EXHIBIT A
(Mutual Holding Company)

SECURITIES PURCHASE AGREEMENT

STANDARD TERMS

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SECURITIES PURCHASE AGREEMENT – STANDARD TERMS

Recitals:

WHEREAS, the United States Department of the Treasury (the "*Investor*") may from time to time agree to purchase senior subordinated debentures and warrants from eligible financial institutions which elect to participate in the Troubled Asset Relief Program Capital Purchase Program ("*CPP*");

WHEREAS, an eligible financial institution electing to participate in the CPP and issue securities to the Investor (referred to herein as the "*Company*") shall enter into a letter agreement (the "*Letter Agreement*") with the Investor which incorporates this Securities Purchase Agreement – Standard Terms;

WHEREAS, the Company agrees to expand the flow of credit to U.S. consumers and businesses on competitive terms to promote the sustained growth and vitality of the U.S. economy;

WHEREAS, the Company agrees to work diligently, under existing programs, to modify the terms of residential mortgages as appropriate to strengthen the health of the U.S. housing market;

WHEREAS, the Company intends to issue in a private placement senior subordinated debentures ("*Senior Subordinated Securities*"), in an amount as set forth on Schedule A to the Letter Agreement and a warrant to purchase the number of additional Senior Subordinated Securities ("*Warrant Securities*") set forth on Schedule A to the Letter Agreement (the "*Warrant*" and, together with the Senior Subordinated Securities, the "*Purchased Securities*") and the Investor intends to purchase (the "*Purchase*") from the Company the Purchased Securities; and

WHEREAS, the Purchase will be governed by this Securities Purchase Agreement – Standard Terms and the Letter Agreement, including the schedules thereto (the "*Schedules*"), specifying additional terms of the Purchase. This Securities Purchase Agreement – Standard Terms (including the Annexes hereto) and the Letter Agreement (including the Schedules thereto) are together referred to as this "*Agreement*". All references in this Securities Purchase Agreement – Standard Terms to "*Schedules*" are to the Schedules attached to the Letter Agreement. This Agreement, the Senior Subordinated Securities, the Warrant and the Warrant Securities, and all other instruments, documents and agreements executed by or on behalf of the Company and delivered concurrently herewith or at any time hereafter to or for the benefit of any holder of any Purchased Security in connection with the transactions contemplated by this Agreement, all as amended, supplemented or modified from time to time shall be referred to as the "*Transaction Documents*." The Senior Subordinated Securities and the Warrant Securities shall be referred to as the "*Senior Notes*" and a holder of the Senior Notes shall be referred to as the "*Holder*".

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows:

Article I
Purchase; Closing

1.1 Purchase. On the terms and subject to the conditions set forth in this Agreement, the Company agrees to sell to the Investor, and the Investor agrees to purchase from the Company, at the Closing Date (as hereinafter defined), the Senior Subordinated Securities in the form of note attached hereto as Annex C and the Warrant in the form attached hereto as Annex E, appropriately completed in conformity herewith and duly and validly issued, authorized and executed by the Company, in the aggregate principal amount set forth on Schedule A for the purchase price set forth on Schedule A (the "*Purchase Price*"). The Senior Subordinated Securities, including the principal and interest, shall be unsecured and subordinate and junior in right of payment to Senior Indebtedness to the extent set forth in Article VI hereof.

1.2 Closing.

(a) On the terms and subject to the conditions set forth in this Agreement, the closing of the Purchase (the "*Closing*") will take place at the location specified in Schedule A, at the time and on the date set forth in Schedule A or as soon as practicable thereafter, or at such other place, time and date as shall be agreed between the Company and the Investor. The time and date on which the Closing occurs is referred to in this Agreement as the "*Closing Date*".

(b) Subject to the fulfillment or waiver of the conditions to the Closing in this Section 1.2, at the Closing the Company will deliver the Senior Subordinated Securities and the Warrant, in each case as evidenced by one or more debentures dated the Closing Date and bearing appropriate legends as hereinafter provided for, against payment by the Investor of the Purchase Price by wire transfer of immediately available United States funds to such bank account designated by the Company on Schedule A.

(c) The respective obligations of each of the Investor and the Company to consummate the Purchase are subject to the fulfillment (or written waiver by the Investor and the Company, as applicable) prior to the Closing of the conditions that (i) any approvals or authorizations of all United States and other governmental, regulatory or judicial authorities (collectively, "*Governmental Entities*") required for the consummation of the Purchase shall have been obtained or made in form and substance reasonably satisfactory to each party and shall be in full force and effect and all waiting periods required by United States and other applicable law, if any, shall have expired and (ii) no provision of any applicable United States or other law and no judgment, injunction, order or decree of any Governmental Entity shall prohibit the purchase and sale of the Purchased Securities as contemplated by this Agreement.

(d) The obligation of the Investor to consummate the Purchase is also subject to the fulfillment (or written waiver by the Investor) at or prior to the Closing of each of the following conditions:

(i) (A) the representations and warranties of the Company set forth in (x) Section 2.2(g) of this Agreement shall be true and correct in all respects as though made on and as of the Closing Date, (y) Sections 2.2(a) through (f) shall be true and correct in all material respects as though made on and as of the Closing Date (other than

representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct in all material respects as of such other date) and (z) Sections 2.2(h) through (w) (disregarding all qualifications or limitations set forth in such representations and warranties as to "materiality", "Company Material Adverse Effect" and words of similar import) shall be true and correct as though made on and as of the Closing Date (other than representations and warranties that by their terms speak as of another date, which representations and warranties shall be true and correct as of such other date), except to the extent that the failure of such representations and warranties referred to in this Section 1.2(d)(i)(A)(z) to be so true and correct, individually or in the aggregate, does not have and would not reasonably be expected to have a Company Material Adverse Effect and (B) the Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing;

(ii) the Investor shall have received a certificate signed on behalf of the Company by a Senior Executive Officer certifying to the effect that the conditions set forth in Section 1.2(d)(i) have been satisfied;

(iii) the Company shall have provided, as filed with the Secretary of State of its jurisdiction of organization or other applicable Governmental Entity, its certificate or articles of incorporation, articles of association, or similar organizational document ("*Charter*") and its bylaws as in effect on the Closing Date;

(iv) (A) the Company shall have effected such changes to its compensation, bonus, incentive and other benefit plans, arrangements and agreements (including golden parachute, severance and employment agreements) (collectively, "*Benefit Plans*") with respect to its Senior Executive Officers (and to the extent necessary for such changes to be legally enforceable, each of its Senior Executive Officers shall have duly consented in writing to such changes), as may be necessary, during the period that the Investor owns any debt or equity securities (including the Senior Subordinated Securities) of the Company acquired pursuant to this Agreement or the Warrant, in order to comply with Section 111(b) of the Emergency Economic Stabilization Act of 2008 ("*EESA*"), as amended, and as implemented by guidance or regulation thereunder that has been issued and is in effect as of the Closing Date, and (B) the Investor shall have received a certificate signed on behalf of the Company by a Senior Executive Officer certifying to the effect that the condition set forth in Section 1.2(d)(iv)(A) has been satisfied;

(v) each of the Company's Senior Executive Officers shall have delivered to the Investor a written waiver in the form attached hereto as Annex A releasing the Investor from any claims that such Senior Executive Officers may otherwise have as a result of the issuance, on or prior to the Closing Date, of any regulations which require the modification of, and the agreement of the Company hereunder to modify, the terms of any Benefit Plans with respect to its Senior Executive Officers to eliminate any provisions of such Benefit Plans that would not be in compliance with the requirements of Section 111(b) of the EESA, as amended, and as implemented by guidance or regulation thereunder that has been issued and is in effect as of the Closing Date;

(vi) the Company shall have delivered to the Investor a written opinion from counsel to the Company (which may be internal counsel), addressed to the Investor and dated as of the Closing Date, in substantially the form attached hereto as Annex B;

(vii) the Company shall have delivered physical certificated debentures in proper form evidencing the Senior Notes to Investor or its designee(s) in the form attached hereto as Annex C and Annex D; and

(viii) the Company shall have duly executed the Warrant in substantially the form attached hereto as Annex E and delivered such executed Warrant to the Investor or its designee(s).

1.3 Interpretation. When a reference is made in this Agreement to "Recitals," "Articles," "Sections," or "Annexes" such reference shall be to a Recital, Article or Section of, or Annex to, this Securities Purchase Agreement – Standard Terms, and a reference to "Schedules" shall be to a Schedule to the Letter Agreement, in each case, unless otherwise indicated. The terms defined in the singular have a comparable meaning when used in the plural, and vice versa. References to "herein", "hereof", "hereunder" and the like refer to this Agreement as a whole and not to any particular section or provision, unless the context requires otherwise. The table of contents and headings contained in this Agreement are for reference purposes only and are not part of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed followed by the words "without limitation." No rule of construction against the draftsperson shall be applied in connection with the interpretation or enforcement of this Agreement, as this Agreement is the product of negotiation between sophisticated parties advised by counsel. All references to "$" or "dollars" mean the lawful currency of the United States of America. Except as expressly stated in this Agreement, all references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute, rule or regulation include any successor to the section. References to a "*business day*" shall mean any day except Saturday, Sunday and any day on which banking institutions in the State of New York generally are authorized or required by law or other governmental actions to close.

Article II
Representations and Warranties

2.1 Disclosure.

(a) On or prior to the Signing Date, the Company shall have delivered to the Investor a schedule ("*Disclosure Schedule*") setting forth, among other things, items the disclosure of which is necessary or appropriate either in response to an express disclosure requirement contained in a provision hereof or as an exception to one or more representations or warranties contained in Section 2.2.

(b) "*Company Material Adverse Effect*" means a material adverse effect on (i) the business, results of operation or financial condition of the Company and any of its subsidiaries

taken as a whole; *provided*, *however*, that Company Material Adverse Effect shall not be deemed to include the effects of (A) changes after the date of the Letter Agreement (the "*Signing Date*") in general business, economic or market conditions (including changes generally in prevailing interest rates, credit availability and liquidity, currency exchange rates and price levels or trading volumes in the United States or foreign securities or credit markets), or any outbreak or escalation of hostilities, declared or undeclared acts of war or terrorism, in each case generally affecting the industries in which the Company and any subsidiaries operate, (B) changes or proposed changes after the Signing Date in generally accepted accounting principles in the United States ("*GAAP*") or regulatory accounting requirements, or authoritative interpretations thereof, (C) changes or proposed changes after the Signing Date in securities, banking and other laws of general applicability or related policies or interpretations of Governmental Entities, or (D) changes in the CPP (in the case of each of these clauses (A), (B), (C), and (D), other than changes or occurrences to the extent that such changes or occurrences have or would reasonably be expected to have a materially disproportionate adverse effect on the Company and its consolidated subsidiaries taken as a whole relative to comparable U.S. banking or financial services organizations); or (ii) the ability of the Company to consummate the Purchase and other transactions contemplated by this Agreement and the Warrant and perform its obligations hereunder or thereunder on a timely basis.

(c) "*Previously Disclosed*" means information set forth on the Disclosure Schedule, provided, however, that disclosure in any section of such Disclosure Schedule shall apply only to the indicated section of this Agreement except to the extent that it is reasonably apparent from the face of such disclosure that such disclosure is relevant to another section of this Agreement.

2.2 Representations and Warranties of the Company. Except as Previously Disclosed, the Company represents and warrants to the Investor that as of the Signing Date and as of the Closing Date (or such other date specified herein):

(a) Organization, Authority and Significant Subsidiaries. The Company has been duly formed and is validly existing and in good standing as an organization mutual in form of the type described in Schedule A under the laws of its jurisdiction of organization, with the necessary power and authority to own its properties and conduct its business in all material respects as currently conducted, and has not, individually or in the aggregate, had and would not reasonably be expected to have a Company Material Adverse Effect, has been duly qualified as a foreign entity for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification; each subsidiary of the Company (each a "*Company Subsidiary*" and, collectively, the "*Company Subsidiaries*") that would be considered a "significant subsidiary" within the meaning of Rule 1-02(w) of Regulation S-X under the Securities Act of 1933 (the "*Securities Act*") (each such Company Subsidiary, a "*Significant Subsidiary*"), has been duly formed and is validly existing in good standing under the laws of its jurisdiction of organization. No Company Subsidiary is a Bank Holding Company or a Savings and Loan Holding Company. The Charter and bylaws of the Company, copies of which have been provided to the Investor prior to the Signing Date, are true, complete and correct copies of such documents as in full force and effect as of the Signing Date.

(b) Capitalization. The authorized and outstanding mutual capital certificates, other capital instruments authorized by law, non-withdrawable accounts and other mutual interests issued by the Company, excluding the contract rights of Members (collectively, the "*Mutual Capital Interests*"), any authorized or outstanding securities convertible into, or exercisable or exchangeable for, Mutual Capital Interests and any authorized or outstanding trust preferred securities issued by the Company or any Affiliate or subsidiary of the Company ("*Trust Preferred Securities*"), as of the most recent fiscal month-end preceding the Signing Date (the "*Capitalization Date*") are set forth on Schedule B. The outstanding Mutual Capital Interests in the Company have been duly authorized and are validly issued and outstanding, fully paid and nonassessable, and subject to no preemptive rights (and were not issued in violation of any preemptive rights). As of the Signing Date, the Company does not have outstanding any securities or other obligations providing the holder the right to acquire its Mutual Capital Interests that are not reserved for issuance as specified on Schedule B, and the Company has not made any other commitment to authorize, issue or sell any Mutual Capital Interests that is not specified on Schedule B. Since the Capitalization Date, the Company has not issued any Mutual Capital Interests, other than (i) Mutual Capital Interests issued upon the exercise of options or delivered under other equity-based awards or other convertible securities or warrants which were issued and outstanding on the Capitalization Date and disclosed on Schedule B and (ii) as disclosed on Schedule B. Each holder of 5% or more of the Mutual Capital Interests in the Company and such holder's primary address are set forth on Schedule B. "*Members*" means persons having ownership rights in the Company by virtue of their ownership of a deposit at a subsidiary of the Company or their ownership of an insurance policy of the Company. The amount of the (A) Additional Dividends and (B) total dividends declared and paid in each case for the year ended December 31, 2008 are set forth on Schedule B.

(c) Senior Subordinated Securities. This Agreement has been duly authorized, executed and delivered and is, and the Senior Notes, when executed and delivered, will be, the legal, valid and binding obligations of the Company, each enforceable in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, receivership, conservatorship, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity ("*Bankruptcy Exceptions*").

(d) The Warrant and Warrant Securities. The Warrant has been duly authorized and, when executed and delivered as contemplated hereby, will be the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to Bankruptcy Exceptions. The Warrant Securities, when executed and delivered, will have the same priority as the Senior Subordinated Securities.

(e) Authorization, Enforceability.

(i) The Company has the power and authority to execute and deliver this Agreement and the Warrant and to carry out its obligations hereunder and thereunder (which includes the issuance of the Senior Notes). The execution, delivery and performance by the Company of this Agreement and the Warrant and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all

necessary action on the part of the Company and its Members and other holders of Mutual Capital Interests (collectively, "*Mutual Interest Holders*"), and no further approval or authorization is required on the part of the Company.

