

SETTLEMENT AND ASSIGNMENT AGREEMENT

The Federal Deposit Insurance Company (the "FDIC"), Receiver for BankUnited, FSB, of Coral Gables, Florida ("BankUnited"), and Alfred Camner, Ramiro Ortiz, and Humberto Lopez (collectively, the "Defendants," and, together with the FDIC, the "Parties"), hereby enter into this Settlement and Assignment Agreement ("Agreement") on this 30 day of July 2012.

WHEREAS, BankUnited was closed by the Office of Thrift Supervision on May 21, 2009, and the FDIC was appointed as its Receiver; and,

WHEREAS, the FDIC has the right pursuant to 1821(d)(2)(A)(i) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") and other authority to assert claims against the former directors and officers of BankUnited; and,

WHEREAS, the FDIC has asserted claims (the "FDIC's Claims"), including claims for payment of monetary damages and for non-monetary relief, against certain individuals (the "Named Individuals") and/or the Defendants, subject to supplementation, revisions, and/or deletions of claims known or unknown, relating to their services, acts and/or omissions as former officers and/or directors of BankUnited, some of which but without limitation are set forth in a letter (the "Demand Letter") to the Named Individuals dated November 5, 2009 asserting damages of \$227 million and which specifically do not include any claims that the FDIC may have against Alfred Camner and/or Camner Lipsitz, P.A. relating to their services, acts and/or omissions as attorneys for BankUnited; and,

WHEREAS, on September 16, 2008, the Waterford Township General Employees Retirement System initiated an adversary proceeding in the U.S. District Court for the Southern District of Florida, Miami Division, captioned *In re BankUnited Securities Litigation*, U.S. District Court, Southern District of Florida, Civil Action No. 08-22572-CIV-Cooke/Turnoff (the "Class Action"); and,

WHEREAS, on April 6, 2009, the Louisiana Municipal Police Employee's Retirement System and the Oklahoma Police Pension and Retirement System ("Lead Plaintiffs") were appointed as lead plaintiffs in the Class Action; and,

WHEREAS, the Defendants and/or the Named Individuals are insureds under a primary insurance policy issued by St. Paul Mercury Insurance Company ("Travelers"), Policy Number

(b)(4) [REDACTED] (the "Primary Policy"), with a liability limit of \$10 million; and,

WHEREAS, the Primary Policy had a policy period of November 10, 2007, through November 10, 2008, and a one-year tail discovery period was purchased by BankUnited's holding company, BankUnited Financial Corporation ("BUFC"), which extended coverage to November 10, 2009; and,

WHEREAS, the Named Individuals and/or Defendants are insureds under an excess insurance policy issued by RSUI Indemnity Company ("RSUI"), Policy Number [REDACTED] (b)(4) (the "Excess Policy"), with a liability limit of \$10 million; and,

WHEREAS, the Excess Policy had a policy period of November 10, 2007, through November 10, 2008, and a one-year tail discovery period purchased by BUFC, which extended coverage to November 10, 2009; and,

WHEREAS, on November 5, 2009, the Demand Letter was forwarded to Travelers and RSUI; and,

WHEREAS, RSUI has been provided with all relevant information necessary to investigate, evaluate, and adjust the subject claims and otherwise perform its obligations under the Excess Policy, but has failed to do so; and,

WHEREAS, the Parties engaged in mediation to facilitate arm's-length negotiations designed to avoid litigation, save litigation expense, including further depletion of the insurance

policies, and to prevent on the part of the insured Defendants a potentially substantial liability; and,

WHEREAS, RSUI was provided with a mediation statement that included a liability and damages analysis regarding liability and recoverable damages of up to \$632 million associated with the negligence, gross negligence, and/or breaches of duty alleged to have occurred during its Policy Period that likely exceed the Excess Policy's limit; and,

WHEREAS, RSUI denied coverage for the FDIC's Claims, and refused to make any of its policy limits available to fund a settlement with the FDIC; and,

WHEREAS, RSUI has been provided with numerous opportunities to effectuate a settlement of the FDIC's Claims within the limits of the Excess Policy, but has refused to even attempt to negotiate or to consider any such settlement; and,

WHEREAS, by refusing to even attempt a potential settlement of the FDIC's Claims, RSUI refused to protect the interests of the insured Defendants; and,

WHEREAS, the Parties do not intend to release or impact any claims against RSUI; and,

WHEREAS, the Parties have taken into consideration the factual allegations underlying the FDIC's Claims, any applicable defenses thereto, the amount of the FDIC's Claims, the evidence in the case, the potential verdict range represented by such suits, as well as the public interest and related factors; and,

WHEREAS, this Agreement is the product of arms-length negotiations between the Parties, each represented by counsel; and,

WHEREAS, the Defendants have agreed to settle the FDIC's Claims for the sum of One Hundred Twenty Five Million Dollars (\$125,000,000.00), and have agreed to assign their rights under the RSUI policy and any claims against RSUI to the FDIC; and,

WHEREAS, the Lead Plaintiffs have also agreed to assign their rights under the RSUI policy and any claims against RSUI to the FDIC; and,

WHEREAS, the FDIC, Lead Plaintiffs, Defendants and/or Named Individuals, and Travelers have agreed that Travelers shall pay all the remaining limits of the Primary Policy as follows: (i) a \$2,500,000 payment to the FDIC as a partial payment of the FDIC's Claims; (ii) a \$3,500,000 payment to the Lead Plaintiffs; and (iii) the remainder of the limits to be placed in a reserve (the "Defense Reserve") to be used to pay the reasonable defense costs of the Named Individuals and/or Defendants (the "Defense Costs"), with respect to, or, after a proposed settlement is reviewed and approved through an internal process at the FDIC that has no guaranteed outcome, to pay the settlement of: (1) claims that have been asserted or may in the future be asserted against some or all of the Named Individuals and/or Defendants by the Official Committee of Unsecured Creditors of BankUnited Financial Corporation (the "Committee"); and (2) any claim, investigation or action that may be initiated against some or all of the Named Individuals and/or Defendants by the Securities & Exchange Commission ("SEC"); and,

