proceedings, including, without limitation, any such claim, demand, right, liability, or cause of action for indemnification, contribution, or any other basis in law or equity for damages, costs or fees incurred arising directly or indirectly from or otherwise relating to the Related Actions, either directly or indirectly by any Person for the direct or indirect benefit of any WMI Releasee arising from or related to the claims, acts, facts, transactions, occurrences, statements or omissions that are, could have been or may be alleged in the Related Actions or any other action brought or that might be brought by, through, on behalf of, or for the benefit of the WMI Releasees or any of them (whether arising under federal, state or foreign law, and regardless of where asserted).

Section 3.8. JPMC and FDIC Preserved Rights. Notwithstanding anything contained in this Article III to the contrary, nothing in this Agreement shall waive, release, acquit or discharge, nor shall it be construed to waive, release, acquit or discharge, the rights and obligations of JPMC and the FDIC Parties pursuant to the Purchase and Assumption Agreement, including, without limitation, any right to assert that liabilities remained with the FDIC Parties or seek indemnification in accordance with the provisions of Section 12.1 of the Purchase and Assumption Agreement or dispute the assertion of liabilities or entitlement to indemnification; provided, however, that this Agreement shall affect and be binding upon JPMC and the FDIC Parties to the extent it resolves any and all claims among JPMC and the FDIC Parties to the assets and consideration paid, sold, assigned and transferred to the JPMC Entities and the FDIC Parties pursuant to this Agreement and the Purchase and Assumption Agreement.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 4.1. Representation and Warranties of JPMC Entities. JPMC hereby represents and warrants for itself, and on behalf of the other JPMC Entities, that: (a) it is duly organized, validly existing and in good standing under the laws of the

jurisdiction of its organization with all requisite power and authority to carry on the business in which it is engaged, to own the properties it owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of its organizational documents or any agreements specifically applicable to it; (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (d) it, or one of its affiliated JPMC Entities, directly or indirectly, has the power and authority to bind each other JPMC Entity to the terms of this Agreement or otherwise has been duly authorized by such other JPMC Entity to execute and deliver this Agreement on its behalf.

Section 4.2. Representations of the JPMC Entities as to JPMC Claims/Tax Sharing Agreement. JPMC hereby represents and warrants for itself, and on behalf of the other JPMC Entities, that: (a) except with regard to the JPMC Claims referenced in the Recitals herein, none of the JPMC Entities holds any claims against the WMI Entities, known or unknown, whether asserted or unasserted, and that any such claims or causes of action are included among the WMI Released Claims, (b) it has not filed, or caused to be filed, a proof of claim against any of the Debtors other than the JPMC Claims; (c) as of the date hereof, it has not assigned, sold, participated, granted, conveyed, or otherwise transferred, in whole or in part, the JPMC Claims, and, as of the date hereof, it is not a party to any agreement to assign, sell, participate, grant, convey or otherwise transfer, and has not entered into any other agreement to assign, sell, participate, grant or otherwise transfer, in whole or in part, any portion of its right, title or interests in the JPMC Claims, and it has good title thereto, free and clear of all liens, security interests and other encumbrances of any kind; (d) as of the date hereof, the sole beneficial owners of the JPMC Claims are the JPMC Entities; and (e) as of September 25, 2008, the JPMC Entities acquired the assets of the Affiliated Banks and their Affiliates, pursuant to the Purchase and Assumption Agreement, including, without limitation, assets and rights in accordance with that certain Tax Sharing Agreement, dated as of August 31, 1999, by and among the parties thereto.

Section 4.3. Representation and Warranties of the WMI Entities. Each of the WMI Entities hereby represents and warrants for itself, and on behalf of the other Debtors, that: (a) it is duly organized and validly existing under the laws of the jurisdiction of organization with all requisite power and authority to carry on the business in which it is engaged, to own the properties it owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) subject to entry of the Confirmation Order, it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in

contravention of its organization documents or any material agreement specifically applicable to it; (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (d) it, or one of its Affiliated WMI Entities that is signatory hereto, directly or indirectly, and subject to the entry of the Confirmation Order, has the power and authority to bind each Debtor, Reorganized Debtor and other WMI Entity to the terms of this Agreement or otherwise has been duly authorized by such Debtor, Reorganized Debtor and other WMI Entity to execute and deliver this Agreement on its behalf.

Section 4.4. Representations of the WMI Entities as to Debtors' Claims. Each of the WMI Entities hereby represents and warrants for itself, and on behalf of the other Debtors ~~and the Reorganized Debtors~~ that: (a) other than the claims asserted in the Actions, none of the ~~Debtors or the Reorganized~~ Debtors holds any claim or cause of action against the JPMC Entities, the FDIC Parties or the Receivership and that any such claims or causes of actions are included among the JPMC Released Claims and the FDIC Released Claims, respectively; and (b) they are not aware of any proofs of claim filed by or on behalf of the WMI Entities other than the claims set forth in the Recitals herein.

Section 4.5. Representations and Warranties of the FDIC Parties. The FDIC Receiver hereby represents and warrants for itself and on behalf of the Receivership, and FDIC Corporate hereby represents and warrants that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to carry on the business in which it is engaged, to own the properties it owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) subject to the approval of the Board of Directors of the Federal Deposit Insurance Corporation (the "**FDIC Board**"), it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of its organizational documents or any agreements specifically applicable to it; (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (d) subject to the approval of the FDIC Board, it directly or indirectly, has the power and authority to bind itself and the Receivership to the terms of this Agreement or otherwise has been duly authorized to execute and deliver this Agreement on its behalf.

Section 4.6. Representations of the FDIC Parties as to FDIC Claim. The FDIC Receiver hereby represents and warrants for itself and on behalf of the Receivership, and FDIC Corporate hereby represents and warrants, effective upon FDIC Board approval, that: (a) except with regard to the FDIC Claim and as set forth in the Actions, none of the FDIC Receiver, FDIC Corporate and the Receivership holds any claims against the WMI Entities, known or unknown, whether asserted or unasserted, and

that any such claims or causes of action are included among the WMI Released Claims; (b) it has not filed, or caused to be filed, a proof of claim against any of the Debtors other than the FDIC Claim; (c) the FDIC Claim, together with those asserted against the WMI Entities in the WMI Action, represent all claims and causes of action of the FDIC Parties and the Receivership against the Debtors and that the claims similar in nature which are asserted in the Bank Bondholder Claims, including, without limitation, fraudulent transfer claims, breach of fiduciary claims, corporate veil piercing, alter ego, substantive consolidation, securities fraud and the undercapitalization of, failure to support and looting of WMB, are derivative in nature of ~~the~~ the claims of Receivership and of the claims set forth in the FDIC Claim and the WMI Action; (d) as of the date hereof, it has not assigned, sold, participated, granted, conveyed, or otherwise transferred, in whole or in part, the FDIC Claim, and, as of the date hereof, it is not a party to any agreement to assign, sell, participate, grant, convey or otherwise transfer, and has not entered into any other agreement to assign, sell, participate, grant or otherwise transfer, in whole or in part, any portion of its right, title or interests in the FDIC Claim, and it has good title thereto, free and clear of all liens, security interests and other encumbrances of any kind; and (e) as of the date hereof, the sole beneficial owner of the FDIC Claim is the FDIC Receivership; provided, however, that certain claims asserted in the FDIC Claim may be claims in which JPMC maintains an interest pursuant to the Purchase and Assumption Agreement.