(ii) The execution, delivery and performance by the Company of this Agreement and the Warrant and the consummation of the transactions contemplated hereby and thereby and compliance by the Company with the provisions hereof and thereof, will not (A) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, or result in a right of termination or acceleration of, or result in the creation of, any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any Company Subsidiary under any of the terms, conditions or provisions of (i) its organizational documents or (ii) any note, debenture, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Company or any Company Subsidiary is a party or by which it or any Company Subsidiary may be bound, or to which the Company or any Company Subsidiary or any of the properties or assets of the Company or any Company Subsidiary may be subject, or (B) subject to compliance with the statutes and regulations referred to in the next paragraph, violate any statute, rule or regulation or any judgment, ruling, order, writ, injunction or decree applicable to the Company or any Company Subsidiary or any of their respective properties or assets except, in the case of clauses (A)(ii) and (B), for those occurrences that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(iii) Other than the filings with the applicable Governmental Entity, such filings and approvals as are required to be made or obtained under any state "blue sky" laws, if applicable, and such as have been made or obtained, no notice to, filing with, exemption or review by, or authorization, consent or approval of, any Governmental Entity is required to be made or obtained by the Company in connection with the consummation by the Company of the Purchase except for any such notices, filings, exemptions, reviews, authorizations, consents and approvals the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(f) Charter; Bylaws; Agreements Among Mutual Interest Holders. The Company has taken all necessary action to ensure that the transactions contemplated by this Agreement and the Warrant and the consummation of the transactions contemplated hereby and thereby, including the exercise of the Warrant in accordance with its terms, are not prohibited by the Company's Charter and bylaws or other organizational documents, or any operating agreement or agreement among the Mutual Interest Holders of the Company, and has obtained all consents required by its Charter, bylaws or other organizational documents or by such operating agreement or agreements among Mutual Interest Holders of the Company, or has amended the Charter and bylaws, as is necessary, in order to consummate the transactions contemplated by this Agreement and the Warrant.

(g) No Company Material Adverse Effect. Since the last day of the last completed fiscal period for which financial statements are included in the Company Financial Statements (as defined below), no fact, circumstance, event, change, occurrence, condition or development has occurred that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect.

(h) Company Financial Statements. The Company has Previously Disclosed each of the consolidated financial statements of the Company and its consolidated subsidiaries for each of the last three (3) completed fiscal years of the Company (which shall be audited to the extent audited financial statements are available prior to the Signing Date) and each completed quarterly period since the last completed fiscal year (collectively the "*Company Financial Statements*"). The Company Financial Statements present fairly in all material respects the consolidated financial position of the Company and its consolidated subsidiaries as of the dates indicated therein and the consolidated results of their operations for the periods specified therein; and except as stated therein, such financial statements (A) were prepared in conformity with GAAP applied on a consistent basis (except as may be noted therein) and (B) have been prepared from, and are in accordance with, the books and records of the Company and the Company Subsidiaries.

(i) Reports.

(i) Since December 31, 2006, the Company and each Company Subsidiary has filed all reports, registrations, documents, filings, statements and submissions, together with any amendments thereto, that it was required to file with any Governmental Entity (the foregoing, collectively, the "*Company Reports*") and has paid all fees and assessments due and payable in connection therewith, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. As of their respective dates of filing, the Company Reports complied in all material respects with all statutes and applicable rules and regulations of the applicable Governmental Entities.

(ii) The records, systems, controls, data and information of the Company and the Company Subsidiaries are recorded, stored, maintained and operated under means (including any electronic, mechanical or photographic process, whether computerized or not) that are under the exclusive ownership and direct control of the Company or the Company Subsidiaries or their accountants (including all means of access thereto and therefrom), except for any non-exclusive ownership and non-direct control that would not reasonably be expected to have a material adverse effect on the system of internal accounting controls described below in this Section 2.2(i)(ii). The Company (A) has implemented and maintains adequate disclosure controls and procedures to ensure that material information relating to the Company, including the consolidated Company Subsidiaries, is made known to the chief executive officer and the chief financial officer of the Company by others within those entities, and (B) has disclosed, based on its most recent evaluation prior to the Signing Date, to the Company's outside auditors and the audit committee of the Board of Directors of the Company (the "*Board of Directors*") (x) any significant deficiencies and material weaknesses in the design or operation of internal controls that are reasonably likely to adversely affect the Company's ability to

record, process, summarize and report financial information and (y) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

(j) No Undisclosed Liabilities. Neither the Company nor any of the Company Subsidiaries has any liabilities or obligations of any nature (absolute, accrued, contingent or otherwise) which are not properly reflected or reserved against in the Company Financial Statements to the extent required to be so reflected or reserved against in accordance with GAAP, except for (A) liabilities that have arisen since the last fiscal year end in the ordinary and usual course of business and consistent with past practice and (B) liabilities that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(k) Offering of Securities. Neither the Company nor any person acting on its behalf has taken any action (including any offering of any securities of the Company under circumstances which would require the integration of such offering with the offering of any of the Purchased Securities or the Warrant Securities under the Securities Act, and the rules and regulations of the Securities and Exchange Commission (the "*SEC*") promulgated thereunder), which might subject the offering, issuance or sale of any of the Purchased Securities or the Warrant Securities to Investor pursuant to this Agreement to the registration requirements of the Securities Act.

(l) Litigation and Other Proceedings. Except (i) as set forth on Schedule C or (ii) as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, there is no (A) pending or, to the knowledge of the Company, threatened, claim, action, suit, investigation or proceeding, against the Company or any Company Subsidiary or to which any of their assets are subject nor is the Company or any Company Subsidiary subject to any order, judgment or decree or (B) unresolved violation, criticism or exception by any Governmental Entity with respect to any report or relating to any examinations or inspections of the Company or any Company Subsidiaries.

(m) Compliance with Laws. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company and the Company Subsidiaries have all permits, licenses, franchises, authorizations, orders and approvals of, and have made all filings, applications and registrations with, Governmental Entities that are required in order to permit them to own or lease their properties and assets and to carry on their business as presently conducted and that are material to the business of the Company or such Company Subsidiary. Except as set forth on Schedule D, the Company and the Company Subsidiaries have complied in all respects and are not in default or violation of, and none of them is, to the knowledge of the Company, under investigation with respect to or, to the knowledge of the Company, have been threatened to be charged with or given notice of any violation of, any applicable domestic (federal, state or local) or foreign law, statute, ordinance, license, rule, regulation, policy or guideline, order, demand, writ, injunction, decree or judgment of any Governmental Entity, other than such noncompliance, defaults or violations that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. Except for statutory or regulatory restrictions of general application or as set forth on Schedule D, no Governmental Entity has placed any restriction on the business or properties of

the Company or any Company Subsidiary that would, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(n) Employee Benefit Matters. Except as would not reasonably be expected to have, either individually or in the aggregate, a Company Material Adverse Effect: (A) each "employee benefit plan" (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("*ERISA*")) providing benefits to any current or former employee, officer or director of the Company or any member of its "*Controlled Group*" (defined as any organization which is a member of a controlled group of corporations within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended (the "*Code*")) that is sponsored, maintained or contributed to by the Company or any member of its Controlled Group and for which the Company or any member of its Controlled Group would have any liability, whether actual or contingent (each, a "*Plan*") has been maintained in compliance with its terms and with the requirements of all applicable statutes, rules and regulations, including ERISA and the Code; (B) with respect to each Plan subject to Title IV of ERISA (including, for purposes of this clause (B), any plan subject to Title IV of ERISA that the Company or any member of its Controlled Group previously maintained or contributed to in the six years prior to the Signing Date), (1) no "reportable event" (within the meaning of Section 4043(c) of ERISA), other than a reportable event for which the notice period referred to in Section 4043(c) of ERISA has been waived, has occurred in the three years prior to the Signing Date or is reasonably expected to occur, (2) no "accumulated funding deficiency" (within the meaning of Section 302 of ERISA or Section 412 of the Code), whether or not waived, has occurred in the three years prior to the Signing Date or is reasonably expected to occur, (3) the fair market value of the assets under each Plan exceeds the present value of all benefits accrued under such Plan (determined based on the assumptions used to fund such Plan) and (4) neither the Company nor any member of its Controlled Group has incurred in the six years prior to the Signing Date, or reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the PBGC in the ordinary course and without default) in respect of a Plan (including any Plan that is a "multiemployer plan", within the meaning of Section 4001(c)(3) of ERISA); and (C) each Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service with respect to its qualified status that has not been revoked, or such a determination letter has been timely applied for but not received by the Signing Date, and nothing has occurred, whether by action or by failure to act, which could reasonably be expected to cause the loss, revocation or denial of such qualified status or favorable determination letter.

(o) Taxes. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company and the Company Subsidiaries have filed all federal, state, local and foreign Tax returns required to be filed through the Signing Date, subject to permitted extensions, and have paid all Taxes due and owing (whether or not shown on any Tax Return), and (ii) no Tax deficiency has been determined adversely to the Company or any of the Company Subsidiaries, nor does the Company have any knowledge of any Tax deficiencies. "*Tax*" or "*Taxes*" means any federal, state, local or foreign income, gross receipts, property, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, transfer or excise tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, imposed by any Governmental Entity.

(p) Properties and Leases. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company and the Company Subsidiaries have good and marketable title to all real properties and all other properties and assets owned by them, in each case free from liens, encumbrances, claims and defects that would affect the value thereof or interfere with the use made or to be made thereof by them. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company and the Company Subsidiaries hold all leased real or personal property under valid and enforceable leases with no exceptions that would interfere with the use made or to be made thereof by them.

(q) Environmental Liability. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect:

(i) there is no legal, administrative, or other proceeding, claim or action of any nature seeking to impose, or that would reasonably be expected to result in the imposition of, on the Company or any Company Subsidiary, any liability relating to the release of hazardous substances as defined under any local, state or federal environmental statute, regulation or ordinance, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, pending or, to the Company's knowledge, threatened against the Company or any Company Subsidiary;

(ii) to the Company's knowledge, there is no reasonable basis for any such proceeding, claim or action; and

(iii) neither the Company nor any Company Subsidiary is subject to any agreement, order, judgment or decree by or with any court, Governmental Entity or third party imposing any such environmental liability.

(r) Risk Management Instruments. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, all derivative instruments, including, swaps, caps, floors and option agreements, whether entered into for the Company's own account, or for the account of one or more of the Company Subsidiaries or its or their customers, were entered into (i) only in the ordinary course of business, (ii) in accordance with prudent practices and in all material respects in compliance with all applicable laws, rules, regulations and regulatory policies and (iii) with counterparties believed to be financially responsible at the time; and each of such instruments constitutes the valid and legally binding obligation of the Company or one of the Company Subsidiaries, enforceable in accordance with its terms, except as may be limited by the Bankruptcy Exceptions. Neither the Company or the Company Subsidiaries, nor, to the knowledge of the Company, any other party thereto, is in breach of any of its obligations under any such agreement or arrangement other than such breaches that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(s) Agreements with Regulatory Agencies. Except as set forth on Schedule E, neither the Company nor any Company Subsidiary is subject to any material cease-and-desist or other similar order or enforcement action issued by, or is a party to any material written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter

or similar undertaking to, or is subject to any capital directive by, or since December 31, 2006, has adopted any board resolutions at the request of, any Governmental Entity (other than the Appropriate Federal Banking Agencies with jurisdiction over the Company and the Company Subsidiaries) that currently restricts in any material respect the conduct of its business or that in any material manner relates to its capital adequacy, its liquidity and funding policies and practices, its ability to pay dividends, its credit, risk management or compliance policies or procedures, its internal controls, its management or its operations or business (each item in this sentence, a "*Regulatory Agreement*"), nor has the Company or any Company Subsidiary been advised since December 31, 2006 by any such Governmental Entity that it is considering issuing, initiating, ordering, or requesting any such Regulatory Agreement. The Company and each Company Subsidiary are in compliance in all material respects with each Regulatory Agreement to which it is party or subject, and neither the Company nor any Company Subsidiary has received any notice from any Governmental Entity indicating that either the Company or any Company Subsidiary is not in compliance in all material respects with any such Regulatory Agreement. "*Appropriate Federal Banking Agency*" means the "appropriate Federal banking agency" with respect to the Company or such Company Subsidiaries, as applicable, as defined in Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. Section 1813(q)).

(t) Insurance. The Company and the Company Subsidiaries are insured with reputable insurers against such risks and in such amounts as the management of the Company reasonably has determined to be prudent and consistent with industry practice. The Company and the Company Subsidiaries are in material compliance with their insurance policies and are not in default under any of the material terms thereof, each such policy is outstanding and in full force and effect, all premiums and other payments due under any material policy have been paid, and all claims thereunder have been filed in due and timely fashion, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(u) Intellectual Property. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company and each Company Subsidiary owns or otherwise has the right to use, all intellectual property rights, including all trademarks, trade dress, trade names, service marks, domain names, patents, inventions, trade secrets, know-how, works of authorship and copyrights therein, that are used in the conduct of their existing businesses and all rights relating to the plans, design and specifications of any of its branch facilities ("*Proprietary Rights*") free and clear of all liens and any claims of ownership by current or former employees, contractors, designers or others and (ii) neither the Company nor any of the Company Subsidiaries is materially infringing, diluting, misappropriating or violating, nor has the Company or any or the Company Subsidiaries received any written (or, to the knowledge of the Company, oral) communications alleging that any of them has materially infringed, diluted, misappropriated or violated, any of the Proprietary Rights owned by any other person. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, to the Company's knowledge, no other person is infringing, diluting, misappropriating or violating, nor has the Company or any or the Company Subsidiaries sent any written communications since January 1, 2006 alleging that any person has infringed, diluted, misappropriated or violated, any of the Proprietary Rights owned by the Company and the Company Subsidiaries.

(v) Brokers and Finders. No broker, finder or investment banker is entitled to any financial advisory, brokerage, finder's or other fee or commission in connection with this Agreement or the Warrant or the transactions contemplated hereby or thereby based upon arrangements made by or on behalf of the Company or any Company Subsidiary for which the Investor could have any liability.

(w) Amendment to Charter and Other Document To Effect Section 5.20(b). Except as set forth on Schedule F, the election, appointment, nomination or designation of Senior Note Directors by the Holders in accordance with, and upon the conditions set forth in, Section 5.20(b) is permitted by the laws of the jurisdiction of organization of the Company. If permitted by such laws, the Company agrees to take all action necessary to permit the Holders to elect, appoint, nominate or designate the Senior Note Directors, as applicable, in accordance with, and upon the events set forth in, Section 5.20(b), including amending its Charter and any other applicable organizational documents, agreements or arrangements as necessary, no later than the date which is the earlier of (i) the next scheduled meeting (if any) of Members of the Company or (ii) the date which is 13 months from the Signing Date. The Company further agrees to notify the Investor of the date upon which the Company's Members approve (if such approval is required) any such amendment to the Charter or other applicable organizational documents, agreements or arrangements and to provide the Investor with a copy of the amended Charter certified by the Secretary of State or such other authorized person of the Company's jurisdiction of organization and other amended organizational documents, agreements or arrangements.

Article III
Covenants

3.1 Commercially Reasonable Efforts. Subject to the terms and conditions of this Agreement, each of the parties will use its commercially reasonable efforts in good faith to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or desirable, or advisable under applicable laws, so as to permit consummation of the Purchase as promptly as practicable and otherwise to enable consummation of the transactions contemplated hereby and shall use commercially reasonable efforts to cooperate with the Investor to that end.

