

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (the "*Agreement*") is effective as of the date of execution by the last of the parties defined below. This *Agreement* is entered into by and between Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank ("*FDIC-R*") and Commonwealth Land Title Insurance Company ("*Commonwealth*") (collectively, the "*Parties*") with respect to *Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank, v. Commonwealth Land Title Insurance Company*, USDC Case No.: 12-cv-02247 JSM (TGW) (M.D. Fla.) for breach of contract and declaratory relief as described herein (the "*Action*").

RECITALS

WHEREAS, Washington Mutual Bank ("*WaMu*") financed two real property purchase

(b)(4),(b)(6) transactions for the properties known as [REDACTED] Reunion, Florida and [REDACTED] (b)(4),(b)(6)
(b)(4),(b)(6) [REDACTED] Reunion, Florida (the "*Subject Transactions*");

WHEREAS, *Commonwealth* issued Closing Protection Letters to *WaMu* in connection with the *Subject Transactions* to be closed by *Commonwealth's* Issuing Agent, *Reli Title, Inc.* ("*Reli*");

WHEREAS, on October 4, 2012, *FDIC-R* filed the *Action* based upon allegations of fraud or dishonesty by *Reli*, for which *FDIC-R* has alleged \$1,200,000 in damages plus pre-judgment interest;

WHEREAS, *Commonwealth* expressly denies any liability relating to the *Action* asserted by *FDIC-R*; and,

WHEREAS, to avoid any further expense of litigation, the *Parties*, having participated in settlement negotiations, voluntarily enter into this *Agreement*.

In consideration of the above, and for such other good and valuable consideration, the sum and sufficiency of which is hereby acknowledged and based on the mutual promises and conditions contained herein, the *Parties* agree as follows:

1. **Recitals.** The above Recitals are incorporated herein by reference and made a part of this *Agreement*.

2. **Settlement Payment to *FDIC-R*.** As an essential covenant and condition to this *Agreement*, *Commonwealth* agrees to pay *FDIC-R* the total sum of Six Hundred Fifty Thousand Dollars and Zero Cents (\$650,000.00) (the "*Settlement Funds*") within thirty (30) days after the execution of this *Agreement* by each of the *Parties*, and receipt of a W-9 form from *FDIC-R* or its Counsel (the "*Payment Deadline*"). The *Settlement Funds* shall be delivered to *FDIC-R* by direct wire transfer pursuant to the wiring instructions to be provided by the *FDIC-R*.

3. **Dismissal of *Action* with Prejudice.** In consideration of the payment of the *Settlement Funds* described above, and the releases of liability described below, *FDIC-R* stipulates and agrees to the dismissal of the *Action* with prejudice, and *FDIC-R* shall, within seven (7) calendar days of receipt of the *Settlement Funds*, sign and submit a stipulation and proposed Order dismissing the *Action* with prejudice.

4. **Mutual Limited Release.** For and in consideration of the timely total payment of the *Settlement Funds* by *Commonwealth*, and in consideration of the terms and conditions of this *Agreement*, *FDIC-R* does absolutely and unconditionally release *Commonwealth*, *Commonwealth's* officers, directors, shareholders, members, employees, owners, agents, affiliates, successors, fiduciaries, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Action*, which *FDIC-R* has, claims to have, or may hereafter acquire against *Commonwealth* arising out of the *Subject Transactions* and/or the facts and circumstances alleged in the *Action*.

For and in consideration of the terms and conditions of this *Agreement*, *Commonwealth* does absolutely and unconditionally release *FDIC-R* and *FDIC-R's* officers, directors, shareholders, members, employees, owners, agents, affiliates, successors, fiduciaries, and assigns, jointly and severally, from any and all claims, demands, actions or causes of action, known or unknown, now existing or hereafter acquired, and whether or not asserted in the *Action*, which *Commonwealth* had, has, claims to have, or may hereafter acquire against *FDIC-R* arising out of the *Subject Transactions* and/or the facts and circumstances alleged in the *Action*.

In the event that *FDIC-R* declares the *Agreement* null and void, the releases provided by the *Parties* under this provision shall likewise be null and void.

5. **Express Reservation from Releases by *FDIC-R* and *Commonwealth*.**

Notwithstanding any other provision, by this *Agreement*, the *Parties* do not release, and expressly preserve fully and to the same extent as if the *Agreement* had not been executed, (a)

any claims or causes of action that do not arise from or relate to the facts and circumstances alleged in the *Action*, or the defense of the same, or (b) any action taken by any other federal agency including but not limited to any claims which could be brought by the United States through either the Department of Justice or the United States Attorney's Office. In addition, *FDIC-R* specifically reserves the right to seek, and Commonwealth specifically reserves the right, to the extent necessary or appropriate, to defend against, court ordered restitution pursuant to the relevant provisions of the Victim and Witness Protection Act, 18 U.S.C. § 3663, et. seq., if appropriate. Notwithstanding any other provision, this *Agreement* does not purport to waive, or intend to waive (a) any claims against any person or entity not expressly released in this *Agreement*, or (b) any claims or causes of action against *Reli* or any other person or entity for liability, if any, incurred in connection with the *Subject Transactions* and/or as the maker, endorser or guarantor of any promissory note or indebtedness.