Section 4.7. Representations and Warranties of Settlement Note Holders. Each of the Settlement Note Holders hereby represents and warrants for itself and those of its Affiliates that are Settlement Note Holders, that: (a) it and each such Affiliate is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to carry on the business in which it or such Affiliate is engaged, to own the properties it or such Affiliate owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) it and each such Affiliate has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it or such Affiliate in connection herewith (i) have been duly and validly authorized by it and by each such Affiliate and (ii) are not in contravention of its or such Affiliates organizational documents or any agreements specifically applicable to it or such Affiliate; (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (d) it and each such Affiliate has received from the Debtors financial and other information concerning, among other matters, the Debtors, their chapter 11 estates, and the Related Actions of a kind, scope and extent sufficient to allow each Settlement Note Holder to make an informed decision with respect to voting to accept or reject the Plan.

Section 4.8. Representations of Settlement Note Holders as to Settlement Note Holdings. Each of the Settlement Note Holders hereby represents and

warrants for itself and those of its Affiliates that are Settlement Note Holders, not jointly with the other Settlement Note Holders, that: (a) except with regard to the Settlement Note Holdings, none of the Settlement Note Holders holds any claims against or equity interests in the Debtors, (b) it has not filed, or caused to be filed, ~~a proof~~proofs of claim against any of the Debtors other than proofs of claim related to the Settlement Note Holdings, (c) as of the date hereof, it has not assigned, sold, participated, granted, conveyed, or otherwise transferred, in whole or in part, the Settlement Note Holdings, and, as of the date hereof, it is not a party to any agreement to assign, sell, participate, grant, convey or otherwise transfer, and has not entered into any other agreement to assign, sell, participate, grant or otherwise transfer, in whole or in part, any portion of its right, title or interests in the Settlement Note Holdings, and it has good title thereto, free and clear of all liens, security interests and other encumbrances of any kind, (d) as of the date hereof, the sole beneficial owners of the Settlement Note Holdings are the respective Settlement Note Holders and (e) Exhibit "C" truly and accurately reflects the holdings of each of the Settlement Note Holders.

Section 4.9. Representations and Warranties of the Creditors' Committee. The Creditors' Committee hereby represents and warrants that: (a) it is duly organized and validly existing under the provisions of the Bankruptcy Code; (b) it has full requisite power and authority to execute and deliver and to perform its obligations under the Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of its bylaws or any material agreement specifically applicable to it; (c) no proceeding, litigation or adversary proceeding before any court, distributor or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (d) it has the power and authority to bind the Creditors' Committee to the terms of this Agreement or otherwise has been duly authorized by the Creditors' Committee to execute and deliver this Agreement on its behalf.

Section 4.10. Representations of the Parties as to this Agreement. Each Party represents and acknowledges that: (a) in executing this Agreement, it does not rely, and has not relied, upon any representation of statement made by any other Party or any of such other Party's representative, agents or attorneys, with regard to the subject matter, basis or effect of this Agreement or otherwise, other than as may be stated specifically in this Agreement, (b) in executing this Agreement, it has relied entirely upon its own judgment, beliefs and interest and the advice of its counsel and that it has had a reasonable period of time to consider the terms of this Agreement before entering into it, and (c) it has reviewed this Agreement and that it fully understands and voluntarily accepts all of the provisions contained herein. Each Party further represents, acknowledges and agrees that this Agreement was the product of negotiations among the Parties and that any rule of construction as to ambiguities being resolved against the drafting party shall not apply in the interpretation of this Agreement.

ARTICLE V COVENANTS

Section 5.1. Covenants of JPMC Entities. JPMC hereby covenants and agrees, on behalf of itself and the other JPMC Entities, as follows:

(a) None of the JPMC Entities shall sell, transfer, pledge, hypothecate or assign any of the JPMC Claims or any voting rights or participations or other interests therein during the period from the date hereof up to and including the Effective Date; provided, however, that, prior to the Effective Date, the JPMC Entities may enter into one or more agreements to sell, transfer, pledge, hypothecate or assign the JPMC Claims or any voting rights or participations or other interests therein provided that the effectiveness thereof is contingent upon the occurrence of the Effective Date. To the extent that any of the JPMC Entities sells, transfers, pledges, hypothecates or assigns any of the JPMC Claims or any voting rights or participations or other interests therein during the period from and after the Effective Date, JPMC shall inform, in writing, any purchaser, agent or other entity with respect thereto (i) of the agreements set forth herein and entry of the Confirmation Order and (ii) that the rights against any of the WMI Entities being acquired are no more and no less than the Plan distributions to which the holder of the Allowed Claim(s) is entitled.

(b) None of the JPMC Entities shall, except as expressly provided herein, (i) file any additional claims or proofs of claim, whatsoever, with the Bankruptcy Court against any of the Debtors (including secured, unsecured, administrative, priority or substantial contribution claims); (ii) file any additional claims, commence or prosecute any pending or additional litigation, proceeding, action or matter or seek to recover damages or to seek any other type of relief against any of the WMI Releasees, the FDIC Releasees, the Creditors' Committee Releasees or the Settlement Note Releasees based upon, arising from or relating to the WMI Released Claims, the FDIC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, or any of the claims or causes of action asserted or which could have been asserted in the Actions or the Related Actions, or (iii) directly or indirectly aid any person in taking any action with respect to the WMI Released Claims, the FDIC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, that is prohibited by this Section 5.1(b).

(c) Each of the JPMC Entities shall (i) support, and otherwise take no action to impede or preclude, the entry of the Confirmation Order, the administration of the Debtors' chapter 11 cases, the approval of the Disclosure Statement, the entry of the Confirmation Order or the consummation, implementation and administration of the Plan provided that such Disclosure Statement, Confirmation Order and Plan (and its consummation, implementation and administration) are consistent with the terms herein, and (ii) in accordance with the provisions of Section 6.1 hereof, (A) not consent to or vote for any modification of the Plan unless such modification is proposed or supported by the Debtors and otherwise consistent with the terms herein and (B) not vote for or support any chapter 11 plan not proposed or supported by the Debtors.

(d) On the Effective Date, and without limiting the generality of the foregoing, each of the JPMC Entities shall be deemed to have covenanted not to sue the WMI Releasees, the FDIC Releasees, the Creditors' Committee Releasees or the Settlement Note Releasees with respect to the WMI Released Claims, the FDIC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, and to be permanently barred and enjoined from instituting, prosecuting, pursuing or litigating, in any manner, the WMI Released Claims against the WMI Releasees, the FDIC Released Claims against the FDIC Releasees, the Creditors' Committee Released Claims against the Creditors' Committee Releasees and the Settlement Note Released Claims against the Settlement Note Releasees.

(e) On the Effective Date, JPMC shall provide the WMI Entities, the FDIC Receiver and FDIC Corporate with a certificate to the effect that each of the representations and warranties set forth in Sections 4.1, 4.2 and 4.10 of this Agreement are true and correct as of the Effective Date.