3.2 Expenses. Unless otherwise provided in this Agreement or the Warrant, each of the parties hereto will bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated under this Agreement and the Warrant, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel.

3.3 Ability to Issue Senior Subordinated Securities on Exercise of Warrant; Listing on Exchange.

(a) During the period from the Closing Date until the date on which the Warrant has been fully exercised, the Company shall not at any time take any action that would prohibit the Investor from exercising the Warrant.

(b) If the Company lists its Mutual Capital Interests or other equity securities on any national securities exchange, the Company shall, if requested by the Investor, promptly use its

reasonable best efforts to cause the Senior Notes to be approved for listing on a national securities exchange as promptly as practicable following such request.

3.4 Certain Notifications Until Closing. From the Signing Date until the Closing, the Company shall promptly notify the Investor of (i) any fact, event or circumstance of which it is aware and which would reasonably be expected to cause any representation or warranty of the Company contained in this Agreement to be untrue or inaccurate in any material respect or to cause any covenant or agreement of the Company contained in this Agreement not to be complied with or satisfied in any material respect and (ii) except as Previously Disclosed, any fact, circumstance, event, change, occurrence, condition or development of which the Company is aware and which, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect; *provided*, *however*, that delivery of any notice pursuant to this Section 3.4 shall not limit or affect any rights of or remedies available to the Investor; *provided*, *further*, that a failure to comply with this Section 3.4 shall not constitute a breach of this Agreement or the failure of any condition set forth in Section 1.2 to be satisfied unless the underlying Company Material Adverse Effect or material breach would independently result in the failure of a condition set forth in Section 1.2 to be satisfied.

3.5 Access, Information and Confidentiality.

(a) From the Signing Date until the date when the Investor holds an amount of Senior Notes having an aggregate face value of less than 10% of the Purchase Price, the Company will permit the Investor and its agents, consultants, contractors and advisors (x) acting through the Appropriate Federal Banking Agency, or otherwise to the extent necessary to evaluate, manage, or transfer its investment in the Company, to examine the Company's books and make copies thereof and to discuss the affairs, finances and accounts of the Company and the Company Subsidiaries with the principal officers of the Company, all upon reasonable notice and at such reasonable times and as often as the Investor may reasonably request and (y) to review any information material to the Investor's investment in the Company provided by the Company to its Appropriate Federal Banking Agency. Any investigation pursuant to this Section 3.5 shall be conducted during normal business hours and in such manner as not to interfere unreasonably with the conduct of the business of the Company, and nothing herein shall require the Company or any Company Subsidiary to disclose any information to the Investor to the extent (i) prohibited by applicable law or regulation or (ii) that such disclosure would reasonably be expected to cause a violation of any agreement to which the Company or any Company Subsidiary is a party or would cause a risk of a loss of privilege to the Company or any Company Subsidiary (*provided* that the Company shall use commercially reasonable efforts to make appropriate substitute disclosure arrangements under circumstances where the restrictions in this clause (ii) apply).

(b) From the Signing Date until the date on which all of the Senior Notes have been paid in full, the Company will deliver, or will cause to be delivered, to the Investor:

(i) as soon as available after the end of each fiscal year of the Company, and in any event within 90 days thereafter, a consolidated balance sheet of the Company as of the end of such fiscal year, and consolidated statements of income, retained earnings and cash flows of the Company for such year, in each case prepared in accordance with

GAAP and setting forth in each case in comparative form the figures for the previous fiscal year of the Company, and which shall be audited to the extent audited financial statements are available; and

(ii) as soon as available after the end of the first, second and third quarterly periods in each fiscal year of the Company, a copy of any quarterly reports provided to Mutual Interest Holders of the Company or Company management.

(c) The Investor will use reasonable best efforts to hold, and will use reasonable best efforts to cause its agents, consultants, contractors and advisors to hold, in confidence all non-public records, books, contracts, instruments, computer data and other data and information (collectively, "*Information*") concerning the Company furnished or made available to it by the Company or its representatives pursuant to this Agreement (except to the extent that such information can be shown to have been (i) previously known by such party on a non-confidential basis, (ii) in the public domain through no fault of such party or (iii) later lawfully acquired from other sources by the party to which it was furnished (and without violation of any other confidentiality obligation)); *provided* that nothing herein shall prevent the Investor from disclosing any Information to the extent required by applicable laws or regulations or by any subpoena or similar legal process.

(d) The Investor's information rights pursuant to Section 3.5(b) may be assigned by the Investor to a transferee or assignee of the Purchased Securities or the Warrant Securities with a face value or, in the case of the Warrant, a face value of the underlying Warrant Securities, no less than an amount equal to 2% of the Purchase Price.

3.6 Capital Covenant. So long as the Senior Subordinated Securities or the Warrant Securities are outstanding, the Company and the Company Subsidiaries shall maintain such capital as may be necessary to meet the minimum capital requirements of the Appropriate Federal Banking Agency, as in effect from time to time.

Article IV

Remedies of the Holders upon Event of Default

4.1 Event of Default. "*Event of Default*" shall mean the occurrence or existence of any one or more of the following:

(a) Payment. (i) Failure to pay any installment or other payment of principal or, subject to Section 5.6, interest of any of the Senior Subordinated Securities or Warrant Securities, when due, or (ii) failure to pay any other amount due under any Transaction Documents; or

(b) Default in Other Agreements. (i) Failure of the Company or any Company Subsidiary to pay when due or within any applicable grace period any principal or interest on Indebtedness or (ii) breach or default of the Company or any Company Subsidiary, or the occurrence of any condition or event, with respect to any Indebtedness of the Company or any

Company Subsidiary, if the effect of such breach, default or occurrence is to cause such Indebtedness to become or be declared due prior to its stated maturity; or

(c) Breach of Certain Provisions. Failure of the Company or any Company Subsidiary, as the case may be, to perform or comply with the terms and conditions contained in Section 3.6, Section 5.8, Section 5.14, or Section 5.20.

(d) Breach of Warranty. Any representation, warranty, certification or other statement made by the Company or any Company Subsidiary in any Transaction Documents or in any statement or certificate at any time given by the Company or any Company Subsidiary in writing pursuant to or in connection with any of the Transaction Documents is false in any material respect on the date made or, if such representation, warranty, certification or other statement relates to a date other than the date as of which made, then as of such date, which in either case could reasonably be expected to result in a Company Material Adverse Effect; or

(e) Other Defaults Under Transaction Documents. The Company or any Company Subsidiary defaults in the performance of or compliance with any material term contained in the Transaction Documents (other than occurrences described in other provisions of this Section 4.1 for which a different grace or cure period is specified or which constitute immediate Events of Default) and such default is not remedied or waived within thirty (30) days after the earlier of (i) receipt by the Company of notice of such default from Holders holding more than fifty percent (50%) of the aggregate outstanding principal amount of the Senior Notes; *provided, however*, that after payment in full of the Senior Subordinated Securities, Majority Holders shall mean Holders owning more than fifty percent (50%) of the Warrant Securities (the "*Majority Holders*") or (ii) actual knowledge of an executive officer of the Company or any Company Subsidiary of such default; or

(f) Bankruptcy and Deferral of Interest Beyond 20 Consecutive Quarters.

(i) A court having proper jurisdiction shall enter a decree or order for relief in respect of the Company in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall appoint a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar official of the Company or for any substantial part of its property, or orders the winding-up or liquidation of its affairs and such decree, appointment or order shall remain unstayed and in effect for a period of sixty (60) days; or

(ii) The Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Company or of any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(iii) A court or administrative or governmental agency or body shall enter a decree or order for the appointment of a receiver of the Company or any subsidiary of the

Company that (A) is a depository institution and (B) meets the definition of "significant subsidiary" within the meaning of Rule 405 under the Securities Act (a "*Major Depository Institution Subsidiary*") or all or substantially all of its property in any liquidation, insolvency or similar proceeding with respect to the Company or such Major Depository Institution Subsidiary or all or substantially all of its property; or

(iv) The Company or a Major Depository Institution Subsidiary shall consent to the appointment of a receiver for it or all or substantially all of its property in any liquidation, insolvency or similar proceeding with respect to it or all or substantially all of its property.

(v) The Company shall have deferred interest on the Senior Subordinated Securities or any Warrant Securities, pursuant to Section 5.6, for more than 20 consecutive quarters.

(g) Dissolution. Any order, judgment or decree is entered against the Company or a Company Subsidiary decreeing the dissolution or split up of the Company or a Company Subsidiary and such order remains undischarged or unstayed for a period in excess of thirty (30) days; or

(h) Solvency. The Company or a Company Subsidiary ceases to be solvent or admits in writing its present or prospective inability to pay its debts as they become due or is notified that it is considered an institution in "troubled condition" within the meaning of 12 U.S.C. Section 1831i and the regulations promulgated thereunder; or

(i) Injunction. The Company or a Company Subsidiary is enjoined, restrained or in any way prevented by the order of any court or any administrative or regulatory agency from conducting all or any part of its business for more than thirty (30) days unless such event or circumstance could not reasonably be expected to have a Company Material Adverse Effect; or

(j) Invalidity of Transaction Documents. Any of the Transaction Documents for any reason, other than a partial or full release in accordance with the terms thereof, ceases to be in full force and effect or is declared to be null and void by any court of law having jurisdiction over such matters, or the Company or any Company Subsidiary denies that it has any further liability under any Transaction Documents to which it is party, or gives notice to such effect.

4.2 Acceleration and other Remedies.

(a) Non-Bankruptcy or Deferral of Interest Defaults. When any Event of Default other than those set forth in Subsection 4.1(f) has occurred and is continuing, the Majority Holders may, by written notice to the Company, enforce any and all rights and remedies available to the Holders under the Transaction Documents or applicable law; *provided*, *however*, the Holders may not accelerate payment of the principal of, or the accrued interest on, the Senior Notes, except as provided in Subsection 4.2(c).

(b) Bankruptcy or Deferral of Interest Defaults. When any Event of Default described in Subsection 4.1(f) has occurred and is continuing, then the Senior Notes, including both principal and interest, and all fees, charges and other obligations payable hereunder and

under the Transaction Documents, shall immediately become due and payable without presentment, demand, protest or notice of any kind. In addition, the Holders may exercise any and all remedies available to it under the Transaction Documents or applicable law.

(c) Tier 1 Capital Characterization. If the Company (other than an "insured depository institution" as defined in Section 3(c)(2) of the Federal Deposit Insurance Act, as amended) receives a written notification from its Appropriate Federal Banking Agency that the Senior Notes no longer constitute Tier 1 Capital of the Company, other than due to the limitation imposed by the second sentence of 12 C.F.R. Section 250.166(e), which limits the capital treatment of subordinated debt during the five years immediately preceding the maturity date of the subordinated debt, and the Senior Notes, the Warrant and this Agreement cannot be restructured so as to qualify the Senior Notes for Tier 1 Capital treatment, and if thereafter any Event of Default shall occur under Section 4.1, the Majority Holders may declare the Senior Notes and any other amounts due Holders hereunder immediately due and payable, whereupon the Senior Notes and such other amounts payable hereunder shall immediately become due and payable, without presentments, demand, protest or notice of any kind.

4.3 Suits for Enforcement. In case any one or more Events of Default shall have occurred and be continuing, unless such Events of Default shall have been waived in the manner provided in Section 7.4 hereof, the holders of the Warrants and the Majority Holders, subject to the terms of Article VI hereof, may proceed to protect and enforce their rights under this Article IV by suit in equity or action at law. It is agreed that in the event of such action, or any action between the holders of the Warrants or the Holders of the Senior Notes and the Company (including its officers and agents) in connection with a breach or enforcement of this Agreement, the holders of the Warrants and the Holders of the Senior Notes shall be entitled to receive all reasonable fees, costs and expenses incurred, including without limitation such reasonable fees and expenses of attorneys (whether or not litigation is commenced) and reasonable fees, costs and expenses of appeals.

4.4 Holders May File Proofs of Claim. In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Notes under Title 11, United States Code, or any other applicable law, or in case a receiver, conservator or trustee shall have been appointed for the Company or such other obligor (each, an "*Obligor*") or a Significant Subsidiary, or in the case of any other similar judicial proceedings relative to an Obligor or a Significant Subsidiary, or to the creditors or property of an Obligor or a Significant Subsidiary, any Holder, irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether any such Holder shall have made any demand pursuant to the provisions of this Section 4.4, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Notes held by any such Holder and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of any such Holder allowed in such judicial proceedings relative to an Obligor or a Significant Subsidiary, or to the creditors or property of an Obligor, unless prohibited by applicable law and regulations, to vote in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or person

performing similar functions in comparable proceedings, and to collect and receive any moneys or other property payable or deliverable to any such Holder on any such claims.

Article V
Additional Agreements

5.1 Purchase for Investment. The Investor acknowledges that the Purchased Securities and the Warrant Securities have not been registered under the Securities Act, or under any state securities laws. The Investor acknowledges that the Purchased Securities and the Warrant Securities are not being sold pursuant to an Indenture qualified under the Trust Indenture Act of 1939, as amended (the "*Indenture Act*"). The Investor (a) is acquiring the Purchased Securities and the Warrant Securities pursuant to an exemption from registration under the Securities Act and an exemption from qualification of an indenture under the Indenture Act, and is acquiring the Purchased Securities and the Warrant Securities solely for investment with no present intention to distribute them to any person in violation of the Securities Act or any applicable U.S. state securities laws, (b) will not sell or otherwise dispose of any of the Purchased Securities or the Warrant Securities, except in compliance with the registration requirements or exemption provisions of the Securities Act and any applicable U.S. state securities laws, and (c) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the Purchase and of making an informed investment decision.

5.2 Form of Purchased Security and Warrant Security. The Senior Subordinated Security shall be substantially in the form of Annex C hereto, the Warrant Security shall be substantially in the form of Annex D hereto, and the Warrant shall be substantially in the form of Annex E hereto, the respective terms of which are incorporated in and made a part of this Agreement. The Senior Notes shall be issued, and may be transferred, only in denominations having an aggregate principal amount of not less than $1,000 and integral multiples of $1,000 in excess thereof. The Senior Notes shall be in registered form without coupons and shall be numbered, lettered or otherwise distinguished in such manner or in accordance with such plans as the officers executing the same may determine as evidenced by the execution thereof.

5.3 Execution of Senior Notes. The Senior Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President, Chief Executive Officer, Chief Financial Officer or one of its Executive Vice Presidents under its seal (if legally required) which may be affixed thereto or printed, engraved or otherwise reproduced thereon, by facsimile or otherwise, and which need not be attested, unless otherwise required by the Company's Charter or bylaws or applicable law. Every Purchased Security and Warrant Security shall be dated the date of its execution and delivery.

5.4 Payment of Principal and Interest. The Company covenants and agrees for the benefit of the Holders of the Senior Notes that it will duly and punctually pay or cause to be paid the principal of and, subject to Section 5.6, interest on the Senior Notes at the respective times and in the manner provided herein. Payment of the principal of and interest on the Senior Notes due on the Maturity Date will be made by the Company in immediately available funds against presentation and surrender of the Senior Notes. Subject to Section 5.6, each installment of interest on the Senior Notes due on an Interest Payment Date other than the Maturity Date shall

be paid by wire transfer of immediately available funds to any account with a banking institution located in the United States designated by such Holder no later than the related Regular Record Date.