WHEREAS, any funds in the Defense Reserve not expended by July 1, 2014 will be distributed to the FDIC in further partial payment of the FDIC's Claims, provided that such distribution shall be made only after there are no remaining pending claims, investigations, or actions against any of the Named Individuals by either the Committee or the SEC, within the meaning of this Agreement; and,

WHEREAS, the funds in the Defense Reserve shall be held in an interest bearing account to be jointly administered by the law firms of Coffey Burlington and Fowler White Burnett, who shall use those funds to pay the reasonable Defense Costs of the Named Individuals, including the Defendants, in connection with any claims or actions asserted against the Named Individuals, including the Defendants, by either the Committee or the SEC, until July 1, 2014, or until the

termination of all pending claims, investigations, or actions against the Named Individuals by either the Committee or the SEC, as defined in this Agreement. Defense Reserve funds may also be used to pay the settlement of any claims or actions asserted against the Named Individuals, including the Defendants, by either the Committee or the SEC. The FDIC shall have the right to approve and consent to any amount of the Defense Reserve to be utilized for any purpose, such consent and approval not to be unreasonably withheld. No funds from the Defense Reserve shall be used to pay any settlement of any claims without the FDIC's written prior consent, which the Parties understand cannot be obtained, and shall not be given, until after an internal approval process at the FDIC that has no guaranteed outcome; and,

WHEREAS, this Agreement will be presented to the Bankruptcy Court in connection with a motion for relief from the automatic stay to fund this Agreement in the chapter 11 bankruptcy case pending before the U.S. Bankruptcy Court for the Southern District of Florida, Miami Division (the "Bankruptcy Court"), captioned *In re BankUnited Financial Corporation, et al.*, Case No. 09-19940-LMI (the "Bankruptcy Case"); and,

WHEREAS, this Agreement is subject to and conditioned on the entry of a final and unappealable order of the Bankruptcy Court approving the release of funds from the Primary Policy to fund the Settlement Agreement (the "Bankruptcy Court Approval Order"); and,

WHEREAS, this Agreement is subject to and conditioned on the entry of a final and unappealable order of the District Court finally approving the settlement (the "Class Action Settlement") presented to it in connection with the Lead Plaintiffs' September 30, 2011 Motion for Preliminary Approval of Settlement, Certification of a Class for Settlement Purposes, and Approval of Notice to the Class (the "District Court Approval Order" and, together with the Bankruptcy Court Approval Order, the "Approval Orders")); and,

WHEREAS, in exchange for Travelers' commitment to provide the full policy limits of the Primary Policy in the method described, each of the Defendants and/or Named Individuals agrees to execute the Settlement Agreement and Policy Release in favor of Travelers ("Policy Release") attached hereto as Exhibit "A"; and,

WHEREAS, the FDIC and the Named Individuals who are not Defendants within the meaning of this Agreement shall each execute the Mutual Release of Liability ("FDIC Release") attached hereto as Exhibit "B"; and,

NOW, THEREFORE, the undersigned Parties agree as follows:

1. SETTLEMENT AGREEMENT:

A. In consideration of the promises, representations, and warranties set forth herein, and without admitting any liability in connection with the FDIC's Claims or any potential claims against them as directors and/or officers of BankUnited, Defendants agree to settle the FDIC's Claims for One Hundred Twenty Five Million Dollars (\$125,000,000.00), and to assign the FDIC the Defendants' rights and claims against RSUI. The FDIC and the Defendants agree that this settlement is a compromise of disputed claims, and that such settlement is not to be construed as an admission on the part of the Defendants of any liability or responsibility at any time or for any purpose whatsoever. The Bankruptcy Court will be advised that a settlement agreement has been reached, and if the Bankruptcy Court approves the release of funds from the Primary Policy to fund the settlement described in this Agreement, the District Court approves the Class Action Settlement, the Defendants perform all other duties and promises required by this Agreement, and the FDIC resolves its claims against RSUI, the FDIC will grant the Defendants a covenant not to sue for the FDIC's Claims, but in a manner that permits the court to retain jurisdiction to enforce this Agreement. If the Bankruptcy Court does not approve the

release of funds from the Primary Policy as contemplated in this Agreement, or if the District Court does not approve the Class Action Settlement, this Agreement is null and void.

B. The Parties agree that, notwithstanding anything else in this Agreement, upon approval of this Agreement by the Bankruptcy Court, the Defense Reserve shall be funded. The Parties further agree that such funds shall be held in an interest bearing account to be jointly administered by the law firms of Coffey Burlington and Fowler White Burnett, who shall use those funds to pay the reasonable Defense Costs of the Named Individuals, including the Defendants, in connection with any claims or actions asserted by either the Committee or the SEC, until July 1, 2014, or until the termination of all pending claims, investigations, or actions against the Named Individuals by either the Committee or the SEC. The Parties further agree that funds in the Defense Reserve may also be used to pay a settlement of any claims or actions asserted against the Named Individuals, including the Defendants, by either the Committee or the SEC, and that the FDIC shall have the right to approve and consent to any amount of the Defense Reserve to be utilized for any purpose, such consent and approval not to be unreasonably withheld. The Parties specifically agree that no funds from the Defense Reserve shall be used to pay a settlement of any claims without the FDIC's prior written consent. The Parties also specifically agree, understand, and acknowledge that the FDIC shall not consent to the payment of any funds from the Defense Reserve to settle any claims until after such proposed settlement is reviewed and approved through an internal process at the FDIC that has no guaranteed outcome. The Parties further agree that any funds in the Defense Reserve not expended by July 1, 2014 will be distributed to the FDIC in further partial payment of the FDIC's Claims, provided that such distribution shall be made only after there are no remaining pending claims, investigations, or actions against the Named Individuals and/or Defendants by either the Committee or the SEC. The Parties further agree that, for purposes of this Agreement, there is a

pending claim, investigation, or action by the SEC only if the SEC provides written notice to the Named Individuals and/or Defendants of the SEC's initiation of or intent to initiate a claim, investigation, or other enforcement action against the Defendants and/or other former directors of BankUnited before July 1, 2014.