Section 5.2. Covenants of the FDIC Parties. The FDIC Receiver, for itself and on behalf of the Receivership, and FDIC Corporate hereby covenant and agree as follows:

(a) The FDIC Receiver shall not sell, transfer, pledge, hypothecate or assign the FDIC Claim or any voting rights or participations or other interests therein during the period from the date hereof up to and including the Effective Date; provided, however, that, prior to the Effective Date, the FDIC Receiver may enter into one or more agreements to sell, transfer, pledge, hypothecate or assign the FDIC Claim or any voting rights or participations or other interests therein provided that the effectiveness thereof is contingent upon the occurrence of the Effective Date. To the extent that the FDIC Receiver sells, transfers, pledges, hypothecates or assigns the FDIC Claim or any voting rights or participations or other interests therein during the period from and after the Effective Date, the FDIC Receiver shall inform, in writing, any purchaser, agent or other entity with respect thereto (i) of the agreements set forth herein and entry of the Confirmation Order and (ii) that the rights against either of the Debtors being acquired are no more and no less than the Plan distributions to which the holder of the Allowed Claim is entitled.

(b) Neither the FDIC Receiver nor FDIC Corporate shall (i) file any additional claims or proofs of claim, whatsoever, with the Bankruptcy Court against any of the Debtors (including secured, unsecured, administrative, priority or substantial contribution claims); (ii) except as expressly provided herein, file any additional claims, commence or prosecute any pending or additional litigation, proceeding, action or matter or seek to recover damages or to seek any other type of relief against any of the WMI Releasees, the JPMC Releasees, the Creditors' Committee Releasees or the Settlement Note Releasees based upon, arising from or relating to the WMI Released Claims, the JPMC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, or any of the claims or causes of action asserted or which could have been asserted in the Actions or the Related

Actions, or (iii) directly or indirectly aid any person in taking any action with respect to the WMI Released Claims, the JPMC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, that is prohibited by this Section 5.2(b).

(c) Subject to the provisions of Section 6.1 hereof, the FDIC Parties shall support, and otherwise take no action to impede or preclude, the administration of the Debtors' ~~chapter~~[Chapter](#) 11 ~~cases~~[Cases](#), approval of the Disclosure Statement, the entry of the Confirmation Order or the consummation, implementation and administration of the Plan provided that such Disclosure Statement, Confirmation Order and Plan (and its consummation, implementation and administration) are consistent with the terms herein.

(d) On the Effective Date, and without limiting the generality of the foregoing, the FDIC Parties shall be deemed to have covenanted not to sue the WMI Releasees, the JPMC Releasees or the Settlement Note Releasees with respect to the WMI Released Claims, the JPMC Released Claims, the Creditors' Committee Released Claims or the Settlement Note Released Claims, respectively, and to be permanently barred and enjoined from instituting, prosecuting, pursuing or litigating, in any manner, the WMI Released Claims against the WMI Releasees, the JPMC Released Claims against the JPMC Releasees, the Creditors' Committee Released Claims against the Creditors' Committee Releasees and the Settlement Note Released Claims against the Settlement Note Releasees.

(e) From and after the date hereof, neither the FDIC Receiver nor FDIC Corporate shall take any action or cause any action to be taken to enforce, in furtherance of, or otherwise cause compliance with, any FDIC Order of Investigation ~~by any Person other than the Excluded Parties~~[with respect to the WMI Releasees](#).

(f) On the Effective Date, each of the FDIC Receiver and FDIC Corporate shall provide the WMI Entities and JPMC with a certificate to the effect that each of the representations and warranties set forth in Sections 4.5, 4.6 and 4.10 of this Agreement are true and correct as of the Effective Date.

Section 5.3. Covenants of the WMI Entities. Each of the WMI Entities, for themselves, hereby covenants and agrees as follows:

(a) The Debtors shall take, and shall cause their subsidiaries and Affiliates to take, all actions reasonably necessary to obtain, and shall take no action to impede or preclude, the approval of the Disclosure Statement and the entry of the Confirmation Order and the consummation, implementation and administration of the Plan provided that the Disclosure Statement and Plan (and its consummation, implementation and administration) are consistent with the terms herein, including, without limitation, that the Parties have acted in good faith in connection with the negotiation of the terms hereof. Such necessary actions shall include, but not be limited to, (A) filing on or prior to March 26, 2010, the Disclosure Statement, in a form

reasonably satisfactory to JPMC and the FDIC Parties, (B) filing the Plan, in a form reasonably satisfactory to JPMC and the FDIC Parties, and (C) prosecuting the approval of the Disclosure Statement and the Plan at hearings in accordance with applicable orders entered in the Debtors' ~~chapter~~Chapter 11 ~~eases~~Cases.

(b) Neither of the Debtors shall: (i) file any additional claims, commence or prosecute any pending or additional litigation, proceeding, action, or matter or seek to recover damages or to seek equitable relief against any of the JPMC Releasees or the FDIC Releasees arising from or relating to the JPMC Released Claims or the FDIC Released Claims, respectively, or (ii) directly or indirectly aid any Person in taking any act prohibited by clause (i) of this Section 5.3(b).

(c) On the Effective Date, and without limiting the generality of the foregoing, the Debtors, the Reorganized Debtors, and each of the Debtors' estates shall be deemed to have covenanted not to sue the JPMC Releasees and the FDIC Releasees with respect to the JPMC Released Claims and the FDIC Released Claims, respectively, and to be permanently barred and enjoined from instituting, prosecuting, pursuing or litigating in any manner the JPMC Released Claims against the JPMC Releasees and the FDIC Released Claims against the FDIC Releasees, respectively.

(d) On the Effective Date, each of the WMI Parties shall provide JPMC, the FDIC Receiver and FDIC Corporate with a certificate to the effect that each of the representations and warranties set forth in Sections 4.3, 4.4 and 4.10 of this Agreement are true and correct as of the Effective Date.

Section 5.4. Covenants of the Settlement Note Holders. Each of the Settlement Note Holders, for itself and on behalf of its Affiliates who are Settlement Note Holders, but not jointly with other Settlement Note Holders, hereby covenants and agrees as follows:

(a) None of the Settlement Note Holders shall sell, transfer, pledge, hypothecate or assign any of the Settlement Note Holdings or any voting rights or participations or other interests therein during the period from the date hereof up to and including the Effective Date; provided, however, that, prior to the Effective Date, the Settlement Note Holders may enter into one or more agreements to sell, transfer, pledge, hypothecate or assign the Settlement Note Holdings or any voting rights or participations or other interests therein to any third party (a "***Proposed Transferee***") provided that (i) any such Settlement Note Holder desirous of selling, transferring, pledging, hypothecating or assigning any Settlement Note Holdings shall inform, in writing, any purchaser, agent or other entity with respect thereto of the agreements set forth herein and (ii) such Proposed Transferee executes a letter agreement, in form and substance satisfactory to WMI and the transferring Settlement Note Holder, binding the Proposed Transferee to the terms and conditions of this Agreement to the same extent as the transferring Settlement Note Holders is bound herein.

(b) None of the Settlement Note Holders shall (i) file or assert any additional claims or proofs of claim, whatsoever, with the Bankruptcy Court or any other court or in the Receivership against any of the WMI Releasees, JPMC Releasees, Creditors' Committee Releasees and FDIC Releasees (including secured, unsecured, administrative, priority or substantial contribution claims); (ii) file any additional claims, commence or prosecute any pending or additional litigation, proceeding, action or matter or seek to recover damages or to seek any other type of relief against any of the WMI Releasees, the JPMC Releasees and the FDIC Releasees based upon, arising from or relating to any of the Released Claims, or (iii) directly or indirectly aid any person in taking any action with respect to the Released Claims that is prohibited by this Section 5.4(b).

