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5 Attorneys for the Receiver

6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MARICOPA

8	STATE OF ARIZONA ex rel. THOMAS )	Cause No. CV2009-020595
9	L. WOOD, Superintendent of the )	
	Arizona Department of Financial )	PETITION NO. 16
10	Institutions, )	
	)	PETITION TO APPROVE SETTLEMENT
11	Plaintiff, )	WITH LDM ACCEPTANCE
	)	CORPORATION AND LDM PENSION
12	v. )	PLAN
	)	
13	LANDMARC CAPITAL & )	(Assigned to Judge Sam Myers)
	INVESTMENT COMPANY, )	
	)	
	Defendant. )	

14  
15 Thomas L. Wood, Superintendent of the Arizona Department of Financial Institutions  
16 and court appointed Receiver of Landmarc Capital & Investment Company (“LCI”),  
17 respectfully petitions the Court as follows:

18 1. On June 24, 2009, this Court entered its *Order Appointing Receiver and Order*  
19 *to Show Cause*, which appointed the Superintendent of the Arizona Department of Financial  
20 Institutions as Receiver of LCI. On July 10, 2009, this Court entered its *Order Appointing*  
21 *Permanent Receiver and Injunction* (collectively “Receivership Order”).

1           2.       Pursuant to the Receivership Order, the Receiver may institute, defend,  
2 compromise or adjust actions or proceedings in State or Federal Courts, including initiating  
3 actions or proceedings or impose constructive trusts, obtain possession or recover judgments  
4 with respect to persons or entities who received assets or funds traceable to investors'  
5 moneys.

6           3.       Since his appointment, the Receiver has conducted an investigation into the  
7 operations of LCI for the purpose of locating assets of LCI and developing facts that would  
8 support the recovery of LCI assets. The Receiver's investigation has resulted in a settlement  
9 of the Receiver's claims against LDM Acceptance Company and LDM Pension Plan  
10 (collectively "LDM").

11           4.       LDM is an Arizona Corporation that is owned and controlled by the adult  
12 children of Marilyn Crantz, who is the mother of David Crantz and the trustee of the LDM  
13 Pension Plan. LDM, before the inception of LCI, was a "hard money" lender that made and  
14 serviced mortgage loans and invested in deeds of trust. After the establishment of LCI by  
15 David Crantz, LDM participated in loans made and serviced by LCI and LCI provided  
16 various services to LDM.

17           5.       The Receiver's investigation determined that LDM's investments with LCI  
18 were made with LDM's money. However, the Receiver's investigation determined that LDM  
19 received preferential treatment from LCI and did not pay LCI any funds routinely paid by all  
20 other LCI investors for investments into trust deeds.

21

1           6.       As a hard money lender, a significant source of revenue for LCI was the interest  
2 generated on loans that LCI made to borrowers. Since LCI was regularly loaning money to  
3 borrowers who could not receive traditional financing, interest rates on LCI loans were  
4 commonly in excess of market interest rates.

5           7.       In a typical transaction, LCI would make a loan for 16% (“Note Rate”), LCI  
6 would then agree to pay its investors who participated in this loan, a reduced interest rate for  
7 that participation. (“Participation Rate”) The difference between the Note Rate and the  
8 Participation Rate was income to LCI. The Receiver’s investigation determined that LDM  
9 always received the Note Rate on its loans. Essentially, LCI was providing services to LDM  
10 without any compensation.

11           8.       The Receiver, during his investigation, was able to determine the specific  
12 monetary benefit received by LDM, by reviewing each loan that LDM participated in, and  
13 then calculating the actual benefit conferred on LDM. The Receiver determined that the  
14 average Participation Rate for investors in LCI was 12%. Each LDM loan was then  
15 recalculated to determine the exact benefit LDM received from LCI on each loan. The  
16 Receiver determined that the benefit to LDM from receiving the Note Rate on all of its loans  
17 was exactly \$445,806.57.