6. **No Assignment.** The *Parties* hereto warrant that they have made no other assignment, transfer, conveyance, or other disposition of any claims, demands, causes of action, obligations, damages and/or liabilities arising out of the *Subject Transactions* or the *Action*, except for title and mortgage claims assigned to JPMorgan Chase Bank, NA, and that they are fully entitled to give their full and complete release of all such claims and demands.

7. **Denial of Liability.** This *Agreement* constitutes a compromise of disputed claims. This *Agreement* shall not constitute or be construed as an admission of any liability or fault by any party hereto, all such liability being herein expressly denied. This *Agreement* shall not be construed as an admission of the truth or correctness of any claim asserted by the *Parties*.

8. **Assumption of Risk of Material Fact.** The *Parties* expressly assume the risk of any mistake of fact, known or unknown, relating to any of the claims compromised by this *Agreement*.

9. **Attorney's Fees and Costs.** Each party shall bear its own attorney's fees and costs with respect to the *Action*. Notwithstanding the foregoing, in any action or proceeding to enforce this *Agreement*, the prevailing party shall recover from the losing party all attorneys' fees, litigation expenses, and costs incurred in that effort, including any appeals.

10. **Amendment.** This *Agreement* may not be amended or modified at any time except by any instrument in writing executed by all of the *Parties*.

11. **Execution.** This *Agreement* may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one in the same instrument. Additionally, signature pages delivered by facsimile or via electronic mail in portable document format (.pdf) shall be deemed originals. The *Parties* further agree that, without receiving further consideration, they will sign and deliver such documents and do anything else that is reasonably necessary in the future to make the provisions of this *Agreement* effective.

12. **Integrated Agreement.** This *Agreement* sets forth the entire understanding between the *Parties* concerning the subject matter of this *Agreement* and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this *Agreement* other than those set forth herein.

13. **Governing Law.** This *Agreement* shall be governed by and construed in accordance with Florida law (excluding any conflict of laws rule or principle that might refer the governance or construction of this *Agreement* to the law of another jurisdiction). Nothing in this *Agreement* shall require any unlawful action or inaction by any party hereto.

14. **Severability.** If any portion of this *Agreement* is found to be unenforceable, the *Parties* desire that all other portions that can be separated from the unenforceable portion or appropriately limited in scope shall remain fully valid and enforceable.

15. **Representation.** No representation or warranty has been made by or on behalf of any party to this *Agreement* (or any officer, director, employee or agent thereof) to induce any other party to enter into this *Agreement* or to abide by or consummate any transactions contemplated by any terms of this *Agreement*, except representations and warranties, if any, expressly set forth herein. In entering into this *Agreement*, the *Parties* hereto represent that they have proceeded with the advice of an attorney of their own choice, that they have read the terms of this *Agreement*, that the terms of this *Agreement* have been completely read and explained to the *Parties* by their attorney, and that those terms are fully understood and voluntarily accepted by the *Parties*.

16. **Authority.** Each person signing this *Agreement* on behalf of any entity warrants or represents that he or she has the full and complete authority to enter into this *Agreement* on behalf of that entity.

17. **Titles and Captions.** The section titles and captions contained in this *Agreement* are inserted only for convenience and reference and shall not be construed to define, limit, or extend the scope of this *Agreement* or the intent of any of its provisions.

18. **Venue.** Jurisdiction for any action or proceeding to enforce the terms of this *Agreement* shall be in the United States District Court in and for the Middle District of Florida.

IN WITNESS WHEREOF, the *Parties* to this *Agreement* have executed this *Agreement* as of the date indicated by each party's signature.

Federal Deposit Insurance Corporation, as
Receiver for Washington Mutual Bank.

By: (b)(6)

Name: Aaron Forester

Title: Counsel

Date: 9-11-2013

Commonwealth Land Title Insurance Company

By: _____

Name: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the *Parties* to this *Agreement* have executed this *Agreement*
as of the date indicated by each party's signature.

Federal Deposit Insurance Corporation, as
Receiver for Washington Mutual Bank

By: _____

Name: _____

Title: _____

Date: _____

Commonwealth Land Title Insurance Company

By: (b)(6)

Name: Tara B. VanRooy

Title: Major Claims Counsel / VP

Date: 9/11/2013