

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X	:	
<i>In re</i>	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., <u>et al.</u>,¹	:	Case No. 08-12229 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----X	:	

**CERTIFICATION OF COUNSEL REGARDING STIPULATION,
AND ORDER RESOLVING (I) DEBTORS' THIRD OMNIBUS OBJECTION TO
CLAIMS WITH RESPECT TO PROOF OF CLAIM NUMBER 2155 FILED BY
McKINSEY & COMPANY, INC. AND (II) CERTAIN OTHER CLAIMS
FILED BY McKINSEY & COMPANY, INC. (CLAIM NUMBERS 3663 AND 3664)**

The undersigned hereby certifies as follows:

1. On March 9, 2009, Washington Mutual, Inc. ("WMI") together with its affiliated debtors and debtors-in-possession (collectively, the "Debtors") filed a motion with the Bankruptcy Court seeking, among other things, approval of the rejection of the Master Services Agreement.
2. On or about March 26, 2009, the Bankruptcy Court entered an order (the "Rejection Order") [Docket No. 817] (i) approving the rejection of the Master Services Agreement² and (ii) establishing the date that was thirty (30) days after entry of the Rejection Order as the deadline for filing a proof of claim against the Debtors for damages arising out of the rejection of the Master Services Agreement.

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Stipulation.



3. On or about March 27, 2009, McKinsey & Company, Inc. United States (“McKinsey,”) filed against WMI a proof of claim (Claim Number 2155) asserting an unsecured claim in the amount of \$2,566,500.00 for outstanding invoices due and owing for consulting services provided by McKinsey (the “Original Unsecured Claim”) pursuant to the Master Services Agreement.

4. On or about April 22, 2009, McKinsey filed against WMI (i) a proof of claim (Claim Number 3664) in the amount of \$2,566,500.00 for damages resulting from the rejection of the Master Services Agreement (the “Rejection Damages Claim”), and (ii) an amended proof of claim (Claim Number 3663) in the amount of \$2,566,500.00 correcting a non-substantive drafting error contained in the Original Unsecured Claim (the “Amended Unsecured Claim,” and together with the Original Unsecured Claim and the Rejection Damages Claim, the “McKinsey Claims”).

5. On May 29, 2009, the Debtors filed their Third Omnibus Objection to Proofs of Claim [Docket No. 1048] (the “Third Omnibus Objection”), pursuant to which the Debtors objected to the Original Unsecured Claim (claim number 2155) on the basis that it was amended and superseded.³

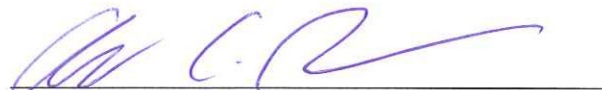
6. The above captioned debtors and debtors in possession (collectively, the “Debtors”) have reviewed the Third Omnibus Objection, the McKinsey Claims and supporting documentation, as well as their own books and records, and have engaged in discussions with McKinsey regarding the McKinsey Claims and the Third Omnibus Objection. In order to resolve the McKinsey Claims and the Third Omnibus Objection, the Debtors have entered into the *Stipulation and Order Resolving (I) Debtors’ Third Omnibus Objection to Claims with*

³ In the Third Omnibus Objection, the Debtors mistakenly listed the Rejection Damages Claim (Claim Number 3664) as the amending and superseding claim to the Original Unsecured Claim.

Respect to Proof of Claim Number 2155 Filed By McKinsey & Company, Inc. and (II) Certain Other Claims Filed by McKinsey & Company, Inc. (Claim Numbers 3663 and 3664) (the “Stipulation”) with McKinsey, subject to the approval of the Bankruptcy Court. A proposed form of order (the “Proposed Order”) approving the Stipulation is attached hereto as Exhibit A. A copy of the Stipulation is attached to the Proposed Order as Exhibit 1.

WHEREFORE the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, approving the Stipulation at its earliest convenience.

Dated: July 14, 2009
Wilmington, Delaware



Mark D. Collins (No. 2981)
Chun I. Jang (No. 4790)
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Counsel for Debtors

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X
In re : **Chapter 11**
 :
WASHINGTON MUTUAL, INC., et al.,¹ : **Case No. 08-12229 (MFW)**
 :
 : **(Jointly Administered)**
Debtors. :
 : **Re: Docket Nos. 1048 and ____**
-----X

**ORDER APPROVING STIPULATION,
AND ORDER RESOLVING (I) DEBTORS' THIRD OMNIBUS OBJECTION TO
CLAIMS WITH RESPECT TO PROOF OF CLAIM NUMBER 2155 FILED BY
McKINSEY & COMPANY, INC. AND (II) CERTAIN OTHER CLAIMS
FILED BY McKINSEY & COMPANY, INC. (CLAIM NUMBERS 3663 AND 3664)**

Upon consideration of the *Stipulation and Order Resolving (I) Debtors' Third Omnibus Objection to Claims with Respect to Proof of Claim Number 2155 Filed By McKinsey & Company, Inc. and (II) Certain Other Claims Filed by McKinsey & Company, Inc. (Claim Numbers 3663 and 3664)* (the "Stipulation"), a copy of which is attached hereto as Exhibit 1, as agreed to by and among Washington Mutual, Inc. ("WMI," and together with WMI Investment Corp., the "Debtors") and McKinsey & Company, Inc. United States ("McKinsey," and together with the Debtors, the "Parties"), it is hereby

ORDERED that the Stipulation is APPROVED; and it is further

ORDERED that the Parties are hereby authorized to take any and all actions reasonably necessary to effectuate the terms of the Stipulation; and it is further

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1301 Second Avenue, Seattle, Washington 98101.

ORDERED that this Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of the Stipulation of this Order.

Dated: _____, 2008
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

<i>In re</i>	x	
	:	Chapter 11
	:	
WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹	:	Case No. 09-12229 (MFW)
	:	(Jointly Administered)
Debtors.	:	
	:	
	x	

STIPULATION AND ORDER RESOLVING

**(I) DEBTORS' THIRD OMNIBUS OBJECTION TO CLAIMS WITH RESPECT TO
PROOF OF CLAIM NUMBER 2155 FILED BY MCKINSEY & COMPANY, INC. AND
(II) CERTAIN OTHER CLAIMS FILED BY MCKINSEY & COMPANY, INC. (CLAIM
NUMBERS 3663 AND 3664)**

Washington Mutual, Inc. ("WMI," and together with WMI Investment Corp., the "Debtors") and McKinsey & Company, Inc. United States ("McKinsey," and together with the Debtors, the "Parties"), through their respective and duly authorized counsel, do hereby stipulate as follows:

RECITALS

A. McKinsey and WMI are parties to that certain Master Services Agreement dated May 26, 2003, as amended from time to time (the "Master Services Agreement"), pursuant to which McKinsey provided certain management consulting services to the Debtors.

B. On September 26, 2008 (the "Petition Date"), each of the Debtors, filed a voluntary petition for relief pursuant to title 11 of the United States Code (the "Bankruptcy Code"), which cases are being jointly administered in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

C. On January 31, 2009, the Bankruptcy Court entered that certain Order

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395). The Debtors' principal offices are located at 1201 Second Avenue, Seattle, Washington 98101.

Establishing Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof [Docket No. 632] (the “Bar Date Order”), which, *inter alia*, set March 31, 2009 (the “Bar Date”) as the deadline for filing proofs of claim against the Debtors.

D. On March 9, 2009, the Debtors filed a motion with the Bankruptcy Court seeking, among other things, approval of the rejection of the Master Services Agreement.

E. On or about March 26, 2009, the Bankruptcy Court entered an order (the “Rejection Order”) [Docket No. 817] (i) approving the rejection of the Master Services Agreement and (ii) establishing the date that was thirty (30) days after entry of the Rejection Order as the deadline for filing a proof of claim against the Debtors for damages arising out of the rejection of the Master Services Agreement.

F. On or about March 27, 2009, McKinsey filed against WMI a proof of claim (Claim Number 2155) asserting an unsecured claim in the amount of \$2,566,500.00 for outstanding invoices due and owing for consulting services provided by McKinsey (the “Original Unsecured Claim”) pursuant to the Master Services Agreement.

G. On or about April 22, 2009, McKinsey filed against WMI (i) a proof of claim (Claim Number 3664) in the amount of \$2,566,500.00 for damages resulting from the rejection of the Master Services Agreement (the “Rejection Damages Claim”), and (ii) an amended proof of claim (Claim Number 3663) in the amount of \$2,566,500.00 correcting a non-substantive drafting error contained in the Original Unsecured Claim (the “Amended Unsecured Claim”), together with the Original Unsecured Claim and the Rejection Damages Claim, the “McKinsey Claims”).

H. On May 29, 2009, the Debtors filed their Third Omnibus Objection to Proofs of Claim [Docket No. 1048] (the “Third Omnibus Objection”), pursuant to which the Debtors

objected to the Original Unsecured Claim (claim number 2155) on the basis that it was amended and superseded.²

I. The Original Unsecured Claim and the Rejection Damages Claim were each filed in a timely manner.

J. The Parties desire to resolve (i) the Third Omnibus Objection with respect to the Original Unsecured Claim and (ii) the remaining McKinsey Claims.

NOW, THEREFORE, IT IS HEREBY AGREED by and between the parties as follows:

1. This Stipulation and Order shall not become effective until approved by the Bankruptcy Court (the “Effective Date”).

2. Within ten (10) business days of the Effective Date, McKinsey shall file a second amended proof of claim (the “Second Amended Proof of Claim”), a copy of which is attached hereto as Exhibit A, which shall comprise the claims asserted in the McKinsey Claims and shall supersede in all respects such claims.

3. Upon the earlier of the filing of the Second Amended Proof of Claim or ten days after the Effective Date, the McKinsey Claims shall be deemed expunged in their entirety.

4. The Second Amended Proof of Claim shall be deemed timely filed.

5. The Debtors rights to object to the Second Amended Proof of Claim on any grounds whatsoever (other than the timeliness of filing) are expressly preserved.

6. Upon the earlier of the filing of the Second Amended Proof of Claim or ten days after the Effective Date, Kurtzman Carson Consultants, LLC, the Debtors’ court-appointed

² In the Third Omnibus Objection, the Debtors mistakenly listed the Rejection Damages Claim (Claim Number 3664) as the amending and superseding claim to the Original Unsecured Claim.

claims and noticing agent, shall be authorized and directed to delete the McKinsey Claims from the official claims register in these chapter 11 cases.

7. Each person who executes this Stipulation and Order on behalf of a party hereto represents that he or she is duly authorized to execute this Stipulation and Order on behalf of such party.

8. This Stipulation and Order shall inure to the benefit of and shall be binding upon the Parties, their successors and assigns, but only after it has been fully executed.

9. This Stipulation and Order may be executed in one or more counterparts, which collectively shall form one and the same agreement. A signature page delivered by facsimile or electronic mail shall have the same effect as an original signature page.

10. This Stipulation and Order constitutes the full and final agreement between the parties with respect to the subject matter hereof, and may not be modified or amended except by written instrument, signed by the relevant parties and approved by the Bankruptcy Court.

11. The Parties reserve all rights to all matters not specifically addressed herein.

12. The Bankruptcy Court shall retain sole and exclusive jurisdiction to hear and determine disputes arising out of or related to this Stipulation and Order Dated:

WEIL, GOTSHAL AND MANGES LLP



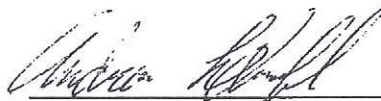
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– and –

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ATTORNEYS TO THE DEBTORS
AND DEBTORS IN POSSESSION

DEWEY & LEBOEUF LLP



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Andrew Z. Lebwohl, Esq.
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New York, NY 10019
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Fax: (212) 259-8500

COUNSEL TO
MCKINSEY & COMPANY INC.