2. ASSIGNMENT OF RIGHTS AND CAUSES OF ACTION: The Defendants hereby assign to the FDIC their right, title, and interest in the Excess Policy and any and all causes of action they may have against RSUI (including any and all damages related to those causes of action) pursuant to the Excess Policy, common law of bad faith or similar law, and under Florida Statute § 624.155, as a result of RSUI's refusal to provide the Defendants with the full benefits due under the Excess Policy or to consent to a settlement within the limits of the Excess Policy, subject to the conditions of this Agreement. As further consideration for this Agreement, the Defendants also specifically assign their entitlement to assert the attorney client privilege and/or work product immunity with respect to any attorney client communications or attorney work product made regarding the FDIC's Claims, or made regarding any cause of action the Defendants may have against RSUI.

3. CAUSES OF ACTION ON DEFENDANTS' BEHALF: The Parties agree that the FDIC may, at its sole discretion, prosecute causes of action seeking coverage under the Excess Policy and/or bad faith on its own behalf, or as Assignee of any or all of the insured Defendants. Regardless of the style of the case, or whether joined as party plaintiffs or party defendants, the Defendants agree to cooperate with the FDIC in the provision of information necessary to the lawsuit(s).

4. CONDITIONS OF ASSIGNMENT:

A. The Defendants, by this Agreement, assign one hundred percent (100%) of their interest to the FDIC in any damages recovered by the FDIC in any action brought pursuant

to this Agreement against RSUI and/or any of its agents. The Defendants shall have no interest in or be responsible for any attorney's fees or costs awarded in connection with any such action.

B. The Defendants will cooperate fully with the FDIC and its counsel in the pursuit or defense of the contemplated lawsuits or bad faith claims involving RSUI, including: (1) providing any necessary documentation upon request, provided that the Defendants have possession or control of the requested documentation; (2) attending depositions and/or any reasonably necessary conferences or meetings called by the FDIC subject to reasonable notice and availability; and (3) otherwise providing truthful information which may be called for in the FDIC's discretion incident to the lawsuits or bad faith claims contemplated by this Agreement. The FDIC shall not be obligated to pay fees or costs incurred by counsel representing the Defendants as personal counsel, should any choose to engage such counsel in responding to discovery requests or agreeing to depositions, mediations, or trial.

C. The FDIC and its counsel shall have the sole discretion on whether to pursue litigation against RSUI and the choice of any cause of action to be asserted against RSUI. The FDIC and its counsel shall further have sole authority to compromise, resolve, or try any action pursuant to this Agreement, as they deem appropriate. Similarly, the FDIC and its counsel may, in its sole discretion, determine whether or not to appeal an adverse decision, or to defend any appeal taken by RSUI. Upon execution of this Agreement, the FDIC shall take all necessary steps to dismiss the Defendants from the declaratory judgment action in the Bankruptcy Court captioned *RSUI Indemnity Company v. BankUnited Financial Corporation*, No. 12-01383 (Bankr. S.D. Fla.).

5. NO RELEASE OF LIABILITY: The Parties have reviewed the Florida Supreme Court case of *Rosen v. FIGA*, 802 So. 2d 291 (Fla. 2001), and each agree that it is neither the intention of the Defendants nor the FDIC to release or discharge RSUI from any of its liability to

the Defendants or the FDIC in connection with the Excess Policy, or under the law. The Defendants are also not released or discharged from liability. The FDIC agrees to seek satisfaction of the settlement from RSUI first and the Parties agree to toll any limitations period related to the FDIC's Claims. Should the FDIC recover an amount equal to, or greater than, the amount agreed to in this Agreement (One Hundred Twenty Five Million Dollars (\$125 million dollars)), plus interest and costs; prevail in whole or in part in any subsequent lawsuit against RSUI; lose, withdraw, or dismiss the coverage or bad faith lawsuit or claim against RSUI; and/or resolve its differences with RSUI; the FDIC shall provide a covenant not to sue the Defendant for the FDIC's Claims, provided, that the Defendants have faithfully discharged the terms, conditions, and/or warranties contained in this Agreement and have fully cooperated with the FDIC as described herein.

6. ASSIGNMENT PRIOR TO DISCHARGE OF LIABILITY: This Assignment is given prior to the discharge of any liability for payment on the Agreement, and as a condition precedent to the waiver of any deficiency action against the Defendants should the Agreement not be fully satisfied. In addition, this Assignment is given in consideration of the FDIC's: (i) subsequent agreement to forbear further proceedings asserting the FDIC's Claims against the Defendants; and (ii) granting a covenant not to sue the Defendants to recover the amount of the settlement of the FDIC's Claims from the personal assets of the Defendants. Furthermore, this Assignment is given in exchange for cooperation by the Defendants.

7. COSTS OF LITIGATION: Any action brought against RSUI and/or its agents pursuant to this Agreement shall be prosecuted or defended by the FDIC, and it will bear full financial responsibility for the prosecution and defense of its own fees and costs for such suits and actions.

8. SEVERABILITY OF RELEASE AND ASSIGNMENT: If for any reason this Agreement is rendered invalid or unenforceable as to any Defendant, the Agreement shall remain effective as to the others.

9. CONSTRUCTION OF AGREEMENT: This Agreement, its effect, and enforceability shall be construed under the laws of the State of Florida.


10. MERGER CLAUSE: This Agreement, together with the Policy Release and the FDIC Release, constitutes the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement and supersedes any prior and contemporaneous, oral or written agreement, negotiations and discussions with respect to the subject matter of this Agreement.

10. REPRESENTATION BY COUNSEL: The Parties have each reviewed this Agreement through counsel of their choosing or been afforded the opportunity before signing this Agreement.