18           9.       LDM has represented to the Receiver that it was unaware of the benefits it  
19 received from LCI and the Receiver’s investigation has not uncovered any evidence to the  
20 contrary. In an effort to be treated like all other investors in LCI, LDM desires to return to  
21 LCI all of the funds representing the financial benefits conferred upon it.

1           10.     Accordingly, The Receiver has agreed to settle any claims he may have against  
2 LDM for \$445,806.57, representing the financial benefit LDM obtained from LCI from the  
3 inception of the business relationship to the present.

4           11.     As part of this settlement, the Receiver has agreed to transfer to LDM loans that  
5 qualify under *Order Re Petition No. 4 - Petition for Order Approving Procedures for*  
6 *Disposing of Certain Loans Where Ownership by Third Parties is Not in Doubt* and to  
7 transfer to LDM all loan proceeds that qualify under *Order Re Petition No. 8 - Petition for*  
8 *Order Authorizing the Distribution of Certain Loan Pay-Off Proceeds and Approving*  
9 *Procedures for Disbursing Funds from Paid-off Loans.*

10           12.     All loans and loan proceeds that do not qualify for the transfer pursuant to  
11 Order numbers 4 or 8 shall be held and disbursed by the Receiver as may be subsequently  
12 ordered by this Court. As part of the settlement, if LDM holds an interest in a property whose  
13 ownership or title is in dispute, LDM will agree to allow the Receiver to retain the property  
14 and any proceeds upon further Court Order.

15           13.     As a part of the agreement with the Receiver, LDM agrees not to own or control  
16 any interest in any organization licensed or seeking licensure from the Arizona Department of  
17 Financial Institutions for a period of three (3) years.

18           14.     Further, LDM has agreed to cooperate with Receiver's ongoing investigations  
19 into the business and affairs of LCI.

20           15.     A copy of the Settlement Agreement is attached hereto as Exhibit "A".  
21



## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between, Thomas L. Wood, as Receiver of Landmarc Capital & Investment Company ("Receiver"), and LDM Acceptance Company, an Arizona corporation, and LDM Pension Plan, an Arizona corporation (collectively "LDM")

### Recitals

WHEREAS on June 24, 2009, the Receiver was appointed in Maricopa County Superior Court, cause no. CV2009-020595, styled *State of Arizona ex rel. Felecia A. Rotellini v. Landmarc Capital & Investment Company* which is pending before the Arizona Superior Court for Maricopa County ("Receivership Action" and "Receivership Court" respectively);

WHEREAS LDM appears to own or control various loans, real property and real estate owned assets ("REO") currently under the control of the Receiver;

WHEREAS the Receiver has completed an investigation into all LDM loans, real property and REO to, among other things, establish the true and correct ownership of the loans, real property and REO;

WHEREAS during the course of the Receiver's investigation into the business relationship between Landmarc and LDM, the Receiver has determined that LDM received a series of financial benefits from Landmarc unbeknownst to Marilyn Crantz, the beneficiary of the LDM Pension Plan, and unbeknownst to Deborah Wiss of LDM Acceptance Corporation;

WHEREAS the Receiver has determined that Landmarc is insolvent and LDM desires to return to the Receiver any funds representing any financial benefit it obtained from Landmarc;

Whereas without admitting the truth or validity of any claim or defense, the parties desire to settle all claims that the Receiver may be entitled to assert against LDM in connection with this matter.

### Terms

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. LDM agrees to pay \$445,806.57 to the Receiver representing the financial benefit it obtained from the inception of the business relationship with Landmarc to the present.
2. LDM agrees that the payment of \$445,806.57 to the Receiver will be from a combination of third party funds and non-pension LDM funds currently held by the Receiver in either the LDM Trust Account or in the Landmarc Trust Account.

Exhibit "A"

3. Upon payment of \$445,806.57 and approval of this settlement agreement as set forth below, the Receiver will initiate the transfer to LDM of all remaining funds in the LDM Trust Account and any unrestricted LDM funds held in the Landmarc Trust Account as well as all LDM loans subject to Order Re Petition No. 4: *Petition for Order Approving Procedures for Disposing of Certain Loans Where Ownership by Third Parties is Not in Doubt*.