5.5 Computation of Interest.

(a) The amount of interest payable for any Interest Period (as defined below) will be computed as provided in the Senior Notes.

(b) Each Senior Note will bear interest at the Interest Rate (i) in the case of the initial Interest Period, for the period from, and including, the date of original issuance of such Senior Note to, but excluding, the initial Interest Payment Date and (ii) thereafter, for the period from, and including, the first day following the end of the preceding Interest Period to, but excluding, the applicable Interest Payment Date or, in the case of the last Interest Period, the Maturity Date (each such period, an "*Interest Period*"), on the principal thereof, on any overdue principal and (to the extent that payment of such interest is enforceable under applicable law) on any overdue installment of interest (including Deferred Interest and Defaulted Interest), payable on each Interest Payment Date or the Maturity Date, as the case may be. Interest on any Senior Note that is payable, and is punctually paid or duly provided for by the Company, on any Interest Payment Date shall be paid to the Person in whose name such Senior Note is registered at the close of business on the Regular Record Date for such interest installment.

(c) Any interest on the Senior Note (other than Deferred Interest pursuant to Section 5.6) that is payable, but is not punctually paid or duly provided for by the Company, on any Interest Payment Date (herein called "*Defaulted Interest*") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest shall be paid by the Company to the Persons in whose names such Senior Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest, which shall be fixed in the following manner: the Company shall notify the Holder in writing of the amount of Defaulted Interest proposed to be paid on each such Senior Note and the date of the proposed payment. Thereupon the Board of Directors shall fix a special record date for the payment of such Defaulted Interest, which shall not be more than 15 nor less than 10 days prior to the date of the proposed payment. The Company shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first class postage prepaid, to each Holder of a Senior Note at his, her or its address as it appears in the Senior Note Register, not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Senior Notes are registered on such special record date and thereafter the Company shall have no further payment obligation in respect of the Defaulted Interest.

(d) The Company may make payment of any Defaulted Interest on the Senior Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Senior Notes may be listed, and upon such notice as may be required by such exchange.

(e) Subject to the foregoing provisions of this Section 5.5, each Senior Note delivered under this Agreement upon registration of transfer of or in exchange for or in lieu of any other Senior Note shall carry the rights to interest accrued and unpaid, and to accrue, that were carried by such other Senior Note.

5.6 Extension of Interest Payment Period. So long as no other Event of Default has occurred and is continuing, the Company shall have the right, from time to time and without causing an Event of Default, to defer payments of interest on the Senior Notes by extending the Interest Period on the Senior Notes at any time and from time to time during the term of the Senior Notes, for up to 20 consecutive quarterly periods (each such extended Interest Period, together with all previous and further consecutive extensions thereof, is referred to herein as an "*Extension Period*"). No Extension Period may end on a date other than an Interest Payment Date or extend beyond the Maturity Date, as the case may be. During any Extension Period, interest will continue to accrue on the Senior Notes, and interest on such accrued interest (such accrued interest and interest thereon referred to herein as "*Deferred Interest*") will accrue at an annual rate equal to the Interest Rate applicable during such Extension Period, compounded on each Interest Payment Date during such Extension Period, to the extent permitted by applicable law. No interest or Deferred Interest shall be due and payable during an Extension Period, except at the end thereof. At the end of any Extension Period, the Company shall pay all Deferred Interest then accrued and unpaid on the Senior Notes; *provided*, *however*, that during any Extension Period, the Company shall be subject to the restrictions set forth in Section 5.14. Prior to the termination of any Extension Period, the Company may further extend such Extension Period, provided, that no Extension Period (including all previous and further consecutive extensions that are part of such Extension Period) shall exceed 20 consecutive quarterly periods. Upon the termination of any Extension Period and upon the payment of all Deferred Interest, the Company may commence a new Extension Period for up to 20 consecutive quarterly periods as if no prior Extension Period had occurred, subject to the foregoing requirements. The Company must give the Holders notice of its election to begin or extend an Extension Period at least one Business Day prior to the Regular Record Date applicable to the next succeeding Interest Payment Date.

5.7 Legends.

(a) The Investor agrees that all certificates or other instruments representing the Senior Notes will bear a legend substantially to the following effect:

> "THIS SENIOR SUBORDINATED SECURITY WILL BE ISSUED AND MAY BE TRANSFERRED ONLY IN MINIMUM DENOMINATIONS OF $1,000 AND MULTIPLES OF $1,000 IN EXCESS THEREOF. ANY ATTEMPTED TRANSFER OF SUCH SECURITIES IN A DENOMINATION OF LESS THAN $1,000 AND MULTIPLES OF $1,000 IN EXCESS THEREOF SHALL BE DEEMED TO BE VOID AND OF NO LEGAL EFFECT WHATSOEVER. ANY SUCH PURPORTED TRANSFEREE SHALL BE DEEMED NOT TO BE THE HOLDER OF SUCH SECURITIES FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE RECEIPT OF PAYMENTS ON SUCH SECURITIES, AND SUCH PURPORTED TRANSFEREE SHALL BE DEEMED TO HAVE NO INTEREST WHATSOEVER IN SUCH SECURITIES.

THIS SECURITY IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE LETTER AGREEMENT BY AND BETWEEN THE COMPANY AND THE UNITED STATES DEPARTMENT OF THE TREASURY AND SECURITIES PURCHASE AGREEMENT – STANDARD TERMS (THE "AGREEMENT"), EACH OF WHICH ARE INCORPORATED INTO THIS NOTE.

THIS OBLIGATION IS NOT A SAVINGS ACCOUNT OR DEPOSIT AND IS NOT INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OR ANY OTHER GOVERNMENTAL AGENCY. THIS OBLIGATION IS SUBORDINATED TO THE CLAIMS OF GENERAL AND SECURED CREDITORS OF THE COMPANY AND IS NOT SECURED.

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS. EACH PURCHASER OF THIS SECURITY IS NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. ANY TRANSFEREE OF THIS SECURITY BY ITS ACCEPTANCE HEREOF (1) REPRESENTS THAT IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (2) AGREES THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THE SECURITIES REPRESENTED BY THIS INSTRUMENT EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT WHICH IS THEN EFFECTIVE UNDER THE SECURITIES ACT, (B) FOR SO LONG AS THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (C) TO THE COMPANY OR (D) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND.

THIS INSTRUMENT IS ISSUED SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS OF THE AGREEMENT BETWEEN THE COMPANY AND THE INVESTOR REFERRED TO THEREIN, A COPY OF WHICH IS ON FILE WITH THE COMPANY. THIS SECURITY MAY NOT BE SOLD OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH SAID

AGREEMENT. ANY SALE OR OTHER TRANSFER NOT IN COMPLIANCE WITH SAID AGREEMENT WILL BE VOID."

(b) In the event that any Senior Notes (A)(i) become registered under the Securities Act or (ii) are eligible to be transferred without restriction in accordance with Rule 144 or another exemption from registration under the Securities Act (other than Rule 144A), and (B)(i) become subject to an Indenture qualified under the Indenture Act or (ii) are exempt from qualification under the Indenture Act, the Company shall issue new certificates or other instruments representing such Senior Notes, which shall not contain the applicable legends in Sections 4.2(a) above; *provided* that the Investor surrenders to the Company the previously issued certificates or other instruments.

5.8 Certain Transactions. The Company will not merge or consolidate with, or sell, transfer or lease all or substantially all of its property or assets to, any other party unless the successor, transferee or lessee party (or its ultimate parent entity), as the case may be (if not the Company), expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition contained in this Agreement, the Senior Subordinated Securities, the Warrant (if unexercised) and the Warrant Securities to be performed and observed by the Company.

5.9 Transfer of Senior Notes; Restrictions on Exercise of the Warrant.

(a) The Company or its duly appointed agent shall maintain a register (the "*Senior Note Register*") for the Senior Notes in which it shall register the issuance and transfer of the Senior Notes. All transfers of the Senior Notes shall be recorded on the Senior Note Register maintained by the Company or its agent, and the Company shall be entitled to regard the registered Holder of such Senior Note as the actual owner of the Senior Note so registered until the Company or its agent is required to record a transfer of such Senior Note on its Senior Note Register. The Company or its agent shall, subject to applicable securities laws, be required to record any such transfer when it receives the Senior Note to be transferred duly and properly endorsed by the registered Holder or by its attorney duly authorized in writing.

(b) The Company or its duly appointed agent shall maintain a register (the "*Warrant Register*") for each of the Warrants in which it shall register the issuance and transfer of the Warrants. All transfers of the Warrant shall be recorded on the Warrant Register maintained by the Company or its agent, and the Company shall be entitled to regard the registered holder of such Warrant as the actual owner of the Warrants so registered until the Company or its agent is required to record a transfer of such Warrant on its Warrant Register. The Company or its agent shall, subject to applicable securities laws, be required to record any such transfer when it receives the Warrant to be transferred duly and properly endorsed by the registered holder or by its attorney duly authorized in writing.

(c) The Company shall at any time, upon written request of the Holder of a Senior Note and surrender of the Senior Note for such purpose, at the expense of the Company, issue new Senior Notes in exchange therefor in such denominations of at least $1,000, as shall be specified by the Holder of such Senior Note, in an aggregate principal amount equal to the then unpaid principal amount of the Senior Note or Senior Notes surrendered and substantially in the

form of Annex C or Annex D, as the case may be, with appropriate insertions and variations, and bearing interest from the date to which interest has been paid on the Senior Note surrendered.

(d) All Senior Notes presented for registration of transfer or for exchange or payment shall be duly endorsed by, or be accompanied by, a written instrument or instruments of transfer in a form satisfactory to the Company duly executed by the Holder or such Holder's attorney duly authorized in writing.

(e) No service charge shall be incurred for any exchange or registration of transfer of Senior Notes, but the Company may require payment of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in connection therewith.

(f) Prior to due presentment for the registration of a transfer of any Senior Note, the Company and any agent of the Company may deem and treat the Person in whose name such Senior Note is registered as the absolute owner and Holder of such Senior Note for the purpose of receiving payment of principal of and interest on such Senior Note and none of the Company or any agents of the Company shall be affected by notice to the contrary.

(g) Subject to compliance with applicable securities laws, the Holder shall be permitted to transfer, sell, assign or otherwise dispose of ("*Transfer*") all or a portion of the Purchased Securities or the Warrant Securities at any time, and the Company shall take all steps as may be reasonably requested by the Investor to facilitate the Transfer of the Purchased Securities and the Warrant Securities; *provided* that the Investor and its transferees shall use their commercially reasonable efforts not to effect any Transfer of any Purchased Securities or Warrant Securities if such transfer would require the Company to be subject to the periodic reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "*Exchange Act*"). In furtherance of the foregoing, the Company shall provide reasonable cooperation to facilitate any Transfers of the Purchased Securities and the Warrant Securities, including, as is reasonable under the circumstances, by furnishing such information concerning the Company and its business as a proposed transferee may reasonably request (including such information as is required by Section 3.5(d)) and making management of the Company reasonably available to respond to questions of a proposed transferee in accordance with customary practice, subject in all cases to the proposed transferee agreeing to a customary confidentiality agreement.

5.10 Replacement of Senior Notes. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any Senior Note, and, in the case of any such loss, theft or destruction, upon delivery of a bond of indemnity reasonably satisfactory to the Company (provided that the Investor or any institutional Holder of a Senior Note may instead deliver to the Company an indemnity agreement in form and substance reasonably satisfactory to the Company), or, in the case of any such mutilation, upon surrender and cancellation of the Senior Note, as the case may be, the Company will issue a new Senior Note of like tenor, in lieu of such lost, stolen, destroyed or mutilated Senior Note.

5.11 Cancellation. All Senior Notes surrendered for the purpose of payment, exchange or registration of transfer, shall be surrendered to the Company and promptly canceled by it, and

no Senior Notes shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Agreement. The Company shall destroy all canceled Senior Notes.

5.12 Registration Rights.

(a) Unless and until the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company shall have no obligation to comply with the provisions of this Section 5.12 (other than Section 5.12(b)(iv)-(vi)); *provided* that the Company covenants and agrees that it shall comply with this Section 5.12 as soon as practicable after the date that it becomes subject to such reporting requirements.

(b) Registration.

(i) Subject to the terms and conditions of this Agreement, the Company covenants and agrees that as promptly as practicable after the date that the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (and in any event no later than 30 days thereafter), the Company shall (A) prepare and file with the SEC a Shelf Registration Statement covering all Registrable Securities (or otherwise designate an existing Shelf Registration Statement filed with the SEC to cover the Registrable Securities), and, to the extent the Shelf Registration Statement has not theretofore been declared effective or is not automatically effective upon such filing, the Company shall use reasonable best efforts to cause such Shelf Registration Statement to be declared or become effective and to keep such Shelf Registration Statement continuously effective and in compliance with the Securities Act and usable for resale of such Registrable Securities for a period from the date of its initial effectiveness until such time as there are no Registrable Securities remaining (including by refiling such Shelf Registration Statement (or a new Shelf Registration Statement) if the initial Shelf Registration Statement expires), and (B) prepare an Indenture covering the Registrable Securities meeting the requirements of the Indenture Act and use its reasonable best efforts to cause such Indenture to be qualified under the Indenture Act. Notwithstanding the foregoing, if the Company is not eligible to file a registration statement on Form S-3, then the Company shall not be obligated to file a Shelf Registration Statement unless and until requested to do so in writing by the Investor.

(ii) Any registration pursuant to Section 5.12(b)(i) shall be effected by means of a shelf registration on an appropriate form under Rule 415 under the Securities Act (a "*Shelf Registration Statement*"). If the Investor or any other Holder intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall take all reasonable steps to facilitate such distribution, including the actions required pursuant to Section 5.12(d); *provided* that the Company shall not be required to facilitate an underwritten offering of Registrable Securities unless the expected gross proceeds from such offering exceed (i) 2% of the Purchase Price if such Purchase Price is less than $2 billion and (ii) $200 million if the Purchase Price is equal to or greater than $2 billion. The lead underwriters in any such distribution shall be selected by the Holders of a majority of the Registrable Securities to be distributed; *provided* that to the extent appropriate and permitted under applicable law,

such Holders shall consider the qualifications of any broker-dealer Affiliate of the Company in selecting the lead underwriters in any such distribution.

(iii) The Company shall not be required to effect a registration (including a resale of Registrable Securities from an effective Shelf Registration Statement) or an underwritten offering pursuant to Section 5.12(b): (A) with respect to securities that are not Registrable Securities; or (B) if the Company has notified the Investor and all other Holders that in the good faith judgment of the Board of Directors, it would be materially detrimental to the Company or its securityholders for such registration or underwritten offering to be effected at such time, in which event the Company shall have the right to defer such registration for a period of not more than 45 days after receipt of the request of the Investor or any other Holder; *provided* that such right to delay a registration or underwritten offering shall be exercised by the Company (1) only if the Company has generally exercised (or is concurrently exercising) similar black-out rights against holders of similar securities that have registration rights and (2) not more than three times in any 12-month period and not more than 90 days in the aggregate in any 12-month period.