(c) The Settlement Note Holders shall (i) support, and otherwise take no action to impede or preclude, administration of the Debtors' Chapter 11 Cases, the approval of the Disclosure Statement or the confirmation, implementation and administration of the Plan and (ii) in accordance with the provisions of Section 6.1 hereof, (A) not consent to or vote for any modification of the Plan unless such modification is agreed to by the Debtors, JPMC and the FDIC Parties and (B) not vote for or support any chapter 11 plan not proposed or supported by the Debtors, JPMC and the FDIC Parties.

(d) On and effective as of the Effective Date, and without limiting the generality of the foregoing, the Settlement Note Holders shall be deemed to have covenanted not to sue the WMI Releasees, the JPMC Releasees, the Creditors' Committee Releasees and the FDIC Releasees with respect to the respective claims released in accordance with Article III hereof and to be permanently barred and enjoined from instituting, prosecuting, pursuing or litigating, in any manner, the WMI Released Claims against the WMI Releasees, the JPMC Released Claims against the JPMC Releasees, the Creditors' Committee Released Claims against the Creditors' Committee Releasees and the FDIC Released Claims against the FDIC Releasees.

(e) On the Effective Date, each of the Settlement Note Holders shall provide the WMI Entities, JPMC, FDIC Receiver and FDIC Corporate with a certificate to the effect that each of the representations and warranties set forth in Sections 4.7, 4.8 and 4.10 of this Agreement are true and correct as of the Effective Date.

Section 5.5. Covenants of the Creditors' Committee. The Creditors' Committee hereby covenants and agrees as follows:

(a) The Creditors' Committee shall support, and otherwise take no action to impede or preclude, the approval of the Disclosure Statement or the confirmation, implementation and administration of the Plan in a manner consistent with this Agreement.

(b) On and effective as of the Effective Date, and without limiting the generality of the foregoing, subject to the terms of this Agreement, the

Creditors' Committee shall be deemed to have covenanted not to sue the WMI Releasees, the JPMC Releasees, the Settlement Note ~~Releases~~Releasees and the FDIC Releasees with respect to the respective claims released in accordance with Article III hereof and to be permanently barred and enjoined from instituting, prosecuting, pursuing or litigating, in any manner, the WMI Released Claims against the WMI Releasees, the JPMC Released Claims against the JPMC Releasees, the Settlement Note Released Claims against the Settlement Note Releasees and the FDIC Released Claims against the FDIC Releasees; provided, however, that nothing contained in this Agreement or the Plan shall prevent the Creditors' Committee from pursuing avoidance actions or claims objections on behalf of the Debtors or their successors with respect to WMI Releasees.

(c) On the Effective Date, the Creditors' Committee shall provide the WMI Entities, JPMC, FDIC Receiver and FDIC Corporate with a certificate to the effect that each of the representations and warranties set forth in Sections 4.9 and 4.10 of this Agreement are true and correct as of the Effective Date.

ARTICLE VI PLAN AND PLAN SUPPORT

Section 6.1. Plan Support Commitment. From and after the date hereof, and provided that (a) this Agreement has not been terminated and (b) neither the Disclosure Statement nor the Plan has been amended or modified in a manner adverse to JPMC, the FDIC Parties, the Creditors' Committee and the Settlement Note Holders, JPMC, the FDIC Parties, the Creditors' Committee and each of the Settlement Note Holders shall (i) take any and all actions reasonably requested by the Debtors to support (A) approval of the Disclosure Statement in accordance with section 1125 of the Bankruptcy Code and (B) confirmation of the Plan in accordance with section 1129 of the Bankruptcy Code, (ii) not consent to or vote for any modification of the Plan unless such modification is (Y) not adverse to JPMC, the FDIC Parties, the Creditors' Committee and the Settlement Note Holders and (Z) not inconsistent with the terms provided herein, as determined by JPMC, the FDIC Receiver, FDIC Corporate, the Creditors' Committee and the Settlement Note Holders, in their sole and absolute discretion, and (iii) not vote for or support any chapter 11 plan not proposed or supported by the Debtors, JPMC, the Creditors' Committee and the FDIC Parties.

Section 6.2. Solicitation Required in Connection with Plan. Notwithstanding anything contained in this Article VI or elsewhere in this Agreement to the contrary, this Agreement is not, and shall not be deemed to be, a solicitation of acceptances of the Plan. The Debtors, JPMC, the FDIC Receiver, FDIC Corporate, the Creditors' Committee and the Settlement Note Holders acknowledge and agree that the acceptance of the Plan will not be solicited until the Bankruptcy Court has approved the Disclosure Statement and related ballots, and such Disclosure Statement and ballots have been transmitted to parties entitled to receive same.

ARTICLE VII CLOSING AND TERMINATION

Section 7.1. Closing. The consummation of the transactions contemplated hereby shall take place at a closing to be held at 10:00 am., New York time, on the Effective Date at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, or such other date or place as is mutually agreed upon in writing by the Parties hereto.

Section 7.2. Conditions to Effective Date. Except with regard to the covenants of the JPMC Entities set forth in Section 5.1 hereof, the covenants of the FDIC Parties set forth in Section 5.2 hereof, the covenants of the WMI Entities set forth in Section 5.3 hereof ~~and~~, the covenants of the Settlement Note Holders set forth in Section 5.4 hereof ~~and the covenants of the Creditors' Committee set forth in Section 5.5 hereof~~, the terms and provisions of this Agreement are expressly subject to the following conditions unless waived, in writing, by the Parties:

- (a) the execution and delivery of this Agreement by each of the entities identified on the signature pages of this Agreement;
- (b) by May 21, 2010, FDIC Board approval of this Agreement and authorization for the consummation of the transactions contemplated herein;
- (c) the entry of the Confirmation Order by the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code, and such Confirmation Order shall have become a Final Order;
- (d) the effective date of the Plan; and
- (e) the disposition of the Texas Litigation in a manner provided herein.

Section 7.3. Termination of Agreement. This Agreement may be terminated by any Party, at their sole option and discretion, in the event that (a) either the FDIC Board or the Board of Directors of WMI shall have failed to approve this Agreement by May ~~31~~21, 2010, (b) any other Party hereto materially breaches any of the covenants set forth in Article V hereof or any of its other undertakings in this Agreement, or (c) the Confirmation Order is not entered by the Bankruptcy Court on or prior to August 31, 2010.

Section 7.4. Effect of Termination. Except as otherwise provided herein, in the event of the termination of this Agreement, this Agreement shall become null and void and be deemed of no force and effect, with no liability on the part of any Party hereto (or of any of its directors, officers, employees, consultants, contractors, agents, legal and financial advisors or other representatives), and no Party shall have any obligations to any other Party arising out of this Agreement, including, without

limitation, the contribution of all or any portion of the Plan Contribution Assets, the allowance, disallowance, expungement or withdrawal of the WMI Claims, the JPMC Claims or the FDIC Claim as provided herein, except for the obligations and or provisions set forth in Section 2.6(a), 2.7 and 2.14(b) hereof, which provisions are intended to survive the expiration or termination of this Agreement. Upon termination, neither this Agreement nor any terms or provisions set forth herein shall be admissible in any dispute, litigation, proceeding or controversy among the Parties and nothing contained herein shall constitute or be deemed to be an admission by any Party as to any matter, it being understood that the statements and resolutions reached herein were as a result of negotiations and compromises of the respective positions of the Parties. In addition, no Party shall seek to take discovery concerning this Agreement or admit this Agreement or any part of it into evidence against any other Party hereto.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Amendments. This Agreement may not be modified, amended or supplemented except by a written agreement executed by each Party to be affected, or whose constituency may be affected, by such modification, amendment or supplement.