Exhibit A

UNITED STATES BANKRUPTCY COURT	District of Delaware	Second Amended PROOF OF CLAIM
Name of Debtor: Washington Mutual, Inc.		Case Number: 08-12229 (MFW)
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): McKinsey & Company, Inc., United States		<input checked="" type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: 3663, 3664 (If known) Filed on: 04/22/2009
Name and address where notices should be sent: Dewey & LeBoeuf LLP 1301 Avenue of the Americas New York, NY 10018 Attn: Peter A. Ivanick, Esq. Telephone number: (212) 259-8075		
Name and address where payment should be sent (if different from above): McKinsey & Company, Inc. United States P.O. Box 7247-7255 Philadelphia, PA 19170-7255 Telephone number:		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: \$ <u>2,566,500.00</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
2. Basis for Claim: <u>Please see attached addendum</u> (See instruction #2 on reverse side.)		
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim. 7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date:	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Joseph P. Verdon, Associate General Counsel, McKinsey & Company, Inc. 55 East 52nd Street, New York, NY 10055 Telephone: 212-446-8575	
		FOR COURT USE ONLY

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

<i>In re</i> WASHINGTON MUTUAL, INC., <u>et al.</u> , ¹ Debtors.	X : : : : : X	Chapter 11 Case No. 09-12229 (MFW) (Jointly Administered)
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**ADDENDUM TO MCKINSEY & COMPANY, INC. UNITED STATES'
SECOND AMENDED PROOF OF CLAIM**

Washington Mutual Inc. (the “Debtor”) is indebted as follows to McKinsey & Company, Inc. United States (the “Claimant” or “McKinsey”) for prepetition invoiced amounts due and owing for services provided by McKinsey pursuant to the Master Services Agreement dated May 26, 2003, as amended from time to time (the “Master Services Agreement”). A copy of the Master Services Agreement is attached hereto as Exhibit A.

Invoice No. ²	Invoice Date	Invoice Amount
SFO-WMU030-9363	August 28, 2008	\$ 236,000.00
SFO-WMU030-9402	September 26, 2008	\$ 236,000.00
SFO-WMU033-9308	July 18, 2008	\$ 737,500.00
SFO-WMU034-9386	September 18, 2008	\$ 590,000.00
SFO-WMU034-9378	September 9, 2008	\$ 767,000.00
Total		\$ 2,566,500.00

Alternatively, the Debtor is indebted to McKinsey for damages arising from the rejection of the Master Services Agreement in an amount equal to the contractual damages specified above, *i.e.* \$2,566,500.00.

¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor’s federal tax identification number are: (i) Washington Mutual, Inc. (3725); and (ii) WMI Investment Corp. (5395).

² The Debtors’ principal offices are located at 1201 Second Avenue, Seattle, Washington 98101. Copies of the relevant invoices are attached hereto as Exhibit B.

Exhibit A

MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is entered into as of May ^{26th} 2003 (the "Effective Date") by and between Washington Mutual, Inc., a Washington corporation, including its direct and indirect subsidiaries (collectively "WMI"), and McKinsey & Company, Inc. United States, a Delaware corporation ("Company").

RECITALS

Company desires to provide certain management consulting services for WMI, and Company has extensive experience providing such services to large organizations; and

WMI desires to engage Company to provide such services for WMI; and

WMI and Company desire to enter into this Agreement to set forth the terms and conditions pursuant to which Company will provide services to WMI.

AGREEMENT

In consideration of the foregoing premises and the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Definitions.

"Deliverables": All data, materials, work product and deliverables to be delivered by Company in connection with the Services hereunder as set forth in an applicable SOW.

"Services": The tasks and services to be performed by Company, as described in this Agreement and applicable Statements of Work. Except as otherwise agreed in writing by the parties, Services shall not include any services with respect to any potential or actual merger, acquisition, divestiture, corporate restructuring, spin-off, change-of-ownership, equity investment, joint venture or alliance transaction, or post-merger management.

"Specifications": The specifications and requirements for the Services and Deliverables as described in this Agreement and applicable Statements of Work.

"Statement of Work" or "SOW": The mutually agreed to plan and delineation of activities, events and Services to be performed, and Deliverables to be provided, by Company under this Agreement. Each SOW shall include a detailed schedule for performance of the Services and delivery of the Deliverables. Each executed SOW shall be attached hereto and incorporated herein as Appendix A, A-1, A-2 et seq. No SOW shall be effective until signed by authorized representatives from both parties.

"WMI Representative": The WMI employee or personnel designated in an applicable SOW to direct, coordinate and approve the Services and Deliverables.

2. Engagement.

2.1 Services. Company shall perform the Services according to the terms and conditions set forth in this Agreement and the applicable SOW. If Company provides any Services at a WMI facility, Company shall cause its personnel and any authorized subcontractor providing the Services to comply with WMI rules, regulations and policies, including without limitation, the following: "Working With Wami" and the "Code of Conduct," attached hereto as Appendices B and C respectively.

2.2 Personnel. Company shall provide experienced and qualified personnel to perform the Services. WMI may remove any Company staff deemed unacceptable by WMI. Upon request, Company shall provide WMI with a resume of any member of its staff assigned to or proposed to be assigned to perform any Services hereunder. Company must provide prior written notice, and must receive WMI's approval in advance, for any permanent or temporary changes to Company personnel providing Services hereunder. If personnel who have been providing the Services are replaced with other personnel, hourly fees for the Services provided by the replacement personnel, if applicable, shall be at the rates for the Services provided by the personnel they replace or at such other rates as the parties may agree; provided, that WMI shall not be obligated to pay for any time that replacement personnel spend performing Services until such time as the replacement personnel have reached the level of proficiency required to effectively perform their required roles.

2.3 Changes to the Services. WMI may at any time direct changes to the Services, including additions, changes, and suspension of any or all of the Services, as directed in writing by the WMI Representative. If Company believes that it has been requested to perform Services beyond the scope of the applicable SOW, Company may request additional compensation and adjustments to the schedule by submitting a written request to WMI detailing the reasons for such additional compensation and schedule adjustment within five (5) business days after Company is requested to perform such additional Services. The total authorized expenditure amount shall be adjusted and any applicable schedule changes incorporated if necessary and shall be authorized only through a signed written amendment to the applicable SOW. The failure of Company to submit a request for a change in scope in the time frame described herein shall constitute a conclusive and binding waiver of a claim for additional compensation.

2.4 Subcontracting. Company may not subcontract any Services without the prior written consent of WMI. If WMI authorizes Company to subcontract Services, Company shall remain responsible and liable for a subcontractor's compliance with this Agreement and performance hereunder. WMI may require Company to remove/replace any subcontractors whose performance is deemed unacceptable to WMI. In no event shall WMI pay more for subcontracted Services than WMI pays for Company's Services hereunder (i.e., time and materials rates for subcontractors shall be the same or less than time and materials rates for Company).

2.5 Reports. Upon request, Company shall submit to WMI written progress reports describing the status of Company's performance of the Services. WMI may request that

Company include, without limitation, the following items in such reports: (i) the Services performed; (ii) hours expended (but only if the Services are performed on a time and materials basis); (iii) total dollars charged; (iv) milestones or deadlines met and/or missed; and (iv) if applicable, Company's plan to remedy delays and previously missed milestones or deadlines.

3. Term. The initial term of this Agreement shall begin on the Effective Date and shall continue for two (2) years from the Effective Date, unless earlier terminated pursuant to Section 7. If Services under an applicable SOW extend beyond the initial two (2) year term, this Agreement shall continue with respect to such SOW until the satisfactory completion of the Services thereunder. If the parties mutually agree in writing, this Agreement may be renewed and extended for additional two (2) year terms after expiration of the initial term or then current term.

4. Compensation.

4.1 Fees. Subject to Company's performance of the Services hereunder, WMI shall compensate Company on a fixed fee or time and materials basis, or as set forth in the applicable SOW. Company shall not proceed with or be reimbursed for any Services that (i) have not been authorized in advance by a WMI Representative in connection with an applicable SOW, or (ii) exceed any budget or expenditure limit set forth in an applicable SOW.

4.2 Invoices. Company shall invoice WMI on a monthly basis for Services rendered during the prior month. Company shall submit invoices to the address / WMI Representative set forth in the applicable SOW and all invoices must include a detailed statement of the Services covered by such invoice. WMI shall pay Company all undisputed portions of correct and complete invoices for Services that meet Specifications within thirty (30) days after receipt of the invoice; however, the parties, in an applicable SOW, may agree to a fee arrangement different from that which is stated immediately above. Company shall waive all charges, fees and approved expenses that are not invoiced within ninety (90) days after the end of the calendar year in which the charges were incurred.

4.3 Expenses. Out of pocket expenses, such as travel, hotel accommodation, and meal expenses, that are pre-approved in writing and are reasonable and necessary shall be reimbursed at actual cost without markup. Certain other expenses may also be reimbursed if expressly stated within an applicable SOW and approved by a WMI Representative. In no event will WMI pay for travel time. Airfares must be at coach rates although Company may choose to upgrade at its own expense. Where practical, airfares shall be booked at least seven (7) days in advance. Daily meal allowance is \$35 per day per Company personnel providing Services hereunder. Ground transportation will be reimbursed at actual cost, not to exceed \$40 per trip. To the extent practicable and economical, Company will use WMI's designated hotels where discounts have been negotiated.

4.4 Taxes. WMI is responsible for all applicable taxes, duties or other charges, including sales or use taxes, imposed by any federal, state, or local governmental entity on Services furnished by Company under this Agreement, except for taxes based on Company's net income, gross revenue or employment obligations. If Company is obligated by applicable

law or regulation to collect and remit any taxes relating to the Services, then Company will add the appropriate amount to WMI's invoices as a separate line item. Company will indemnify, defend and hold harmless WMI from and against any interest, penalties or other charges resulting from the non-payment or late payment of taxes or other charges for which Company failed to pay in a timely manner.

4.5 Books and Records. During the term of this Agreement, Company shall maintain complete and accurate books and records of the fees (but only to the extent the Services are performed on a time and materials basis) and out-of-pocket expenses, including original documentation supporting all such out-of-pocket expenses, charged to WMI in connection with the Services and Deliverables. Company shall retain such records for three (3) years after termination of this Agreement and shall make such records, and, to the extent the Services are performed on a time and materials basis, any additional records to ensure Company's compliance with pricing and fee requirements hereunder, available to WMI or its third party auditor, during normal business hours upon reasonable advance written notice; provided that Company shall not be required to make such records available for inspection more than once per year unless WMI's request is triggered by a third party, including but not limited to, a government authority (e.g., the Office of Thrift Supervision), regulatory agency, accreditation body or court order. If any audit under this Section 4.5 determines that Company has overcharged WMI, WMI shall notify Company of the amount of such overcharge and Company shall promptly pay such amount to WMI. If any such overcharge exceeds three percent (3%) of the total amount charged to WMI by Company for the Services and Deliverables subject to the audit, then Company shall reimburse WMI for the reasonable cost of such audit.

5. Ownership.

5.1 WMI Ownership. Except as otherwise set forth herein, WMI shall own all right, title, and interest in and to all Deliverables, whether completed or works-in-progress. All Deliverables, in whole and in part, shall be deemed works made for hire of WMI for all purposes of copyright law, and the copyright shall belong solely to WMI. To the extent that any such Deliverables do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, and to the extent that any Deliverables include materials subject to copyright, patent, trade secret, or other proprietary right protection, Company hereby irrevocably assigns all inventions, copyrights, patents, trade secrets, and other proprietary rights therein (including renewals thereof) to WMI. Company shall obtain, at its expense, such assignments to WMI from Company's employees, agents, and contractors as necessary to effectuate the purposes of the previous sentence. Company also agrees not to assert any moral rights under applicable copyright law with regard to such items and Deliverables. Notwithstanding the foregoing, WMI may not distribute the Deliverables externally unless all references to Company are deleted therefrom and no attribution to Company is made in connection therewith.