11. EXECUTION OF AGREEMENT: The Parties have expressly agreed that this Agreement may be executed in counterparts.



p.3 (b)(6)
p.1

By:  (b)(6)
Alfred Camner (date)

STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI DADE)

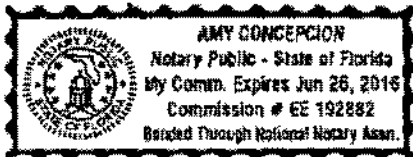
SWORN TO AND SUBSCRIBED before me this 25th day of July

2019, by Alfred Camner, who DID/DID NOT take an oath and who:

☒ is personally known to me; or

☐ produced identification: _____

My Commission Expires:



 (b)(6)
Notary Public

By: (b)(6)
Humberto Lopez (date)

STATE OF FLORIDA)
COUNTY OF MIAMI DADE) SS.

SWORN TO AND SUBSCRIBED before me this 18 day of July

2014 by Humberto Lopez, who DID/DID NOT take an oath and who:

☒ is personally known to me; or

☐ produced identification: _____

My Commission Expires:



(b)(6)
Notary Public

By: (b)(6)
Steven E. Smith, As Counsel (date)
For the Federal Deposit Insurance
Corporation

STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI DADE)

SWORN TO AND SUBSCRIBED before me this 30 day of July,
2011, by Steven E. Smith, who DID/DID NOT take an oath and who:

☒ is personally known to me; or
_____ produced identification: _____

My Commission Expires:



(b)(6)
Notary Public

SETTLEMENT AGREEMENT AND POLICY RELEASE

This Settlement Agreement and Policy Release (this "Agreement"), dated as of July 30, 2012, by and between Alfred Camner, Ramiro Ortiz, Humberto Lopez, Neil Messinger, Al Bernkrant, Brad Weiss, Hardy Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith (each individually the "Insured" and collectively, the "Insureds"), and the Federal Deposit Insurance Corporation ("FDIC"), as receiver for BankUnited, FSB ("BankUnited"), each on their own behalf and their respective administrators, predecessors, successors, assigns, present or former, shareholders, partners, principals, employees, agents, trustees, attorneys, accountants, parent corporations, subsidiaries, affiliates, divisions, managers, representatives, and partnerships, and St. Paul Mercury Insurance Company, on behalf of itself and its reinsurers, predecessors, successors, assigns, present or former directors, shareholders, partners, principals, officers, employees, agents, trustees, attorneys, accountants, parent corporations, subsidiaries, affiliates, divisions, managers, representatives, and partnerships ("Travelers" or the "Insurer," and, together with the Insureds and the FDIC, the "Parties"), as follows:

WHEREAS, Travelers previously issued Directors and Officers and Company Liability Policy No. (b)(4) [REDACTED] to BankUnited Financial Corporation ("BUFC") for the Policy Period of November 10, 2007, through November 10, 2008, and had a one-year tail discovery period purchased by BUFC, which extended coverage to November 10, 2009, with a Limit of Liability of \$10,000,000 (the "Policy"); and,

WHEREAS, subject to its terms, conditions and limitations, the Policy insures Loss, a term defined in the Policy to include "damages, judgments, settlements and Defense Costs" (hereinafter referred to as the "Loss"); and,

WHEREAS, the FDIC has asserted claims (the "FDIC's Claims"), including claims for payment of monetary damages and for non-monetary relief, against the Insureds, subject to supplementation, revisions, and/or deletions of claims known or unknown, relating to their

services, acts and/or omissions as former officers and/or directors of BankUnited, some of which but without limitation are set forth in a letter (the "FDIC Demand Letter") to the Insureds dated November 5, 2009 asserting damages of \$227 million, and which specifically do not include any claims that the FDIC may have against Alfred Camner and/or Camner Lipsitz, P.A. relating to their services, acts and/or omissions as attorneys for BankUnited; and,

WHEREAS, Alfred Camner, Ramiro Ortiz, Humberto Lopez and the FDIC have entered into a certain Settlement and Assignment Agreement, dated the date hereof, pursuant to which they have agreed to settle the FDIC's Claims (the "Settlement Agreement"); and

WHEREAS, the FDIC and Neil Messinger, Al Bernkrant, Brad Weiss, Hardy Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith (collectively, the "Outside Directors") have agreed to execute the Mutual Release of Liability (the "FDIC Release"), which is attached as Exhibit B to the Settlement Agreement; and,

WHEREAS, this Agreement is attached as an exhibit to the Settlement Agreement and is subject to and conditioned on the consummation of the transactions contemplated under the Settlement Agreement; and,

WHEREAS, the Settlement Agreement, together with this Agreement and the FDIC Release, will be presented to the Bankruptcy Court in connection with a motion for relief from the automatic stay to fund the Settlement Agreement in the chapter 11 bankruptcy case pending before the U.S. Bankruptcy Court for the Southern District of Florida, Miami Division (the "Bankruptcy Court"), captioned *In re BankUnited Financial Corporation, et al.*, Case No. 09-19940-LMI (the "Bankruptcy Case"); and,

WHEREAS, the Settlement Agreement, together with this Agreement, is subject to and conditioned on the entry of a final and unappealable order of the Bankruptcy Court approving the release of funds from the Primary Policy to fund the Settlement Agreement (the "Bankruptcy Court Approval Order"); and,

WHEREAS, on September 16, 2008, the Waterford Township General Employees Retirement System initiated an adversary proceeding in the U.S. District Court for the Southern District of Florida, Miami Division (the "District Court"), captioned *In re BankUnited Securities Litigation*, U.S. District Court, Southern District of Florida, Civil Action No. 08-22572-CIV-Cooke/Turnoff (the "Class Action"); and,

WHEREAS, on April 6, 2009, the Louisiana Municipal Police Employee's Retirement System and the Oklahoma Police Pension and Retirement System ("Lead Plaintiffs") were appointed as lead plaintiffs in the Class Action; and,

WHEREAS, the Lead Plaintiffs have also agreed to assign their rights under an excess insurance policy issued by RSUI Indemnity Company ("RSUI"), Policy Number (b)(4) and any claims against RSUI to the FDIC; and,