Section 8.2. No Admission of Liability.

(a) The execution of this Agreement is not intended to be, nor shall it be construed as, an admission or evidence in any pending or subsequent suit, action, proceeding or dispute of any liability, wrongdoing, or obligation whatsoever (including as to the merits of any claim or defense) by any Party to any other Party or any other Person with respect to any of the matters addressed in this Agreement.

(b) None of this Agreement (including, without limitation, the Recitals and Exhibits hereto), the settlement or any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement: (i) is or may be deemed to be or may be used as an admission or evidence of the validity of any claim, or any allegation made in the Actions or of any wrongdoing or liability of any Party; (ii) is or may be deemed to be or may be used as an admission or evidence of any liability, fault or omission of any Party in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal; (iii) is or may be deemed to be or used as an admission or evidence against the Reorganized Debtors or the Debtors with respect to the validity of any of the Debtors' Claims, the JPMC Claims or the FDIC Claim; or (iv) is or may be deemed to be used as an admission or evidence of the jurisdiction of any court to adjudicate claims or matters relating to the Receivership. None of this Agreement, the settlement, or any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement shall be admissible in any proceeding for any purposes, except to enforce the terms of the Agreement, and except that any Party may file this Agreement in any action for any purpose, including, but not limited to, in order to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel,

release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense of counterclaim.

Section 8.3. Good Faith Negotiations. The Parties recognize and acknowledge that each of the Parties hereto is represented by counsel, and such Party received independent legal advice with respect to the advisability of entering into this Agreement. Each of the Parties acknowledges that the negotiations leading up to this Agreement were conducted regularly and at arm's length; this Agreement is made and executed by and of each Party's own free will; that each knows all of the relevant facts and his or its rights in connection therewith, and that he or it has not been improperly influenced or induced to make this settlement as a result of any act or action on the part of any party or employee, agent, attorney or representative of any party to this Agreement. The Parties further acknowledge that they entered into this Agreement because of their desire to avoid the further expense and inconvenience of litigation and other disputes, and to compromise permanently and settle the claims between the Parties settled by the execution of this Agreement. The Parties further acknowledge and agree that, in connection with the Chapter 11 Cases and the negotiation and consummation of this Agreement, the Settlement Note Holders, at all times, acted (a) in good faith and (b) solely for themselves and not on behalf of or in representation of any other creditors, bondholders or other parties in interest.

Section 8.4. Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any Person other than the Parties hereto, the Reorganized Debtors, the Releasees, and their respective successors and assigns, any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof; and the covenants, stipulations and agreements contained in this Agreement are and shall be for the sole and exclusive benefit of the Parties hereto, the Releasees and their respective successors and assigns.

Section 8.5. Governing Law; Retention of Jurisdiction; Service of Process. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, ~~without giving effect to any principles of conflicts of law~~ and applicable federal law. By its execution and delivery of this Agreement, each of the WMI Entities, JPMC, for itself and on behalf of the JPMC Entities, the FDIC Receiver, FDIC Corporate and the Settlement Note Holders hereby irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding between any or all of the foregoing with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, shall be brought in the Bankruptcy Court for that purpose only, and, by execution and delivery of this Agreement, each hereby irrevocably accepts and submits itself to the jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding, subject to a Party's rights pursuant to applicable law; provided, however, that, notwithstanding the foregoing, any disputes between the JPMC Entities and the FDIC Parties arising from the Purchase and Assumption Agreement shall be subject to the jurisdictional provisions set forth

therein or under applicable law. In the event any such action, suit or proceeding is commenced, the Parties hereby agree and consent that service of process may be made, and personal jurisdiction over any Party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the Party at the address of such Party set forth in Section ~~8.11~~8.10 hereof, unless another address has been designated by such Party in a notice given to the other Parties in accordance with Section ~~8.11~~8.10 hereof.

~~Section 8.6. — Fees and Expenses. If any Party brings an action against any other Party based upon a breach by the other Party of its obligations under this Agreement, the prevailing Party shall be entitled to all reasonable expenses incurred, including reasonable attorneys' fees and expenses.~~

Section 8.6. ~~Section 8.7.~~ Headings. The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the terms or provisions of this Agreement and shall not affect the interpretation hereof.

Section 8.7. ~~Section 8.8.~~ Binding Agreement Successors and Assigns; Joint and Several Obligations. This Agreement shall be binding only upon the execution and delivery of this Agreement by the Parties listed on the signature pages hereto, subject to (a) Bankruptcy Court approval as to the Debtors and (b) FDIC Board approval as to the FDIC Receiver and FDIC Corporate. This Agreement is intended to, and shall be deemed to, bind and inure to the benefit of the Parties and their respective successors, assigns, administrators, constituents and representatives. The agreements, representations, covenants and obligations of the Parties under this Agreement are several only and not joint in any respect and none shall be responsible for the performance or breach of this Agreement by another.

Section 8.8. ~~Section 8.9.~~ Entire Agreement. This Agreement, the Confirmation Order and the Plan constitute the full and entire agreement among the Parties with regard to the subject hereof, and supersedes all prior negotiations, representations, promises or warranties (oral or otherwise) made by any Party with respect to the subject matter hereof. No Party has entered into this Agreement in reliance on any other Party's prior representation, promise or warranty (oral or otherwise) except for those that may be expressly set forth in this Agreement.

Section 8.9. ~~Section 8.10.~~ Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall constitute one and the same Agreement. Copies of executed counterparts transmitted by telecopy or other electronic transmission service shall be considered original executed counterparts, provided receipt of copies of such counterparts is confirmed.

Section 8.10. ~~Section 8.11.~~ Notices. All demands, notices, requests, consents, and other communications hereunder shall be in writing and shall be deemed to

have been duly given (i), when personally delivered by courier service or messenger, (ii) upon actual receipt (as established by confirmation of receipt or otherwise) during normal business hours, otherwise on the first business day thereafter if transmitted electronically (by e-mail transmission), by facsimile or telecopier, with confirmation of receipt, or (iii) three (3) Business Days after being duly deposited in the mail, by certified or registered mail, postage prepaid-return receipt requested, to the following addresses, or such other addresses as may be furnished hereafter by notice in writing, to the following Parties:

If to the WMI Entities, to:

Washington Mutual, Inc.

925 Fourth Avenue, Suite 2500

Seattle, Washington 98101

Attention: General Counsel

Telecopy: (206) 432-8879

Email: chad.smith@wamuinc.net

with a copy given in like manner to:

Alvarez & Marsal LLP

100 Pine Street, Suite 900

San Francisco, California 94111

Attention: William Kosturos

Telecopy: (415) 837-1684

Email: bkosturos@alvarezandmarsal.com

- and -

Weil, Gotshal & Manges LLP

767 Fifth Avenue

New York, New York 10153

Attention: Brian S. Rosen, Esq.

Telecopy: (212) 310-8007

Email: brian.rosen@weil.com

If to the Creditors' Committee, to:

Akin, Gump, Strauss, Hauer & Feld LLP

One Bryant Park

New York, New York 10036

Attention: Fred Hodara, Esq.

Telecopy: (212) 872-1002

Email: fhodara@akingump.com

If to the JPMC Entities, to:

JPMorgan Chase Bank, N.A.

270 Park Avenue, 12th Floor

New York, New York 10017

Attention: Donald McCree

Telecopy: (212) 622-4827

Email: donald.mccree@jpmorgan.com

- and -

JPMorgan Chase Bank, N.A.