5.2 Pre-Existing Materials. Notwithstanding anything to the contrary herein, for purposes of Section 5, Deliverables that are owned by WMI shall not include, and Company shall retain all right, title and interest in and to, Company's software, inventions, copyrights,

patents, trade secrets, trademarks and other proprietary rights, including ideas, concepts, and know-how of Company that existed before the commencement of the Services or are independently developed by Company in connection with the Services but without reference to WMI's Confidential Information and which are included in the Deliverables or used by Company in connection with the Services (collectively, "Company Tools"). To the extent the Deliverables include any Company Tools, Company hereby grants to WMI a non-exclusive, worldwide, perpetual (without regard to any termination or expiration of this Agreement), irrevocable, fully paid, royalty-free license to use the Company Tools as they are included in the Deliverables solely for internal purposes as part of the Deliverables.

6. Warranties.

6.1 Company's Representations and Warranties. Company represents and warrants to WMI that:

6.1.1 Company shall perform all Services in a professional manner with high quality and according to the mutually agreed to schedule set forth in the applicable SOW; and

6.1.2 Neither the Services nor the Deliverables, nor any part, product or software sold, distributed, licensed or supplied by Company in connection with the Services or Deliverables, do or will infringe any patent, copyright, trademark or other proprietary right or misappropriate a trade secret of any third party; and

6.1.3 Company's performance of the Services called for by this Agreement does not and shall not violate any applicable law, rule, or regulation; and

6.1.4 Company shall perform the Services in accordance with the Specifications; and

6.1.5 The Deliverables shall perform according to the Specifications; and

6.1.6 To the extent any Deliverables are, or include, software, such software shall not contain any virus, trojan horse, worm, time bomb, back door or other software routine designed to disable a computer program automatically or permit unauthorized access.

6.1.7 Company has the necessary authority to enter into this Agreement and is not subject to any agreement or other constraint that would prohibit or restrict Company's right or ability to enter into, or carry out, its obligations hereunder; and

6.1.8 Subject to WMI's compliance with Section 6.2.1, Company will use diligent efforts to perform the Services and deliver the Deliverables within the timeframe set forth in the applicable SOW.

6.2 WMI Representations and Warranties. WMI represents and warrants that:

6.2.1 Subject to Company's compliance with Section 2.1, WMI will provide Company with the facilities and resources, including office and storage space, reasonably

required for the performance of the Services and will reasonably cooperate with Company in order to facilitate Company's performance of the Services, including without limitation providing Company with timely access to relevant data, information and personnel; and

6.2.2 WMI has the necessary authority to enter into this Agreement and is not subject to any agreement or other constraint that would prohibit or restrict WMI's right or ability to enter into, or carry out, its obligations hereunder.

6.3 Exclusive Warranties. EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 6, NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, PRODUCTS OR ANY OBLIGATIONS HEREUNDER, AND BOTH PARTIES EXPRESSLY DISCLAIM THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

6.4 Warranty Remedies. Company shall, at its own expense, promptly re-perform any Services and correct any Deliverables that do not comply with the warranties set forth in Section 6.1. Where it is impractical to re-perform such Services or correct such Deliverables, Company shall promptly refund to WMI the amount paid for Services and Deliverables that do not comply with Section 6.1 and any other Services or Deliverables adversely affected by the non-complying Services or Deliverables.

7. Termination of Agreement.

7.1 Termination for Convenience. This Agreement and any SOW may be terminated immediately, in whole or in part, by WMI for its convenience at any time before the end of the term, by WMI giving Company sixty (60) calendar days' notice. In the case of such termination for convenience, WMI shall be responsible for any portion of the compensation owed to Company for any Services rendered prior to the effective date of such termination.

7.2 Termination for Breach. Either party may terminate the Agreement with prior notice to the other if the other party materially breaches the Agreement, provided the injured party has given the other party notice of such material breach and there has been a failure to cure such material breach within thirty (30) days after receipt of such notice.

7.3 Effect of Termination. If Company receives notice of termination of this Agreement, or applicable SOW, Company shall cease providing the Services under this Agreement, or applicable SOW, in an orderly manner in accordance with WMI's instructions. If the Agreement term expires while one or more SOWs are still in place, the terms and conditions of this Agreement shall survive with respect to such SOW(s) until termination or expiration of such SOWs. The terms and conditions of this Agreement that by their sense and context are intended to survive termination hereof shall so survive, including without limitation the following Sections: 4.4, 4.5, 5, 6.3, 8, 9, 11, and 12 through 23.

8. Indemnification.

8.1 Infringement Indemnity. Company agrees to indemnify, defend and hold harmless WMI and its officers, employees and agents and servants from and against any damages, liabilities, losses, costs and expenses (including reasonable attorney's fees) arising from any claim or allegation that the Services and/or Deliverables infringe a patent, copyright, trademark or other proprietary right, or misappropriate a trade secret, of a third party. If any Services or Deliverables, in whole or in part, constitute or may constitute infringement or misappropriation of a third party's rights, and/or if WMI's use thereof is or may be enjoined, Company, in addition to its indemnification obligations hereunder, shall promptly either (i) secure for WMI rights to continue using such infringing Services or Deliverables, or (ii) re-perform or replace such Services or Deliverables with comparable non-infringing Services or Deliverables, or (iii) modify the Services or Deliverables so that they become non-infringing. In the event Company is unable to procure one of the aforementioned remedies, Company shall, in addition to its indemnification obligations hereunder, promptly refund to WMI all amounts paid to Company under this Agreement for the affected Deliverable(s).

8.2 General Indemnification. Company shall indemnify, defend, and hold harmless WMI from and against any and all third party claims or actions arising from: (i) the negligence or willful misconduct of Company, or any of Company's employees, personnel, agents or representatives; (ii) Company's breach of the confidentiality obligations in Section 9; (iii) a claim for WMI wages or benefits by Company or its employees, personnel, agents or representatives; and (iv) bodily injury, death or damage to tangible property caused by Company, its employees, personal, agents or representatives. Company shall pay all damages, liabilities, losses, costs, expenses, including reasonable attorney's fees, incurred by WMI in any such claims or actions.

8.3 Notification, Rights and Cooperation. WMI agrees to give Company prompt written notice of any claim subject to indemnification under this Agreement; provided that WMI's failure to promptly notify Company shall not affect Company's obligations hereunder except to the extent that WMI's delay prejudices Company. Company shall have the right to defend against any such claim with counsel of its own choosing and to settle such claim as Company deems appropriate, provided that Company will not enter into any settlement that adversely affects WMI's rights without WMI's prior written consent. WMI agrees to reasonably cooperate with Company in the defense and settlement of any such claim, at Company's expense.

9. Confidential Information.

9.1 Definition. "Confidential Information" of a party means all confidential or proprietary information, including without limitation, all information not generally known to the public, the terms of this Agreement and, with respect to WMI, WMI Data, as defined in Section 9.4 below, and, with respect to Company, Company Tools. Without limiting the foregoing, Confidential Information shall include all such information provided to each party by the other party both before and after the date of this Agreement.

9.2 Use and Disclosure. All Confidential Information relating to a party shall be held in confidence by the other party to the same extent and with at least the same degree of

care as such party protects its own confidential or proprietary information of like kind and import, but in no event using less than a reasonable degree of care. Neither party shall disclose, duplicate, publish, release, transfer or otherwise make available Confidential Information of the other party in any form to, or for the use or benefit of, any person or entity without the other party's consent. Each party shall, however, be permitted to disclose relevant aspects of the other party's Confidential Information to its officers, agents, subcontractors and employees to the extent that such disclosure is reasonably necessary for the performance of its duties and obligations under this Agreement and such disclosure is not prohibited by the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 et seq.), as it may be amended from time to time (the "GLB Act"), the regulations promulgated thereunder or other applicable law. Each party shall establish commercially reasonable controls to ensure the confidentiality of the Confidential Information and to ensure that the Confidential Information is not disclosed contrary to the provisions of this Agreement, GLB or any other applicable privacy laws and regulations. Without limiting the foregoing, each party shall implement such physical and other security measures as are necessary to (i) ensure the security and confidentiality of the Confidential Information (ii) protect against any threats or hazards to the security and integrity of the Confidential Information and (iii) protect against any unauthorized access to or use of the Confidential Information. The parties shall, at a minimum establish and maintain such data security program as is necessary to meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as set forth in the Code of Federal Regulations at 12 C.F.R. Parts 30, 208, 211, 225, 263, 308, 364, 568 and 570. To the extent that any duties and responsibilities under this Agreement are delegated to an agent or other subcontractor, the party ensures that such agents and subcontractor adhere to the same requirements. To the extent required by applicable law, each party shall have the right, during regular office hours and upon reasonable notice, to audit the other party to ensure compliance with the terms of GLB and other privacy laws and regulations.

9.3 Exceptions. The obligations in Section 9.2 above shall not restrict any disclosure by either party pursuant to any applicable law, or by order of any court or government agency (provided that the disclosing party shall give prompt notice to the non-disclosing party of such order) and shall not apply with respect to information which (i) is independently developed by the other party without reference to the disclosing party's Confidential Information; (ii) is or becomes publicly known (other than through unauthorized disclosure); (iii) is disclosed to, or learned by, the recipient from a third party free of any obligation of confidentiality; (iv) is already known by such party without an obligation of confidentiality other than pursuant to this Agreement or any confidentiality agreements entered into before the Effective Date between WMI and Company. If the GLB Act, the regulations promulgated thereunder or other applicable law now or hereafter in effect imposes a higher standard of confidentiality to the Confidential Information, such standard shall prevail over the provisions of this Section 9.

9.4 WMI Data. "WMI Data" shall mean all data and information that is submitted, directly or indirectly, to Company by WMI or obtained or learned by Company in connection with the Services provided by Company under this Agreement and any SOW, including without limitation information relating to WMI's customers, technology, operations, facilities, consumer

markets, products, capacities, systems, procedures, security practices, research, development, business affairs, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter and other proprietary information. All WMI Data is and shall remain the property of WMI and shall be protected as described in this Section 9.

9.5 Return of Materials. Upon written request and upon termination of this Agreement for any reason, Company shall return any and all records or copies of records relating to WMI or its business, including without limitation, Confidential Information of WMI, except for Confidential Information of WMI that is rightfully contained in Company's workpapers, which Company may retain subject to Company maintaining the confidentiality of such Confidential Information as required herein.

10. Insurance. During the term of this Agreement, and for at least three (3) years thereafter, Company shall maintain the following insurance coverage: (i) statutory worker's compensation in accordance with all Federal, state and local requirements; (ii) commercial general public liability (including contractual liability insurance) in an amount not less than \$2,000,000; (iii) comprehensive automobiles liability covering all vehicles that Company owns, hires or leases in an amount not less than \$1,000,000 (combined single limit for bodily injury and property damages); and (iv) errors and omissions coverage in an amount not less than \$5,000,000 (and if directors and officers are excluded from such coverage, directors and officers coverage shall be carried in an amount equal to the errors and omissions coverage). Within ten (10) business days after WMI's written request, Company shall provide certificate(s) of insurance evidencing the coverages described above.

11. Dispute Resolution. All disputes or claims arising under this Agreement ("Disputes") shall be resolved as set forth in this Section 11.

11.1 Informal Resolution. In the event of a Dispute, a party shall notify the other party of the Dispute with as much detail as possible. WMI and Company business representatives shall use good faith efforts to resolve the Dispute within ten (10) business days after receipt of a Dispute notice. If the parties' business representatives are unable to resolve the Dispute, or agree upon the appropriate corrective action to be taken, within such ten (10) business days, then either party may initiate arbitration proceedings as set forth below.

11.2 Arbitration. If the parties hereto are unable to resolve a Dispute pursuant to the informal procedure set forth above, all Disputes shall be resolved by one arbitrator who is a member of the American Arbitration Association (AAA), in accordance with its then prevailing Commercial Arbitration Rules (Expedited Procedures), as modified by this Agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitration shall be held in Seattle, Washington, or at such other place as may be mutually agreed upon.