4. Upon payment of \$445,806.57 and approval of this settlement agreement as set forth below, the Receiver will transfer to LDM all loan proceeds subject to Order Re Petition No. 8: *Petition for Order Authorizing the Distribution of Certain Loan Pay-Off Proceeds and Approving Procedures for Disbursing Funds from Paid-off Loans*.

5. The Receiver intends to file a procedural order that will seek to establish procedures that will allow REO property that meets certain criteria to be released to third parties. The Receiver and LDM agree that any REO property subject to this procedural Order will be released to LDM in accordance with the Court's Order.

6. If LDM holds an interest in a property whose ownership or title is in dispute, LDM will agree to allow the Receiver to retain the property and any proceeds upon further Court Order.

7. LDM agrees not to own or control any interest in any organization licensed or seeking licensure from the Arizona Department of Financial Institutions for a period of three (3) years from the date of this Agreement.

8. LDM agrees to cooperate with Receiver's ongoing investigations into Landmarc.

9. LDM warrants, to the best of its ability, that the properties and loans set forth on the attached Exhibit "A" are the universe of LDM interests in Landmarc.

10. The Receiver shall file a petition in the Receivership Action seeking the approval of this Agreement and the provisions contained therein are conditioned upon the approval of the Agreement by the Court in the Receivership Action and the Agreement shall not become effective until and unless so approved.

11. The Receiver hereby, on his own behalf and on behalf of his attorneys, employees, partners, agents, predecessors, successors, assigns, assignors, and legal representatives, releases and forever discharges LDM and their attorneys, employees, agents, predecessors, successors, assigns, assignors, executors, administrators, and legal representatives from any and all claims of any kind or nature arising out of the Receivership Action, including without limitation any claims that were made or could have been made in the Receivership Action.

12. LDM hereby, on its own behalf and on behalf of their attorneys, employees, partners, agents, predecessors, successors, assigns, assignors, and legal representatives, releases and forever discharges the Receiver, Landmarc and their attorneys, employees, agents, predecessors, successors, assigns, assignors, executors, administrators, and legal representatives from any and all claims of any kind or nature arising out of the Receivership Action, including without limitation any claims that were made or could have been made in the Receivership Action.

13. The parties hereto acknowledge that this Agreement is being made by each party of its own free choice, without any inducement offered in any way other than the express agreements contained in this Agreement. The parties' further state that in entering into this Agreement, each party has had the opportunity to consult with an attorney of that party's own choice regarding the benefits and detriments of entering into this Agreement.

14. This Agreement contains the full and complete agreement of the parties hereto, and all prior negotiations and agreements pertaining to the subject matter hereof are merged into this Agreement. No amendment, waiver, or discharge in any provision of all or any part of the Agreement shall be valid unless such amendment, waiver or discharge is in writing and duly executed by all parties to this Agreement, or their authorized agents.

15. This Agreement may not be amended or modified except in writing, signed by the parties to be bound thereby, or signed by their respective attorneys of record in the Litigation, which writing has been approved by the Court in the Receivership Action.

16. The parties hereto warrant and represent that none of them has sold, assigned, granted, or otherwise transferred to anyone not a party hereto, any right, privilege, or cause of action, or any part thereof, arising out of or otherwise connected with the subject matter or terms of this Agreement.

17. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

18. This Agreement is entered into in the State of Arizona, and shall be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Arizona. Any dispute concerning the interpretation of this Agreement shall be submitted to and decided exclusively in the Receivership Action.

19. The person signing this Agreement on behalf of any party to this Agreement, hereby warrants and represents that the person is authorized to sign this Agreement and make the promises and grant the releases contained herein on behalf of the respective entity and that such person has the power to bind the respective entity.