(iv) If during any period when an effective Shelf Registration Statement is not available, the Company proposes to register any of its equity securities, other than a registration pursuant to Section 5.12(b)(i) or a Special Registration, and the registration form to be filed may be used for the registration or qualification for distribution of Registrable Securities, the Company will (A) give prompt written notice to the Investor and all other Holders of its intention to effect such a registration (but in no event less than ten days prior to the anticipated filing date) and will include in such registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within ten business days after the date of the Company's notice and (B) if requested by the Investor or a Holder, prepare an Indenture meeting the requirements of the Indenture Act and use its reasonable best efforts to cause such Indenture to be qualified under the Indenture Act (such registration and qualification, a "*Piggyback Registration*"). Any such person that has made such a written request may withdraw its Registrable Securities from such Piggyback Registration by giving written notice to the Company and the managing underwriter, if any, on or before the fifth (5^{th}) business day prior to the planned effective date of such Piggyback Registration. The Company may terminate or withdraw any registration or qualification under this Section 5.12(b)(iv) prior to the effectiveness of such registration or qualification, whether or not Investor or any other Holders have elected to include Registrable Securities in such registration or qualification.

(v) If the registration referred to in Section 5.12(b)(iv) is proposed to be underwritten, the Company will so advise Investor and all other Holders as a part of the written notice given pursuant to Section 5.12(b)(iv). In such event, the right of Investor and all other Holders to registration pursuant to Section 5.12(b) will be conditioned upon such persons' participation in such underwriting and the inclusion of such person's Registrable Securities in the underwriting if such securities are of the same class of securities as the securities to be offered in the underwritten offering, and each such person will (together with the Company and the other persons distributing their securities through such underwriting) enter into an underwriting agreement in customary form with

the underwriter or underwriters selected for such underwriting by the Company; *provided* that the Investor (as opposed to other Holders) shall not be required to indemnify any person in connection with any registration. If any participating person disapproves of the terms of the underwriting, such person may elect to withdraw therefrom by written notice to the Company, the managing underwriters and the Investor (if the Investor is participating in the underwriting).

(vi) If either (x) the Company grants "piggyback" registration rights to one or more third parties to include their securities in an underwritten offering under the Shelf Registration Statement pursuant to Section 5.12(b)(ii) or (y) a Piggyback Registration under Section 5.12(b)(iv) relates to an underwritten offering on behalf of the Company, and in either case the managing underwriters advise the Company that in their reasonable opinion the number of securities requested to be included in such offering exceeds the number which can be sold without adversely affecting the marketability of such offering (including an adverse effect on the per security offering price), the Company will include in such offering only such number of securities that in the reasonable opinion of such managing underwriters can be sold without adversely affecting the marketability of the offering (including an adverse effect on the per security offering price), which securities will be so included in the following order of priority: (A) first, in the case of a Piggyback Registration under Section 5.12(b)(iv), the securities the Company proposes to sell, (B) then the Registrable Securities of the Investor and all other Holders who have requested inclusion of Registrable Securities pursuant to Section 5.12(b)(ii) or Section 5.12(b)(iv), as applicable, *pro rata* on the basis of the aggregate number of such securities owned by each such person and (C) lastly, any other securities of the Company that have been requested to be so included, subject to the terms of this Agreement; *provided, however,* that if the Company has, prior to the Signing Date, entered into an agreement with respect to its securities that is inconsistent with the order of priority contemplated hereby then it shall apply the order of priority in such conflicting agreement to the extent that it would otherwise result in a breach under such agreement.

(c) Expenses of Registration. All Registration Expenses incurred in connection with any registration, qualification or compliance hereunder shall be borne by the Company. All Selling Expenses incurred in connection with any registrations hereunder shall be borne by the holders of the securities so registered *pro rata* on the basis of the aggregate offering or sale price of the securities so registered.

(d) Obligations of the Company. Whenever required to effect the registration of any Registrable Securities or facilitate the distribution of Registrable Securities pursuant to an effective Shelf Registration Statement, the Company shall, as expeditiously as reasonably practicable:

(i) Prepare and file with the SEC: (A) a prospectus supplement or post-effective amendment with respect to a proposed offering of Registrable Securities pursuant to an effective registration statement, subject to Section 5.12(d), keep such registration statement effective and keep such prospectus supplement current until the securities described therein are no longer Registrable Securities; and (B) an Indenture for qualification under the Indenture Act.

(ii) Prepare and file with the SEC such amendments and supplements: (A) to the applicable registration statement and the prospectus or prospectus supplement used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act; and (B) to the Indenture, with respect to the disposition of all securities covered by such registration statement and Indenture.

(iii) Furnish to the Holders and any underwriters such number of copies of the applicable registration statement and each such amendment and supplement thereto (including in each case all exhibits) and of a prospectus, including a preliminary prospectus, in conformity with the requirements of the Securities Act, the Indenture and such other documents as they may reasonably request in order to facilitate the disposition of Registrable Securities owned or to be distributed by them.

(iv) Use its reasonable best efforts to register and qualify the securities covered by such registration statement under such other securities or Blue Sky laws of such jurisdictions as shall be reasonably requested by the Holders or any managing underwriter(s), to keep such registration or qualification in effect for so long as such registration statement remains in effect, and to take any other action which may be reasonably necessary to enable such seller to consummate the disposition in such jurisdictions of the securities owned by such Holder; *provided* that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions.

(v) Notify each Holder of Registrable Securities at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the applicable prospectus, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in light of the circumstances then existing.

(vi) Give written notice to the Holders:

(A) when any registration statement or Indenture filed pursuant to Section 5.12(a) or any amendment thereto has been filed with the SEC (except for any amendment effected by the filing of a document with the SEC pursuant to the Exchange Act) and when such registration statement or any post-effective amendment thereto has become effective;

(B) of any request by the SEC for amendments or supplements to any registration statement or the prospectus included therein, or the Indenture or for additional information;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of any registration statement or the initiation of any proceedings for that purpose;

(D) of the receipt by the Company or its legal counsel of any notification with respect to the suspension of the qualification of the applicable

Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(E) of the happening of any event that requires the Company to make changes in any effective registration statement or the prospectus related to the registration statement or to the Indenture in order to make the statements therein not misleading (which notice shall be accompanied by an instruction to suspend the use of the prospectus until the requisite changes have been made); and

(F) if at any time the representations and warranties of the Company contained in any underwriting agreement contemplated by Section 5.12(d)(x) cease to be true and correct.

(vii) Use its reasonable best efforts to prevent the issuance or obtain the withdrawal of any order suspending the effectiveness of any registration statement referred to in Section 5.12(d)(vi)(C) at the earliest practicable time.

(viii) Upon the occurrence of any event contemplated by Section 5.12(d)(v) or 5.12(d)(vi)(E), promptly prepare a post-effective amendment to such registration statement or a supplement to the related prospectus or the Indenture or file any other required document so that, as thereafter delivered to the Holders and any underwriters, the prospectus or the Indenture will not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with Section 5.12(d)(vi)(E) to suspend the use of the prospectus until the requisite changes to the prospectus or the Indenture have been made, then the Holders and any underwriters shall suspend use of such prospectus and use their reasonable best efforts to return to the Company all copies of such prospectus (at the Company's expense) other than permanent file copies then in such Holders' or underwriters' possession. The total number of days that any such suspension may be in effect in any 12-month period shall not exceed 90 days.

(ix) Use reasonable best efforts to procure the cooperation of the Company's transfer agent in settling any offering or sale of Registrable Securities, including with respect to the transfer of physical certificates into book-entry form in accordance with any procedures reasonably requested by the Holders or any managing underwriter(s).

(x) If an underwritten offering is requested pursuant to Section 5.12(b)(ii), enter into an underwriting agreement in customary form, scope and substance and take all such other actions reasonably requested by the Holders of a majority of the Registrable Securities being sold in connection therewith or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities, and in connection therewith in any underwritten offering (including making members of management and executives of the Company available to participate in "road shows", similar sales events and other marketing activities), (A) make such representations and warranties to the Holders that are selling securityholders and the managing underwriter(s), if any, with respect to the business of the Company and its subsidiaries,

and the Shelf Registration Statement, prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in customary form, substance and scope, and, if true, confirm the same if and when requested, (B) use its reasonable best efforts to furnish the underwriters with opinions of counsel to the Company, addressed to the managing underwriter(s), if any, covering the matters customarily covered in such opinions requested in underwritten offerings, (C) use its reasonable best efforts to obtain "cold comfort" letters from the independent certified public accountants of the Company (and, if necessary, any other independent certified public accountants of any business acquired by the Company for which financial statements and financial data are included in the Shelf Registration Statement) who have certified the financial statements included in such Shelf Registration Statement, addressed to each of the managing underwriter(s), if any, such letters to be in customary form and covering matters of the type customarily covered in "cold comfort" letters, (D) if an underwriting agreement is entered into, the same shall contain indemnification provisions and procedures customary in underwritten offerings (provided that the Investor shall not be obligated to provide any indemnity), and (E) deliver such documents and certificates as may be reasonably requested by the Holders of a majority of the Registrable Securities being sold in connection therewith, their counsel and the managing underwriter(s), if any, to evidence the continued validity of the representations and warranties made pursuant to clause (i) above and to evidence compliance with any customary conditions contained in the underwriting agreement or other agreement entered into by the Company.

(xi) Make available for inspection by a representative of selling Holders, the managing underwriter(s), if any, and any attorneys or accountants retained by such Holders or managing underwriter(s), at the offices where normally kept, during reasonable business hours, financial and other records, pertinent governance documents and properties of the Company, and cause the officers, directors and employees of the Company to supply all information in each case reasonably requested (and of the type customarily provided in connection with due diligence conducted in connection with a registered public offering of securities) by any such representative, managing underwriter(s), attorney or accountant in connection with such Shelf Registration Statement.

(xii) Use reasonable best efforts to cause all such Registrable Securities to be listed on each national securities exchange on which similar securities issued by the Company are then listed or, if no similar securities issued by the Company are then listed on any national securities exchange, use its reasonable best efforts to cause all such Registrable Securities to be listed on such securities exchange as the Investor may designate.

(xiii) If requested by Holders of a majority of the Registrable Securities being registered and/or sold in connection therewith, or the managing underwriter(s), if any, promptly include in a prospectus supplement or amendment such information as the Holders of a majority of the Registrable Securities being registered and/or sold in connection therewith or managing underwriter(s), if any, may reasonably request in order to permit the intended method of distribution of such securities and make all required

filings of such prospectus supplement or such amendment as soon as practicable after the Company has received such request.

(xiv) Timely provide to its securityholders earning statements satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

(e) Suspension of Sales. Upon receipt of written notice from the Company that a registration statement, prospectus or prospectus supplement, or Indenture contains or may contain an untrue statement of a material fact or omits or may omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or that circumstances exist that make inadvisable use of such registration statement, prospectus or prospectus supplement, or Indenture, the Investor and each Holder of Registrable Securities shall forthwith discontinue disposition of Registrable Securities until the Investor and/or Holder has received copies of a supplemented or amended prospectus or prospectus supplement, or Indenture, or until the Investor and/or such Holder is advised in writing by the Company that the use of the prospectus and, if applicable, prospectus supplement or Indenture may be resumed, and, if so directed by the Company, the Investor and/or such Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in the Investor and/or such Holder's possession, of the prospectus and, if applicable, prospectus supplement or Indenture covering such Registrable Securities current at the time of receipt of such notice. The total number of days that any such suspension may be in effect in any 12-month period shall not exceed 90 days.

(f) Termination of Registration Rights. A Holder's registration rights as to any securities held by such Holder (and its Affiliates, partners, members and former members) shall not be available unless such securities are Registrable Securities.

(g) Furnishing Information.

(i) Neither the Investor nor any Holder shall use any free writing prospectus (as defined in Rule 405) in connection with the sale of Registrable Securities without the prior written consent of the Company.

(ii) It shall be a condition precedent to the obligations of the Company to take any action pursuant to Section 5.12(d) that Investor and/or the selling Holders and the underwriters, if any, shall furnish to the Company such information regarding themselves, the Registrable Securities held by them and the intended method of disposition of such securities as shall be required to effect the registered offering of their Registrable Securities.

(h) Indemnification.

(i) The Company agrees to indemnify each Holder and, if a Holder is a person other than an individual, such Holder's officers, directors, employees, agents, representatives and Affiliates, and each Person, if any, that controls a Holder within the meaning of the Securities Act (each, an "*Indemnitee*"), against any and all losses, claims, damages, actions, liabilities, costs and expenses (including reasonable fees, expenses and disbursements of attorneys and other professionals incurred in connection with

investigating, defending, settling, compromising or paying any such losses, claims, damages, actions, liabilities, costs and expenses), joint or several, arising out of or based upon any untrue statement or alleged untrue statement of material fact contained in any registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto or any documents incorporated therein by reference or contained in any free writing prospectus (as such term is defined in Rule 405) or contained in any Indenture, prepared by the Company or authorized by it in writing for use by such Holder (or any amendment or supplement thereto); or any omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided*, that the Company shall not be liable to such Indemnitee in any such case to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon (A) an untrue statement or omission made in such registration statement, including any such preliminary prospectus or final prospectus contained therein or any such amendments or supplements thereto or contained in any free writing prospectus (as such term is defined in Rule 405) or contained in any Indenture, prepared by the Company or authorized by it in writing for use by such Holder (or any amendment or supplement thereto), in reliance upon and in conformity with information regarding such Indemnitee or its plan of distribution or ownership interests which was furnished in writing to the Company by such Indemnitee for use in connection with such registration statement, including any such preliminary prospectus or final prospectus contained therein or any such amendments or supplements thereto, or any Indenture or (B) offers or sales effected by or on behalf of such Indemnitee "by means of" (as defined in Rule 159A) a "free writing prospectus" (as defined in Rule 405) that was not authorized in writing by the Company.

(ii) If the indemnification provided for in Section 5.12(h)(i) is unavailable to an Indemnitee with respect to any losses, claims, damages, actions, liabilities, costs or expenses referred to therein or is insufficient to hold the Indemnitee harmless as contemplated therein, then the Company, in lieu of indemnifying such Indemnitee, shall contribute to the amount paid or payable by such Indemnitee as a result of such losses, claims, damages, actions, liabilities, costs or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnitee, on the one hand, and the Company, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, actions, liabilities, costs or expenses as well as any other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Indemnitee, on the other hand, shall be determined by reference to, among other factors, whether the untrue statement of a material fact or omission to state a material fact relates to information supplied by the Company or by the Indemnitee and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission; the Company and each Holder agree that it would not be just and equitable if contribution pursuant to this Section 5.12(h)(ii) were determined by *pro rata* allocation or by any other method of allocation that does not take account of the equitable considerations referred to in Section 5.12(h)(i). No Indemnitee guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from the Company if the Company was not guilty of such fraudulent misrepresentation.

(i) Assignment of Registration Rights. The rights of the Investor to registration of Registrable Securities pursuant to Section 5.12(b) may be assigned by the Investor to a transferee or assignee of Registrable Securities with a face value or, in the case of the Warrant, the face value of the underlying Warrant Securities, no less than an amount equal to (i) 2% of the Purchase Price if such Purchase Price is less than $2 billion and (ii) $200 million if the Purchase Price is equal to or greater than $2 billion; *provided*, *however*, the transferor shall, within ten days after such transfer, furnish to the Company written notice of the name and address of such transferee or assignee and the number and type of Registrable Securities that are being assigned.