11.3 Injunctive Relief. Nothing contained in this Section shall limit or delay the right of either party to seek injunctive relief from a court of competent jurisdiction, whether or not such party has pursued informal resolution or arbitration in accordance with this Section.

12. Damages Limitations. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES FOR ANY CLAIM ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR INDEMNIFICATION OBLIGATIONS ARISING UNDER SECTION 8 AND DAMAGES ARISING FROM A BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 9, NEITHER PARTY'S TOTAL LIABILITY TO THE OTHER FOR A CLAIM ARISING UNDER THIS AGREEMENT SHALL EXCEED THE TOTAL AMOUNT TO BE PAID BY WMI TO COMPANY UNDER THIS AGREEMENT.

13. Independent Contractor. The parties acknowledge and agree that Company is an independent contractor. This Agreement shall not create the relationship of employer and employee, a partnership, joint venture or other relationship between WMI and Company. Company shall have no authority to bind, obligate or commit WMI by any promise or representation without the prior written approval of WMI.

14. No Publicity. Neither party shall use the other party's name or mark in any advertising, written sales promotion, press releases and/or other publicity matters relating to this Agreement without the other party's written consent. Each party acknowledges that the other has a no publicity policy regarding its commercial relationships.

15. Applicable Law. This Agreement shall be governed by and construed under the laws of the State of Washington, without giving effect to its choice of law rules.

16. Assignment. Neither party may assign or otherwise transfer the Agreement, or any provision hereof, without the prior written consent of the other party, provided, however, that WMI may assign or otherwise transfer its rights and obligations under this Agreement to its affiliate or subsidiary companies, including any successor by merger, upon written notice to Company. Any assignment in contravention of this provision shall be null and void. This Agreement shall be binding on all permitted assignees and successors in interest.

17. Entire Agreement / Amendments. This Agreement, including Appendices, contains the entire agreement of the parties regarding the subject matter described herein, and all other promises, representations, understandings, arrangements and prior agreements related thereto are merged herein and superseded hereby. The provisions of this Agreement may not be amended, except by an agreement in writing signed by authorized representatives of both parties.

18. Force Majeure. Notwithstanding any other provision of this Agreement, no party to the Agreement shall be deemed in default or breach of this Agreement or liable for any loss or damages or for any delay or failure in performance due to a cause beyond its reasonable control.

The parties shall promptly resume performance hereunder after the force majeure event has passed.

19. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally to such party or if mailed by registered or certified mail or by private courier addressed as follows:

If to WMI:

With a copy as follows for notices of breach and termination only:

Washington Mutual, Inc.
Attn: General Counsel
1201 Third Avenue, WMT 1706
Seattle, WA 98101

If to Company:

McKinsey & Company
555 California Street
Suite 4700
San Francisco, CA 94104
Attn: Michael W. Bender

With a copy to:
McKinsey & Company
55 East 52nd Street
New York, NY 10022
Attn: General Counsel

Such addresses may be changed by notice given by one party to the other pursuant to this Section 19 or by other form of notice agreed to by the parties.

20. **Remedies.** Except as otherwise provided for herein, no remedy conferred by any of the specific provisions of the Agreement or available to a party is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

21. **Severability.** If any provision of this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement, and the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

22. Waiver of Breach. Except as otherwise set forth in Section 2.3, the waiver of any breach of any provision of this Agreement shall only be effective if in writing. No such waiver shall operate or be construed as a waiver of any subsequent breach.

23. Order of Precedence. To the extent the terms and conditions of this Agreement conflict with the terms and conditions of an applicable SOW, the terms and conditions of this Agreement shall control.

The parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

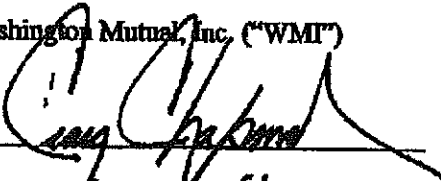
Washington Mutual, Inc. ("WMI")

By

Name

Title

Date


Name Craig Chapman
Title CAO
Date 6/4/03


McKinsey & Company, Inc. United States ("Company")

By

Name

Title

Date


Name Michael W. Bender
Title Director
Date 5/30/03

APPENDIX A
STATEMENTS OF WORK

APPENDIX B
WORKING WITH WAMU

APPENDIX C
CODE OF CONDUCT

Appendix A

STATEMENT OF WORK

This Statement of Work ("SOW") entered into on May 15, 2003 ("Effective Date"), by and between the Parties, shall be subject to the Master Services Agreement, entered into on May 15, 2003 and the terms and conditions of such Agreement are hereby incorporated into this SOW.

WHEREAS WMI has elected to procure Phase I Strategic Sourcing and Procurement Transformation services; and

WHEREAS WMI has elected to have Company perform such services; and

NOW THEREFORE, it is hereby understood and agreed that all Work performed under this SOW shall be performed pursuant to the following terms and conditions:

(A) Definitions

1. Unless expressly stated otherwise, defined terms used in the SOW shall be the same as those used in the Agreement.

When used herein with initial capitalizations, whether in singular or plural, the following terms shall have the following meanings:

- 1.1 **Acceptance:** means completion, as reasonably determined by WMI, of the Services or any part thereof in accordance with the Project Plan attached hereto as Exhibit 1 and incorporated by references herein (as may be updated upon mutual agreement between the parties from time to time, the "Project Plan") and, the Performance Evaluation Grid attached hereto and incorporated herein as Exhibit 2 and may be updated upon mutual agreement in writing between the Parties from time to time.
- 1.2 **Company Representative:** means The Company Representative for this SOW shall initially be Robert Stenfels at (415) 318-5320
- 1.3 **Corrective Action:** means such action to be taken by Company to achieve Acceptance
- 1.4 **Milestone(s):** means a set of tasks and/or a set of Deliverables completed by Company and Accepted by WMI as further described in this SOW..
- 1.5 **Parties:** means Company and WMI.
- 1.6 **Phases I, II and III:** means those phases as identified in WMI's documents, including, but not limited to such document entitled "Leveraging Strategic Sourcing at Washington Mutual". Phase I includes WMI's Strategic Sourcing and Procurement Transformation to be

addressed by Company; Phases II and III will be addressed under separate SOWs and may or may not include Company.

- 1.7 **Procurement Transformation:** means Services and Deliverables associated with the planning, structuring/restructuring, and implementation of WMI's transforming strategic sourcing/procurement organization and or procurement processes.
- 1.8 **Strategic Sourcing:** means all activities, including, but not limited to, Work and Deliverables associated with taking an expense category through a process to reduce overall expenditures and/or improve purchasing process efficiency. This process includes a spending assessment and spend baseline development and the implementation thereof, demand-side specification analysis, supply-side and industry analysis, sourcing strategy development, requests for information or proposal development and issuance (RFx), supplier negotiations and contracting, as well as the development of an executable Strategic Sourcing strategy, including any and all necessary training, developed and tailored for WMI and WMI Team Members.
- 1.9 **Subcontractor:** means an entity, other than the Company, furnishing services to Company or WMI for the Services or any portion of the Services. Company shall be responsible to WMI in all respects for Services performed by any subcontractor as if the Company were performing the Services itself.
- 1.10 **WMI Team Member:** means a WMI employee designated in the Agreement or any of its attachments to direct, coordinate and support the Services.
- 1.11 **WMI Representative:** The WMI Representative for this SOW shall initially be Jay Schwartz at (206) 490-3410.

(B) Project Designation:

Phase I: Strategic Sourcing and Procurement Transformation project (the "Project")

The major work streams included in the Project shall include the following:

- a WMI sourcing category diagnostic
- Strategic Sourcing of selected categories
- development of an enterprise strategy and the implementation of such strategy for demand management of selected categories
- Procurement Transformation and capability building
- knowledge transfer and training around Strategic Sourcing processes

(C) Description of Services:

1. Objectives:

- To support WMI in the implementation of the Project across an identified group of expenses categories.
- To train dedicated WMI Team Members in recognized industry best practice Strategic Sourcing processes.

- To support WMI in the building of a procurement organization capable of sustaining ongoing Strategic Sourcing activity.

2. Scope:

- WMI sourcing and demand management diagnostic across all expenses categories where there is spend to a third-party.
- Execution and implementation of a Strategic Sourcing process across a minimum of ten expense categories. Categories to be addressed include, but shall not be limited to: Courier, Document Services, Furniture-Fixtures & Equipment, IT Consultants / Programmers, Loan Operations, PC & Server Hardware, Postage, Print (Statements, Forms & Envelopes), Telecommunication Services, Temporary Services and Travel Services. Pending completion of the diagnostic and subsequent review, it may be determined by mutual agreement between WMI and the Company that the categories identified above may be removed from the scope in favor of alternative categories not listed here.
- Development, execution and implementation an enterprise real estate and facilities operations strategy to drive significant savings and efficiencies out of the Real Estate & Facilities categories (which may consider other categories, such as Furniture-Fixtures & Equipment). Such strategy will include the establishment of a performance management process to ensure that category spending stays optimized over time.
- Development, execution and implementation of an enterprise demand management process across selected categories identified, by mutual agreement between WMI and the Company, during Phase I.
- Creation of the category-specific metrics and measurement processes and tools to be used in the monitoring of savings achieved from the implementation of any category Strategic Sourcing effort.
- Identification of the necessary organizational structure, processes, activities and resource requirements necessary for building a Strategic Sourcing procurement organization.
- Execution of a training and knowledge transfer program of the Strategic Sourcing process for the WMI Team Members.
- Assistance in identifying specific categories for future Strategic Sourcing opportunities, including but not limited to Phases II and III of the Strategic Sourcing strategy, which will also include estimation of savings and implementation impact.

3. Services will include, but shall not be limited to the following:

(a) WMI Sourcing Category Diagnostic (weeks 1 – 3)

Activities:

- Assemble baseline spend data and verify by category
- Conduct analyses of spending, contracting and organization practices across categories
- Conduct interviews with budgetary owners of spend categories and other interested groups as necessary
- Assess information technology support of purchasing activity, spend capture and measurement and tracking and identify key performance gaps
- Assess existing contracts for potential sourcing categories
- Identify demand management opportunities by selected category

- Conduct detailed spending and contract assessments of categories for which Strategic Sourcing will be completed during the Project
- Develop sourcing strategy options by category
- Review sourcing strategy options with key decision-makers and finalize recommendation
- Develop work plans for sourcing category teams based on areas of opportunity
- Finalize WMI Team Member resource requirements
- Develop training materials to teach key Strategic Sourcing execution concepts and approach to WMI Team Members

Deliverables:

- Profile of WMI spend by category
- Initial savings targets by Phase I category
- Plans to address performance gaps in information technology capabilities around capturing and measuring category spend
- Implementation plan for demand management activities for selected categories
- Final schedule of categories for initial round of Strategic Sourcing
- Preliminary schedule, prioritization and rationale of future Strategic Sourcing categories
- Finalized category implementation plan with activities, Milestones, and responsibilities
- Development of a WMI Team Member knowledge transfer program, training materials and tools for each Strategic Sourcing category identified.
- Create outlines of Total Value of Opportunity ("TVO") models for select Phase 1 categories in order to highlight value creation levers

(b) Strategic Sourcing of Selected Categories (weeks 4 – 19)

Activities:

- Develop detailed demand-side assessment, including specifications and requirements
- Review and assess current contracts
- Conduct analysis of supply market, industry trends and key suppliers
- Refine savings targets and identify TVO model
- Actively prepare and manage category stakeholders for potential purchasing process changes
- Develop category sourcing strategy and attack plan
- Develop RfX and distribute to selected suppliers
- Where appropriate, identify and implement e-tools to facilitate Strategic Sourcing process
- Analyze and score returned proposals
- Identify potential suppliers for negotiations to be selected by WMI
- Develop overall category and supplier-specific negotiation strategy
- Develop business case supporting supplier selection and decision
- Develop detailed implementation project plan as further described in Exhibit A-1
- Develop budget modification plan
- Develop and initiate detailed communication plan
- Create and implement internal performance metrics and supporting infrastructure
- Create and implement supplier scorecards
- Create TVO model to track final savings