WHEREAS, this Agreement is subject to and conditioned on the entry of a final and unappealable order of the District Court finally approving the settlement (the "Class Action Settlement") presented to it in connection with the Lead Plaintiffs' September 30, 2011 Motion for Preliminary Approval of Settlement, Certification of a Class for Settlement Purposes, and Approval of Notice to the Class (the "District Court Approval Order" and, together with the Bankruptcy Court Approval Order, the "Approval Orders")); and,

WHEREAS, on November 5, 2009, the Official Committee of Unsecured Creditors of BankUnited Financial Corporation (the "Committee") sent a demand for payment of civil damages (the "Committee Demand Letter"), asserting certain claims (the "Committee's Claims") against the Insureds; and,

WHEREAS, on December 5, 2011, the Committee initiated an adversary proceeding in the U.S. Bankruptcy Court for the Southern District of Florida, Miami Division, captioned *Official Committee of Unsecured Creditors of BankUnited Financial Corporation v. Camner (In*

re BankUnited Financial Corporation), U.S. Bankruptcy Court, Southern District of Florida, Adversary No. 11-03055-LMI (the "Committee Action"); and,

WHEREAS, the Securities & Exchange Commission ("SEC") may in the future initiate an investigation and/or action against the Insureds ("SEC Action"); and,

WHEREAS, the Insureds have demanded coverage under the Policy for reimbursement of Loss in connection with the FDIC's Claims; and,

WHEREAS, the Insureds have demanded coverage under the Policy for reimbursement of Loss in connection with the Class Action; and,

WHEREAS, the Insureds have demanded coverage under the Policy for reimbursement of Loss in connection with the Committee's Claims and the Committee Action; and,

WHEREAS, the Insureds intend to demand coverage under the Policy for reimbursement of Loss in connection with any future SEC Action; and,

WHEREAS, pursuant to this agreement, Travelers has made and will make certain payments for Loss under the Policy (the "Prior Payments") through the dates of the respective entries of each Approval Order (collectively, the "Approval Dates"), as reflected by invoices provided to Travelers no later than ten business days after the later Approval Date (the "Defense Costs Deadline"); and,

WHEREAS, the FDIC, Lead Plaintiffs, Defendants and/or Named Individuals, and Travelers have agreed that Travelers shall make: (i) a \$2,500,000 payment to the FDIC as a partial payment of the FDIC's Claims (the "FDIC Initial Payment") ; (ii) a \$3,500,000 payment to the Lead Plaintiffs (the "Class Action Payment"); and,

WHEREAS, subtracting the Prior Payments, the FDIC Initial Payment, and the Class Action Payment from the Limit of Liability results in a lower remaining Limit of Liability (the "Defense Reserve"); and,

WHEREAS, any portion of the Defense Reserve not expended to pay for the defense of the Insureds in connection with, or, after a proposed settlement is reviewed and approved through an internal process at the FDIC that has no guaranteed outcome, to pay the settlement of, the Committee's Claims, the Committee Action, or a future SEC Action by July 1, 2014 will be distributed exclusively to the FDIC in further payment of the FDIC's Claims; and,

WHEREAS, the FDIC shall retain the right to approve and consent to any amount of the Defense Reserve to be utilized for any purpose, including specifically the right to review and approve any proposed settlement through an internal process at the FDIC that has no guaranteed outcome, before disbursement of such funds for settlement purposes, and the Parties agree that Insurer will have no further obligation or responsibility with respect to disbursement of the Defense Reserve, and that any portion of the Defense Reserve not expended to pay for the defense of the Insureds in connection with the Committee's Claims, the Committee Action, or a future SEC Action (the "Excess Reserve") will be distributed exclusively to the FDIC; and

WHEREAS, the Insureds are represented in connection with the FDIC's Claims, the Class Action, and the Committee's Claims and Committee Action by various counsel (the "Defense Counsel"); and,

WHEREAS, the Insureds will be represented by the Defense Counsel in connection with any future SEC Action; and,

WHEREAS, in light of the several demands for policy proceeds, the Insureds and Travelers have now reached an agreement in order to forever resolve any differences with regard to those questions that exist, existed or may exist in the future as to the applicability of the Policy to Loss incurred or to be incurred in connection with the FDIC's Claims; and,

NOW, THEREFORE, in consideration of Travelers paying a total of \$10 million under the Policy in the following four amounts: (1) to the FDIC as the FDIC Initial Payment, \$2,500,000; (2) to the Lead Plaintiffs as the Class Action Payment, \$3,500,000; (3) to Defense

Counsel, the Prior Payments; and (4) to an interest bearing account to be jointly administered by the law firms of Coffey Burlington and Fowler White Burnett, the Defense Reserve (collectively, the "Settlement Amount"), the \$10 million amount which represents the Policy's full Limit of Liability, and which is the full and total sum to be paid by Travelers to the Insureds pursuant to the Policy as set forth in this Agreement, and this Agreement being executed by the Insureds in full settlement of any and all rights and entitlements that the Insureds may have or claim under the Policy in connection with the FDIC's Claims, the Class Action, the Committee's Claims, the Committee Action, or a future SEC Action, the Parties agree the following shall occur:

1. On or before twenty (20) business days after the Defense Costs Deadline, or Travelers' receipt of appropriate payment/wiring instructions (whichever comes later), Travelers shall complete payment of the Prior Payments to Defense Counsel and Travelers shall pay the Defense Reserve into an interest bearing account jointly administered by the law firms of Coffey Burlington and Fowler White Burnett. On or before twenty (20) business days after the Approval Orders become final and unappealable, Travelers shall pay (1) \$2,500,000 to the FDIC as a FDIC Initial Payment; and (2) \$3,500,000 to the Lead Plaintiffs as the Class Action Payment.