(j) Clear Market. With respect to any underwritten offering of Registrable Securities by the Investor or other Holders pursuant to this Section 5.12, the Company agrees not to effect (other than pursuant to such registration or pursuant to a Special Registration) any public sale or distribution, or to file any Shelf Registration Statement (other than such registration or a Special Registration) covering any subordinated debentures or equity securities of the Company or any securities convertible into or exchangeable or exercisable for subordinated debentures or equity securities of the Company, during the period not to exceed ten days prior and 60 days following the effective date of such offering or such longer period up to 90 days as may be requested by the managing underwriter for such underwritten offering. The Company also agrees to cause such of its directors and senior executive officers to execute and deliver customary lock-up agreements in such form and for such time period up to 90 days as may be requested by the managing underwriter. "*Special Registration*" means the registration of (A) equity securities and/or options or other rights in respect thereof solely registered on Form S-4 or Form S-8 (or successor form) or (B) shares of equity securities and/or options or other rights in respect thereof to be offered to directors, members of management, employees, consultants, customers, lenders or vendors of the Company or Company Subsidiaries or in connection with dividend reinvestment plans.

(k) Rule 144; Rule 144A. With a view to making available to the Investor and Holders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its reasonable best efforts to:

(i) make and keep public information available, as those terms are understood and defined in Rule 144(c)(1) or any similar or analogous rule promulgated under the Securities Act, at all times after the Signing Date;

(ii) (A) file with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act, and (B) if at any time the Company is not required to file such reports, make available, upon the request of any Holder, such information necessary to permit sales pursuant to Rule 144A (including the information required by Rule 144A(d)(4) under the Securities Act);

(iii) so long as the Investor or a Holder owns any Registrable Securities, furnish to the Investor or such Holder forthwith upon request: a written statement by the Company as to its compliance with the reporting requirements of Rule 144 under the Securities Act, and of the Exchange Act; a copy of the most recent annual or quarterly report of the Company; and such other reports and documents as the Investor or Holder

may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such securities to the public without registration; and

(iv) take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act.

(l) Definitions. As used in this Section 5.12, the following terms shall have the following respective meanings:

(i) "*Holder*" for purposes of this Section 5.12, means the Investor and any other Holder of Registrable Securities to whom the registration rights conferred by this Agreement have been transferred in compliance with Section 5.12(h) hereof.

(ii) "*Holders' Counsel*" means one counsel for the selling Holders chosen by Holders holding a majority interest in the Registrable Securities being registered.

(iii) "*Register*," "*registered*," and "*registration*" shall refer to a registration effected by preparing and (A) filing a registration statement or amendment thereto in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of effectiveness of such registration statement or amendment thereto or (B) filing a prospectus and/or prospectus supplement in respect of an appropriate effective registration statement on Form S-3.

(iv) "*Registrable Securities*" means (A) all Senior Notes, (B) the Warrant (subject to Section 5.12(q)) and (C) any securities issued or issuable directly or indirectly with respect to the securities referred to in the foregoing clauses (A) or (B) by way of conversion, exercise or exchange thereof, or in connection with a combination, recapitalization, reclassification, merger, amalgamation, arrangement, consolidation or other reorganization, *provided* that, once issued, such securities will not be Registrable Securities when (1) they are sold pursuant to an effective registration statement under the Securities Act, (2) except as provided below in Section 5.12(p), they may be sold pursuant to Rule 144 without limitation thereunder on volume or manner of sale, (3) they shall have ceased to be outstanding or (4) they have been sold in a private transaction in which the transferor's rights under this Agreement are not assigned to the transferee of the securities. No Registrable Securities may be registered under more than one registration statement at any one time.

(v) "*Registration Expenses*" mean all expenses incurred by the Company in effecting any registration pursuant to this Agreement (whether or not any registration or prospectus becomes effective or final) or otherwise complying with its obligations under this Section 5.12, including all registration, filing and listing fees, printing expenses, fees and disbursements of counsel for the Company, blue sky fees and expenses, expenses incurred in connection with any "road show", the reasonable fees and disbursements of Holders' Counsel, and expenses of the Company's independent accountants in connection with any regular or special reviews or audits incident to or required by any such registration, but shall not include Selling Expenses.

(vi) "*Rule 144*", "*Rule 144A*", "*Rule 159A*", "*Rule 405*" and "*Rule 415*" mean, in each case, such rule promulgated under the Securities Act (or any successor provision), as the same shall be amended from time to time.

(vii) "*Selling Expenses*" mean all discounts, selling commissions and security transfer taxes applicable to the sale of Registrable Securities and fees and disbursements of counsel for any Holder (other than the fees and disbursements of Holders' Counsel included in Registration Expenses).

(m) Forfeiture of Rights. At any time, any holder of Securities (including any Holder) may elect to forfeit its rights set forth in this Section 5.12 from that date forward; *provided*, that a Holder forfeiting such rights shall nonetheless be entitled to participate under Section 5.12(b)(iv) – (vi) in any Pending Underwritten Offering to the same extent that such Holder would have been entitled to if the holder had not withdrawn; and *provided*, *further*, that no such forfeiture shall terminate a Holder's rights or obligations under Section 5.12(g) with respect to any prior registration or Pending Underwritten Offering. "*Pending Underwritten Offering*" means, with respect to any Holder forfeiting its rights pursuant to this Section 5.12(m), any underwritten offering of Registrable Securities in which such Holder has advised the Company of its intent to register its Registrable Securities either pursuant to Section 5.12(b)(ii) or 5.12(b)(iv) prior to the date of such Holder's forfeiture.

(n) Specific Performance. The parties hereto acknowledge that there would be no adequate remedy at law if the Company fails to perform any of its obligations under this Section 5.12 and that the Investor and the Holders from time to time may be irreparably harmed by any such failure, and accordingly agree that the Investor and such Holders, in addition to any other remedy to which they may be entitled at law or in equity, to the fullest extent permitted and enforceable under applicable law shall be entitled to compel specific performance of the obligations of the Company under this Section 5.12 in accordance with the terms and conditions of this Section 5.12.

(o) No Inconsistent Agreements. The Company shall not, on or after the Signing Date, enter into any agreement with respect to its securities that may impair the rights granted to the Investor and the Holders under this Section 5.12 or that otherwise conflicts with the provisions hereof in any manner that may impair the rights granted to the Investor and the Holders under this Section 5.12. In the event the Company has, prior to the Signing Date, entered into any agreement with respect to its securities that is inconsistent with the rights granted to the Investor and the Holders under this Section 5.12 (including agreements that are inconsistent with the order of priority contemplated by Section 5.12(b)(vi)) or that may otherwise conflict with the provisions hereof, the Company shall use its reasonable best efforts to amend such agreements to ensure they are consistent with the provisions of this Section 5.12.

(p) Certain Offerings by the Investor. In the case of any securities held by the Investor that cease to be Registrable Securities solely by reason of clause (2) in the definition of "Registrable Securities," the provisions of Sections 5.12(b)(ii), clauses (iv), (ix) and (x)-(xii) of Section 5.12(d), Section 5.12(h) and Section 5.12(j) shall continue to apply until such securities otherwise cease to be Registrable Securities. In any such case, an "underwritten" offering or other disposition shall include any distribution of such securities on behalf of the Investor by one

or more broker-dealers, an "*underwriting agreement*" shall include any purchase agreement entered into by such broker-dealers, and any "*registration statement*" or "*prospectus*" shall include any offering document approved by the Company and used in connection with such distribution.

(q) Registered Sales of the Warrant. The Holders agree to sell the Warrant or any portion thereof under the Shelf Registration Statement only beginning 30 days after notifying the Company of any such sale, during which 30-day period the Investor and all Holders of the Warrant shall take reasonable steps to agree to revisions to the Warrant to permit a public distribution of the Warrant, including entering into a warrant agreement and appointing a warrant agent.

5.13 Depository Senior Notes. Upon request by the Investor at any time following the Closing Date, the Company shall promptly enter into a depositary arrangement, pursuant to customary agreements reasonably satisfactory to the Investor and with a depositary reasonably acceptable to the Investor, pursuant to which the Senior Notes may be deposited.

5.14 Restriction on Dividends and Repurchases.

(a) The Company may pay, on an annual basis consistent with past practice, dividends on Mutual Capital Interests in the amount of the "*Additional Dividends*" per share as set forth in Schedule B. The consent of the Investor shall be required for any increase in such Additional Dividends paid on an annual basis by the Company prior to the earlier of (x) the third anniversary of the Closing Date and (y) the date on which all of the Senior Notes have been redeemed in whole or the Investor has transferred all of the Senior Notes to unaffiliated third parties, which for this purpose does not include a securitization vehicle or investment pool in which the Investor is an initial sponsor or participant so long as the Investor has an economic interest in such vehicle or pool ("*Third Parties*").

(b) During the period beginning on the third anniversary of the Closing Date and ending on the earlier of (i) the tenth anniversary of the Closing Date and (ii) the date on which all of the Senior Notes have been paid in full or the Investor has transferred all of the Senior Notes to Third Parties, neither the Company nor any Company Subsidiary shall, without the consent of the Investor, pay: (x) any extraordinary dividends on deposit accounts (dividends in excess of the stated rate or that are in excess of the amount resulting from the stated method of calculating the rate on such an account); or (y) any Additional Dividend on any Mutual Capital Interests or any shares of capital stock or other equity securities of any kind of any Company Subsidiary at a per annum rate per Mutual Capital Interest or share that is greater than 103% of the Additional Dividends per Mutual Capital Interest or share for the immediately prior year or that is paid in the form of Mutual Capital Interests.

(c) Prior to the earlier of (x) the tenth anniversary of the Closing Date and (y) the date on which all of the Senior Notes have been paid in full or the Investor has transferred all of the Senior Notes to Third Parties, neither the Company nor any Company Subsidiary shall, without the consent of the Investor, redeem, purchase, repay or acquire any Mutual Capital Interests, Trust Preferred Securities or any shares of capital stock or other equity securities of any kind of any Company Subsidiary, other than (i) in connection with the administration of any employee

benefit plan in the ordinary course of business and consistent with past practice or relevant income tax laws, (ii) the acquisition by the Company or any of the Company Subsidiaries of record ownership of Mutual Capital Interests for the beneficial ownership of any other persons (other than the Company or any other Company Subsidiary), including as trustees or custodians, (iii) the exchange or conversion of Mutual Capital Interests for or into other Mutual Capital Interests in the Company or of Trust Preferred Securities for or into other Trust Preferred Securities (with the same or lesser aggregate liquidation amount and on substantially similar terms) or Mutual Capital Interests, in each case set forth in this clause (iii), solely to the extent required pursuant to binding contractual agreements entered into prior to the Signing Date or any subsequent agreement for the accelerated exercise, settlement or exchange thereof for Mutual Capital Interests (clauses (i) and (ii), collectively, the "*Permitted Repurchases*"), (iv) redemptions of securities held by the Company or any wholly-owned Company Subsidiary or (v) redemptions, purchases, repayments or other acquisitions of Mutual Capital Interests, Trust Preferred Securities or other securities of any kind of the Company or any Company Subsidiary required pursuant to binding contractual agreements entered into prior to [●], 2009.

(d) Until such time as the Investor ceases to own any Senior Notes, the Company shall not repurchase any Senior Notes from any Holder thereof, whether by means of open market purchase, negotiated transaction, or otherwise, unless it offers to repurchase a ratable portion of the Senior Notes then held by the Investor on the same terms and conditions.

(e) Notwithstanding anything contained in this Section 5.14, during the period beginning on the tenth anniversary of the Closing and ending on the date on which all of the Senior Notes have been paid in full or repurchased in whole, neither the Company nor any Company Subsidiary shall, without the consent of the Investor, (i) declare or pay any dividend (including any Additional Dividends) or make any distribution on any Mutual Capital Interests, Trust Preferred Securities or any shares of capital stock or other equity securities of any kind of any Company Subsidiary; or (ii) redeem, purchase, repay or acquire any Mutual Capital Interests, Trust Preferred Securities or any shares of capital stock or other equity securities of any kind of any Company Subsidiary.

(f) Notwithstanding anything contained in this Section 5.14, without the consent of the Investor and for so long as the Purchased Securities or Warrant Securities are outstanding, no dividends may be declared or paid (including any Additional Dividends) on any Mutual Capital Interests, Trust Preferred Securities or any shares of capital stock or other equity securities of any kind of any Company Subsidiary, nor may the Company or any Company Subsidiary purchase, redeem or acquire any Mutual Capital Interests, Trust Preferred Securities or any shares of common stock or capital stock or other equity securities of any kind of any Company Subsidiary, unless all accrued and unpaid Interest (including Deferred Interest) for all past interest periods on the Senior Notes is paid in full.

5.15 Redemption.

(a) The Senior Notes at the time outstanding may be redeemed by the Company at its option, subject to the approval of the Appropriate Federal Banking Agency, in whole or in part and subject to Section 5.15(e), at any time and from time to time, out of funds legally available therefor, upon notice given as provided in Section 5.15(d) below, on any Interest Payment Date

(the "*Redemption Date*") at a redemption price equal to the sum of (i) 100% of the principal amount thereof being called for redemption (provided that, if less than all of the outstanding Senior Notes are then being redeemed, such amount shall not be less than 25% of the Purchase Price) and (ii) any accrued and unpaid interest (including Deferred Interest).

(b) The redemption price for any Senior Notes shall be payable on the Redemption Date to the Holder of such Senior Notes against surrender thereof to the Company or its agent. Interest shall be paid at the then applicable Interest Rate from the date of the last Interest Payment Date up to but not including the Redemption Date.

(c) No Sinking Fund. The Senior Notes will not be subject to any mandatory redemption, sinking fund or other similar provisions. Holders of Senior Notes will have no right to require redemption or repurchase of any of the Senior Notes.

(d) Notice of Redemption. Notice of redemption of the Senior Notes shall be given by first class mail, postage prepaid, addressed to the Holders of record of the Senior Notes to be redeemed at their respective last addresses appearing on the Senior Note Register. Such mailing shall be at least 30 days and not more than 60 days before the Redemption Date. Any notice mailed as provided in this Subsection shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any Holder of Senior Notes designated for redemption shall not affect the validity of the proceedings for the redemption of any other Senior Notes. Notwithstanding the foregoing, if Senior Notes are issued in book-entry form through The Depository Trust Company or any other similar facility, notice of redemption may be given to the Holders of Senior Notes at such time and in any manner permitted by such facility. Each notice of redemption given to a Holder shall state: (1) the Redemption Date; (2) the amount of Senior Notes to be redeemed by such Holder; (3) the redemption price; and (4) the place or places where such Senior Notes are to be surrendered for payment of the redemption price.

(e) Partial Redemption. The Company may redeem less than all of the outstanding Senior Notes, provided that the amount called for redemption at any time is not less than 25% of the amount of the outstanding principal amount of the Senior Notes. In case of any redemption of less than all of the Senior Notes at the time outstanding, the Company shall redeem the Senior Subordinated Securities in full prior to redeeming any of the Warrant Securities. Subject to the provisions hereof, the Board of Directors or a duly authorized committee thereof shall have full power and authority to prescribe the terms and conditions upon which Senior Notes shall be redeemed from time to time. If less than the full aggregate principal amount of any Senior Note is redeemed, the Company shall issue a new Senior Note in the unredeemed aggregate principal amount thereof without charge to the Holder thereof. Senior Notes may be redeemed in part only on a pro rata basis and only in minimum denominations of $1,000 and integral multiples thereof.