270 Park Avenue, ~~39~~38th Floor

New York, NY 10017

Attention: Travis Epes, Esq.

Telecopy: (212) 270-~~6509~~0058

Email: epes_travis.epes@jpmorgan.com

- and -

JPMorgan Chase Bank, N.A.

One Chase Manhattan Plaza, 26th Floor

New York, New York 10081

Attention: Lawrence N. Chanen, Esq.

Telecopy: (212) 552-4272

Email: lawrence.n.chanen@jpmorganchase.com

with a copy given in like manner to:

Sullivan & Cromwell LLP

1888 Century Park East

Los Angeles, California 90067

Attention: Hydee Feldstein, Esq.

Attention: Robert A. Sacks, Esq.

Telecopy: (310) 712-8800

Email: feldsteinh@sullcrom.com

Email: sacksr@sullcrom.com

- and -

Sullivan & Cromwell LLP

125 Broad Street

New York, New York 10004

Attention: Stacey Friedman, Esq.

Telecopy: (212) 291-9059

Email: friedmans@sullcrom.com

If to the FDIC Receiver, to:

Federal Deposit Insurance Corporation

3501 Fairfax Drive

Arlington, Virginia 22226

Attention: ~~Tom M. Reeves~~ [B. Amon James, Esq.](#)

[Attention: Kathryn Norcross](#), Esq.

Telecopy: (703) 562-~~2475~~[2631](#)

Email: ~~treeves~~bajames@fdic.gov

[Email: knorcross@fdic.gov](mailto:knorcross@fdic.gov)

with a copy given in like manner to:

DLA Piper LLP

1251 Avenue of the Americas

New York, New York 10020

Attention: Thomas R. Califano, Esq.

Telecopy: (212) 884-8690

Email: thomas.califano@dlapiper.com

If to FDIC Corporate, to:

Federal Deposit Insurance Corporation

3501 Fairfax Drive

Arlington, Virginia 22226

Attention: ~~D. Ashley Doherty~~ [Daniel Kurtenbach](#), Esq.

Telecopy: (703) 562-~~2477~~[2465](#)

Email: ~~adoherty~~dkurtenbach@fdic.gov

If to the Settlement Note Holders:

Fried, Frank, Harris

Shriver & Jacobson [LLP](#)

One New York Plaza

New York, New York 10004

Attention: Brad E. Scheler, Esq.

Telecopy: (212) 859-4000

Email: brad.eric.scheler@friedfrank.com

[Section 8.11.](#) ~~Section 8.12.~~ Further Assurances. Each of the Parties hereto agrees to execute and deliver, or to cause to be executed and delivered, all such instruments, and to take all such action as the other Parties may reasonably request in order to effectuate the intent and purposes of, and to carry out the terms of, this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

WASHINGTON MUTUAL, INC.,
as Debtor in Possession

By: _____
Name:
Title:

WMI INVESTMENT CORP.,
as Debtor in Possession

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By: _____
Name:
Title:

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for
Washington Mutual Bank

By: _____
Name: Robert Schoppe
Title: Receiver in Charge

FEDERAL DEPOSIT INSURANCE
CORPORATION, in Its Corporate
Capacity

By: _____
Name: Michael Bradfield
Title: General Counsel

APPALOOSA MANAGEMENT L.P., on
behalf of the following funds:
Appaloosa Investment L.P. I,
Palomino Fund Ltd., Thoroughbred
Fund L.P., and Thoroughbred Master
Ltd.

By: _____
Name:
Title:

~~APPALOOSA MANAGEMENT L.P.~~

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

CENTERBRIDGE PARTNERS, L.P., on
behalf of the following funds:
Centerbridge Credit Partners, L.P.
and Centerbridge Credit Partners
Master, L.P.

By: _____
Name:
Title:

OWL CREEK ASSET MANAGEMENT,
L.P.

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

~~AURELIUS CAPITAL MANAGEMENT, LP~~

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

~~THE OFFICIAL COMMITTEE~~
~~— OF UNSECURED CREDITORS~~

~~By: _____~~
~~_____ Name:~~
~~_____ Title: Authorized Representative~~

Exhibit B

Disclosure Statement Order

Exhibit C

Liquidation Analysis for Each Debtor

Pursuant to section 1129(a)(7) of the Bankruptcy Code (the “Best Interest Test”), each holder of an impaired Claim or Equity Interest must either (i) accept the Plan, or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such non-accepting holder would receive or retain if the Debtors were to be liquidated under chapter 7 of the Bankruptcy Code on the Effective Date. In determining whether the Best Interest Test has been met, ~~it~~the first step is ~~—necessary~~ to determine the dollar amount that would be generated from a hypothetical liquidation of the Debtors’ assets in chapter 7. The gross amount of Cash available would be the sum of the proceeds from the disposition of the Debtors’ assets and the Cash held by the Debtors at the commencement of their chapter 7 cases. Such amount then would be reduced by the costs and expenses of the liquidation. Prior to determining whether the Best Interest Test has been met for general unsecured creditors, further reductions would be required to eliminate Cash and asset liquidation proceeds that would be applied to Secured Claims and amounts necessary to satisfy chapter 11 Administrative Expense Claims, Priority Tax Claims, and Priority Non-Tax Claims that are senior to General Unsecured Claims, including any incremental Administrative Expense Claims that may result from the termination of the Debtors’ businesses and the liquidation of assets. Any remaining Cash would be available for Distribution to general unsecured creditors and Equity Interest holders in accordance with the distribution hierarchy established by section 726 of the Bankruptcy Code.

The ~~liquidation analysis~~Liquidation Analysis (the “Liquidation Analysis”) below reflects the estimated Cash proceeds, net of liquidation-related costs that would be available to the Debtors’ creditors if the Debtors were to be liquidated in a chapter 7 case. Underlying the Liquidation Analysis are a number of estimates and assumptions regarding liquidation proceeds that, although developed and considered reasonable by the Debtors, are inherently subject to significant business, economic, and competitive uncertainties and contingencies beyond the control of the Debtors. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE VALUES REFLECTED IN THE LIQUIDATION ANALYSES WOULD BE REALIZED IF THE DEBTORS WERE, IN FACT, TO UNDERGO SUCH A LIQUIDATION, AND ACTUAL RESULTS COULD VARY MATERIALLY FROM THOSE SHOWN HERE.

General Assumptions

For purposes of the Liquidation Analysis, the Debtors considered many factors and made certain assumptions. Those assumptions that the Debtors consider significant are described below.

1. **Conversion:** Each of the Chapter 11 ~~Cases (as defined in the Plan)~~cases are converted to ~~cases under~~ chapter 7 in 2010.
2. **Appointment of Chapter 7 Trustee:** A chapter 7 trustee is appointed to liquidate and wind down the Debtors’ estates.
3. **Chapter 7 Trustee:** The chapter 7 trustee would retain professionals (investment bankers, law firms, accounting firms, consultants, forensic experts, etc.) to assist in the liquidation and wind down of the Debtors’ estates. Although the chapter 7 trustee may retain certain of the Debtors’ professionals for discrete projects, it is assumed that the trustee’s primary investment banking, legal,

accounting, consulting and forensic support would be provided by new professionals, because most (if not all) of the Debtors' professionals will hold Claims in the chapter 7 cases.