Deliverables:

- Demand-side category assessment

- Category purchasing-process map
- Category TVO model
- Supply-side market and industry assessment
- Supplier-specific economic analysis and assessment
- Target savings analysis
- Supplier qualification assessment
- Sourcing strategy
- RFX
- Evaluation criteria and RFX scoring model
- Category and supplier-specific negotiation strategy
- Business case for supplier recommendations
- Implementation project plan as further described in Exhibit A-1
- Implementation resource plan
- Budget modification plan
- Communication plan
- Balanced category scorecard
- Supplier scorecards
- Development of a WMI Team Member knowledge transfer program, training materials and tools
- TVO model

(c) Demand Management of Selected Categories (weeks 4 – 19)

Activities:

- Identify demand management opportunities and develop appropriate strategies by category
- Establish/re-establish procurement policies and procedures by select categories
- Standardize category demand specifications
- Maximize impact of strategically sourced expense categories through compliance management
- Streamline fulfillment process by select categories
- Identify and implement spend avoidance opportunities
- Establish governance structure to oversee and manage implementation and execution of enterprise demand management strategy
- Create, maintain, and/or update TVO model to track final savings

Deliverables:

- Enterprise demand management strategy
- Category policy and specification diagnostic
- Policy and specification development/changes/approvals
- Compliance issues and remedies identified
- Implementation of policy compliance and specification changes
- Forecasting models where applicable
- Summary of realized category savings and TVO impact
- Development of a WMI Team Member knowledge transfer program, training materials and tools
- Updated TVO model

(d) Procurement Capability Building (weeks 1 – 19)

Activities:

- Work with Project leadership to identify specific long-term Strategic Sourcing goals and objectives, including but not limited to the development of Phase II and III of the Strategic Sourcing strategy
- Identify organizational structure options and assess implementation requirements for WMI
- Develop recommendations and rationale around a procurement organizational model
- Identify specific process requirements and maps, business unit interactions, activities, and resource requirements needed to support organizational model

Deliverables:

- Recommendations for structuring a best-in-class procurement organization to sustain the Strategic Sourcing capabilities and results developed by the WMI Team Members
- Documentation of the processes, activities, and resource requirements necessary to develop and support the recommended organizational structure
- Development of the strategy for Phases II and III of the Strategic Sourcing strategy
- Conduct workshop for completing necessary training and knowledge transfer of documented procurement processes and organization structure

(e) Knowledge Transfer and Training Around Strategic Sourcing Process (weeks 1 – 19)

Activities:

- Development of a knowledge transfer training program and implementation plan
- Identification of key training dates and Milestones
- Development of training materials and methods for WMI Team Members
- Execution of a multi-faceted training program throughout the Strategic Sourcing category execution process
- Development of a Project performance review plan, including meetings between Company and WMI leadership at multiple Milestones during the Project

Deliverables:

- Documented training materials and methodologies
- Training and knowledge transfer program implemented throughout the Project around key phases and/or Milestones
- Project performance review program at the conclusion of the diagnostic phase (week 3), at the mid-point of the Strategic Sourcing execution effort (week 11 or 12), and at the conclusion of the Project (week 19)

(f) Administration Responsibilities:

- Provide coordination and administrative support for category teams
- Establish category baselines, savings targets, recommended scoring criteria, including a model to allow WMI to calculate the difference between baseline prices and volumes and new Company prices by category
- Coordinate skills transfer activities, including training program, documentation of methodologies, and baseline models
- Manage project communications

- Track and report project results
- Plan and provide presentations to WMI leadership and executives at designated Milestones
- Participate in weekly status meetings with WMI Contract Representative
- Participate in key project and category Milestone meetings

(g) Project Plan:

- Activities shall be conducted in accordance with the Project plan attached as Exhibit A-1

(D) Performance Period ("Term"):

Term: The Services shall commence on or about May 12, 2003, and be completed by September 19, 2003. However, WMI shall notify Company in writing in the event WMI does not Accept the Deliverables as defined in this SOW, performed over the Term. If no such written notice is given to Company within five (5) business days of September 19, 2003, WMI shall be deemed to have Accepted the Deliverables. Upon receipt of such notification, Company shall continue to perform Services for the items in question, at no additional cost or expense to WMI, for a period not to exceed ninety (90) business days beyond September 19, 2003. Progress over this extended period would be formally assessed every fifteen (15) business days to determine if Acceptance of Deliverables has been achieved.

(E) Work Site:

The primary work site for Project activities shall be located at WMI's place of business at 1111 Third Avenue, 25th Floor, Seattle, Washington 98101.

(F) Costs, Payment Terms and Invoicing:

In no event, shall the fees exceed \$3,288,000 for completion of the Services identified in Section (C), Description of Services.

1. Payment shall be made to Company in accordance with the schedule set forth below:

(a) **Fee Payment:** First fee installment no later than July 21, 2003 of (\$1,644,000); Second fee installment no later than September 30, 2003 of (\$1,644,000). Payments will be subject to WMI Acceptance and an assessment to determine if total fully-realized category savings at each of the above points in time exceed the fee installment amounts. If they do not, only those portion of fees will be paid that are equal to the fully-realized category savings at each point in-time; remaining fees will be held back and paid at such time that the required category savings have been realized so as to maintain a 1:1 fees to actual savings ratio. Unless otherwise jointly agreed, actual savings shall mean a reduction in the payments made to the subject category vendor(s) as a direct result of a new fee structure or other contractual arrangement.

As an example, if on July 21, 2003, the Project has fully realized and accounted for \$1,800,000 in savings, then the first fee installment of \$1,644,000 to the Company will be paid in-full. If, however, only \$1,500,000 in savings had been realized on July 21, 2003, the first fee installment would total \$1,500,000. The remaining \$144,000 in fees would be paid at such a

later date when an equal to amount of additional savings have been realized by WMI and WMI is satisfied with Company's Deliverables so as to effect WMI's Acceptance.

- (b) **Expense Payment and Reimbursable Expenses:** Expenses shall not exceed 15% of total fees (\$493,200) paid under this SOW. Reimbursable expenses shall include those expenses as stated in Section 4.3 of the Agreement and such documented and pre-approved expenses that are incurred solely for the benefit of WMI, that shall be limited to; (i) research and information services, (ii) analytical and report generation services, (iii) communications and telecom, and (iv) document handling.

2. Invoicing:

- (a) Invoices for fees shall be in accordance with the following:

Company shall invoice WMI in accordance with Section 4.2 of the Agreement and Section (F) of the SOW.

Invoices shall be submitted to the following address:

Washington Mutual
Attention: Jay Schwartz
1111 Third Avenue, 25th Floor
Mail Stop EET0910
Seattle, WA 98101

- (b) Invoices for expenses shall include a detailed statement of the expenses by category for each invoice; including, travel, , accommodation,, meals, telecom/communications, document handling, analytical and report generation services, and research and information services, and miscellaneous. In the event WMI disputes the expense amount relating to any of these expense categories, Company shall provide, within five (5) business days the individual level detail for such expense.

(G) WMI Project Management / Sponsorship

WMI Project leadership to be provided by:

Lewis E. Love
Jay Schwartz
Jonathan Calvert
And any other individuals identified by WMI Project leadership team

(H) Company Project Managers and Specialists:

The following Company staff is designated as key personnel and will have a minimum commitment to this Project as follows:

- Robert Sternfels, Lead Partner, 60-80%

- Rahul Wadahawan, Senior Project Manager, 50%-diagnostic of Phase 1 (weeks 1-3), 100%- Strategic Sourcing of Phase 1 (weeks 4-11); 50%-Strategic Sourcing of Phase 1 (weeks 12-19)
- Varun Marya, Senior Project Manager, 100%
- Tim Chapman, Partner, 30%
- Trish Mosconi, Partner, 20% or as necessary
- Glenn Ramsdell, Partner, 20% or as necessary

Subject to the results of the diagnostic phase, additional Company resources may be assigned or re-allocated to the Project as reasonably required by WMI. It is expected that in addition to the above the Company will assign:

Diagnostic of Phase I

- John Naud, Diagnostic Phase consultant, 100%
- Craig Kamins, Diagnostic Phase Consultant, 100%
- Jey Won, Diagnostic Phase Consultant, 100%

Sourcing Activities of Phase I

- 2 Consultants covering real estate, 100%
- 1 Consultant covering loan operations, 100%
- 1 Consultant covering postage (Varun Marya), 100%
- 1 Consultant covering print/forms outsourcing, 100%
- 1 Consultant covering document services, 100%
- 1 Consultant covering IT consultants/programmers, 100%
- 1 Consultant covering quick-sourcing categories (PC and server hardware, telecom services, travel services/outsourcing, temporary services)
- Other Company consultants, Subcontractor consultants and/or category experts as necessary in order to achieve Acceptance of the Deliverables further described in the Project Plan (Exhibit 1) and the Performance Evaluation Grid attached as Exhibit 2.
- In the event that the team configuration referenced immediately above is not meeting its Deliverables then the Parties shall mutually agree on Corrective Action, which may include team reconfiguration, such as augmentation of Company's staff.

However, Company shall notify and receive written approval from WMI prior to assigning any Company team members not specifically identified here.

WMI may, upon request, review resumes and conduct interviews with individual consultants assigned to any portion of this SOW. WMI reserves the right to reject any individual consultant at WMI's discretion and Company shall replace such individual consultant at Company's expense (including, but not limited to, the time required to transfer Project information to the replacement).

(I) Additional Terms:

(a) WMI and Company will provide timely access to key personnel and data, as needed.

IN WITNESS WHEREOF, the Parties have agreed and executed this Addendum to the Master Agreement, and intend it to be effective as of the Effective Date.

Agreed:
McKinsey & Company, Inc. United States

By: Michael W. Bender 5/30/03
(Signature) (Date)

Name: Michael W. Bender
(Print Name)

Title: Director

Agreed:
Washington Mutual, Inc. ("WMI")

By: Craig Chapman 6/3/03
(Signature) (Date)

Name: Craig Chapman
(Print Name)

Title: CAO

**Exhibit A-1
Project Plan**

**Exhibit A-2
Performance Evaluation Grid**

Deliverables	Accepted	Not Accepted	*Corrective Action
Profile of WMI spend by category			
Initial savings targets by Phase I category			
Plans to address performance gaps in information technology capabilities around capturing and measuring category spend			
Implementation plan for demand management activities for selected categories			
Final schedule of categories for initial round of Strategic Sourcing			
Preliminary schedule, prioritization and rationale of future Strategic Sourcing categories			
Finalized category implementation plan with activities, Milestones, and responsibilities			

Deliverables	Accepted	Not Accepted	Corrective Action
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Development of a WMI Team Member knowledge transfer program, training materials and tools for each Strategic Sourcing category identified.			
Create Total Value of Opportunity ("TVO") models			

Deliverables	Accepted	Not Accepted	Corrective Action
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Demand-side category assessment			
Category purchasing-process map			
Category TVO model			
Supply-side market and industry assessment for select Phase I categories			
Supplier-specific economic analysis and assessment for select Phase I categories			
Target savings analysis for select Phase I categories			
Supplier qualification assessment for select Phase I categories			
Sourcing strategy for select Phase I categories			
Evaluation criteria and RFX scoring model			
Category and supplier-specific negotiation strategy for select Phase I categories			

Deliverables	Accepted	Not Accepted	Corrective Action
Implementation of policy compliance and specification changes for select Phase I categories			
Summary of realize category savings and TVO impact			
Updated TVO model			

Deliverables	Accepted	Not Accepted	Corrective Action
---------------------	-----------------	---------------------	--------------------------

Enterprise demand management strategy for select Phase I categories			
Policy and specification development/changes for select Phase I categories			
Compliance issues and remedies identified for select Phase I categories			
Implementation of policy compliance and specification changes for select Phase I categories			
Summary of realize category savings and TVO impact			
Updated TVO model			

Deliverables	Accepted	Not Accepted	Corrective Action
---------------------	-----------------	---------------------	--------------------------

Recommendations for structuring a best-in-class procurement organization to sustain the Strategic Sourcing capabilities and results developed by the WMI Team Members			
Documentation of the processes, activities, and resource requirements necessary to develop and support the recommended organizational structure			
Development of the strategy for Phases II and III of the Strategic Sourcing strategy			
Conduct workshop for completing necessary training and knowledge transfer of documented procurement processes and organization structure			

Deliverables	Accepted	Not Accepted	Corrective Action
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Documented training materials and methodologies			
Training and knowledge transfer program implemented throughout the Project around key Phases and/or Milestones			
Project performance review program at the conclusion of the diagnostic phase (week 3), at the mid-point of the Strategic Sourcing execution effort (week 11 or 12), and at the conclusion of the Project (week 19)			



Fax

McKinsey & Company

75 Park Plaza, 3rd Floor
Boston, Massachusetts 02116
Main Number 617-753-2001

To Michael Bender (415) 675-4998
Christine Dauchez (212) 759-1954

Fax

From Rob Ball

Fax

Direct 617-753-2062

Date August 28, 2003

of pages 14
inclusive

If you do not receive all of these pages, please call Jenny Chan Lim 617-753-2225

Attached is a copy of the final signed Washington Mutual risk management statement of work for your records.