2. For and in consideration of monies paid on behalf of the Insureds to the FDIC, and conditioned upon the payment of the Settlement Amount, the Insureds and the FDIC hereby release and forever discharge Travelers from all manner of action(s), causes of action, suits, claims for sums of money, damages, judgments, and demands whatsoever, known or unknown, suspected or unsuspected, in law or in equity that Insureds and/or the FDIC may now have or may have in the future against Insurer relating to the Policy, the FDIC's Claims, the Committee's Claims, the Committee Action, the Class Action, or a future SEC Action.

3. Travelers hereby releases and forever discharges the Insureds and the FDIC from all manner of action(s), causes of action, suits, claims for sums of money, damages, judgments,

and demands whatsoever, known or unknown, suspected or unsuspected, in law or in equity that Insurer may now have or may have in the future against any of the Insureds relating to the Policy, the FDIC's Claims, the Committee's Claims, the Committee Action, the Class Action, or a future SEC Action.

4. In the event that the release of funds from the Primary Policy to fund the Settlement Agreement is not approved by the Bankruptcy Court in the Bankruptcy Case, or if the Class Action Settlement is not approved by the District Court in the Class Action, any release of Travelers, the Insureds, or the FDIC herein shall be null and void and the Defense Reserve shall be returned to Travelers subject to offset for any reasonable and necessary defense payments made to Defense Counsel through the Defense Reserve.

5. Payment of the consideration for this Agreement is without prejudice to the Insureds, the FDIC or Travelers, and shall not be construed as precedent, or have value as precedent, and shall not be used in any proceeding or hearing to create, prove, or interpret the obligations under, or terms and conditions of, any other agreement or any alleged insurance policy.

6. Insureds and the FDIC represent, warrant and covenant that after full payment by Insurer of the Settlement Amount, Travelers will have no further obligation whatsoever to them under the Policy.

7. Insureds understand, acknowledge, and agree that with Travelers' payment of its full \$10 million Limit of Liability as set forth in this Agreement, the Insureds may incur Defense Costs and/or attorney's fees, costs, or expenses that will not be reimbursed by Insurer and fall within the scope of the release granted to Travelers in this Agreement.

8. Insureds and the FDIC understand, acknowledge, and agree to abide by Travelers' determinations with respect to all payments of Defense Costs to the Defense Counsel, including but not limited to any such determinations made prior to execution of this Agreement, and agree

that they will not seek recovery of any such sums from Travelers, the Insureds or Defense Counsel and that any dispute relating to such payments will not involve Insurer. Insureds and the FDIC agree that any such dispute is to be resolved between and among the Insureds and the FDIC. The FDIC understands, acknowledges, and agrees that it shall not seek recovery from Travelers, the Insureds or Defense Counsel of any Defense Costs already paid or to be paid to Defense Counsel by Travelers.

9. Insureds and the FDIC understand, acknowledge, and agree that the Policy Limit of Liability will be completely eroded by the Settlement Amount upon Travelers' payment of the Settlement Amount.

10. Insureds, the FDIC, and Travelers acknowledge, represent, and warrant that they have not assigned, sold, transferred or otherwise disposed of any of the rights, causes of action, claims or other matters described herein. If an Insured breaches said representation and warranty he shall defend, indemnify and hold harmless Insurer from any and all claims prosecuted based upon any assignment or transfer and any attempted assignment or transfer. If Insurer breaches said representation and warranty, it shall defend, indemnify and hold harmless Insureds from any and all claims prosecuted based upon any assignment or transfer and any attempted assignment or transfer.

11. The Parties understand, acknowledge, and agree that this Agreement may be pleaded as a full and complete defense to any action, suit or other proceeding that may be instituted, prosecuted or attempted in breach of this Agreement. Should Travelers institute any action and proceeding to enforce any provision of this Agreement against any other Party, or for damages by reason of any alleged breach by any Party of any provision of this Agreement, or for a declaration of Travelers's rights or obligations hereunder, or for any other judicial remedy, if Travelers prevails, it shall be entitled to be reimbursed by the Party who breached this Agreement for all reasonable and necessary costs and expenses incurred thereby, including, but

not limited to, attorneys' fees for the services rendered to Travelers in any such action or proceeding. Should an Insured or any of their attorneys institute any action and proceeding to enforce any provision of this Agreement against any other Party, or for damages by reason of any alleged breach by any Party of any provision of this Agreement, or for a declaration of an Insured's rights or obligations hereunder, or for any other judicial remedy, if the Insured prevails, he shall be entitled to be reimbursed by the Party who breached this Agreement for all reasonable and necessary costs and expenses incurred thereby, including, but not limited to, attorneys' fees for the services rendered to Insureds in any such action or proceeding. Should the FDIC institute any action and proceeding to enforce any provision of this Agreement against any other Party, or for damages by reason of any alleged breach by any Party of any provision of this Agreement, or for a declaration of the FDIC's rights or obligations hereunder, or for any other judicial remedy against any other Party, if the FDIC prevails, it shall be entitled to be reimbursed by Travelers for all reasonable and necessary costs and expenses incurred thereby, including, but not limited to, attorneys' fees for the services rendered to Insureds in any such action or proceeding.

12. The Parties understand, acknowledge, and agree that this Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever, except by agreement in writing signed by the Parties hereto.

13. The Parties understand, acknowledge, and agree that this Agreement shall, as provided above, be effective as a full and final agreement. The Parties understand, acknowledge, and agree that if they hereafter discover facts different from or in addition to the facts they now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intent that this Agreement constitutes a full and final agreement.

14. This Agreement, together with the Settlement Agreement and the FDIC Release, constitutes the entire agreement and understanding of the Parties with respect to the subject

matter of this Agreement and supersedes any prior and contemporaneous, oral or written agreement, negotiations and discussions with respect to the subject matter of this Agreement.

15. The Parties understand, represent, and warrant that they enter into this Agreement upon the legal advice of their attorneys, that said attorneys have explained the terms of the Agreement, and that they fully understand and voluntarily accept the terms of this Agreement.

16. Each person executing this Agreement on behalf of any Party hereby warrants that he or she has the authority to sign on behalf of said Party. Each Party agrees to execute all documents and to do all things necessary to effectuate the terms of this Agreement.