4. Tax Refunds: For the purposes of this analysis, the Debtors have assumed receipt of future tax refunds to be December 31, 2010. It's the receipt of these refunds that provide the recovery to the Senior Subordinated Notes, the CCB Guarantees, and the PIERS. Therefore, under both the Chapter 11 plan and the Chapter 7 liquidation, interest on those [prepetition](#) claims accrues through December 31, 2010.

5. Start-Up Time: Given the complexity of the Chapter 11 ~~Cases~~[cases](#) and the underlying assets and Claims, it is anticipated that the chapter 7 trustee and any newly retained professionals will require at least 2 to 4 months to familiarize themselves with the Debtors' estates, the assets, the Claims and related matters before they begin marketing assets or litigating Claims.

6. Settlement Agreement: The conversion of the ~~Chapter 11 Cases~~ to ~~cases~~ [under](#) to chapter 7 are assumed to delay the consummation of the Global Settlement Agreement while the chapter 7 trustee and its professionals review the Debtors' major assets and the terms of the Global Settlement Agreement. For the purposes of this analysis, it is assumed that a chapter 7 trustee is able to consummate a Global Settlement Agreement on the same terms and conditions as the Debtors propose in its plans. However, the Debtors can provide no assurance that a chapter 7 trustee will be able to execute a Global Settlement Agreement on at least as favorable terms as the current agreement.

7. Duration of Liquidation: The Liquidation Analysis assumes that after the start-up period the actual liquidation of assets of the Debtors would continue for 2 to 4 months, during which time all of the Debtors' major assets would be sold and the Cash proceeds, net of liquidation-related costs, would be available for distribution to creditors.

Approximately 4,000 Claims have been filed in the Chapter 11 ~~Cases~~[cases](#). It is unlikely that a chapter 7 trustee could adequately reconcile all Claims during a 9 to 12 month period of assessment and asset recovery. Therefore, a large number of the Claims in these cases will be reconciled, valued, negotiated and settled, and/or litigated to conclusion only after the asset recovery work is mostly complete. The Debtors estimate that a chapter 7 trustee will require an additional 6 to 12 months to reconcile Claims and pursue litigations. It is possible that some distributions could be made prior to such period, but Claims would be subject to reserves or an estimation process.

It is not uncommon in large cases for liquidations to last many years while chapter 7 trustees prosecute difficult Claims-related issues and other types of litigation.

8. Consolidation for Administrative Purposes: This Liquidation Analysis assumes that the Debtors are consolidated for administrative purposes during the chapter 7 cases.

9. Presentation: For the purposes of this analysis, the two Debtors, WMI and WMI Investment Corp., are shown combined. WMI Investment Corp. is not anticipated to have any claims against it, and therefore, the value of WMI Investment Corp.'s assets will be assets of WMI.

(Dollars in Millions)	Chapter 11			Chapter 7			Notes
	Plan			Liquidation			
	Proceeds			Proceeds			
Cash	\$ 5,202			\$ 5,202			(a)
Reorganized WMI	140			50			(b)
Investment in Subsidiaries & Other	36			36			(c)
Future Income Taxes Receivable	2,255			2,255			(d)
Total Proceeds	7,633			7,543			
Bank Exp, Priority Claims & Convenience Class	(47)			(130)			(e)
Net Proceeds	\$ 7,586			\$ 7,414			
	Claim Amount	Recovery Amount	Recovery %	Claim Amount	Recovery Amount	Recovery %	
Unsecured Claims							
Senior Notes							
Prepetition ⁽¹⁾	\$ 4,132	\$ 4,132	100%	\$ 4,132	\$ 4,132	100%	(f)
Post-Petition ⁽²⁾	290	290	100%	348	348	100%	
Total	4,422	4,422	100%	4,480	4,480	100%	
Senior Subordinated Notes							
Prepetition	1,666	\$ 1,666	100%	1,666	\$ 1,666	100%	
Post-Petition ⁽²⁾	257	257	100%	257	257	100%	
Total	1,924	1,924	100%	1,924	1,924	100%	
General Unsecured Claims	375	\$ 375	100%	375	\$ 375	100%	(g)
CCB Guarantees							
Prepetition	70	\$ 70	100%	70	\$ 70	100%	
Post-petition ⁽²⁾	8	8	100%	8	8	100%	
Total	78	\$ 78	100%	78	\$ 78	100%	
PIERS							(h)
Prepetition	789	\$ 788	100%	789	\$ 557	71%	
Post-petition ⁽²⁾	159	-	0%	159	-	0%	
Total	949	\$ 788	83%	949	\$ 557	59%	
Subordinated Claims	-	-	N/A	-	-	N/A	(i)

Notes:

(1) Prepetition amount assumed to be paid at 07/31/10 under a Chapter 11 plan and 12/31/10 under a Chapter 7 liquidation.

(2) Post-petition interest (including OID) calculated to 12/31/10 for both the Chapter 11 plan and Chapter 7 liquidation.

Notes:

- (a) Cash is comprised of cash (including WMI's share of tax refunds already received) and restricted cash at WMI, WMI Investment Corp. and its subsidiaries, plus payments from JPMC for Visa Shares and intercompany loans pursuant to the Global Settlement Agreement [or Bilateral Settlement Agreement, as applicable](#), proceeds related to the American Savings Bank Goodwill Litigation and BOLI/COLI and Rabbi Trust assets in both ~~the hypothetical chapter 7 case and the Debtors' Chapter 11 Cases~~ [cases](#).
- (b) The Reorganized WMI includes WMI, WMI Investment Corp. and WMMRC, a wholly-owned subsidiary of WMI and a Hawaiian captive reinsurance company. WMI retained Blackstone Advisory Partners ("Blackstone") to prepare a valuation of the Reorganized WMI. Blackstone's conclusions regarding the value of Reorganized WMI are subject to the assumptions, limitations and qualifications set forth in the valuation analysis, annexed to this Disclosure Statement as

Exhibit D. As set forth therein, Blackstone's valuation work produced a range of \$120 million to \$160 million (on a pre-rights offering basis). For purposes of this analysis, we have included the midpoint of that range, \$140 million.

In chapter 7 cases, the Debtors believe they would be forced to sell WMMRC quickly which would substantially reduce the recovery associated with this asset.

- (c) Includes investments in wholly-owned subsidiaries Marion Insurance Company, a Vermont captive reinsurance company, WaMu 1031 Exchange, a 1031 exchange administrator, and Ahmanson Obligation Company. Other assets include the Assurant Trust account and a remaining note related to a venture capital investment, as described in the Disclosure Statement.
- (d) In both the ~~Debtors' Chapter~~chapter 11 ~~Cases~~ and ~~the hypothetical~~7 cases ~~under chapter 7,~~ WMI's portion of future tax refunds equates to 20% of the initial tax refund of approximately \$2.9 billion and an additional tax refund of \$2.8 billion less ~~\$1.0 billion~~1,125 million paid to the FDIC and the WMB bondholders, netting a total of ~~\$2,380 million, but there is no assurance that a settlement can be reached on the same terms as the Global Settlement Agreement~~2,255 million.
- (e) In the ~~hypothetical~~ chapter 7 cases, it is estimated that the delay resulting from the conversion of the cases and the knowledge transfer in changing professionals due to the complexity of issues involved would result in an increase of \$4 million in operational expenses, \$41 million of professional fees and the additional payment of a 0.5% fee on total distribution to creditors equal to \$38 million.
- (f) As discussed, conversion to chapter 7 cases will cause a delay in the resolution of the cases. For the purposes of this analysis, ~~post~~the payment of the pre-petition ~~interest has accrued~~claim is assumed to be delayed for an additional ~~five~~5 months. The actual amount of delay could be somewhat less or far greater than this amount.
- (g) In both the ~~Debtors' Chapter~~chapter 11 ~~Cases~~ and ~~the hypothetical~~7 cases ~~under chapter 7,~~ general unsecured claims will vary widely depending on the outcome of various claims objections. Current filed claims total in excess of \$55 billion excluding unliquidated claims. However, the Debtor's best estimate of eventually allowed claims in both cases will be approximately \$375 million.
- (h) PIERS claims consists of claims related to both preferred and common securities. All common securities are owned by WMI. Therefore recoveries in excess of \$765 million plus corresponding post-petition interest will be distributed back to the estate.
- (i) Subordinated Claims could arise from the outcome of various litigations and as such, no estimate of those claims have been included in the liquidation analysis under either a chapter 11 plan or a chapter 7 liquidation.