(f) Effectiveness of Redemption. If notice of redemption has been duly given and if on or before the Redemption Date specified in the notice all funds necessary for the redemption have been deposited by the Company, in trust for the *pro rata* benefit of the Holders of the Senior Notes called for redemption, with a bank or trust company doing business in the Borough of Manhattan, The City of New York, and having a capital and surplus of at least $500 million

and selected by the Board of Directors, so as to be and continue to be available solely therefor, then, notwithstanding that any Senior Note so called for redemption has not been surrendered for cancellation, on and after the Redemption Date interest shall cease to accrue on the aggregate principal amount of such Senior Notes so called for redemption, the aggregate principal amount of such Senior Notes so called for redemption shall no longer be deemed outstanding and shall cease to bear interest from and after the Redemption Date. All rights with respect to such Senior Notes (or the portion thereof so called for redemption) shall forthwith on such Redemption Date cease and terminate, except only the right of the Holders thereof to receive the redemption price payable on such redemption from such bank or trust company, without interest. Any funds unclaimed at the end of three years from the Redemption Date shall, to the extent permitted by applicable law, be released to the Company, after which time the Holders of such Senior Notes (or portion thereof so called for redemption) shall look only to the Company for payment of the redemption price of such Senior Notes.

(g) Status of Redeemed Securities. Senior Notes that are redeemed, repurchased or otherwise acquired by the Company shall be cancelled and shall not thereafter be re-issued by the Company.

5.16 Executive Compensation, Transparency, Accountability and Monitoring. Until such time as the Investor ceases to own any debt or equity securities of the Company acquired pursuant to this Agreement or the Warrant, the Company and each of its Senior Executive Officers shall take all necessary action to ensure that its Benefit Plans comply in all respects with Section 111(b) of the EESA, as amended and as implemented by any guidance or regulation thereunder that has been issued and is in effect as of the Closing Date, and shall not adopt any new Benefit Plan with respect to its Senior Executive Officers that does not comply therewith. "Senior Executive Officers" means the Bank's "senior executive officers" as defined in subsection 111(b)(3) of the EESA and regulations issued thereunder, including the rules set forth in 31 C.F.R. Part 30.

5.17 Related Party Transactions. Until such time as the Investor ceases to own any debt or other securities of the Company, including the Purchased Securities or Warrant Securities, the Company and the Company Subsidiaries shall not enter into transactions with Affiliates or related persons (within the meaning of Item 404 under the SEC's Regulation S-K) unless (i) such transactions are on terms no less favorable to the Company and the Company Subsidiaries than could be obtained from an unaffiliated third party, and (ii) have been approved by the audit committee of the Board of Directors or comparable body of independent directors of the Company, or, if there are no "independent directors," the board of directors of the Company, but only if the board of directors maintains written documentation supporting its determination that the transaction meets the requirements of this paragraph.

5.18 Bank and Thrift Holding Company Status. If the Company is a Bank Holding Company or a Savings and Loan Holding Company on the Signing Date, then the Company shall maintain its status as either a Bank Holding Company or Savings and Loan Holding Company, as the case may be, for as long as the Investor owns any Purchased Securities or Warrant Securities. The Company shall redeem all Purchased Securities and Warrant Securities held by

the Investor prior to terminating its status as a Bank Holding Company or Savings and Loan Holding Company, as applicable. "*Bank Holding Company*" means a company registered as such with the Board of Governors of the Federal Reserve System (the "*Federal Reserve*") pursuant to 12 U.S.C. §1842 and the regulations of the Federal Reserve promulgated thereunder. "*Savings and Loan Holding Company*" means a company registered as such with the Office of Thrift Supervision pursuant to 12 U.S.C. §1467(a) and the regulations of the Office of Thrift Supervision promulgated thereunder.

5.19 Predominantly Financial. For as long as the Investor owns any Purchased Securities or Warrant Securities, the Company, to the extent it is not itself an insured depository institution, agrees to remain predominantly engaged in financial activities. A company is predominantly engaged in financial activities if the annual gross revenues derived by the company and all subsidiaries of the company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to a financial activity under subsection (k) of Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) represent at least 85 percent of the consolidated annual gross revenues of the company.

5.20 Voting Rights.

(a) General. The Holders of Senior Notes shall not have any voting rights except as set forth below or as otherwise from time to time required by law.

(b) Senior Note Directors. Subject to the provisions of Section 2.2(w), whenever, at any time or times, interest payable on the Senior Notes has not been paid in full for an aggregate of six (6) quarterly Interest Payment Periods or more, whether or not consecutive, the authorized number of directors of the Company shall automatically be increased by two and the Holders of the Senior Notes shall have the right, voting as a class, to elect or appoint two directors to fill such newly created directorships or, if applicable law does not permit the Holders to elect or appoint such directors, to designate or nominate two individuals for election or appointment to fill such directorships (such directors, hereinafter the "*Senior Note Directors*" and each a "*Senior Note Director*") at the Company's next annual meeting of Members (or at a special meeting called for that purpose prior to such next annual meeting) and at each subsequent annual meeting of Members until all accrued and unpaid interest for all past Interest Periods, including the latest completed Interest Period (including, if applicable as provided in Section 5.5 above, interest on such amount), on all outstanding Senior Notes has been paid in full at which time such right shall terminate with respect to the Senior Notes, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned; *provided* that it shall be a qualification for election for any Senior Note Director that the election of such Senior Note Director shall not cause the Company to violate any corporate governance requirements of any securities exchange or other trading facility on which securities of the Company may then be listed or traded that listed or traded companies must have a majority of independent directors. Upon any termination of the right of the Holders of Senior Notes as a class to vote for directors as provided above, the Senior Note Directors shall cease to be qualified as directors, the term of office of all Senior Note Directors then in office shall terminate immediately and the authorized number of directors shall be reduced by the number of Senior Note Directors elected pursuant hereto. Any Senior Note Director may be removed at any time,

with or without cause, and any vacancy created thereby may be filled, only by the affirmative vote of the Majority Holders of the Senior Notes at the time outstanding voting separately as a class, to the extent the voting rights of such Holders described above are then exercisable. If the office of any Senior Note Director becomes vacant for any reason other than removal from office as aforesaid, the remaining Senior Note Director may choose a successor who shall hold office for the unexpired term in respect of which such vacancy occurred.

(c) Class Voting Rights as to Particular Matters. So long as any Senior Notes are outstanding, in addition to any other vote or consent of Mutual Interest Holders required by law or by the Charter, the vote or consent of the Holders of at least 66 2/3% of the Senior Notes at the time outstanding, given in person or by proxy, either in writing without a meeting or by vote at any meeting of the Holders of Senior Notes called for the purpose in accordance with Section 5.20(e), shall be necessary for effecting or validating:

(i) Amendment of Senior Notes. Any amendment, alteration or repeal of any provision of this Agreement or of the form of the Senior Notes or the Charter (including, unless no vote on such merger or consolidation is required by Section 5.20(c)(ii) below, any amendment, alteration or repeal by means of a merger, consolidation or otherwise) so as to adversely affect the rights, preferences, privileges or voting powers of the Senior Notes; or

(ii) Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding exchange or reclassification involving the Senior Notes, or of a merger or consolidation of the Company with another entity, unless in each case (x) the Senior Notes remain outstanding or, in the case of any such merger or consolidation with respect to which the Company is not the surviving or resulting entity, are converted into or exchanged for securities of the surviving or resulting entity or its ultimate parent, and (y) such remaining Senior Notes outstanding or such securities, as the case may be, have such rights, preferences, privileges and voting powers, and limitations and restrictions thereof, taken as a whole, as are not materially less favorable to the Holders thereof than the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of Senior Notes immediately prior to such consummation, taken as a whole;

provided, *however*, that for all purposes of this Section 5.20(c), any increase in the amount of the Senior Notes, or the creation and issuance of any other Indebtedness of the Company, or any securities convertible into or exchangeable or exercisable for any Senior Notes, ranking senior to, equally with and/or subordinate to the Senior Notes with respect to the payment of interest (whether or not such interest compounds) and the distribution of assets upon liquidation, dissolution or winding up of the Company will not be deemed to adversely affect the rights, preferences, privileges or voting powers, and shall not require the affirmative vote or consent of, the Holders of outstanding Senior Notes.

(d) Changes after Provision for Redemption. No vote or consent of the Holders of Senior Notes shall be required pursuant to Section 5.20(c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Senior Notes shall have been redeemed, or shall have been called for redemption upon proper

notice and sufficient funds shall have been deposited in trust for such redemption, in each case pursuant to Section 5.15 above.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the Holders of Senior Notes (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules of the Board of Directors or any duly authorized committee of the Board of Directors, in its discretion, may adopt from time to time, which rules and/or procedures shall conform to the requirements of the Charter, the bylaws, and applicable law and the rules of any national securities exchange or other trading facility on which the Senior Notes are listed or traded at the time.

Article VI

Subordination of the Senior Notes

6.1 Agreement to Subordinate.

(a) The Company covenants and agrees, and each Holder of Senior Notes issued hereunder likewise covenants and agrees, that the Senior Notes shall be issued subject to the provisions of this Article VI; and each Holder of a Senior Note, whether upon original issue or upon transfer or assignment thereof, accepts and agrees to be bound by such provisions.

(b) The payment by the Company of the principal of and interest on all Senior Notes issued hereunder shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full of all contract rights of the Members, if applicable, and all amounts then due and payable in respect of Senior Indebtedness, whether outstanding at the date of this Agreement or thereafter incurred. The term "*Senior Indebtedness*" means, with respect to the Senior Notes, the principal of (and premium, if any) and interest, if any (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not such claim for post petition interest is allowed in such proceedings), on all Indebtedness, whether outstanding on the date of execution of this Agreement, or hereafter created, assumed or incurred, and any deferrals, renewals or extensions of such Indebtedness including all contract rights of the Members; *provided*, *however*, that Senior Indebtedness shall not include (A) any Indebtedness issued to any statutory trust created by the Company for the purpose of issuing Trust Preferred Securities in connection with such issuance of Indebtedness, which shall in all cases be junior to such Senior Notes, (B) any guarantees of the Company in respect of the equity securities or other securities of any financing entity referred to in clause (A) above, (C) any other subordinated debt of the Company that by its terms ranks *pari passu* or junior to the Senior Notes issued hereunder or (D) any Mutual Capital Interests. The term "*Indebtedness*" shall mean, whether or not recourse is to all or a portion of the assets of the Company and whether or not contingent, (i) the claims of the Company's secured and general creditors; (ii) every obligation of the Company for money borrowed; (iii) every obligation of the Company evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of property, assets or businesses; (iv) every reimbursement obligation of the Company, contingent

or otherwise, with respect to letters of credit, bankers' acceptances, security purchase facilities or similar facilities issued for the account of the Company; (v) every obligation of the Company issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business); (vi) every capital lease obligation of the Company; (vii) all indebtedness of the Company for claims in respect of derivative products, including interest rate, foreign exchange rate and commodity forward contracts, options and swaps and similar arrangements; (viii) every obligation of the type referred to in clauses (i) through (vii) of another Person and all dividends of another Person the payment of which, in either case, the Company has guaranteed or is responsible or liable for directly or indirectly, as obligor or otherwise, and (ix) every obligation of the type referred to in clauses (i) through (vii) of another Person and all dividends of another Person the payment of which, in either case, is secured by a lien on any property or assets of the Company.

(c) No provision of this Article VI shall prevent the occurrence of any Event of Default (or any event which, after notice or the lapse of time or both would become, an Event of Default) with respect to the Senior Notes hereunder.

6.2 Default on Senior Indebtedness.

(a) In the event and during the continuation of any default by the Company in the payment of principal, premium, interest or any other payment due on any Senior Indebtedness, no payment shall be made by the Company with respect to the principal or interest on the Senior Notes or any other amounts which may be due on the Senior Notes pursuant to the terms hereof or thereof.

(b) In the event of the acceleration of the maturity of the Senior Indebtedness, then no payment shall be made by the Company with respect to the principal or interest on the Senior Notes or any other amounts which may be due on the Senior Notes pursuant to the terms hereof or thereof until the holders of all Senior Indebtedness outstanding at the time of such acceleration shall receive payment, in full, of all amounts due on or in respect of such Senior Indebtedness (including any amounts due upon acceleration).

(c) In the event that, notwithstanding the foregoing, any payment is received by any Holder of a Senior Note, when such payment is prohibited by the preceding paragraphs of this Section 6.2, such payment shall be held in trust for the benefit of, and shall be paid over or delivered by the Holder of the Senior Notes to the holders of Senior Indebtedness or their respective representatives, or to the trustee or trustees under any indenture pursuant to which any of such Senior Indebtedness may have been issued, as their respective interests may appear, but only to the extent of the amounts in respect of such Senior Indebtedness and to the extent that the holders of the Senior Indebtedness (or their representative or representatives or a trustee) notify the Company in writing within 90 days of such payment of the amounts then due and owing on such Senior Indebtedness, and only the amounts specified in such notice to the Company shall be paid to the holders of such Senior Indebtedness.

6.3 Liquidation; Dissolution; Bankruptcy.

(a) Upon any payment by the Company or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution, winding-up, liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, the holders of all Senior Indebtedness of the Company will first be entitled to receive payment in full of amounts due on or in respect of such Senior Indebtedness, before any payment is made by the Company on account of the principal of or interest on the Senior Notes or any other amounts which may be due on the Senior Notes pursuant to the terms hereof or thereof); and upon any such dissolution, winding-up, liquidation or reorganization, any payment by the Company, or distribution of assets of the Company of any kind or character, whether in cash, property or securities, which the Holder of the Senior Notes would be entitled to receive from the Company, except for the provisions of this Article VI, shall be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other Person making such payment or distribution, or by the Holder of the Senior Notes under this Agreement if received by them or it, directly to the holders of Senior Indebtedness of the Company (pro rata to such holders on the basis of the respective amounts of Senior Indebtedness held by such holders, as calculated by the Company) or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, to the extent necessary to pay all such amounts of Senior Indebtedness in full, in money or moneys worth, after giving effect to any concurrent payment or distribution to or for the holders of such Senior Indebtedness, before any payment or distribution is made to the Holder of the Senior Notes.

(b) In the event that, notwithstanding the foregoing, any payment or distribution of assets of the Company of any kind or character prohibited by Section 6.3(a), whether in cash, property or securities, shall be received by any Holder of the Senior Notes, before the amounts of all Senior Indebtedness is paid in full, or provision is made for such payment in money in accordance with its terms, such payment or distribution shall be held in trust for the benefit of and shall be paid over or delivered by any Holder of a Senior Note, to the holders of such Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, for application to the payment of all amounts of Senior Indebtedness remaining unpaid to the extent necessary to pay all amounts due on or in respect of such Senior Indebtedness in full in money in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

(c) For purposes of this Article VI, the words "*cash, property or securities*" shall not be deemed to include Mutual Capital Interests in the Company as reorganized or readjusted, or securities of the Company or any other entity provided for by a plan of reorganization or readjustment, the payment of which is subordinated at least to the extent provided in this Article VI with respect to the Senior Notes to the payment of Senior Indebtedness that may at the time be outstanding, provided that (i) such Senior Indebtedness is assumed by the new entity, if any, resulting from any such reorganization or readjustment, and (ii) the rights of the holders of such Senior Indebtedness are not, without the consent of such holders, altered by such

reorganization or readjustment. The consolidation of the Company with, or the merger of the Company into, another Person or the liquidation or dissolution of the Company following the sale, conveyance, transfer or lease of its property as an entirety, or substantially as an entirety, to another Person upon the terms and conditions provided for in Section 5.8 of this Agreement shall not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of this Section 6.3 if such other Person shall, as a part of such consolidation, merger, sale, conveyance, transfer or lease, comply with the conditions stated in Section 5.8 of this Agreement.