20. This Agreement may be executed in counterparts by one or more of the undersigned, and all such counterparts so executed shall together be deemed to constitute one final Agreement, as if one document had been signed by all parties hereto. Each such counterpart shall be deemed to be an original, binding the parties subscribed thereto, and multiple signature pages affixed to a single copy of the Agreement shall be deemed to be a fully executed original Agreement.

21. In the event of any future litigation between the parties to this Agreement in which the enforcement of this Agreement is sought, the prevailing party or parties with respect to issues relating to the Agreement shall be entitled to recover their reasonable attorneys' fees and costs from the other party or parties.

22. All parties to this Agreement have read this Agreement and fully understand and comprehend its meaning and binding effect.



Tom Wood, Receiver of Landmarc Capital &  
Investment Company

Dated: April 19, 2010

Thomas J. Giallanza  
Thomas J. Giallanza

LDM Acceptance Company

Dated: 4-15-10

Deborah Crantz Wiss  
Deborah Crantz Wiss

LDM Pension Plan

Dated: 4-15-10

Marilyn Crantz  
Marilyn Crantz

1157-020(93076)

## EXHIBIT 'A'

<b>No.</b>	<b>Account</b>	<b>Address</b>
1	07101812	8015 S. Calle Bella Vista, Guadalupe
2	08021877	680 N. Main Street, Coolidge
3	06120827	3227 W. Country Gables, Phoenix
4	602165	3945 W. Garden, Phoenix
5	07061117	14024 S. 12th Street, Phoenix
6	07091794	2426 E. Roeser Place, Phoenix
7	LC050111	7749 Skyview Drive, Lake Havasu
8	08041915	5342 N. 22nd Drive, Phoenix
9	LC050928	1735 E. Devlin, Kingman
10	LC050506	6690 N. Guthrie, Tucson
11	06120839	1050 W. Taylor, Phoenix
12	06100787	1922 E. Brill, Phoenix
13	LC050425	2730 E. Bellview, Unit 10, Phoenix
14	08041907	11613 W. Wethersfield, El Mirage
15	LC041009	6938 W. Sierra, Glendale
16	LC050203	28677 E. Leaping Lizard Lane, Florence
17	06070493	22057 E. Calle De Flores, Queen Creek
18	LC050307	16421 N. 28th Street, Phoenix
19	06070507	14819 N. Cave Creek Rd., Phoenix
20	LC050540	1855 S. 74th Street, Mesa
21	08031893	1921 E. Jefferson, Phoenix
22	08031896	141 S. State Route 69, Prescott Valley
23	08081970	SW Corner of 17th Ave & Bell Rd. (commercial land), Phoenix
24	08051927	Commercial land, Maricopa
25	07121853	197 acres of land, Flagstaff
26	08061947	156th Ave & Acoma, Surprise
27	6090669	Vacant land, APN: 511-52-0290; 511-52-0530, 511-52-0540, Casa Grande
28	06110808	Vacant land, APN: 511-52-0290; 511-52-0530, 511-52-0540, Casa Grande
29	08051918	Vacant land, APN 304-75-310, 304-75-004E and 304-75-004F, Chandler
30	6080624	3962 E. Timberline, Gilbert
31	P190	1848 E. Jones, Phoenix
32	P253	1059 College Ave., Thatcher
33	P259	7822 E. Iran Ave, Mesa
34	P203	401 W. Fremont, Phoenix
35	P261	890 S. Tanner Lane, Snowflake
36	P063	1633 W. Corona, Phoenix
37	P121	261 S. Yale, Lot #97, Mesa
38	L251	3541 W. Garfield, Phoenix
39	L249	830 S. Main Street, Unit 2-F, Cottonwood
40	A167	9562 E. 42nd Street, Tucson
41	L212	8159 W. Weldon, Phoenix
42	L245	1517 W. 3rd Street, Winslow
43	A131	666 W. Wilson Place, Coolidge
44	L248	7531 W. Cherry Lynn Rd., Phoenix
45	L204	9989 N. Volk Ave., Marana
46	L241	5424 S. 35th Drive, Phoenix