Exhibit D

Valuation Analysis

Enterprise Valuation of the Reorganized Debtors

To provide information to parties in interest regarding the possible range of values of their distributions under the Plan, the Debtors retained Blackstone Advisory Partners (“Blackstone”) as their financial advisor, with respect to, among other things (a) the estimated value of the Reorganized Debtors on a going-concern basis (“Reorganized WMI Value”) and (b) the estimated value of the Rights Offering.

In estimating the hypothetical range of the Reorganized WMI Value, Blackstone has, among other things:

- (a) reviewed certain recent historical financial information of the Debtors;
- (b) reviewed certain internal financial and operating data of the Debtors, which data was prepared and provided to Blackstone by the management of the Debtors and which relates to Reorganized WMI’s business, its prospects and its projected dividend stream, including Reorganized WMI’s Projections;
- (c) reviewed the Net Operating Loss ~~(“NOL”)~~ analysis prepared by the Debtors;
- (d) met with and discussed the Debtors’ operations and future prospects with the management team and their advisors, including the Debtors’ actuarial advisors and other constituents;
- (e) discussed relevant sections of the Internal Revenue Code with tax experts;
- (f) reviewed certain publicly available financial data, including regulatory filings, for industry public companies, specifically the primary insurers for Reorganized WMI, and recent precedent transactions in the insurance and reinsurance industry;
- (g) considered certain economic and industry information relevant to the operating business;
- (h) reviewed the Plan of Reorganization, Disclosure Statement, and other public filings; and
- (i) conducted such other analyses and investigations and considered such other information as Blackstone deemed appropriate under the circumstances.

Blackstone did not independently verify the Projections in connection with preparing estimates of Reorganized WMI Value, and no appraisals of the Debtors were sought or obtained in connection herewith. Blackstone assumed that the Projections prepared by the management of the Debtors were reasonably prepared in good faith and on a basis reflecting the Debtors’ most accurate currently available estimates and judgments as to the future operating and financial performance of the Reorganized Debtors. Blackstone’s estimated Reorganized WMI Value range assumes the Reorganized Debtors will achieve their Projections in all material respects. Moreover, Blackstone assumed and relied on the accuracy and completeness of all other financial and other information furnished to it by the Debtors.

Blackstone has employed generally accepted valuation techniques in estimating the value of Reorganized WMI. The following is a brief summary of certain financial analyses considered by Blackstone to arrive at its estimated range of Reorganized WMI Value.

(a) Discounted Cash Flow Analysis

The discounted cash flow (“DCF”) analysis is a forward-looking enterprise valuation methodology that estimates the value of an asset or business by calculating the present value of expected future cash flows to be generated by that asset or business. Under this methodology, projected future cash flows are discounted by the business’ weighted average cost of capital (the “Discount Rate”). The Discount Rate reflects the estimated blended rate of return that would be required by debt and equity investors to invest in the business based on its capital structure. The enterprise value of the firm is determined by calculating the present value of Reorganized WMI’s unlevered after-tax free cash flows based on the Projections. Although formulaic methods are used to derive the key estimates for the DCF methodology, their application and interpretation still involve complex considerations and judgments concerning potential variances in the projected financial and operating characteristics of the Reorganized WMI.

(b) Precedent Transactions Analysis

The precedent transactions analysis estimates value by examining public merger and acquisition transactions. The valuations paid in such acquisitions or implied in such mergers are analyzed as ratios of various financial results. These transaction multiples are calculated based on the purchase price (including any debt assumed) paid to acquire companies and/or portfolios that are comparable to the Reorganized WMI. Since precedent transaction analysis reflects aspects of value other than the intrinsic value, there are limitations as to its applicability in determining the enterprise value. Nonetheless, Blackstone reviewed recent M&A transactions involving both reinsurance and insurance companies.

(c) Comparable Company Analysis

The comparable company valuation analysis estimates the value of a company based on a relative comparison with other publicly traded companies with similar operating and financial characteristics. Under this methodology, the enterprise value for each selected public company was determined by examining the trading prices for the equity securities of such company in the public markets and adding the aggregate amount of outstanding net debt for such company (at book value) and minority interest. Those enterprise values are commonly expressed as multiples of various measures of operating statistics, including book value and tangible book value. Blackstone examined each of the selected public company’s operational performance, operating margins, profitability, leverage and business trends. Based on these analyses, financial multiples and ratios are calculated to apply to the Reorganized Debtors’ actual and projected operational performance.

Based on these Projections and subject to the review and analysis described herein and to the assumptions, limitations and qualifications described herein, and solely for purposes of the Plan, Blackstone estimates that the Reorganized WMI Value falls within a range from approximately \$120 to \$160 million. ~~The Debtors have not yet disclosed the material terms~~ Blackstone further estimates that the value of the Rights Offering. Upon disclosure of such terms, Blackstone will provide a valuation is between 105% and 115% of the Rights Offering.

Blackstone’s estimated range of Reorganized WMI Value does not constitute a recommendation to any holder of Allowed Claims as to how such person should vote or otherwise act with respect to the Plan. The estimated range of Reorganized WMI Value set forth herein does not

constitute an opinion as to fairness from a financial point of view to any person of the consideration to be received by such person under the Plan or of the terms and provisions of the Plan.

The value of an operating business is subject to numerous uncertainties and contingencies which are difficult to predict and will fluctuate with changes in factors affecting the financial condition and prospects of such a business. As a result, the estimated range of the Reorganized WMI Value set forth herein is not necessarily indicative of actual outcomes, which may be significantly more or less favorable than those set forth herein. ~~The estimated range of Reorganized WMI Value may materially change by the availability of the Reorganized WMI NOLs, which may be impacted by the structure of the rights offering, and may affect Reorganized WMI's ability to shield taxable income at WMMRC.~~ Neither the Reorganized Debtors, Blackstone, nor any other person assumes responsibility for any differences between the Reorganized WMI Value range and such actual outcomes.

The summary set forth above does not purport to be a complete description of the analyses performed by Blackstone. The preparation of a valuation estimate involves various determinations as to the most appropriate and relevant methods of financial analysis and the application of these methods in the particular circumstances and, therefore, such an estimate is not readily suitable to summary description. In performing these analyses, Blackstone and the reorganized Debtors made numerous assumptions with respect to industry performance, tax, business and economic conditions and other matters. The analyses performed by Blackstone are not necessarily indicative of actual values or future results, which may be significantly more or less favorable than suggested by such analyses.