6.4 Subrogation.

(a) Subject to the payment in full of all of Senior Indebtedness, the rights of the Holders of the Senior Notes shall be subrogated to the rights of the holders of such Senior Indebtedness to receive payments or distributions of cash, property or securities of the Company, as the case may be, applicable to such Senior Indebtedness until the principal of and interest on the Senior Notes shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of such Senior Indebtedness of any cash, property or securities to which the Holders of the Senior Notes would be entitled except for the provisions of this Article VI, and no payment pursuant to the provisions of this Article VI to or for the benefit of the holders of such Senior Indebtedness by the Holders of the Senior Notes shall, as between the Company, its creditors other than holders of Senior Indebtedness of the Company, and the Holders of the Senior Notes, be deemed to be a payment by the Company to or on account of such Senior Indebtedness. It is understood that the provisions of this Article VI are intended solely for the purposes of defining the relative rights of the Holders of the Senior Notes, on the one hand, and the holders of such Senior Indebtedness on the other hand.

(b) Nothing contained in this Article VI or elsewhere in this Agreement or in the Senior Notes is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness of the Company, and the Holders of the Senior Notes, the obligation of the Company, which is absolute and unconditional, to pay to the Holders of the Senior Notes the principal of and interest on the Senior Notes as and when the same shall become due and payable in accordance with their terms, or is intended to or shall affect the relative rights of the Holders of the Senior Notes and creditors of the Company, as the case may be, other than the holders of Senior Indebtedness of the Company, as the case may be, nor shall anything herein or therein prevent the Holder of any Senior Notes from exercising all remedies otherwise permitted by applicable law upon default under this Agreement, subject to the rights, if any, under this Article VI of the holders of such Senior Indebtedness in respect of cash, property or securities of the Company, as the case may be, received upon the exercise of any such remedy.

6.5 Notice by the Company.

(a) The Company shall give prompt written notice to the Holders of the Senior Notes of any fact known to the Company that would prohibit the making of any payment of monies in respect of the Senior Notes pursuant to the provisions of this Article VI.

(b) Upon any payment or distribution of assets of the Company referred to in this Article VI, the Holders of the Senior Notes shall be entitled to conclusively rely upon any order or decree entered by any court of competent jurisdiction in which such insolvency, bankruptcy,

receivership, liquidation, reorganization, dissolution, winding-up or similar case or proceeding is pending, or a certificate of the trustee in bankruptcy, liquidating trustee, custodian, receiver, assignee for the benefit of creditors, agent or other person making such payment or distribution, delivered to the Holders of the Senior Notes, for the purpose of ascertaining the persons entitled to participate in such payment or distribution, the holders of Senior Indebtedness and other indebtedness of the Company, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article VI.

6.6 Subordination May Not Be Impaired.

(a) No right of any present or future holder of any Senior Indebtedness of the Company to enforce subordination as herein provided shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company, as the case may be, or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Company, as the case may be, with the terms, provisions and covenants of this Agreement, regardless of any knowledge thereof that any such holder may have or otherwise be charged with.

(b) Without in any way limiting the generality of the foregoing paragraph, the holders of Senior Indebtedness of the Company may, at any time and from time to time, without the consent of or notice to the Holders of the Senior Notes, without incurring responsibility to the Holders of the Senior Notes and without impairing or releasing the subordination provided in this Article VI or the obligations hereunder of the Holders of the Senior Notes to the holders of such Senior Indebtedness, do any one or more of the following: (i) change the manner, place or terms of payment or extend the time of payment of, or renew or alter, such Senior Indebtedness, or otherwise amend or supplement in any manner such Senior Indebtedness or any instrument evidencing the same or any agreement under which such Senior Indebtedness is outstanding; (ii) sell, exchange, release or otherwise deal with any property pledged, mortgaged or otherwise securing such Senior Indebtedness; (iii) release any Person liable in any manner for the collection of such Senior Indebtedness; and (iv) exercise or refrain from exercising any rights against the Company, as the case may be, and any other Person.

Article VII
Miscellaneous

7.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by either the Investor or the Company if the Closing shall not have occurred by the 30th calendar day following the Signing Date; *provided*, *however*, that in the event the Closing has not occurred by such 30th calendar day, the parties will consult in good faith to determine whether to extend the term of this Agreement, it being understood that the parties shall be required to consult only until the fifth day after such 30th calendar day and not be under any obligation to extend the term of this Agreement thereafter; *provided*, *further*, that the right to terminate this Agreement under this Section 7.1(a) shall not be available to any party whose breach of any representation or warranty or failure to perform any obligation under this Agreement shall have caused or resulted in the failure of the Closing to occur on or prior to such date; or

(b) by either the Investor or the Company in the event that any Governmental Entity shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or

(c) by the mutual written consent of the Investor and the Company.

In the event of termination of this Agreement as provided in this Section 7.1, this Agreement shall forthwith become void and there shall be no liability on the part of either party hereto except that nothing herein shall relieve either party from liability for any breach of this Agreement.

7.2 Survival of Representations and Warranties. All covenants and agreements, other than those which by their terms apply in whole or in part after the Closing, shall terminate as of the Closing. The representations and warranties of the Company made herein or in any certificates delivered in connection with the Closing shall survive the Closing without limitation.

7.3 Amendment. Except as otherwise provided herein, no amendment, modification, termination or waiver of any provision of this Agreement, the Warrant, the Senior Notes or any of the other Transaction Documents, or consent to any departure by the Company therefrom, shall be effective unless made in writing and signed by an officer or a duly authorized representative of the Company and, in the case of the Warrant, the holder thereof, and in the case of the Senior Notes, the Majority Holders; *provided* that the Investor may unilaterally amend any provision of this Agreement to the extent required to comply with any changes after the Signing Date in applicable federal statutes; *provided further* that, notwithstanding anything else in this Section 7.3, no amendment, modification, termination or waiver with respect to the Senior Notes shall, unless in writing and signed by all Holders, do any of the following: (A) change the principal of or the rate of interest on any Senior Note; (B) extend any date fixed for any payment of principal or interest; (C) change the definition of the term "Majority Holders" or the percentage of Holders which shall be required for Holders to take any action hereunder; (D) amend or waive this Section 7.3 or the definitions of the terms used in this Section 7.3 insofar as the definitions affect the substance of this Section 7.3; or (E) consent to the assignment, delegation or other transfer by the Company of any of its rights and obligations under any Transaction Documents. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 7.3 shall be binding upon each Holder of the Senior Notes and the Warrant at the time outstanding, each future Holder of the Senior Notes, the holder of the Warrant and the Company. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative of any rights or remedies provided by law.

7.4 Waiver of Conditions. The conditions to each party's obligation to consummate the Purchase are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

7.5 **GOVERNING LAW: SUBMISSION TO JURISDICTION, ETC.** **THIS AGREEMENT AND THE SENIOR NOTES WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE FEDERAL LAW OF THE UNITED STATES IF AND TO THE EXTENT SUCH LAW IS APPLICABLE, OTHERWISE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE. EACH OF THE PARTIES HERETO AGREES (A) TO SUBMIT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA AND THE UNITED STATES COURT OF FEDERAL CLAIMS FOR ANY AND ALL CIVIL ACTIONS, SUITS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SENIOR NOTES OR THE WARRANT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, AND (B) THAT NOTICE MAY BE SERVED UPON (I) THE COMPANY AT THE ADDRESS AND IN THE MANNER SET FORTH FOR NOTICES TO THE COMPANY IN SECTION 7.6, (II) ANY THE INVESTOR IN ACCORDANCE WITH FEDERAL LAW. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO AND EACH HOLDER OF THE SENIOR NOTES HEREBY UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY CIVIL LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, THE SENIOR NOTES OR THE WARRANT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

7.6 Notices. Any notice, request, instruction or other document to be given hereunder by any party to the other will be in writing and will be deemed to have been duly given (a) on the date of delivery if delivered personally, or by facsimile, upon confirmation of receipt, or (b) on the second business day following the date of dispatch if delivered by a recognized next day courier service. All notices to the Company shall be delivered as set forth in Schedule A, or pursuant to such other instruction as may be designated in writing by the Company to the Investor. All notices to the Holders of Senior Notes shall be delivered in writing, mailed first-class postage prepaid, to each Holder of a Senior Note at the address of such Holder as it appears in the Senior Note Register. All notices to the Investor shall be delivered as set forth below, or pursuant to such other instructions as may be designated in writing by the Investor to the Company.

If to the Investor:

United States Department of the Treasury
1500 Pennsylvania Avenue, NW, Room 2312
Washington, D.C. 20220
Attention: Assistant General Counsel (Banking and Finance)
Facsimile: (202) 622-1974

7.7 Definitions.

(a) When a reference is made in this Agreement to a subsidiary of a person, the term "*subsidiary*" means any corporation, partnership, joint venture, limited liability company or other entity (x) of which such person or a subsidiary of such person is a general partner or (y) of which

a majority of the voting securities or other voting interests, or a majority of the securities or other interests of which having by their terms ordinary voting power to elect a majority of the board of directors or persons performing similar functions with respect to such entity, is directly or indirectly owned by such person and/or one or more subsidiaries thereof.

(b) The term "*Affiliate*" means, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with, such other person. For purposes of this definition, "*control*" (including, with correlative meanings, the terms "*controlled by*" and "*under common control with*") when used with respect to any person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such person, whether through the ownership of voting securities by contract or otherwise.

(c) The terms "*knowledge of the Company*" or "*Company's knowledge*" mean the actual knowledge after reasonable and due inquiry of the "*officers*" (as such term is defined in Rule 3b-2 under the Exchange Act, but excluding any Vice President or Secretary) of the Company.

7.8 Assignment. Neither this Agreement nor any right, remedy, obligation nor liability arising hereunder or by reason hereof shall be assignable by any party hereto without the prior written consent of the other party, and any attempt to assign any right, remedy, obligation or liability hereunder without such consent shall be void, except (a) an assignment, in the case of a merger, consolidation, statutory share exchange or similar transaction that requires the approval of the Company's Mutual Interest Holders or other equity securityholders (a "*Business Combination*") where such party is not the surviving entity, or a sale of substantially all of its assets, to the entity which is the survivor of such Business Combination or the purchaser in such sale that meets the requirements of Section 5.8 and (b) as provided in Section 5.12.

7.9 Severability. If any provision of this Agreement, the Senior Notes or the Warrant, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to persons or circumstances other than those as to which it has been held invalid or unenforceable, will remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon a suitable and equitable substitute provision to effect the original intent of the parties.

7.10 No Third Party Beneficiaries. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person or entity (other than the Company, the Investor, any holder of the Warrant and any Holder of the Senior Notes) any benefit, right or remedies, except that the provisions of Section 5.12 shall inure to the benefit of the persons referred to in that Section.

* * *

ANNEX A

FORM OF WAIVER

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or any state or territory thereof or my employer or any of its directors, officers, employees and agents for any changes to my compensation or benefits that are required in order to comply with Section 111 of the Emergency Economic Stabilization Act of 2008, as implemented by any guidance or regulation thereunder, as the same shall be in effect from time to time ("*Compensation Regulations*").

I acknowledge that the Compensation Regulations may require modification of the employment, compensation, bonus, incentive, severance, retention and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements), whether or not in writing, that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program and I hereby consent to all such modifications. I further acknowledge and agree that if my employer notifies me in writing that I have received payments in violation of the Compensation Regulations, I shall repay the aggregate amount of such payments to my employer no later than fifteen business days following my receipt of such notice.

This waiver includes all claims I may have under the laws of the United States or any other jurisdiction related to the requirements imposed by the Compensation Regulations (including, without limitation, any claim for any compensation or other payments or benefits I would otherwise receive absent the Compensation Regulations, any challenge to the process by which the Compensation Regulations were adopted and any tort or constitutional claim about the effect of the foregoing on my employment relationship) and I hereby agree that I will not at any time initiate, or cause or permit to be initiated on my behalf, any such claim against the United States, my employer or its directors, officers, employees or agents in or before any local, state, federal or other agency, court or body.

In witness whereof, I execute this waiver on my own behalf, thereby communicating my acceptance and acknowledgement to the provisions herein.

Respectfully,

ANNEX B

FORM OF OPINION

(a) The Company has been duly formed and is validly existing as an organization mutual in nature of the type described in Schedule A and in good standing under the laws of the state of its organization.

(b) The Senior Subordinated Securities have been duly and validly authorized, and, when executed and delivered pursuant to the Agreement, the Senior Subordinated Securities will be the legal, valid and binding obligations of the Company, enforceable in accordance with their terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity, and will rank Senior to Mutual Capital Interests, but subordinate to the contract rights of Members and to the Company's other debt obligations to its general and secured creditors, unless such debt obligations are explicitly made *pari passu* or subordinated to the Senior Subordinated Securities, in accordance with applicable regulations of the Appropriate Federal Banking Agency.

(c) The Warrant has been duly authorized and, when executed and delivered as contemplated by the Agreement, will constitute the legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity.

(d) The Warrant Securities have been duly authorized and reserved for issuance upon exercise of the Warrant and when so executed and delivered in accordance with the terms of the Warrant will be the legal, valid and binding obligations of the Company, enforceable in accordance with their terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity, and will rank senior to Mutual Capital Interests, but subordinate to the contract rights of Members and to the Company's other debt obligations to its general and secured creditors, unless such debt obligations are explicitly made *pari passu* or subordinated to the Senior Subordinated Securities, in accordance with applicable regulations of the Appropriate Federal Banking Agency.

(e) The Company has the entity power and authority to execute and deliver the Agreement and the Warrant and to carry out its obligations thereunder (which includes the issuance of the Senior Subordinated Securities, Warrant and Warrant Securities).

(f) The execution, delivery and performance by the Company of the Agreement and the Warrant and the consummation of the transactions contemplated thereby have been duly authorized by all necessary entity action on the part of the Company and its Mutual Interest Holders, and no further approval or authorization is required on the part of the Company.

(g) The Agreement is a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as the same may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and general equitable principles, regardless of whether such enforceability is considered in a proceeding at law or in equity *provided*, *however*, such counsel need express no opinion with respect to Section 5.12(h) or the severability provisions of the Agreement insofar as Section 5.12(h) is concerned.

ANNEX C

FORM OF SENIOR SUBORDINATED SECURITIES

[SEE ATTACHED]

ANNEX D

FORM OF WARRANT SENIOR SUBORDINATED SECURITIES

[SEE ATTACHED]

ANNEX E

FORM OF WARRANT TO PURCHASE SENIOR SUBORDINATED SECURITIES

[SEE ATTACHED]