Rob

Confidentiality Notice

The information contained in this communication is confidential to the sender and is intended only for use of the addressee. Unauthorized use, disclosure, or copying is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately at the above number.

Appendix A

STATEMENT OF WORK: Basel II Diagnostic Project

This Statement of Work ("SOW") entered into on June 2, 2003 ("Effective Date"), by and between the Parties, shall be subject to the Master Services Agreement, entered into on May 15, 2003 and the terms and conditions of such Agreement are hereby incorporated into this SOW.

WHEREAS WMI has elected to procure Basel II Implementation Diagnostic Services; and

WHEREAS WMI has elected to have Company perform such Services; and

NOW THEREFORE, it is hereby understood and agreed that all work performed under this SOW shall be performed pursuant to the following terms and conditions:

(A) Definitions

- 1. Unless expressly stated otherwise, defined terms used in the SOW shall be the same as those used in the Agreement.

When used herein with initial capitalizations, whether in singular or plural, the following terms shall have the following meanings:

- 1.1 Acceptance: means completion, as reasonably determined by WMI, of the Services or any part thereof in accordance with the Project Plan attached hereto as Exhibit 1 and incorporated by references herein (as may be updated upon mutual agreement between the parties from time to time, the "Project Plan") and, the Performance Evaluation Grid attached hereto and incorporated herein as Exhibit 2 and may be updated upon mutual agreement in writing between the Parties from time to time.
- 1.2 Basel II Implementation Diagnostic: means all activities, including, but not limited to, work and Deliverables associated with the project described herein, including an assessment of WMI relative to best practice Enterprise Risk Management, a gap analysis of WMI relative to Basel II requirements (Pillars I, II, and III), development of an implementation plan to achieve compliance with Basel II requirements, and associated deepening of senior management understanding of and commitment to risk management.
- 1.3 Company Representative: means The Company Representative for this SOW shall initially be Rob Ball at (617) 753-2062.
- 1.4 Enterprise Risk Management: means the holistic set of risk management practices employed by an organization, including how it ensures transparency of risk exposures, how it sets an overall risk appetite, what type of risk management organization it has, and what risk management processes it uses.
- 1.5 Corrective Action: means such action to be taken by Company to achieve Acceptance
- 1.6 Milestone(s): means a set of tasks and/or a set of Deliverables completed by Company and

Accepted by WMI as further described in this SOW.

1.7 **MSR:** means mortgage servicing rights.

1.8 **Parties:** means Company and WMI.

1.9 **WMI Team Leader:** means a WMI employee designated in the Agreement or any of its attachments to lead and coordinate the services

1.10 **WMI Team Member:** means a WMI employee designated in the Agreement or any of its attachments to direct, coordinate and support the Services.

1.11 **WMI Representative:** The WMI Representative for this SOW shall initially be John Stewart at (206) 377-7294.

(B) Project Designation:

Phase I: Basel II Implementation Diagnostic project (the "Project")

The major work streams included in the Project shall include the following:

- Assessment of WMI risk management relative to Enterprise Risk Management best practices
- Assessment and gap analysis of compliance with Basel II requirements
 - Pillar I - credit risk
 - Pillar I - market risk
 - Pillar I - operational risk
 - Pillar II
 - Pillar III
- Development of 2-year implementation plans to achieve compliance as well as resource/cost estimates for:
 - Credit Risk
 - Market Risk
 - Operational Risk
 - Pillar II Issues
 - Pillar III - Market Disclosure
 - Data Management and Information Technology (BearingsPoint lead; McKinsey providing input and integrating into overall implementation plan)
- Deepening of senior management's understanding and commitment to risk management

(C) Description of Services:

1. Objectives:

- To support WMI in planning preparation for Basel II compliance
- To increase dedicated WMI Team Leaders' familiarity with Basel II requirements.
- To support WMI in informing WM senior management of key impacts related to Basel II and further strengthen senior executives' commitment to risk management

2. Scope:

- Assessment of WMI Enterprise Risk Management
- WMI Basel II gap analysis across relevant credit risk, market risk, and operational risk. This does not include a review of market risk in the banking book except for specific requirements of Basel II (e.g., it does not include a review of MSR [define in definitions section] modeling and hedging)
- Reporting on gaps to internal WMI team leaders and Basel II Implementation steering committee
- Collaborating with internal WMI team leaders in developing a high level, 2-3 year workplan to compliance
- Collaborating with internal WMI team leaders in identifying resources, internal and external, to execute on the identified workplans
- Framing a senior executive level discussion around recommended approaches to Basel II compliant operational risk
- Sharing with key senior executives the reasons for Basel II compliance and what Basel II means to WMI. Gathering senior executives' concerns about Basel II preparation and preparing a prescriptive 'change management' strategy for the subsequent Basel II implementation.
- Communication of functional requirements to 'Data Management and Information Technology' team

3. Services will include, but shall not be limited to the following:

(a) Assessment of WMI risk management relative to Enterprise Risk Management best practices (Weeks 1-8)

Activities:

- Develop picture of industry best practices against key dimensions and prepare interview guide/questionnaire for interviews
- Develop an understanding of existing Enterprise Risk Management practices at WaMu through deep-dive interviews and review of documentation.
- Identify opportunities for WaMu to further strengthen its risk management capabilities
- Develop alternative options for risk management organization
- Develop action plan to implement desired changes

Deliverables (See exhibit A-2 # 1)

- Key elements of current WaMu credit, market and operational risk management practices reviewed and profiled
- Diagnostic tool developed
- Assessment of Enterprise Risk Management (strengths, issues/opportunities)
- Identified and framed organizational issues
- Synthesis of findings and recommendations communicated to key executives
- Set of options and, if appropriate, recommendations with regards to risk management organizational structure (e.g., operational risk)

(b) WMI Credit Risk Gap Analysis (weeks 1-7)

Activities:

.....

- Map out and review key elements of current credit risk profile and risk management practices (leveraging existing information)
- Lay out and communicate Basel II requirements for credit risk
- Develop Basel II diagnostic tool to comprehensively assess compliance with Basel II requirements
- Leveraging diagnostic tool, assess Basel II compliance through interviews, document review and select data analysis for priority product groups / customer segments

Deliverables: (See exhibit A-2 # 2a)

- Detailed diagnostic / Basel II requirements checklist for credit risk (overall and IRB-A)
- Assessment of Basel II readiness with respect to credit risk for three priority segments (consumer, SFR, multi-family)
- Synthesis of gaps/opportunities

(c) WMI Market Risk Gap Analysis (weeks 1-6)

Activities:

- Review market risk profile
- Outline best practices and regulatory requirements for market risk management
- Compare current approaches against best practice/regulatory requirements, identify any gaps (emphasis on whether key approaches are in place; no individual model assessment envisioned)

Deliverables: (See exhibit A-2 # 2a)

- Detailed diagnostic tool / Basel II requirements checklist for market risk (trading book)
- Assessment of Basel II readiness with respect to market risk
- Synthesis of gaps/opportunities

(d) WMI Operational Risk Gap Analysis (weeks 2-7)

Activities:

- Lay out and communicate Basel II requirements as they relate to operational risk
- Understand related initiatives already underway
- Provide overview on typical competitor efforts, key elements of best practice operational risk management program, and potential business case
- Identify any areas where immediate action is required to ensure compliance with target approach

Deliverables: (See exhibit A-2 # 2a)

- Developed understanding of operational risk initiatives already under way
- Assessment of Basel II readiness with regards to operational risk
- Synthesis of gaps/opportunities

(e) WMI Pillar Two Gap Analysis (weeks 1-8)

Activities:

- Lay out regulatory requirements and best practices with regards to key focal points of supervisory review process – structural market risk management and capital allocation process
- Develop clear picture of how collaboration with regulators may change under Basel II (e.g., need to familiarize regulators with rating systems)

- Review existing ALCO process
- Review whether key ALM methodologies are installed (without testing them individually)
- Assess current capital allocation process against best practice

Deliverables: (See exhibit A-2 # 2b)

- Outlined regulatory requirements for ALM/market risk and capital allocation per Pillar 2
- Assessment of Basel II readiness and best practice assessment of ALM/market risk and capital allocation
- Synthesis of gaps/opportunities

(f) WMI Pillar Three Market Disclosure Gap Analysis (weeks 4-8)

Activities:

- Outline key disclosure requirements and implications

Deliverables:

- Outlined key requirements and potential implications; communicate requirements to WMI leadership

(g) WMI Data Management and Information Technology Gap Analysis (weeks 1-3)

Activities:

- Contribute to functional requirements checklist necessary for Basel II implementation; status quo and likely future needs. Ongoing handoff and discussions with BearingPoint

Deliverables: (See exhibit A-2 # 3)

- Preliminary checklist of Basel II requirements with potential IT implications (e.g. exposure classification)
- Second opinion/high-level review of IT cost assessment

(h) WMI Credit Risk Compliance Resources and workplan (weeks 6-8)

Activities:

- Outline priorities for further improving credit rating systems
- With input from WM Credit Leadership, develop detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities

Deliverables: (See exhibit A-2 # 4)

- Detailed workplan to close gap between status quo and desired end-state (if any gaps are identified), including milestones, time lines, resource requirements and responsibilities

(i) WMI Market Risk Compliance Resources and workplan (weeks 6-8)

Activities:

- With input from WM market risk leadership, develop detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities

Deliverables: (See exhibit A-2 # 4)

- Detailed workplan to close gap between status quo and desired end-state (if any gaps are identified), including milestones, time lines, resource requirements, and responsibilities

(j) WMI Operational Risk Compliance Resources and workplan (weeks 4-8)**Activities:**

- Conduct discussions with management to develop high-level vision for WaMu's operational risk framework, and how related initiatives could fit together
- Work with WMI senior leadership (e.g., Longbrake) to develop detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities

Deliverables: (See exhibit A-2 #4)

- Developed vision for operational risk management program and how it fits into existing/envisioned six sigma efforts
- Strawman for interim solution to develop operational risk loss database/AMA and SOX compliance
- Detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities

(k) WMI Pillar Two Compliance Resources and workplan (weeks 4-8)**Activities:**

- Communicate possible implications of Basel II Pillar Two to internal WMI leadership
- With input from WMI supervisory relationship management leadership, develop detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities (gaps may include lack of resources to manage additional supervisors)

Deliverables: (See exhibit A-2 #4)

- Detailed workplan to close gap between status quo and desired end-state, including milestones, time lines, resource requirements, and responsibilities

(l) WMI Market Disclosure Compliance Resources and Workplan (weeks 4-8)**Activities:**

- Communicate possible market disclosure profile of Basel II (as defined in CP3) to WMI market disclosure leadership
- Assess any major reporting gaps that will not be addressed through other workstreams; coordinate with BearingPoint's assessment of data gaps

Deliverables: (See exhibit A-2 #4)

- High level assessment of possible strategic implications of Pillar Three reporting

(m) WMI Data Management and Information Technology Compliance Resources and workplan (weeks 4-8; BearingPoint will take the lead)**Activities:**

- Contribute to checklist of Basel II requirements for data and systems (e.g., exposure classification); discuss with BearingPoint team
- Review suggested workplan and budget defined by BearingPoint and WMI Technology Solutions Group
- Integrate BearingPoint's workplan development with Tony Bozzutti into broader implementation plan

Deliverables: (See exhibit A-2 #4)

- Review of data requirements as defined by BearingPoint
- High level assessment of cost estimate (second opinion)
- IT workplan integrated into broader implementation plan

(n) Coordinated overall workplan (weeks 6-8)

Activities:

- Work with WMI team to develop a coordinated, overall action plan to implement desired changes, balancing resource availability, project risks, regulatory constraints, and business needs; integrate individual workplans, iterating as necessary to create logical holistic plan
- Design program management office to support timely implementation

Deliverables: (See exhibit A-2 #4)

- Coordinated overall workplan for next 12-24 months, including key milestones, activities, resourcing and responsibilities

(o) Deepening of senior management's understanding and commitment to risk management (weeks 1-8)

Activities:

- Develop communication plan
- Hold workshops and/or individual discussions with senior management to update on project progress and discuss individual topics
- Periodically provide formal status update/progress review on Basel II initiative; communicate findings on WAMU's Basel II readiness and best practice assessment

Deliverables: (See exhibit A-2 # 5)

- Personal introduction of project and objectives to key executives
- Shared perspectives on best practice Enterprise Risk Management with working group and top team
- Progress reviews and individual updates with steering committee

(D) Performance Period ("Term"):

Term: The Services shall commence on or about June 2, 2003, and be completed by August 15, 2003. However, WMI shall notify Company in writing in the event WMI does not Accept the Deliverables as defined in this SOW, performed over the Term. If no such written notice is given to Company within five (5) business days of August 15, 2003, WMI shall be deemed to have Accepted the Deliverables.

(E) Work Site:

The primary work site for Project activities shall be located at WMI's place of business at 1201 Third Avenue, 8th Floor, Seattle, Washington 98101.

(F) Costs, Payment Terms and Invoicing:

The following Company staff is designated as key personnel and will have a minimum commitment to this Project as follows:

- Michael Bender, Lead Partner, 20%
- Robert Ball, Partner, 40%
- Gunnar Fritsch, Senior Project Manager, 60%
- Marshall Lux, Partner, 15% or as necessary
- Kevin Buehler, 5-10% or as necessary
- Aneta Key, Team Leader, 100%
- Tobias Baer, consultant, 100% (weeks 1-6)
- Sofya Pogreb, consultant, 100%
- Dimitri Vaynblat, consultant, 100%
- Erki Viirand, consultant, 100%

During the project, additional Company resources may be assigned or re-allocated to the Project as reasonably required by WMI. However, Company shall notify and receive written approval from WMI prior to assigning any Company team members not specifically identified here.

WMI may, upon request, review resumes and conduct interviews with individual consultants assigned to any portion of this SOW. WMI reserves the right to reject any individual consultant at WMI's discretion and Company shall replace such individual consultant at Company's expense (including, but not limited to, the time required to transfer Project information to the replacement).

Additional Terms:

- (a) WMI and Company will provide timely access to key personnel and data, as needed.

IN WITNESS WHEREOF, the Parties have agreed and executed this Addendum to the Master Agreement, and intend it to be effective as of the Effective Date.

Agreed:
McKinsey & Company, Inc. United States

By: Robert P. Ball 8/16/03
(Signature) (Date)

Name: Robert P. Ball
(Print Name)

Title: Principal

Agreed:
Washington Mutual, Inc. (WMI) 8/08/03

By: Lewis E. Love, Jr.
(Signature) (Date)

Name: Lewis E. Love, Jr.
(Print Name)

Title: SVP

In no event, shall the fees exceed \$750,000 for completion of the Services identified in Section (C), Description of Services.

1. Payment shall be made to Company in accordance with the schedule set forth below:

(a) Fee Payment: First fee installment no later than July 15, 2003 of \$375,000; Second fee installment no later than August 15, 2003 of \$375,000. Payments will be subject to WMI Acceptance. [check the dates]

(b) Expense Payment and Reimbursable Expenses: Expenses shall not exceed 20% of total fees (\$750,000) paid under this SOW. This project shall have a slightly higher cap on expenses than prior McKinsey work with WMI because of the size of the team and the expertise brought to bear from other locations. Expenses shall be reimbursed in accordance with Section 4.3 of the Agreement and shall be limited to: (i) research and information services, (ii) analytical and report generation services, (iii) communications and telecom, (iv) document handling, (v) travel, accommodation, and meals.

2. Invoicing:

(a) Invoices for fees shall be in accordance with the following:

Company shall invoice WMI in accordance with Section 4.2 of the Agreement and Section (F) of the SOW.

Invoices shall be submitted to the following address:

Washington Mutual
Attention: John Stewart
1201 Third Avenue
Mail Stop WMT0843
Seattle, WA 98101

(b) Invoices for expenses shall include a detailed statement of the expenses by category for each invoice; including, travel, accommodation, meals, telecom/communications, document handling, analytical and report generation services, and research and information services, and miscellaneous.

(G) WMI Project Management / Sponsorship

WMI Project leadership to be provided by:

John Stewart
Maureen Gates
Brad Anderson
Sasha Kipkaiov

And any other individuals identified by WMI Project leadership team

(H) Company Project Managers and Specialists:

Exhibit A-1
Project Plan (See Attached Document) [do we have this?]

Exhibit A-2

Performance Evaluation Grid

Deliverables	Accepted	Not Accepted	*Corrective Action
<p>1. Best Practice assessment of Enterprise Risk Management</p> <ul style="list-style-type: none"> • Key elements of current Wells credit, market and operational risk management practices reviewed and profiled • Diagnostic tool developed • Assessment of Enterprise Risk Management (strengths, issues/opportunities) • Identified and framed organizational issues • Synthesis of findings and recommendations communicated to key executives • Set of options and, if appropriate, recommendations with regards to risk management organizational structure (e.g., operational risk) <p>2a. Pillar I Credit Risk, Market Risk, Operational Risk</p> <ul style="list-style-type: none"> • Detailed diagnostic tool / Basel II requirements checklist for credit risk (overall and IRB-A) • Assessment of Basel II readiness with regards to Pillar I – credit risk for three priority segments (consumer, SPR, multi-family) • Synthesis of gaps/opportunities in credit risk • Detailed diagnostic tool / Basel II requirements checklist for market (trading book) • Assessment of Basel II readiness with respect to market risk • Synthesis of gaps and opportunities in market risk • Developed understanding of operational risk initiatives already under way • Assessment of Basel II readiness with regards to operational risk • Synthesis of gaps/opportunities in operational risk 			

Deliverables	Accepted	Not Accepted	Corrective Action
<p>2b. Pillar II</p> <ul style="list-style-type: none"> • Outlined regulatory requirements for ALM/market risk and capital allocation • Assessment of Basel II readiness and best practice assessment of ALM/market risk and capital allocation • Synthesis of gaps/opportunities <p>2c. Pillar III</p> <ul style="list-style-type: none"> • Outlined key requirements of Pillar III and potential implications; communicate requirements to W&M reporting leadership <p>3. IT Systems Assessment</p> <ul style="list-style-type: none"> • Preliminary checklist of Basel II requirements with potential IT implications (e.g., exposure classification) • Second opinion/high level review of IT cost assessment 			

Deliverables	Accepted	Not Accepted	*Corrective Action
<p>4. Implementation Plan</p> <ul style="list-style-type: none"> - Detailed workplans to close gap between status quo and desired end-state (if any gaps are identified), including milestones, time lines, resource requirements and responsibilities, for the following areas: <ul style="list-style-type: none"> - Credit risk - Market risk - Operational risk - Pillar Two - Developed vision for operational risk management program and how it fits into existing/envisoned six sigma efforts - Strategy for interim solution to develop operational risk loss database/AMA and SOX compliance - High level assessment of possible strategic implications of Pillar Three reporting - Review of data requirements as defined by BearingPoint - High level assessment of IT cost estimate (second opinion) - IT workplan (developed by BearingPoint) integrated into broader implementation plan - Coordinated overall workplan for next 12-24 months, including key milestones, activities, resourcing and responsibilities <p>5. Communications</p> <ul style="list-style-type: none"> - Personal introduction of project and objectives to key executives - Shared perspectives on best practice Enterprise Risk Management with working group and top team - Progress reviews and individual updates with Steering Committee 			

Exhibit B

WaMu
1301 2nd Avenue
Seattle WA 98101

Invoice No: SFO-WMU030-9363
August 28, 2008

Payable Upon Receipt

Professional fees for extension of mass affluent work	\$200,000
Out of pocket expense and support services	<u>36,000</u>
	<u>\$236,000</u>

Please wire transfer payments to:
McKinsey & Company, Inc. - United States
Citibank N.A.
Bank Account Number: 30428698
Bank ACH Routing Number: 02100002

If remitting by check please send check to:
McKinsey & Company, Inc. - United States
P.O. Box 7247-7258
Philadelphia, PA 19173-7255

Federal Tax ID#: 13-0708181

Please reference the invoice number and invoice date on your remittance advice.

For advice or questions on remittances, please contact John DeVine
at (206) 393-6461.

Wamu
1301 2nd Avenue
Seattle WA 98101

Invoice No: SFO-WMU030-9402
September 26, 2008

Payable Upon Receipt

Professional fees for extension of mass affluent work	\$200,000
Out of pocket expense and support services	<u>36,000</u>
	<u>\$236,000</u>

Please wire transfer payment to:
McKinsey & Company, Inc. - United States
Citibank N.A.
Bank Account Number: 014205583
Bank ACH Routing Number: 021000020

If remitting by check please send check to:
McKinsey & Company, Inc. - United States
P.O. Box 7247-7265
Philadelphia, PA 19170-7265

Federal Tax ID#: 23-8798131

Please reference the invoice number and invoice date on your remittance advice.

For advice or questions on remittances, please contact John DeVine
at (206) 393-6461.

Wamu

Invoice No: SFO-WMU033-9308
July 18, 2008

Payable Upon Receipt

Professional fees in connection with report rationalization	\$625,000
Out of pocket expense and support services	<u>112,500</u>
	<u>\$737,500</u>

Please wire transfer payment to:
 McKinsey & Company, Inc. - United States
 Citibank N.A.
 Bank Account Number: 30420898
 Bank ABA Routing Number: 021000089

If remitting by check please send check to:
 McKinsey & Company, Inc. - United States
 P.O. Box 7247-7255
 Philadelphia, PA 19170-7255

Federal Tax ID#: 13-8798161

Please reference the invoice number and invoice date on your remittance advice.

For advice or questions on remittances, please contact Bob Sternfels at (415) 318-5006.