17. The Parties agree that the provisions of this Agreement shall be deemed to have been simultaneously drafted by all Parties and no laws or rules relating to the interpretation of contracts against the drafter of any particular clause should be applied to the interpretation or enforcement of this Agreement.

18. This Agreement may be executed in counterparts with the same effect as if the signatures were upon the same instrument. Each counterpart will be deemed an original, which taken together shall constitute a single instrument.

19. All notices required or permitted under or pertaining to this Agreement shall be in writing and delivered by any method providing proof of delivery. Notices shall be delivered to the Parties at the following addresses until a different address has been designated by notice to other parties:

Thomas J. Judge
Thompson, Loss & Judge, LLP
Two Lafayette Centre
1133 21st Street, NW, Suite 450
Washington, DC 20036
Tel: (202) 778-4065
Fax: (202) 778-4099
as counsel for St. Paul Mercury/Travelers Insurance Company

Kendall Coffey
Coffey Burlington
Office in the Grove, PH
2699 S. Bayshore Drive
Miami, Florida 33133
Tel: (305) 858-2900
Fax: (305) 858-5261
as counsel for Alfred Camner

Dennis A. Nowak
Fowler White Burnett, P.A.
Espirito Santo Plaza, Fourteenth Floor
1395 Brickell Avenue
Miami, Florida 33131
Tel: (305) 789-9200
Fax: (305) 789-9201
as counsel for Humberto Lopez

C. Thomas Tew
Tew Cardenas LLP
Four Seasons Tower
1441 Brickell Avenue, 15th Floor
Miami, Florida 33131
Tel: (305) 536-1112
Fax: (305) 536-1116
as counsel for Ramiro Ortiz

Michael Nachwalter
Kenny Nachwalter
1100 Miami Center
201 S. Biscayne Boulevard
Miami, Florida 33131
Tel: (305) 373-1000

Fax: (305) 372-1861
as counsel for Neil Messinger, Al Bernkrant, Brad Weiss, Hardy
Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith

Dennis S. Klein
Hughes Hubbard & Reed LLP
201 S. Biscayne Boulevard
Miami, Florida 33131
Tel: (305) 379-5574
Fax: (305) 371-8759
as counsel for the Federal Deposit Insurance Corporation

22. This Agreement shall become effective on the date the last signatory executes this document and all of the counterparts are exchanged.

THE PARTIES HEREBY CERTIFY THAT THEY HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS HEREIN AND THE CONSEQUENCES THEREOF EXPLAINED BY THEIR ATTORNEYS, AND THAT THEY FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT.

The Parties, themselves or through their duly authorized representatives, have caused this Agreement to be executed as of the dates indicated below.

DATED: July 3, 2012	ST. PAUL MERCURY INSURANCE COMPANY By:
DATED: July __, 2012	Alfred Camner
DATED: July __, 2012	Ramiro Ortiz
DATED: July __, 2012	Humberto Lopez

(b)(6)

Fax: (305) 372-1861
 as counsel for Neil Messinger, Al Bernkrant, Brad Weiss, Hardy
 Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith

Dennis S. Klein
 Hughes Hubbard & Reed LLP
 201 S. Biscayne Boulevard
 Miami, Florida 33131
 Tel: (305) 379-5574
 Fax: (305) 371-8759
 as counsel for the Federal Deposit Insurance Corporation

22. This Agreement shall become effective on the date the last signatory executes this document and all of the counterparts are exchanged.

THE PARTIES HEREBY CERTIFY THAT THEY HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS HEREIN AND THE CONSEQUENCES THEREOF EXPLAINED BY THEIR ATTORNEYS, AND THAT THEY FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT.

The Parties, themselves or through their duly authorized representatives, have caused this Agreement to be executed as of the dates indicated below.

DATED: July __, 2012	ST. PAUL MERCURY INSURANCE COMPANY
	By:
DATED: July __, 2012	<div data-bbox="792 1289 1274 1377" style="border: 1px solid black; width: 297px; height: 42px;"></div>
	Alfred Canner
DATED: July __, 2012	
	Ramiro Ortiz
DATED: July __, 2012	
	Humberto Lopez

Fax: (305) 372-1861
as counsel for Neil Messinger, Al Bernkrant, Brad Weiss, Hardy
Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith

Dennis S. Klein
Hughes Hubbard & Reed LLP
201 S. Biscayne Boulevard
Miami, Florida 33131
Tel: (305) 379-5574
Fax: (305) 371-8759
as counsel for the Federal Deposit Insurance Corporation

22. This Agreement shall become effective on the date the last signatory executes this document and all of the counterparts are exchanged.

THE PARTIES HEREBY CERTIFY THAT THEY HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS HEREIN AND THE CONSEQUENCES THEREOF EXPLAINED BY THEIR ATTORNEYS, AND THAT THEY FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT.

The Parties, themselves or through their duly authorized representatives, have caused this Agreement to be executed as of the dates indicated below.

DATED: July __, 2012	ST. PAUL MERCURY INSURANCE COMPANY By: _____
DATED: July __, 2012	_____ Alfred Carrner
DATED: July <u>24</u> , 2012	<div style="border: 1px solid black; width: 150px; height: 40px; display: inline-block;"></div> _____ Ramiro Ortiz
DATED: July __, 2012	_____ Humberto Lopez

(b)(6)

Fax: (305) 372-1861
as counsel for Neil Messinger, Al Bernkrant, Brad Weiss, Hardy
Katz, Tod Aronovitz, Marc Jacobson, Sharon Brown, and Al Smith

Dennis S. Klein
Hughes Hubbard & Reed LLP
201 S. Biscayne Boulevard
Miami, Florida 33131
Tel: (305) 379-5574
Fax: (305) 371-8759
as counsel for the Federal Deposit Insurance Corporation

22. This Agreement shall become effective on the date the last signatory executes this document and all of the counterparts are exchanged.