McKinsey & Company

WaMu
1301 2nd Avenue
Seattle, WA 98101

Invoice No: SFO-WMU034-9386
September 18, 2008

Payable Upon Receipt

Professional fees for organizational assessment work – final invoice	\$500,000
Out of pocket expense and support services	<u>90,000</u>
	<u>\$590,000</u>

Please wire transfer payment to:
McKinsey & Company, Inc. – United States
Citibank N.A.
Bank Account Number: 30420888
Bank ABA Routing Number: 021000089

If remitting by check please send check to:
McKinsey & Company, Inc. – United States
P.O. Box 7247-7255
Philadelphia, PA 19170-7255

Federal Tax ID#: 13-3796161

Please reference the invoice number and invoice date on your remittance advice.

For advice or questions on remittances, please contact Robert Sternfels
at (415) 318-5320.

McKinsey & Company

WaMu
1301 2nd Avenue
3301 Seattle, WA 98101

Invoice No: SFO-WMU034-9378
September 9, 2008

Payable Upon Receipt

Professional fees for organization study (2 nd invoice)	\$650,000
Out of pocket expense and support services	<u>117,000</u>
	<u>767,000</u>

Please wire transfer payment to:
McKinsey & Company, Inc. - United States
Citibank N.A.
Bank Account Number: 30420898
Bank ABA Routing Number: 021000089

If remitting by check please send check to:
McKinsey & Company, Inc. - United States
P.O. Box 7247-7255
Philadelphia, PA 19170-7255

Federal Tax ID#: 13-3796161

Please reference the invoice number and invoice date on your remittance advice.

For advice or questions on remittances, please contact Robert Sternfels
at (415) 318-5320.

McKinsey & Company

Exhibit C



March 11, 2009

McKinsey & Company, Inc.
55 East 52nd Street
New York, New York 10055

Attention: Joseph P. Verdon, Associate General Counsel

Subject: Letter Agreement

Dear Mr. Verdon:

This letter agreement ("Agreement"), dated as of March 11, 2009 ("Effective Date"), is entered into between JPMorgan Chase Bank, National Association, a national banking association ("JPMC"), with an office located at 270 Park Avenue, New York, NY 10017, and McKinsey & Company, Inc. United States, a Delaware Corporation ("Supplier"), with offices located at 55 East 52nd Street, New York, New York 10055.

RECITALS

Supplier and Washington Mutual, Inc. ("WMI") entered into a Master Services Agreement dated May 26, 2003 (the "WaMu Agreement").

On September 26, 2008, WMI and WMI Investment Corporation filed a chapter 11 bankruptcy petition in the United States Bankruptcy Court for the District of Delaware.

With respect to agreements to which WMI or WMI Investment Corporation is a party, JPMC has the right under that certain Stipulation By And Between Debtors And JPMorgan Chase Bank, N.A. Concerning Certain Vendor Contracts, dated October 16, 2008 (the "Vendor Contract Stipulation"), to contact, negotiate and enter into arrangements and agreements with Supplier subject to the conditions of the Vendor Contract Stipulation.

Supplier believes that as of September 26, 2008, management consulting work, representing the following projects, was performed by Supplier and the following invoice amounts remain outstanding: the Organizational Assessment Project for \$1,357,000 (the "OA Invoices"); the Report Rationalization Project for \$737,500 (the "RR Invoices"); the Mass Affluent Project for \$472,000 (the "MA Invoices"); and the Marketing Mix Optimization Project for \$973,500 (the "MMO Invoices") (collectively \$3,540,000, the "WaMu Invoices"). JPMC and Supplier have discussed the parties' respective rights and obligations, if any, under the WaMu Agreement as well as the payment of any amounts due under the WaMu Invoices and have agreed to an arrangement that they would like to memorialize.

Therefore, JPMC and Supplier agree as follows:

1. **Confidential Information.** (a) Each party has made and will continue to make available to the other party information that is not generally known to the public and at the

time of disclosure is identified as, or would reasonably be understood by the receiving party to be, proprietary or confidential, ("**Confidential Information**"). Confidential Information may be disclosed in oral, written, visual, electronic or other form. The party receiving any such Confidential Information, ("**Receiving Party**"), will use the same care and discretion to avoid disclosure, publication or dissemination of any Confidential Information received from the party disclosing such Confidential Information, ("**Disclosing Party**"), as the Receiving Party uses with its own confidential information (but in no event less than a reasonable degree of care). The aforementioned obligation to treat as proprietary and confidential shall not apply to information which (i) was publicly available, (ii) was in the Receiving Party's possession on the date of this Agreement if it was not obtained from the Disclosing Party, (iii) was developed by the Receiving Party outside the scope of any agreement with the Disclosing Party, or (iv) was obtained rightfully from third parties. Supplier will use, and will ensure that each of Supplier's personnel use JPMC Confidential Information solely to perform Supplier's obligations under this Agreement.

(b) Notwithstanding anything herein to the contrary, either JPMC or Supplier shall be permitted to provide copies of this Agreement, as well as such additional related information as requested by WMI, to WMI, as debtor and debtor-in-possession, in the bankruptcy case styled In re Washington Mutual, Inc. et al. (Case No. 08-12229 (MFW); the "**Bankruptcy Case**") pending before the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"), the Official Committee of Unsecured Creditors in the Bankruptcy Case (the "**Creditors' Committee**"), and the Bankruptcy Court (as well as any additional parties as may be ordered by the Bankruptcy Court) pursuant to the terms of the Vendor Contract Stipulation, any order entered by the Bankruptcy Court approving the Vendor Contract Stipulation (including the confidentiality provisions therein; the "**Order Authorizing Vendor Stipulation**"), and such other and further orders that may be entered by the Bankruptcy Court in the Bankruptcy Case (including any appeals thereof).

2. Assignment of MMO Invoices. (a) Supplier represents and warrants to JPMC that (i) the amounts set forth above for the MMO Invoices are due and owing on account of performance rendered by Supplier prior to the September 26, 2008 bankruptcy petition date (the "**MMO Prepetition Bankruptcy Claim**" and such amount, \$973,500, the "**MMO Prepetition Claim Amount**"); and (ii) Supplier is the sole legal and beneficial owner of, has good title to, and has not previously sold or assigned, the MMO Prepetition Bankruptcy Claim. Solely for settlement purposes and not in admission of any obligations to Supplier under the WaMu Agreement or WaMu Invoices, JPMC agrees to pay Supplier \$750,000 (the "**Assignment Payment**") and, in consideration of the Assignment Payment, Supplier will irrevocably assign, transfer and convey to JPMC Supplier's right, title and interest in and to the MMO Prepetition Bankruptcy Claim (the "**Assigned Interest**") and will release JPMC as set forth in paragraph 2(b)(iii). Supplier represents and warrants that it has not and will not file a claim in the Bankruptcy Case in respect of the MMO Prepetition Bankruptcy Claim. Notwithstanding Supplier's assignment of its right to payment for the MMO Prepetition Bankruptcy Claim to JPMC, JPMC is not assuming any of Supplier's liabilities or obligations associated with the MMO Prepetition Bankruptcy Claim or under the WaMu Agreement. Except for the representations of Supplier contained in this paragraph and the indemnities set forth in Section 2(b), the assignment of the Assigned Interest is "as is" and JPMC shall have no recourse against Supplier with respect to the assignment of the Assigned Interest other than for breach of those representations. For the avoidance of doubt, Supplier does not represent or warrant to Buyer that the MMO Prepetition Bankruptcy Claim will be allowed in the Bankruptcy Case and Supplier does not represent and warrant to Buyer that any dividend will be paid in respect of allowed unsecured claims in the Bankruptcy Case.

(b) Supplier covenants and agrees that: (i) if at any time after the effective date of this Agreement, Supplier receives a payment or distribution on account of the MMO Prepetition Bankruptcy Claim, it shall hold such payment or distribution in trust for the account and sole benefit of JPMC, have no equitable or beneficial interest therein, and deliver such payment or distribution to JPMC immediately in the same form received; (ii) it shall take or cause to be taken such other and further actions as JPMC may reasonably request to establish the validity of the Assigned Interest and effectuate the intent and purpose of this assignment, including, without limitation, providing supporting documentation; and (iii) payment by JPMC of the Assignment Payment to Supplier in consideration for assignment of the Assigned Interest, as contemplated herein, shall satisfy, and Supplier hereby releases JPMC from, any and all independent obligations of JPMC to Supplier for any and all prepetition amounts owing under the WaMu Invoices or the WaMu Agreement, whether under the WaMu Agreement, pursuant to the Purchase And Assumption Agreement Whole Bank, among the FDIC, as Receiver of Washington Mutual Bank, Henderson, Nevada, the FDIC, and JPMC, dated as of September 25, 2008 (the "PAA"), or otherwise. Supplier shall indemnify, defend and hold JPMC (and any of its affiliates, and their respective directors, officers, employees and agents) harmless for any claims made against any of them with respect to those amounts due or owing, obligations arising, or the services provided by Supplier, under the WaMu Agreement prior to September 26, 2008.

(c) Supplier represents and warrants to JPMC that no amounts are due and owing under the WaMu Agreement on account of performance rendered by Supplier pursuant to the WaMu Agreement after September 26, 2008. Supplier hereby releases JPMC from, any independent obligation of JPMC to Supplier for postpetition amounts owing on account of performance rendered by Supplier pursuant to the WaMu Agreement after September 26, 2008, whether under the WaMu Agreement, the Vendor Contract Stipulation, any court order approving the Vendor Contract Stipulation, the PAA, or otherwise.

(d) Except with respect to the MMO Prepetition Bankruptcy Claim, the MMO Prepetition Claim Amount and the MMO Invoices, Supplier may make any claim in the Bankruptcy Case for any costs or fees for services provided or expenses incurred under the WaMu Agreement.

(e) Nothing herein shall relieve Supplier from providing services under any agreement between Supplier and WMI or WMI Investment Corp. and either of their non-bank subsidiaries, that are necessary for the ongoing operations of WMI or WMI Investment Corp. and either of their non-bank subsidiaries without the express consent of WMI and/or WMI Investment Corp., as applicable.

(f) Supplier and JPMC each warrant to the other that the agreements contained herein do not violate any other agreements to which JPMC or the Supplier, as the case may be, are parties.

3. Other Costs. Except as otherwise herein expressly provided, all expenses, costs, liabilities, obligations or losses incurred by either party pursuant to this Agreement shall be borne by the party incurring such charges as a cost of doing business and each party hereby waives all financial and moral claims against the other therefore.

4. Publicity. No public announcement of this Agreement is to be made by either party unless such announcement is mutually agreed upon in writing. Each party agrees that it will not use the other party's name or logo in any advertising or promotional media as a customer or client without the prior written consent of such party.

5. **Exclusion of Damages.** NEITHER SUPPLIER NOR JPMC WILL BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. THIS LIMITATION SHALL APPLY EVEN IF AN EXCLUSIVE REMEDY PROVIDED FOR UNDER THIS AGREEMENT OR ANY EXHIBIT FAILS OF ITS ESSENTIAL PURPOSE.

6. **Amendment.** No representation of either party shall alter the duties of the parties hereunder unless in writing expressly amending the terms of this Agreement and signed on behalf of each party. Supplier may not assign any rights or delegate any obligations under this Agreement without the prior written consent of JPMC, which consent will not be unreasonably withheld or delayed.

7. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of law principles.

8. **Survival.** Sections 1, 2 and 4 shall survive cancellation, termination or expiration of this Agreement.

9. **Integration.** This Agreement expresses the entire understanding of the parties hereto with respect to the matters set forth herein and supersedes all prior discussions and negotiations hereon.

Please indicate your acceptance of this Agreement by signing and returning one (1) fully executed copy to the undersigned.

Very truly yours,

McKinsey & Company Inc. United States

**JPMorgan Chase Bank,
National Association**

Agreed to and Accepted:

By Joseph P. Verdon

By Jay Mandelbaum

Name Joseph P. Verdon

Name Jay Mandelbaum

Title Associate General Counsel

Title Executive Vice President

Date 3/12/09

Date 3/12/09