THE PARTIES HEREBY CERTIFY THAT THEY HAVE READ THIS ENTIRE AGREEMENT AND HAVE HAD THE TERMS HEREIN AND THE CONSEQUENCES THEREOF EXPLAINED BY THEIR ATTORNEYS, AND THAT THEY FULLY UNDERSTAND ALL THE TERMS AND CONSEQUENCES OF THIS AGREEMENT.

The Parties, themselves or through their duly authorized representatives, have caused this Agreement to be executed as of the dates indicated below.

DATED: July __, 2012	ST. PAUL MERCURY/TRAVELERS INSURANCE COMPANY By: _____
DATED: July __, 2012	_____ Alfred Camner
DATED: July __, 2012	_____ Ramiro Ortiz
DATED: July <u>4</u> , 2012	<div style="border: 1px solid black; height: 40px; width: 100%;"></div> Humberto Lopez

(b)(6)

DATED: July 24 2012	<div style="border: 1px solid black; width: 150px; height: 30px; margin: 0 auto;"></div>
DATED: July __, 2012	Neil Messinger
DATED: July __, 2012	Al Bernkrant
DATED: July __, 2012	Brad Weiss
DATED: July __, 2012	Hardy Katz
DATED: July __, 2012	Tod Aronovitz
DATED: July __, 2012	Marc Jacobson
DATED: July __, 2012	Sharon Brown
DATED: July __, 2012	Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION
	By: <u>Steven E. Smith, Counsel</u>

(b)(6)

DATED: July __, 2012	
	Ramiro Ortiz
DATED: July __, 2012	
	Humberto Lopez
DATED: July __, 2012	
	Neil Messenger
DATED: July __, 2012	
DATED: July 25, 2012	
	Brad Weiss
DATED: July __, 2012	
	Hardy Katz
DATED: July __, 2012	
	Tod Aronovitz
DATED: July __, 2012	
	Marc Jacobson
DATED: July __, 2012	
	Sharon Brown
DATED: July __, 2012	
	Al Smith

(b)(6)

DATED: July __, 2012	
	Neil Messinger
DATED: July __, 2012	
	Al Bernkrant
DATED: July __, 2012	<div style="border: 1px solid black; width: 150px; height: 40px; margin: 5px 0;"></div>
	Brad Weiss
DATED: July __, 2012	
	Hardy Katz
DATED: July __, 2012	
	Tod Aronovitz
DATED: July __, 2012	
	Marc Jacobson
DATED: July __, 2012	
	Sharon Brown
DATED: July __, 2012	
	Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION
	By: _____ Steven E. Smith, Counsel

(b)(6)

DATED: July __, 2012	_____ Neil Messinger
DATED: July __, 2012	_____ Al Bernkrant
DATED: July __, 2012	_____ Brad Weiss
(b)(6) DATED: July 1 8 , 2012	_____ Hardy Katz <i>8</i>
DATED: July __, 2012	_____ Tod Aronovitz
DATED: July __, 2012	_____ Marc Jacobson
DATED: July __, 2012	_____ Sharon Brown
DATED: July __, 2012	_____ Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION By: _____ Steven E. Smith, Counsel

DATED: July __, 2012	Neil Messinger
DATED: July __, 2012	Al Bernkrant
DATED: July __, 2012	Brad Weiss
DATED: July __, 2012	Hardy Katz
DATED: July __, 2012	<div style="border: 1px solid black; width: 200px; height: 40px; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Tom Aronovitz </div>
DATED: July __, 2012	Marc Jacobson
DATED: July __, 2012	Sharon Brown
DATED: July __, 2012	Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION By: _____ Steven E. Smith, Counsel

(b)(6)

DATED: July __, 2012	 Neil Messinger
DATED: July __, 2012	 Al Bernkrant
DATED: July __, 2012	 Brad Weiss
DATED: July __, 2012	 Hardy Katz
DATED: July __, 2012	 Tod Aronovitz
DATED: July __, 2012	<div data-bbox="743 1018 1234 1123" style="border: 1px solid black; width: 300px; height: 50px; margin: 0 auto;"></div> Marc Jacobson
DATED: July __, 2012	 Sharon Brown
DATED: July __, 2012	 Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION By: _____ Steven E. Smith, Counsel

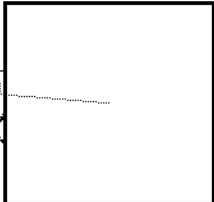
(b)(6)

DATED: July __, 2012	
	Neil Messinger
DATED: July __, 2012	
	Al Bernkrant
DATED: July __, 2012	
	Brad Weiss
DATED: July __, 2012	
	Hardy Katz
DATED: July __, 2012	
	Tod Aronovitz
DATED: July __, 2012	
	Marc Jacobson
DATED: July <u>20</u> , 2012	<div style="border: 1px solid black; height: 40px; width: 100%;"></div>
	Sharon Brown
DATED: July __, 2012	
	Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION
	By: _____ Steven E. Smith, Counsel

(b)(6)

DATED: July __, 2012	
	Al Bernkrant
DATED: July __, 2012	
	Brad Weiss
DATED: July __, 2012	
	Hardy Katz
DATED: July __, 2012	
	Tod Aronovitz
DATED: July __, 2012	
	Marc Jacobson
DATED: July __, 2012	
	Sharon Brown
DATED: July __, 2012	
	<div style="border: 1px solid black; height: 30px; width: 150px;"></div>
	Al Smith
DATED: July __, 2012	FEDERAL DEPOSIT INSURANCE CORPORATION
	By: _____ Steven E. Smith, Counsel

(b)(6)

DATED: July __, 2012	
	Neil Messinger
DATED: July __, 2012	
	Al Bernkrant
DATED: July __, 2012	
	Brad Weiss
DATED: July __, 2012	
	Hardy Katz
DATED: July __, 2012	
	Tod Aronovitz
DATED: July __, 2012	
	Marc Jacobson
DATED: July __, 2012	
	Sharon Brown
DATED: July __, 2012	
	
DATED: July <u>20</u> , 2012	POSIT INSURANCE
	Steven E. Smith, Counsel

(b)(6)